

1 Donald E.J. Kilmer, Jr., (SBN: 179986)
 2 LAW OFFICES OF DONALD KILMER
 3 1645 Willow Street, Suite 150
 4 San Jose, California 95125-5120
 5 Telephone: 408/264-8489
 6 Facsimile: 408/264-8487

7 Dennis Alan Lempert (SBN: 42074)
 8 LAW OFFICES OF DENNIS ALAN LEMPERT
 9 160 Saratoga Avenue, Second Floor
 10 Santa Clara, California 95051-7305
 11 Vc: 408/249-5152 Fx: 248-5974

Attorneys for Plaintiffs

12 UNITED STATES DISTRICT COURT
 13 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 14 SAN JOSE DIVISION

15 STEVEN FISHER and SANDRA FISHER,

16 Plaintiffs,

17 vs.

18 CITY OF SAN JOSE, CITY OF SAN JOSE
 19 POLICE DEPARTMENT, OFFICER
 20 BARNETT, OFFICER BOLER, OFFICER
 21 CORREA, OFFICER ESQUIVEL,
 22 OFFICER HONDA, OFFICER
 23 KINSWORTHY, OFFICER O'BRIEN,
 24 OFFICER RYAN, and OFFICER
 25 NGUYEN,

26 Defendants.

Case No.: C 01 - 21192 PVT

STIPULATION AND ORDER
RE: WAIVER OF COSTS

Judge: Patricia V. Trumbull

- 27 1. The mandate in this case was returned from the Court of Appeals for the Ninth Circuit.
- 28 2. The Defendants in this matter are deemed the prevailing party and are entitled to an award of costs incurred in the Trial Court and the Court of Appeals, including but not limited to:
 - a. Costs of \$4,477.60 incurred as trial costs.
 - b. Costs of \$6,932.80 incurred as appellate costs.

Donald Kilmer
 Attorney at Law
 1645 Willow St.
 Suite 150
 San Jose, CA 95125
 Vc: 408/264-8489
 Fx: 408/264-8487

1 3. Defendants' hereby waive all costs (known and unknown) associated with their defense
2 of this matter in the trial court and court of appeals, including those listed above.

3 4. Said waiver is in consideration of Plaintiffs' forbearance in seeking any further legal
4 remedies in this matter, including but not limited to a Petition for Certiorari in the United
5 States Supreme Court.

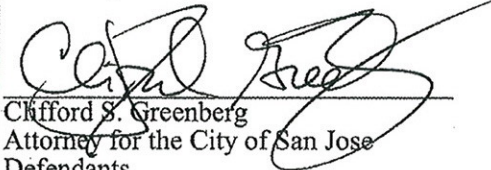
6 5. The parties stipulate that fax signatures are sufficient to bind the parties without the
7 necessity of filing original documents with the court.

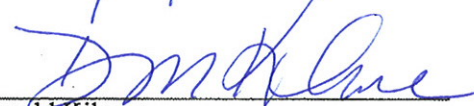
8 6. The attorneys signing this stipulation warrant that they have authorization from their
9 clients to bind the clients to this agreement.

10 **SO STIPULATED.**

12 Date: 4/29/09

Date: 4/30/2009

13
14 
15 Clifford S. Greenberg
16 Attorney for the City of San Jose
17 Defendants


18 Donald Kilmer
19 Attorney for Steven and Sandra Fisher
20 Plaintiffs

17 **SO ORDERED.**

18
19 

20 Patricia V. Trumbull
21 United States Magistrate Judge
22
23
24
25
26
27