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 13 Attorneys for Sonoma Defendants

14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA
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17 BENJAMIN PHILIP CANNON,
 18 Plaintiff,

Case No.: CV 11-0651 PJH

19 vs.

**STIPULATION TO MODIFY COURT
 ORDER TO EXTEND TIMES FOR FILING
 AMENDED COMPLAINT AND
 20 RESPONSES; [~~PROPOSED~~] MODIFIED
 21 ORDER**

22 COUNTY OF PETALUMA, et al.,
 Defendants.
 23 _____/

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 25 This joint stipulation and request for entry of a modified order is made pursuant to Civil Local
 26 Rule 7-12 by and between the following groups of parties: Plaintiff in pro per, Benjamin Philip
 27 Cannon (“Plaintiff”); the “Sonoma Defendants,” consisting of the County of Sonoma (including the
 28 Sonoma County Sheriff’s Office), the City of Sonoma (including the Sonoma Police Department),

1 former Sonoma County Sheriff-Coroner William Cogbill, Sonoma County Sheriff’s Deputies James
2 Naugle, Christopher Spallino, Eric Haufler, Jesse Hanshew, Shawn Murphy, and Perry Sparkman,
3 former Sonoma County District Attorney Stephan Passalacqua, and Sonoma County Deputy District
4 Attorneys James Casey and Robert Waner; and the “Petaluma Defendants,” consisting of the City of
5 Petaluma (erroneously sued as Petaluma Police Department), and Petaluma Police Department
6 members Dan Fish, John Silva, Bert Walker, and Jason Jucutan.

7 Through this stipulation, these parties request the Court to modify Paragraph No. 10 of its
8 “Order re Motions to Dismiss or for More Definite Statement; Order re Motions to Strike,” filed on
9 September 15, 2011 (hereinafter, the “September 15th Order,” Dkt. No. 82), for the sole purpose of
10 providing Plaintiff an additional week in which to file his amended complaint, through October 12,
11 2011, and concomitantly extending the time for Defendants to respond to that amended complaint
12 through November 2, 2011, based on the following.

13 **RECITALS**

14 A. In response to Defendants’ motions to dismiss, in its September 15th Order this Court
15 dismissed several of Plaintiff’s claims alleged in his First Amended Complaint with prejudice, and
16 granted Plaintiff leave to amend the remaining claims through filing a second amended complaint.

17 B. The September 15th Order also expressly ordered Plaintiff to file any second amended
18 complaint no later than October 5, 2011, and ordered Defendants to file any answers or motions to
19 dismiss in response to such second amended complaint no later than October 26, 2011. [Dkt. No. 82,
20 ¶ 10.]

21 C. Plaintiff prepared a draft of his proposed second amended complaint and, at defense
22 counsel’s suggestions, provided an advance copy to defense counsel. On October 5, 2011, defense
23 counsel expressed concerns regarding several allegations and claims made in the draft second
24 amended complaint. Based on information provided by defense counsel and resulting conversations,
25 Plaintiff has agreed to substantially revise his draft second amended complaint by removing certain
26 allegations and claims from his draft before filing his second amended complaint with the Court, but
27 needs additional time in which to do so.

28 D. Counsel for Sonoma Defendants and Petaluma Defendants have agreed to provide

1 Plaintiff with an additional week to substantively revise his draft second amended complaint to
2 remove certain allegations and claims, which will permit him to file it no later than October 12, 2011.
3 Defendants' counsel believes that good cause exists for such extension of time, as it will provide
4 Plaintiff the opportunity to further limit the allegations and claims he intends to make in his second
5 amended complaint. However, based on conversations with Plaintiff to date, Defendants' counsel do
6 not believe that Plaintiff's intended revisions to his draft second amended complaint will satisfy
7 FRCP Rule 8 pleading standards. Accordingly, Sonoma Defendants and Petaluma Defendants at the
8 present time intend to file motions to dismiss in response to the proposed second amended complaint
9 even if modified as Plaintiff now intends.

10 E. To permit Defendants' counsel time in which to review the second amended complaint
11 that is filed and prepare their responses, Plaintiff has agreed to concomitantly extend the time for
12 filing such responses for one week through November 2, 2011.

13 WHEREFORE, the parties to this stipulation hereby agree and request entry of an order
14 modifying Paragraph 10 of this Court's September 15th Order (Dkt. No. 82) as follows:

15 **STIPULATION**

- 16 1. It is requested that Plaintiff be permitted to file his second amended complaint no later
17 than October 12, 2011.
- 18 2. It is requested that Sonoma Defendants and Petaluma Defendants be permitted to file
19 their responses (including but not limited to answers and motions to dismiss) no later than November
20 2, 2011.
- 21 3. This stipulation does not prevent or preclude the parties from seeking additional relief
22 from this Court, to amend this stipulation and order or otherwise.

23 Respectfully submitted,

24 Dated: October 5, 2011

BRUCE D. GOLDSTEIN, Sonoma County Counsel

26 By: /s/ Anne L. Keck
27 Anne L. Keck
28 Attorneys for Sonoma Defendants

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Dated: October 5, 2011

BENJAMIN PHILLIP CANNON

By: /s/ Benjamin Philip Cannon
Plaintiff in pro per

Dated: October 5, 2011

MYERS, NAVE, RIBACK, SILVER & WILSON

By: /s/ Kimberly M. Drake
Kimberly M. Drake
Attorneys for Petaluma Defendants

1 **[PROPOSED] MODIFIED ORDER**

2 PURSUANT TO STIPULATION, and with good cause appearing,

3 IT IS HEREBY ORDERED that Paragraph No. 10 of this Court’s “Order re Motions to
4 Dismiss or for More Definite Statement; Order re Motions to Strike,” filed on September 15, 2011
5 (Dkt. No. 82), is hereby modified to permit Plaintiff to file his second amended complaint no later
6 than October 12, 2011, and to permit Defendants to file their responses to the second amended
7 complaint no later than November 2, 2011. All other terms and provisions of the Court’s Order shall
8 remain in full force and effect.

9 Date: 10/7/11 _____



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ELECTRONIC CASE FILING ATTESTATION

I, Anne L. Keck, am the ECF user whose identification and password are being used to file this STIPULATION TO MODIFY COURT ORDER TO EXTEND TIMES FOR FILING AMENDED COMPLAINT AND RESPONSES; [PROPOSED] MODIFIED ORDER on behalf of Plaintiff, Sonoma Defendants and Petaluma Defendants pursuant to Civil Local Rule 7-12. In compliance with General Order No. 45(X)(B), I hereby attest that the concurrence in the filing of this document has been obtained from its signatories.

Dated: October 5, 2011

By: /s/ Anne L. Keck
Anne L. Keck
Attorney for Sonoma Defendants

