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13
 14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA

16 MICHAEL RODRIGUEZ,

17 Plaintiff,

18 v.

19 CITY OF ALAMEDA, et al.,

20 Defendants.
 21

Case No. 14-cv-02075-TEH

**STIPULATION AND ~~PROPOSED~~ ORDER TO
 CONTINUE TIME TO COMPLETE ENE AND
 CONTINUING CMC UNTIL AFTER ENE
 COMPLETED**

22
 23 Defense counsel Gregory M. Fox was associated into this matter on July 11, 2014 after it was
 24 removed to federal court. The initial CMC was held September 15, 2014. The parties had stipulated to
 25 ENE and the matter was ordered to ENE with the ENE session to be completed by December 31, 2014.
 26 William Goodman was assigned as the ENE Evaluator and the ENE session is currently scheduled for
 27 December 17, 2014. The next CMC is January 5, 2015.

28 Plaintiff contends that as a result of the police use of force he suffered a brain injury. The parties

1 have been cooperating in discovery and agreed that certain material witness depositions should be
2 completed before the ENE session including the depositions of independent eye witnesses, the plaintiff,
3 and the involved officers. To date, seven depositions have been completed. Scheduling issues with the
4 remaining depositions have arisen which the parties agree show good cause for a continuance of the ENE
5 deadline and the next CMC to allow for a meaningful ENE session. Therefore, the parties now stipulate
6 for an Order continuing the deadline to complete the ENE so relevant discovery may be completed and
7 continuing the CMC to a new date to allow completion of the ENE before the next CMC.

8 Good cause exists for this continuance for the following reasons: Defendant Cameron Miele has
9 been off work and out of state for personal family reasons from December 8 through December 15 and
10 was thus unable to be deposed or attend the plaintiff's deposition that were both tentatively scheduled for
11 the week of December 8, 2014. As defendant, Cameron Miele was a key participant in the incident that
12 led to this action, and therefore his testimony in deposition is critical for a meaningful ENE session. As
13 noted above, the parties have deposed a number of civilian witnesses; however, the parties have had
14 trouble locating Brian Grappo, a key civilian witness, for deposition. Investigation into his whereabouts
15 continues. And plaintiff's counsel has met and conferred with defense counsel on certain
16 accommodations for plaintiff's deposition and that meet and confer process is underway. Therefore, the
17 parties agree that defendant Cameron Miele, plaintiff Michael Rodriguez and witness Brian Grappo
18 should be deposed prior to the initial ENE session, and these depositions cannot be completed before the
19 currently scheduled December 17, 2014 ENE session.

20 Scheduling these depositions, holding the ENE session and attending the January 5, 2015 CMC
21 are also complicated because defense counsel Gregory Fox is currently scheduled for a wrongful death
22 police OIS jury trial set for January 12, 2015 before the Hon. William Orrick which involves Mr. Fox as
23 trial counsel for the defendants in the matter of *Dorger, et al v. City of Napa, et al*, case number 3:12 CV
24 00440 WHO, and expert discovery in that case is being scheduled for the last week of December, 2014
25 and the first week of January, 2015.

26 Based on these reasons, IT IS HEREBY STIPULATED between the parties, plaintiff Michael
27 Rodriguez, represented by John E. Hill and defendants City of Alameda and Cameron Miele, represented
28 by Gregory M. Fox that the following should become an Order of the Court:

1 1. The early neutral evaluation session previously calendared for Wednesday, December 17,
2 2014, shall be continued to a mutually convenient date for all parties and the Evaluator and to be
3 completed within 90 days of the date of this Order.

4 2. The parties and their attorneys, and the early neutral evaluator, shall agree to a discovery
5 and briefing schedule and the date for the ENE and, upon reaching such an agreement, shall file
6 notification of the same with the Court.

7 3. The parties and their attorneys recognize that such continuance is made in good faith and
8 the attorneys feel that the requested continuance of the ENE session will result in an evaluation that may
9 facilitate resolution of the entire matter.

10 4. The parties request that the CMC now scheduled for January 5, 2015 be continued March
11 2, 2015 to allow time for completion of the ENE in February 2015.

12 SO STIPULATED.

14 Dated: December 10, 2014

BERTRAND, FOX & ELLIOT

16 By: _____ /s/
17 Gregory M. Fox
18 Attorneys for Defendants
19 CITY OF ALAMEDA and CAMERON MIELE

22 Dated: December 10, 2014

LAW OFFICES OF JOHN E. HILL

24 By: _____ /s/
25 John E. Hill
26 Attorney for Plaintiff
27 MICHAEL RODRIGUEZ

1 I, Gregory M. Fox, declare that I have reviewed this stipulation for continuance of ENE with
2 counsel for the plaintiff and counsel has approved it as to form and further authorized me to show his
3 signatures on this document as /s/ indicating his consent and approval for the e-filing of this document.

4 Dated: December 10, 2014

BERTRAND, FOX & ELLIOT

5
6 By: _____ /s/

7 Gregory M. Fox
8 Attorneys for Defendants
9 CITY OF ALAMEDA and CAMERON MIELE
10

11 **ORDER**

12 Good cause appearing, the Stipulation SO ORDERED. The deadline to complete ENE is
13 continued 90 days from the date of this Order. The January 5, 2015 CMC is continued to March 2, 2015
14 with a joint CMC statement to be filed February 23, 2015.

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16
17 Dated: 12/15/2014

