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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BARRY WHITE, JR. and DEMITRIUS ANDERSON,) Case No.: C 11-04221 WHA
Plaintiffs,)
vs.)
CITY OF ANTIOCH, JAMES HYDE, Chief of Police, Antioch Police Department, in his official and individual capacities; ALLAN CANTANDO, Chief of Police, Antioch Police Department, in his official and individual capacities; OFFICER NICHOLAS CUEVAS (#3920), OFFICER CHRIS WALTERS (#3489), CORPORAL MIKE HULSEY (#2356), CORPORAL KELLY OUIMET (#2031), LIEUTENANT LEONARD ORMAN (#1878), OFFICER MIKE MELLONE (#4323), DOES 1 through 25, in their official and individual capacities, Defendants.

**STIPULATION AND ~~PROPOSED~~
ORDER TO STAY PROCEEDINGS
PENDING RESOLUTION OF CRIMINAL
PROSECUTIONS**

1 Plaintiffs Barry White, Jr. and Demitrius Anderson, and Defendants City of Antioch,
2 James Hyde, Allan Cantando, Nicholas Cuevas, Chris Walters, Mike Hulsey, Kelly Ouimet,
3 Leonard Orman, and Mike Mellone, by and through their respective attorneys of record,
4 hereby stipulate to the following:

5 1. WHEREAS Plaintiffs filed a civil rights complaint in the United Stated District
6 Court in the Northern District of California on August 26, 2011, arising out of an incident
7 relating to the arrests of Plaintiffs by officers of the Antioch Police Department on August 29,
8 2009;

9 2. WHEREAS the Contra Costa County District Attorney's Office initiated
10 criminal proceedings against both Plaintiffs on or about May 24, 2010, in connection with the
11 incident relating to the arrests of Plaintiffs on August 29, 2009;

12 3. WHEREAS Plaintiff Barry White, Jr. is charged with the following felonies
13 related to that arrest: assault with a deadly weapon upon a peace officer, resisting an executive
14 officer and a firearm enhancement;

15 4. WHEREAS Plaintiff Demitrius Anderson is charged with the following
16 misdemeanor related to that arrest: delaying, obstructing or resisting a peace officer;

17 5. WHEREAS Plaintiff Barry White's preliminary hearing in connection with the
18 criminal charges alleged against him is scheduled to be completed on November 18, 2011;

19 6. WHEREAS Plaintiff Demitrius Anderson's jury trial relating to the criminal
20 charge alleged against him is scheduled to begin on January 23, 2012;

21 7. WHEREAS Plaintiffs intend to invoke their rights pursuant to the Fifth
22 Amendment of the United States Constitution in this civil action until the termination of the
23 criminal prosecutions against them;

24 8. WHEREAS the success of some or all of the claims against the Defendants in
25 this civil case may turn on the outcome of the criminal prosecutions against Plaintiffs;

26 9. WHEREAS Plaintiffs' claims against Defendants in this civil matter may be
27 limited and/or barred should either of the Plaintiffs suffer convictions in relation to these

1 pending criminal proceedings;

2 10. WHEREAS there are many overlapping and intertwined issues between the
3 criminal and civil cases involving the Plaintiffs and going forward on the civil case while the
4 criminal cases are still pending could lead to inconsistent rulings and/or verdicts.

5 11. WHEREFORE, the parties, by and through their respective counsel,
6 respectfully seek an Order of the Court to:

- 7 a. stay this case until further Order of the Court,
- 8 b. grant Defendants an extension of time to file a responsive pleading, such
9 pleading to be filed no later than 20 days after the filing of an order lifting
10 the stay in this action,
- 11 c. vacate the current Scheduling Order in this case including the December
12 8th Case Management Conference, and
- 13 d. set this matter for a case management conference during the week of
14 February 20, 2012, per the availability of the Court.

15 **IT IS SO STIPULATED**

16 DATED: November 17, 2011 LAW OFFICE OF JIVAKA CANDAPPA
17 By: /s/ Jivaka Candappa

18 Jivaka Candappa, Attorney for Plaintiffs,
19 BARRY WHITE, JR. and DEMITRIUS ANDERSON

20 DATED: November 17, 2011 MCNAMARA, NEY, BEATTY, SLATTERY,
21 BORGES & BROTHERS LLP
22 By: /s/ Noah G. Blechman

23 James V. Fitzgerald, III
24 Noah G. Blechman
25 Attorneys for Defendants
26 THE CITY OF ANTIOCH, *et al.*

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ORDER

Pursuant to the parties' stipulation and on a showing of good cause, this case is stayed in all respects until further Order of the Court. Defendants shall file a responsive pleading no later than 20 days after the filing of an Order lifting the stay in this matter. The current Scheduling Order in this case, including the December 8th Case Management Conference, is hereby vacated, and the matter is set for a Case Management Conference on February 23, 2012 at 11:00 a.m. The parties shall file a joint Case Management Conference statement no later than one week prior to the hearing.

IT IS SO ORDERED.

Dated: November 18, 2011

By:

John A. Hause

HONORABLE WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE