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8 Attorneys For Defendants
 9 CITY AND COUNTY OF SAN FRANCISCO,
 CHIEF HEATHER FONG, OFFICER GREGORY
 10 BUHAGIAR, AND OFFICER ARSHAD RAZZAK

11 UNITED STATES DISTRICT COURT
 12
 13 NORTHERN DISTRICT OF CALIFORNIA

14 ERIC JONES,
 15 Plaintiff,
 16 vs.

17 CITY AND COUNTY OF SAN
 FRANCISCO, a municipal corporation;
 18 HEATHER FONG, in her capacity as Chief
 of Police for the CITY AND COUNTY OF
 SAN FRANCISCO; GREGORY
 19 BUHAGIAR, individually and in his official
 capacity as a police officer for the CITY
 20 AND COUNTY OF SAN FRANCISCO;
 ARSHAD RAZZAK, individually and in his
 21 official capacity as a police officer for the
 CITY AND COUNTY OF SAN
 22 FRANCISCO, and San Francisco police
 officers DOES 1-25, inclusive,
 23 Defendants.

Case No. C08-00373 CW

**STIPULATION AND ORDER
 EXTENDING DEADLINE FOR
 HEARING ON DISPOSITIVE
 MOTIONS AS MODIFIED**

Trial Date: May 18, 2009

25
 26 Pursuant to Federal Rule of Civil Procedure 16(b) the parties have met and conferred and
 27 agree that the fact discovery in this matter shall conform to the terms of this ORDER.

1 GOOD CAUSE APPEARING, the parties stipulate, through their attorneys of record, to the
2 entry of an order as follows:

3 1. Defendants timely noticed and subpoenaed Christopher Gascon for a deposition on
4 October 17, 2008. Christopher Gascon failed to appear for his deposition.

5 2. Based on plaintiff's counsel's representations that he was in contact with Mr. Gascon,
6 and that Mr. Gascon's failure to attend was due to inadvertence, defendants then noticed Mr. Gascon's
7 deposition for Monday, November 10, 2008.

8 3. Plaintiff's counsel was unable to reach Mr. Gascon ahead of that deposition, and Mr.
9 Gascon did not attend.

10 4. Unless Mr. Gascon can be contacted before November 14, 2008 and his deposition
11 rescheduled, defendants will be forced to file a petition for an order to show cause why Mr. Gascon
12 should not be found in contempt of court.

13 5. Christopher Gascon is the only percipient third-party witness to the incident alleged in
14 the Complaint who has been identified in this case. Christopher Gascon was with plaintiff when the
15 incident alleged in the Complaint occurred.

16 6. Christopher Gascon's testimony is therefore an essential predicate to filing a
17 dispositive motion in this case. Mr. Gascon's testimony will help defendants determine whether to
18 file a summary judgment motion, and what arguments and defenses to assert in that motion. In either
19 event, filing a dispositive motion without the benefit of Mr. Gascon's testimony would not be an
20 efficient use of attorney or judicial resources.

21 7. Counsel believe that a two week extension for the deadline for filing dispositive
22 motions will be adequate to determine whether Christopher Gascon can be voluntarily produced.
23 Should Mr. Gascon fail to appear within that time, defendants will seek further relief in the form of a
24 petition for an order to show cause why Mr. Gascon should not be held in contempt of court and a
25 further extension of the deadline to file dispositive motions.

1 For the foregoing reasons, the deadline for filing dispositive motions shall be extended for two
2 weeks, until December 1, 2008. Oppositions shall be due on December 12, 2008, and replies on
3 December 19, 2008. The hearing date on dispositive motions shall be January 9, 2009.

4
5 IT IS SO STIPULATED.

6 Dated: November , 2008

DENNIS J. HERRERA
City Attorney
JOANNE HOEPER
Chief Trial Attorney
ROBERT BONTA
Deputy City Attorney
MEREDITH B. OSBORN
Deputy City Attorney

11 By: _____
12 MEREDITH B. OSBORN
13 Attorneys for Defendants CITY AND COUNTY OF
14 SAN FRANCISCO, CHIEF HEATHER FONG,
15 OFFICER BUHAGIAR, and OFFICER RAZZAK

16 Dated: November , 2008

17 By: _____
18 BENJAMIN NISENBAUM
19 Attorney for Plaintiff

20 **ORDER**

21 Pursuant to this stipulation, IT IS SO ORDERED, **EXCEPT THE HEARING DATE FOR**
22 **DISPOSITIVE MOTONS AND FURTHER CASE MANAGEMENT CONFERENCE WILL**
23 **BE JANUARY 8, 2009, AT 2:00 P.M.**

24 11/21/08

25 Dated: _____



26 _____
27 HON. CLAUDIA WILKEN
28 UNITED STATES DISTRICT JUDGE