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6 Attorneys for Defendants  
OFFICER JAMES COLLEY; ANTIOCH POLICE  
7 DEPARTMENT; and CITY OF ANTIOCH

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA

11 ANTHONY MICHAEL MABUTAS, JR.,  
12 Plaintiff,  
13 vs.  
14 OFFICER JAMES COLLEY, in his official  
and individual capacities, ANTIOCH  
15 POLICE DEPARTMENT, and CITY OF  
ANTIOCH, CALIFORNIA,  
16 Defendants.  
17

Case No. C14-3796 KAW

**STIPULATION AND ~~PROPOSED~~  
ORDER TO CONTINUE CASE  
MANAGEMENT CONFERENCE**

Judge: Kandis A. Westmore

18 Plaintiff ANTHONY MICHAEL MABUTAS, JR., and Defendants OFFICER JAMES  
19 COLLEY; ANTIOCH POLICE DEPARTMENT; and CITY OF ANTIOCH, by and through  
20 their respective attorneys of record, hereby stipulate to the following:

21 1. WHEREAS Plaintiff filed a civil rights complaint in the United States District  
22 Court in the Northern District of California on August 21, 2014, arising out of an incident  
23 relating to the arrest of Plaintiff by an officer of the Antioch Police Department on June 9,  
24 2014;

25 2. WHEREAS Plaintiff has a new and pending criminal case against him arising  
26 out of an April 14, 2015, incident pending in the Superior Court of Contra Costa County.  
27 Plaintiff is being charged with the following crimes arising out of that arrest:

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- a. Count 1: Violation of Penal Code § 187 (a) (murder)
  - i. with the enhancement of Criminal Street Gang under Penal Code § 186.22(b)(1)
  - ii. with the enhancement of Intentionally Discharging Firearm in Designated Offense Penal Code § 12022.53 (b) (c) and (d)
  - iii. with special allegation Murder Committed for Criminal Street Gang Purposes Penal Code § 190.2(a) (22)

3. WHEREAS it has previously been agreed that the outcome of the new pending criminal case against Plaintiff may have a direct and/or indirect bearing on the issues in this Fourth Amendment civil rights case.

4. WHEREAS with the exception of third party discovery, this matter is currently stayed until the underlying criminal case against Plaintiff is fully resolved.

5. WHEREAS this matter is currently set for a further Case Management Conference on April 5, 2016. However, the parties are informed that Plaintiff's trial date for the new pending criminal case is in August of 2016.

6. WHEREFORE, the parties, by and through their respective counsel, respectfully seek an Order from the Court to continue the further Case Management Conference to September or October of 2016.

IT IS SO STIPULATED

The parties attest that concurrence in the filing of these documents has been obtained from each of the other Signatories, which shall serve in lieu of their signatures on the document.

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Dated: January 26, 2016

Law Office of Mark W. Kelsey

By: /s/ Mark W. Kelsey  
Mark W. Kelsey  
Attorney for Plaintiff  
ANTHONY MICHAEL MABUTAS, JR.

Dated: January 26, 2016

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

By: /s/ Elizabeth M. Dooley  
James V. Fitzgerald, III  
Noah G. Blechman  
Elizabeth M. Dooley  
Attorneys for Defendants  
OFFICER JAMES COLLEY; ANTIOCH POLICE  
DEPARTMENT; and CITY OF ANTIOCH

**ORDER**

Pursuant to the parties' stipulation and on a showing of good cause, the Court orders that the further Case Management Conference currently set for April 5, 2016, is hereby rescheduled to October 4, 2016, at 1:30 p.m. in the undersigned's Department. The parties shall file an Updated Joint Case Management Conference Statement no later than seven (7) days prior to the new Case Management Conference date. Should the new pending criminal case of Plaintiff be finally resolved before that time frame, the parties shall jointly provide notice to the Court as soon as feasible.

**IT IS SO ORDERED.**

Dated: 2/3, 2016

By: Kandis Westmore  
HONORABLE KANDIS A. WESTMORE  
UNITED STATES MAGISTRATE JUDGE