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5 **ATTORNEYS FOR PLAINTIFF**
 6 **JOSE HIGAREDA GOMEZ**

7 IN THE UNITED STATES DISTRICT COURT
 8 NORTHERN DIVISION OF CALIFORNIA

10 JOSE HIGAREDA GOMEZ,
 11 Plaintiff,
 12 vs.
 13 CITY OF FREMONT, et al.,
 14 Defendants.

Case No.: C 07-00005 WDB
**PLAINTIFF'S REQUEST FOR
 ADMINISTRATIVE RELIEF**

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 16 Plaintiff Higareda Gomez requests that this court grant it relief from having to dismiss the
 17 uninvolved officer until the stipulation is signed by and between the parties, and after the declaration
 18 which was agreed upon as a prerequisite to said dismissal is received from defendants. On various
 19 occasions, by electronic mail, mail, and telephone, Plaintiff's counsel has asked defense counsel to
 20 obtain a declaration from the uninvolved officer in order to effectuate the request for dismissal and
 21 the same has not yet been received.

22 According to the Court's "Order following February 12, 2009 Further CMC" filed February
 23 13, 2009, the dismissal of the uninvolved officer must be made by plaintiff no later than February
 24 26, 2009. On February 24, 2009, Ms. D'Agostino, counsel of record for defendants advised
 25 plaintiff's office that she would be contacting the officers and other representations had been
 26 previously made by Mr. Fox that the declaration was forthcoming, but it has not to date been
 27 received by plaintiff's office.

28 On February 25, 2009, plaintiff's counsel Ms. Posada sent by facsimile a letter asking Ms.

1 D'Agostino to submit the declaration before the end of business day in order for plaintiff's counsel
2 to comply with the court's order but no response was received.

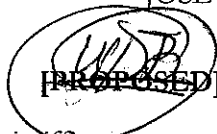
3 Plaintiff has acted with all due diligence to obtain said declaration prior to the February 26,
4 2009 deadline set by the court. Plaintiff never agreed to dismiss the officer until a declaration was
5 received and the same was communicated to the court at the CMC of February 12, 2009. Plaintiff
6 requires a declaration under penalty of perjury regarding said officer's lack of involvement before
7 dismissing said officer.

8 In order to effectuate the dismissal of the officer and comply with the Court's order.
9 Plaintiff requests that this court extend plaintiff's date to dismiss until such time after the declaration
10 is received, as was the initial agreement between all the parties.

11 So submitted.

12 DATED: February 25, 2009 Law Offices of Steve R. Jacobsen


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15 By //s//
16 Steven R. Jacobsen
17 Brenda D. Posada
18 Attorneys for Plaintiff
19 JOSE HIGAREDA GOMEZ

18  **[PROPOSED] ORDER**

20 Having duly considered plaintiff's request to extend cutoff date to dismiss the uninvolved
21 officer, it is the order of the court that defendant is ordered to submit the agreed upon declaration
22 to plaintiff no later than March 6, 2009 by facsimile/personal delivery and within 5 business days
23 after send declaration is received by plaintiff, plaintiff shall file his dismissal of said officer.

24 It is so ordered.

25 Date: 2/26/09

26 
27 Hon. Wayne D. Brazil
United States District Judge

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