

McNAMARA, NEY, BEATTY, SLATTERY, BORGES & AMBACHER LLP
 ATTORNEYS AT LAW
 1211 NEWELL AVENUE, WALNUT CREEK, CA 94596
 TELEPHONE: (925) 939-5330

1 JAMES V. FITZGERALD, III (State Bar No. 55632)
 NOAH G. BLECHMAN (State Bar No. 197167)
 2 PETRA BRUGGISSER (State Bar No. 241173)
 McNAMARA, NEY, BEATTY, SLATTERY,
 3 BORGES & AMBACHER LLP
 1211 Newell Avenue
 4 Walnut Creek, CA 94596
 Telephone: (925) 939-5330
 5 Facsimile: (925) 939-0203

6 Attorneys for Defendants
 MATTHEW KOCH AND JOSHUA VINCELET, ALLAN
 7 CANTANDO and CITY OF ANTIOCH

8 LAW OFFICES OF FRANK D. PENNEY
 9 A Professional Corporation
 JAMES R. LEWIS (State Bar No. 232248)
 10 1544 Eureka Road, Ste. 120
 Roseville, CA 95661
 11 Telephone: (916) 788-1960
 Facsimile: (916) 788-1970

12 Attorney for Plaintiff
 13 RICHARD LOPEZ, SR.

14 JOHN L. BURRIS (State Bar No. 69888)
 BENJAMIN NISENBAUM (State Bar No. 222173)
 15 LAW OFFICES OF JOHN L. BURRIS
 Airport Corporate Centre
 16 7677 Oakport Street, Suite 1120
 Oakland, California 94621
 17 Telephone: (510) 839-5200
 Facsimile: (510) 839-3882

18 Attorney for Plaintiff
 19 KATHRYN HARVEY

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UNITED STATES DISTRICT COURT

22

NORTHERN DISTRICT OF CALIFORNIA

23

24 RICHARD LOPEZ, SR., individually, and
 as successor-in-interest for Decedent
 25 DAVID JOHN LOPEZ,

26

Plaintiff,

27

vs.

28

MATTHEW KOCH, JOSHUA

Case No. C13-1610 RS (Lopez case)
 Case No. C13-1639 NC (Harvey case)

**STIPULATION AND [PROPOSED]
 ORDER TO CONSOLIDATE RELATED
 CASES – FRCP 42**

C13-1610 RS – STIPULATION AND ORDER TO
 CONSOLIDATE RELATED CASES

1 VINCELET, and DOES 1 through 100,
2 Defendants.

3
4 KATHRYN HARVEY, individually, and as
5 co-successor-in-interest for Decedent
6 DAVID LOPEZ,

7 Plaintiff,

8 vs.

9 CITY OF ANTIOCH, a municipal
10 corporation; MATTHEW KOCH,
11 individually; JOSHUA VINCELET,
12 individually; ALLAN CANTANDO, Chief
13 of Police for the City of Antioch,
14 individually; DOES 1-50, inclusive;
15 ANTIOCH,

16 Defendants.

17 IT IS HEREBY STIPULATED AND AGREED, by and between the parties to this action,
18 through their respective counsel of record, as follows:

19 1. Plaintiff Richard Lopez, Sr. has brought this civil action arising out of the police
20 officer involved shooting death of his son David John Lopez in the City of Antioch on March 22,
21 2012. This civil action was filed on April 9, 2013, and was originally assigned to the Hon.
22 Magistrate Judge Donna M. Ryu.

23 2. One day after the filing of the Lopez action, on April 10, 2013, another civil action
24 was filed pertaining to the same officer involved shooting death of David John Lopez. That civil
25 action was filed by the decedent's mother, Kathryn Harvey and was originally assigned to the
26 Hon. Magistrate Judge Nathanael Cousins. That action is entitled Kathryn Harvey v. City of
27 Antioch, et.al., C13-1639 NC.

28 3. Both cases involve the same event, the death of David Lopez in the City of
Antioch on March 22, 2012. Matthew Koch and Joshua Vincelet are named Defendants in both
cases. In addition, the City of Antioch and City of Antioch Police Chief Allan Cantando are also
named in the Harvey action. Plaintiff Richard Lopez, Sr. is the purported father of the decedent,

1 whereas Plaintiff Kathryn Harvey is the purported mother of the decedent. The claims asserted in
2 both cases are similar as they all arise out of the same incident, namely the alleged wrongful
3 death of the decedent arising out of his contact with the City of Antioch police officers on March
4 22, 2012. The parties anticipate that the case management, discovery, pre-trial preparation and
5 the trial phase or phases of these two cases will likely be almost identical.

6 4. On or about June 11, 2013, a party declined to proceed before the assigned
7 Magistrate Judges assigned to both actions and filed the necessary pleadings in both actions.

8 5. On June 11, 2013, Defendants filed an Administrative Motion to Consider
9 Whether Cases Should Be Related.

10 6. The Lopez action was then reassigned to Hon. Richard Seeborg on June 13, 2013
11 (See Document 18). The Harvey action has not yet been reassigned to an Article III judge,
12 though that issue is now likely moot since the parties are stipulating to consolidate both of these
13 actions for all purposes.

14 7. On June 20, 2013, Hon. Richard Seeborg issued an order granting Defendants
15 Administrative Motion to Consider Whether Cases Should Be Related and has now deemed both
16 the Lopez and Harvey cases related.

17 8. The parties now agree and hereby stipulate to consolidate both actions (Lopez and
18 Harvey) under FRCP 42(a) for all purposes. Good cause for a consolidation of both actions exists
19 because both actions have already been deemed related, both actions involve the same officer
20 involved shooting and related death of decedent David Lopez, the same or similar parties, the
21 same or similar claims, the same or similar witnesses, the same or similar evidence, the same or
22 similar questions of facts and law. Thus, a consolidation of both cases for all purposes, including
23 case management, discovery, pre-trial and trial, will likely effect a savings of judicial effort and
24 other economics and will avoid unjust and different outcomes related to the same alleged
25 wrongful death incident.

26 9. More specifically, consolidating both cases is warranted to avoid inconsistent
27 orders, judgments and/or trial outcomes. As both cases involve the same questions of facts and
28 law, they should yield the same result. Plaintiffs in both cases claim damages against the Antioch

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ORDER

Good cause having been shown by the parties, the Court hereby orders that the civil actions Lopez v. Koch, C13-1610 RS and Harvey v. City of Antioch, C13-1639 NC are hereby CONSOLIDATED for all purposes under FRCP 42(a). The earlier filed case of Lopez v. Koch C13-1610 RS, shall be the leading case. The case file number on all documents filed in the consolidated cases shall be shown as C13-1610 RS. The file for Case No. C-13-1639 shall be administratively closed and no further filings shall be made therein.

July 1,
Dated: ~~June~~ ____, 2013

By: 
Hon. Richard Seeborg
United States District Court Judge