

1 JIVAKA CANDAPPA, (SBN 225919)  
 2 180 Grand Avenue, Suite 700  
 3 Oakland, CA 94612  
 4 Telephone: (510) 628-0300  
 5 Facsimile: (510) 628-0400

6 Attorney for Plaintiffs BARRY WHITE, JR.,  
 7 and DEMITRIUS ANDERSON

8  
 9 UNITED STATES DISTRICT COURT  
 10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11  
 12 BARRY WHITE, JR. and DEMITRIUS )  
 13 ANDERSON, )

14 Plaintiffs, )

15 vs. )

16 CITY OF ANTIOCH, JAMES HYDE, Chief )  
 17 of Police, Antioch Police Department, in his )  
 18 official and individual capacities; ALLAN )  
 19 CANTANDO, Chief of Police, Antioch Police )  
 20 Department, in his official and individual )  
 21 capacities; OFFICER NICHOLAS CUEVAS )  
 22 (#3920), OFFICER CHRIS WALTERS )  
 23 (#3489), CORPORAL MIKE HULSEY )  
 24 (#2356), CORPORAL KELLY OUIMET )  
 25 (#2031), LIEUTENANT LEONARD )  
 26 ORMAN (#1878), OFFICER MIKE )  
 27 MELLONE (#4323), DOES 1 through 25, in )  
 28 their official and individual capacities, )

Defendants. )

Case No.: C 11-04221 YGR

**STIPULATION AND ~~[PROPOSED]~~  
 ORDER TO STAY PROCEEDINGS  
 PENDING RESOLUTION OF CRIMINAL  
 PROSECUTIONS**

Judge: Hon. Yvonne Gonzalez Rogers

1 Plaintiffs Barry White, Jr. and Demetrius Anderson, and Defendants City of Antioch,  
2 James Hyde, Allan Cantando, Nicholas Cuevas, Chris Walters, Mike Hulse, Kelly Ouimet,  
3 Leonard Orman, and Mike Mellone, by and through their respective attorneys of record,  
4 hereby stipulate to the following:

5 1. WHEREAS Plaintiffs filed a civil rights complaint in the United States District  
6 Court in the Northern District of California on August 26, 2011, arising out of an incident  
7 relating to the arrests of Plaintiffs by officers of the Antioch Police Department on August 29,  
8 2009;

9 2. WHEREAS the Contra Costa County District Attorney's Office initiated  
10 criminal proceedings against both Plaintiffs on or about May 24, 2010, in connection with the  
11 incident relating to the arrests of Plaintiffs on August 29, 2009;

12 3. WHEREAS Plaintiff Barry White, Jr. is charged with the following felonies  
13 related to that arrest: Penal Code § 245(c), assault with a deadly weapon, and Penal Code §  
14 69, resisting an executive officer;

15 4. WHEREAS Plaintiff Barry White's preliminary hearing concluded in  
16 December of 2011;

17 5. WHEREAS Plaintiff Barry White's defense relating to the criminal charges  
18 alleged against him will not be ready for trial for at least another nine (9) months;

19 6. WHEREAS Plaintiff Demetrius Anderson is charged with the following  
20 misdemeanor related to that arrest: Penal Code § 148(a)(1), delaying, obstructing or resisting  
21 a peace officer;

22 7. WHEREAS Plaintiff Demetrius Anderson's defense relating to the criminal  
23 charge alleged against him will not be ready for trial for at least another nine (9) months;

24 8. WHEREAS Plaintiffs intend to invoke their rights pursuant to the Fifth  
25 Amendment of the United States Constitution in this civil action until the termination of the  
26 criminal prosecutions against them;

27 9. WHEREAS the success of some or all of the claims brought against the  
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1 Defendants in this civil case may turn on the outcome of the criminal prosecutions against  
2 Plaintiffs;

3 10. WHEREAS Plaintiffs' claims against Defendants in this civil matter may be  
4 limited and/or barred should either of the Plaintiffs suffer convictions in relation to these  
5 pending criminal proceedings;

6 11. WHEREAS there are many overlapping and intertwined issues between the  
7 criminal and civil cases involving the Plaintiffs and going forward on the civil case while the  
8 criminal cases are still pending could lead to inconsistent rulings and/or verdicts.

9 12. WHEREAS on November 18, 2011, per Stipulation and Order, the previously  
10 assigned Judge, Hon. William Alsup, ordered this matter stayed in all respects due to the  
11 pending criminal proceedings involving Plaintiffs. (See Document 12, e-filed 11/18/11).

12 13. WHEREFORE, the parties, by and through their respective counsel,  
13 respectfully seek a further Order of the Court to:

- 14 a. continue to stay this case until further Order of the Court,  
15 b. grant Defendants an extension of time to file a responsive pleading, such  
16 pleading to be filed no later than 20 days after the filing of an order lifting  
17 the stay in this action, and  
18 c. set this matter for a case management conference during the week of  
19 November 19, 2012, per the availability of the Court, with a deadline for  
20 the parties to file a joint case management conference prior to that date.

21 **IT IS SO STIPULATED**

22 DATED: January 26, 2012

LAW OFFICE OF JIVAKA CANDAPPA

23 By: /s/ Jivaka Candappa

24 \_\_\_\_\_  
25 Jivaka Candappa, Attorney for Plaintiffs,  
26 BARRY WHITE, JR. and DEMITRIUS ANDERSON

1 DATED: January 26, 2012

MCNAMARA, NEY, BEATTY, SLATTERY,  
BORGES & AMBACHER LLP

2 By: /s/ Noah Blechman


3 \_\_\_\_\_  
4 James V. Fitzgerald, III / Noah G. Blechman  
5 Attorneys for Defendants,  
6 THE CITY OF ANTIOCH, *et al.*

7 **ORDER**

8 Pursuant to the parties' stipulation and on a showing of good cause, this case shall  
9 remain stayed in all respects until further Order of the Court. Defendants shall file a responsive  
10 pleading no later than 20 days after the filing of an Order lifting the stay in this matter. This  
11 matter is set for a Case Management Conference ~~on~~ <sup>at</sup> 2:00pm on November 19, 2012. The  
12 parties shall file a Joint Case Management Conference Statement no later than two weeks prior  
13 to the hearing.

14 **IT IS SO ORDERED.**

15 Dated: February 1, 2012

16 By:   
17 HONORABLE YVONNE GONZALEZ ROGERS  
18 UNITED STATES DISTRICT JUDGE  
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