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 7 DARRELL CURRY

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 10 UNITED STATES DISTRICT COURT
 11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 DARRELL CURRY,

Case No. C 08 03695 SBA

13 Plaintiff,

14 vs.

**STIPULATION AND ORDER TO MODIFY
 ORDER FOR PRETRIAL PREPARATION**

15 CITY OF OAKLAND, a municipal corporation;
 16 et al.

17 Defendants.

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 20 Due to continued discovery, the parties request to modify the Court's Order for Pretrial Preparation of
 21 May 1, 2009 as follows:
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1 CURRENT PRETRIAL ORDER

PRETRIAL ORDER

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3 **A. DISCOVERY CUT-OFF**

4 All discovery, except for expert discovery, shall
5 be completed and all depositions taken on or
6 before **12/8/09**. The parties are responsible for
7 scheduling discovery so that motions to
resolve discovery disputes can be heard before
the above discovery cut-off.

All discovery, except for expert discovery, shall
be completed and all depositions taken on or
before **04/30/10**. The parties are responsible for
scheduling discovery so that motions to
resolve discovery disputes can be heard before
the above discovery cut-off.

8 **B. EXPERT DESIGNATION AND DISCOVERY**

9 Plaintiff shall designate any experts by **12/8/09**;
10 defendant by **12/8/09**; rebuttal disclosure by
11 **NOT SET**. Any expert not so named may be
12 disallowed as a witness. No expert will be
13 permitted to testify to any opinion, or basis or
14 support for an opinion, that has not been
disclosed in response to an appropriate question
or interrogatory from the opposing party. Expert
discovery shall be completed by **12/15/09**.

Plaintiff shall designate any experts by
04/30/10; defendant by **04/30/10**; rebuttal
disclosure by **NOT SET**. Any expert not so
named may be disallowed as a witness. No
expert will be permitted to testify to any
opinion, or basis or support for an opinion, that
has not been disclosed in response to an
appropriate question or interrogatory from the
opposing party. Expert discovery shall be
completed by **05/14/10**.

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16 **C. MOTION CUT-OFF**

17 All motions including dispositive motions shall
18 be *heard* on or before **1/19/10**, at 1:00 p.m. The
19 parties must meet and confer *prior* to filing any
20 motion. The movant shall certify to the Court in
its moving papers that it has complied with this
requirement. Should the parties fail to
21 meet and confer, the Court may decline to
entertain the motion.

All motions including dispositive motions shall
be *heard* on or before **05/25/2010**, at 1:00 p.m.
The parties must meet and confer *prior* to filing
any motion. The movant shall certify to the
Court in its moving papers that it has complied
with this requirement. Should the parties fail to
meet and confer, the Court may decline to
entertain the motion.

22 **D. MANDATORY SETTLEMENT CONFERENCES**

23 All parties are ordered to participate in a
24 mandatory settlement conference during the
25 following time period: **BETWEEN 1/20-2/5/10**
BEFORE A MAGISTRATE JUDGE.

All parties are ordered to participate in a
mandatory settlement conference during the
following time period: **BETWEEN 5/26-**
6/11/10 BEFORE A MAGISTRATE JUDGE.

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27 The Parties have been in discussions with Judge Spero's Courtroom Deputy regarding
28 Settlement Conference dates and the parties have been advised that Judge Spero is currently available
in January or February of 2010.

CURRENT PRETRIAL ORDER

PRETRIAL ORDER

E. PRETRIAL CONFERENCE

All Counsel who will try the case shall appear for a pretrial conference in Courtroom 3 on **3/2/10**, at 1:00 p.m. All Counsel shall be fully prepared to discuss all aspects of the trial. Failure to file the requisite pretrial documents in advance of the pretrial conference may result in vacation of the pretrial conference and/or the imposition of sanctions. **ALL PARTIES WITH SETTLEMENT AUTHORITY ARE REQUIRED TO ATTEND THE PRETRIAL CONFERENCE.**

All Counsel who will try the case shall appear for a pretrial conference in Courtroom 3 on **7/06/10** 1:00 p.m. All Counsel shall be fully prepared to discuss all aspects of the trial. Failure to file the requisite pretrial documents in advance of the pretrial conference may result in vacation of the pretrial conference and/or the imposition of sanctions. **ALL PARTIES WITH SETTLEMENT AUTHORITY ARE REQUIRED TO ATTEND THE PRETRIAL CONFERENCE.**

