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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
 12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA

14 ERIC JONES,
 15 Plaintiff,
 16 vs.

Case No. C08-00373 CW

**STIPULATION AND ~~PROPOSED~~
 ORDER EXTENDING DEADLINE FOR
 HEARING ON DISPOSITIVE
 MOTIONS**

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,

Trial Date: May 18, 2009

23 Defendants.

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 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. Counsel therefore stipulated to an extension of the deadline to file dispositive motions
11 until December 1, 2008, in determine whether Mr. Gascon could be voluntarily produced for his
12 deposition. Defendants also stated in the stipulation that if Mr. Gascon could not be contacted and his
13 deposition calendared before December 1, 2008, defendants would seek further relief in the form of a
14 petition for an order to show cause why Mr. Gascon should not be held in contempt of court and a
15 further extension of the deadline to file dispositive motions.

16 5. Mr. Gascon could not be contacted and his deposition could therefore not be
17 calendared before December 1, 2008.

18 6. Defendants therefore filed a petition for an order to show cause why Mr. Gascon
19 should not be found in contempt of court on November 25, 2008, along with an administrative motion
20 to hear the petition on shortened time.

21 7. Christopher Gascon is the only percipient third-party witness to the incident alleged in
22 the Complaint who has been specifically identified in this case. (Plaintiff alleges that a Department
23 of Public Works employee was also a percipient witness to the incident alleged in the Complaint, but
24 that individual has not yet been identified.) Christopher Gascon was with plaintiff when the incident
25 alleged in the Complaint occurred.

26 8. Christopher Gascon's testimony is therefore an essential predicate to filing a
27 dispositive motion in this case. Mr. Gascon's testimony will help defendants determine whether to
28 file a summary judgment motion, and what arguments and defenses to assert in that motion. In either

1 event, filing a dispositive motion without the benefit of Mr. Gascon's testimony would not be an
2 efficient use of attorney or judicial resources.

3 9. Counsel stipulated that the deadline for filing dispositive motions should be set for ten
4 days after Mr. Gascon is deposed.

5 10. For the foregoing reasons, the deadline for filing dispositive motions shall set for ten
6 days after the deposition of Mr. Gascon. Counsel will notify the Court of the date that Mr. Gascon's
7 deposition is taken, and stipulate to a briefing schedule and hearing date consistent with this
8 stipulation. Christopher Gascon's testimony is therefore an essential predicate to filing a dispositive
9 motion in this case. Mr. Gascon's testimony will help defendants determine whether to file a
10 summary judgment motion, and what arguments and defenses to assert in that motion. In either
11 event, filing a dispositive motion without the benefit of Mr. Gascon's testimony would not be an
12 efficient use of attorney or judicial resources.

13 11. For the foregoing reasons, the deadline for filing dispositive motions shall be extended
14 for two weeks, until January 15, 2009. Oppositions shall be due on January 29, 2009, and replies on
15 February 5, 2009. The hearing date on dispositive motions shall be February 19, 2009.

16 IT IS SO STIPULATED.

17 Dated: December , 2008

18 DENNIS J. HERRERA
19 City Attorney
20 JOANNE HOEPER
21 Chief Trial Attorney
22 ROBERT BONTA
23 Deputy City Attorney
24 MEREDITH B. OSBORN
25 Deputy City Attorney

26 By: _____ //s//
27 MEREDITH B. OSBORN
28 Attorneys for Defendants CITY AND COUNTY OF
SAN FRANCISCO, CHIEF HEATHER FONG,
OFFICER BUHAGIAR, and OFFICER RAZZAK

26 Dated: December , 2008

27 By: _____ //s//
28 BENJAMIN NISENBAUM
Attorney for Plaintiff

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ORDER

Pursuant to this stipulation, IT IS SO ORDERED

Dated: 1/9/09 _____



HON. CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE