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7 Attorneys for Defendants  
CITY OF PITTSBURG, CITY OF PITTSBURG POLICE  
8 CHIEF BRIAN ADDINGTON, PITTSBURG POLICE  
OFFICERS ERNEST MEJIA, JASON WAITE, WILLIE  
9 GLASPER, GABRIEL PALMA, JONATHAN ELMORE,  
PATRICK BERHAN

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA

12  
13 HUMBERTO MARTINEZ, Deceased,  
14 through his Co0Successors in Interest,  
H.R.M., Jr., a minor through his mother and  
15 Next Friend Priscilla Sandoval  
Vanarendonk, individually and as successor  
16 in interest for HUMBERTO ROSARIO  
MARTINEZ, Deceased, and A.M., a minor,  
17 through her mother and Next Friend Tina  
Anglin, individually and as successor in  
18 interest for HUMBERTO ROSARIO  
MARTINEZ, Deceased; and JAMIE ANN  
19 COX, individually,

20 Plaintiffs,  
21 vs.

22 CITY OF PITTSBURG, a public entity;  
CITY OF PITTSBURG POLICE CHIEF  
23 BRIAN ADDINGTON, in his individual  
and official capacities; PITTSBURG  
24 POLICE OFFICERS ERNEST MEJIA,  
JASON WAITE, WILLIE GLASPER,  
25 GABRIEL PALMA, JONATHAN  
ELMORE, PATRICK BERHAN, and  
26 DOES 1-10, Jointly and severally,

27 Defendants.  
28

Case No. C17-04246 RS

**STIPULATION AND ORDER  
SHORTENING THE TIME FOR (1)  
DEFENDANTS' MOTION TO STAY  
PROCEEDINGS PENDING RESOLUTION  
OF INTERLOCUTORY APPEAL AND (2)  
PLAINTIFFS' MOTION TO CERTIFY  
APPEAL AS FRIVOLOUS**

Judge: Hon. Richard Seeborg

PTC Date: April 24, 2019  
Trial Date: May 6, 2019

1 PLAINTIFFS and DEFENDANTS, by and through their respective counsel, hereby  
2 stipulate to the following:

3 WHEREAS Defendants intend to file a Notice of Appeal, an interlocutory appeal, to the  
4 United States Court of Appeals for the Ninth Circuit, on Monday, March 25, 2019. Defendants'  
5 appeal challenges the Court's ruling denying qualified immunity for all six individually named  
6 arresting officer Defendants, regarding the Plaintiffs' Fourth Amendment claim for excessive force,  
7 per the Court's ruling on March 8<sup>th</sup> on Defendants' Motion for Summary Judgment (ECF 73). As  
8 a result of the pending appeal, Defendants now seek to have the remaining claims that are not  
9 directly the subject of the appeal stayed pending the resolution of the interlocutory appeal.  
10 Plaintiffs will be opposing the motion to stay.

11 WHEREAS Plaintiffs intend to file a motion to certify Defendants' interlocutory appeal as  
12 frivolous to permit trial of the appealed federal claims while the appeal proceeds in the Ninth  
13 Circuit. Defendants will be opposing this motion by Plaintiffs.

14 WHEREAS the parties are respectfully requesting that the Court shorten time for the  
15 hearing (if a hearing is necessary), or the briefing schedule, on both Defendants' Motion to Stay  
16 Proceedings Pending Resolution of Interlocutory Appeal and Plaintiffs' Motion to Certify  
17 Defendants' Qualified Immunity Appeal as Frivolous, in light of pending Pretrial and Trial  
18 deadlines.

19 WHEREAS the parties believe it is in the best interests of all involved to have these motions  
20 decided prior to the filing deadlines of various labor and time intensive pre-trial matters and for  
21 early clarity on these issues. Specifically, April 3, 2019, is the last day to meet and confer regarding  
22 pre-trial documents, April 10, 2019, is the last day to file pre-trial statement and trial pleadings, and  
23 April 15, 2019, is the last day to exchange exhibits.

24 WHEREAS if the briefing schedule and hearing (if necessary) are not shortened, the  
25 motions would not likely be decided until after the pre-trial filing deadlines have passed,  
26 necessitating considerable work for the parties and the court, even if this matter will be ordered  
27 stayed.

28 WHEREAS the parties agree that the briefing schedule could be modified as follows:

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- Both motions filed by March 26, 2019;
- Responses in Opposition due filed by April 2, 2019;
- Replies due filed by April 5, 2019, by noon;
- Hearing, the parties defer to the Court as to whether a hearing is needed.

WHEREAS good cause exists to shorten the time for Defendants' Motion to Stay Proceedings Pending Resolution of Interlocutory Appeal and Plaintiffs' Motion to Certify Defendants' Qualified Immunity Appeal as Frivolous.

SO STIPULATED

The parties attest that concurrence in the filing of these documents has been obtained from each of the other Signatories, which shall serve in lieu of their signatures on the document.

Dated: March 25 , 2019

MCNAMARA, NEY, BEATTY, SLATTERY,  
BORGES & AMBACHER LLP

By: Noah G. Blechman  
Noah G. Blechman/Cameren N. Ripoli  
Attorneys for Defendants

Dated: March 25, 2019

HADDAD & SHERWIN LLP

By: Michael J. Haddad  
Michael Haddad  
Julia Sherwin  
Maya Sorensen  
Attorney for Plaintiffs

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**ORDER**

Pursuant to the parties' stipulation and on a showing of good cause, the Court orders that the briefing schedule for Defendants' Motion to Stay Proceedings Pending Resolution of Interlocutory Appeal and Plaintiffs' Motion to Certify Defendants' Qualified Immunity Appeal as Frivolous be shortened as follows:

- Both motions filed by March 26, 2019;
- Responses in Opposition due filed by April 2, 2019;
- Replies due filed by April 5, 2019, by noon;
- Hearing, TBD.

**IT IS SO ORDERED.**

Dated: 3/25/19,

By:   
HON. RICHARD SEEBORG  
UNITED STATES DISTRICT JUDGE