F. PRETRIAL PREPARATION DUE 2/9/10

F. PRETRIAL PREPARATION DUE 6/15/10

1. Not less than *thirty (30) calendar days* prior to the pretrial conference, Counsel shall meet and confer in good faith in advance of complying with the following pretrial requirements in order to clarify and narrow the issues for trial, arrive at stipulations of facts, simplify and shorten the presentation of proof at trial, and explore possible settlement. In addition, Counsel shall meet and confer regarding anticipated motions in limine, objections to evidence, jury instructions, and any other matter which may require resolution by the Court.

1. Not less than *thirty (30) calendar days* prior to the pretrial conference, Counsel shall meet and confer in good faith in advance of complying with the following pretrial requirements in order to clarify and narrow the issues for trial, arrive at stipulations of facts, simplify and shorten the presentation of proof at trial, and explore possible settlement. In addition, Counsel shall meet and confer regarding anticipated motions in limine, objections to evidence, jury instructions, and any other matter which may require resolution by the Court.

2. The following matters shall be accomplished no later than *twenty-one (21) calendar days* prior to the pretrial conference:

2. The following matters shall be accomplished no later than *twenty-one (21) calendar days* prior to the pretrial conference:

a. Joint Pretrial Statement

a. Joint Pretrial Statement

1 CURRENT PRETRIAL ORDER

PRETRIAL ORDER

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4 3. The following matters shall be accomplished
5 no later than *fourteen (14) calendar days* prior
6 to the pretrial conference: **Motions in Limine
7 and Objections to Evidence due: 2/16/10.**
8 Each party anticipating making motion(s) in
9 limine and/or objection(s) to any testimony or
10 exhibits expected to be offered shall file and
11 serve a statement briefly identifying each item
12 objected to and the grounds for the objection.

3. The following matters shall be accomplished
no later than *fourteen (14) calendar days* prior
to the pretrial conference: **Motions in Limine
and Objections to Evidence due: 6/22/10.**
Each party anticipating making motion(s) in
limine and/or objection(s) to any testimony or
exhibits expected to be offered shall file and
serve a statement briefly identifying each
item objected to and the grounds for the
objection.

11 **H. TRIAL DATE**

12 Trial before the **JURY** will begin on **3/8/10**, at
13 8:30 a.m., for an estimated **3-5** trial days, or as
14 soon thereafter as the Court may designate. The
15 parties are advised that they must be prepared to
16 go to trial on a trailing basis. The trial will take
17 place in Courtroom 3 of the United States
18 Courthouse, 1301 Clay Street, 3rd Floor,
19 Oakland, California, 94612. The Court's trial
20 hours are from 8:30 a.m. to 2:00 p.m., with two
21 fifteen-minute breaks, on Monday, Wednesday,
22 Thursday and Friday. ***On the first day of trial
23 all parties are required to have someone in
24 Court with full Settlement Authority.***

Trial before the **JURY** will begin on **07/12/10**,
at 8:30 a.m., for an estimated **3-5** trial days, or
as soon thereafter as the Court may designate.
The parties are advised that they must be
prepared to go to trial on a trailing basis. The
trial will take place in Courtroom 3 of the
United States Courthouse, 1301 Clay Street,
3rd Floor, Oakland, California, 94612. The
Court's trial hours are from 8:30 a.m. to 2:00
p.m., with two fifteen-minute breaks, on
Monday, Wednesday, Thursday and Friday. ***On
the first day of trial all parties are required to
have someone in Court with full Settlement
Authority.***

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23 There are additional items on the Court's Pretrial Order for Preparation with which the parties are
24 familiar, and therefore did not list on this request to modify the Pretrial Order. Due to their familiarity
25 with the omitted items, the parties will conduct themselves appropriately.
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Respectfully Submitted,

Dated: November 24, 2009

/s/ Benjamin Nisenbaum
Benjamin Nisenbaum
Attorneys for Plaintiff
Darrell Curry

Dated: November 25, 2009

/s/
Arlene M. Rosen
Attorney for Defendants
City of Oakland, et al.

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 12/8/09

Sandra B. Armstrong
Honorable Sandra Brown Armstrong