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 CITY AND COUNTY OF SAN FRANCISCO ET AL.  
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 11 UNITED STATES DISTRICT COURT  
 12 NORTHERN DISTRICT OF CALIFORNIA

13 PATRICK J. TOBIN,  
 14 Plaintiff,  
 15 vs.  
 16 CITY & COUNTY OF SAN FRANCISCO  
 POLICE DEPARTMENT, POLICE CHIEF  
 17 GREGORY P. SUHR, JOHN MURPHY,  
 KEVIN CASHMAN, Deputy Chief JAMES  
 18 DUDLEY, and DOES 1-40,  
 19 Defendants.

Case No. C 13-01504 MEJ  
**CITY AND COUNTY OF SAN FRANCISCO'S  
 MOTION FOR RELIEF FROM CASE  
 MANAGEMENT SCHEDULE; ~~PROPOSED~~  
~~ORDER~~ Amended Order**

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 21  
 22 Defendants City and County of San Francisco, Gregory Suhr, John Murphy, Kevin Cashman  
 23 and James Dudley (collectively "the City") respectfully move, under Local Rule 7-11, for an order  
 24 modifying the initial case management order, which the Court issued on July 8, 2013 (Docket No. 10).

25 **I. THE REQUESTED RELIEF**

26 The City seeks extensions of the discovery cut-off and the deadline for hearing dispositive  
 27 motions. The discovery cut-off is now January 28, and the dispositive motion hearing deadline is  
 28 February 27, 2014. The City seeks extensions of the discovery cut-off to March 28 (59-day extension)

1 and the motion hearing deadline to April 25, 2014 (57-day extension). The City does not seek a  
2 continuance of the current trial date of August 18, 2014.

3 **II. THE CIRCUMSTANCES SUPPORTING THE REQUEST**

4 The City seeks the extensions for two reasons.

5 First, the City will require additional time to obtain discovery from Plaintiff, and most likely  
6 will need the Court's intervention in that regard. The City anticipated completing discovery in  
7 December 2013 and preparing a motion for summary adjudication in early January 2014. (R. Ofierski  
8 Dec. ¶ 2 (concurrently filed).) However, despite repeated requests, Plaintiff did not produce his initial  
9 disclosures until November 18, or nearly five months after they were due. (*Id.*) Plaintiff also failed to  
10 respond at all to interrogatories the City served on October 11. When the City first inquired about the  
11 responses, Plaintiff claimed that he had never received the interrogatories. The City then re-served the  
12 interrogatories on November 18, and requested that Plaintiff provide his responses by December 9.  
13 On December 12, having received nothing, the City informed Plaintiff that if he did not provide the  
14 responses by December 20, or more than a month they were first due, the City will have to ask the  
15 Court to intervene. As of the date of this filing, Plaintiff did not even acknowledge the City's  
16 communications. (*Id.*) Given Plaintiff's complete non-responsiveness and the likelihood that the City  
17 will require the Court's assistance in obtaining complete and meaningful interrogatory responses, the  
18 City likely will require an additional period of about 60 days to complete its discovery.

19 Second, in the past 30 days the City's counsel has had to devote a substantial amount of time to  
20 significant, unanticipated and unavoidable work commitments, including: (1) preparing for a  
21 December 4 oral argument in the Ninth Circuit Court of Appeals in *Ambat v. CCSF*, a complex case  
22 concerning City jail staffing policies; and (2) preparing a response to an unfair labor practice charge,  
23 filed by two City employee unions on November 21 with the California Public Employment Relations  
24 Board, which presents complex legal issues concerning the City's collective bargaining obligations.  
25 (R. Ofierski Dec. ¶ 3.) The unanticipated workload has greatly limited the amount of time available  
26 to the City's counsel to work on compelling Plaintiff to respond to discovery, preparing for Plaintiff's  
27 deposition, and drafting the City's motion for summary adjudication. (*Id.*)

1 **III. THE CITY’S REQUEST FOR STIPULATION**

2 In its last communication regarding the overdue interrogatory responses, the City asked  
3 Plaintiff to stipulate to a 60-day extension of the dispositive motion hearing deadline, based on the  
4 mutual need to complete discovery. The City believes that Plaintiff likewise will require additional  
5 time to do so, since to date he has not sought any discovery from the City, and it is unlikely that all  
6 such discovery could be commenced and completed within the approximately month (excluding the  
7 holidays) that remains under the initial case management order. (R. Ofierski Dec. ¶ 2.) The City  
8 asked Plaintiff to respond by end of the following day, December 13. As of the date of this filing, the  
9 City has received no response from Plaintiff. (*Id.*)

10 **IV. CONCLUSION**

11 The City respectfully requests that the Court modify the initial case management order as  
12 requested by the City, based on the City’s need for additional time to obtain discovery from Plaintiff  
13 and prepare the City’s motion for summary adjudication.

14  
15 Dated: December 16, 2013

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RAFAL OFIERSKI  
Deputy City Attorney

19 By:       /s/ Rafal Ofierski        
20 RAFAL OFIERSKI

21 Attorneys for Defendants  
22 CITY AND COUNTY OF SAN FRANCISCO  
23 COUNTY OF SAN FRANCISCO, ET AL.  
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Amended

~~PROPOSED~~ ORDER

Defendants City and County of San Francisco, Gregory Suhr, John Murphy, Kevin Cashman and James Dudley filed a motion for an order modifying the Court’s initial case management order. Good cause appearing, the Court hereby grants the motion. Accordingly, the case management order is modified as follows:

- (1) The discovery cut-off is extended from January 28 to March 28, 2014; and
- (2) The deadline for ~~hearing~~<sup>filing</sup> dispositive motions is extended from February 27 to April ~~25~~<sup>24</sup>, 2014. The hearing date for dispositive motions is set for May 29, 2014.

SO ORDERED.

Dated: 1/6/2014



MARIA ELENA JAMES  
MAGISTRATE JUDGE

Dated:

DENNIS J. HERRERA  
City Attorney  
ELIZABETH S. SALVESON  
Chief Labor Attorney  
RAFAL OFIERSKI  
Deputy City Attorney

By: /s/ Rafal Ofierski  
RAFAL OFIERSKI

Attorneys for Defendants  
CITY AND COUNTY OF SAN FRANCISCO

GREGORY P. SUHR, KEVIN CASHMAN,  
JAMES DUDLEY AND JOHN MURPHY

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