

1 LARRY LUNDY ("JOHN DOE")  
 2 1071 Culloden Court  
 3 San Jose, CA 95121  
 4 Mother Olson's Inn  
 5 202 S. 11<sup>th</sup> Street  
 6 San Jose, CA 95112  
 7 Phone: (415) 240-7188

8 Plaintiff, In Pro Se

9 RICHARD DOYLE, City Attorney (#88625)  
 10 NORA FRIMANN, Chief Trial Attorney (#93249)  
 11 MICHAEL J. DODSON, Sr. Deputy City Attorney (#159743)  
 12 NKIA D. RICHARDSON, Deputy City Attorney (#193209)  
 Office of the City Attorney  
 200 East Santa Clara Street  
 San José, California 95113-1905  
 Telephone Number: (408) 535-1900  
 Facsimile Number: (408) 998-3131  
 E-Mail Address: cao.main@sanjoseca.gov

\*E-FILED - 5/7/09\*

13 Attorneys for Defendants CITY OF SAN JOSE,  
 14 ROBERT DAVIS, STEPHEN DONOHUE, TONY  
 15 RUELAS, DANIEL GUERRA

16 UNITED STATES DISTRICT COURT  
 17 COUNTY OF SANTA CLARA, SAN JOSE DIVISION

18  
 19 JOHN DOE,  
 20 Plaintiff,  
 21 v.  
 22 CITY OF SAN JOSE, et al.,  
 23 Defendants.

Case Number: C-06-06307 RMW HRL  
**STIPULATION AND ~~PROPOSED~~  
 ORDER VACATING TRIAL DATE AND  
 ALLOWING ADDITIONAL BRIEFING  
 ON REMAINING CLAIMS**

24  
 25 This Stipulation is entered into by and between Plaintiff "John Doe" appearing *pro*  
 26 se, and Defendants, City of San Jose, Robert Davis, Stephen Donohue, Tony Ruelas and  
 27 Daniel Guerra, represented by Michael J. Dodson of the Office of the San Jose City  
 28 Attorney.

1 The parties have reviewed the Court's Order Granting, in part, Defendants' Motion  
2 for Summary Judgment which was filed on April 14, 2009. In compliance with paragraph 7  
3 of the Court's Order, the parties met and conferred and have agreed that the trial date of  
4 this matter, currently scheduled for May 11, 2009 at 1:30 p.m., be vacated in order to allow  
5 briefing on the additional issues upon which the Court denied Defendants' Summary  
6 Judgment Motion, without prejudice.

7 Therefore, the parties request that the Court enter an Order that the May 11, 2009  
8 Trial date, and the May 7, 2009 Pretrial Conference, be vacated. The parties request a  
9 trial date in early August, 2009.

10 In addition, should the Court adopt this Stipulation of the parties, and allow  
11 additional briefing, the parties request that the Court enter an Order requiring Defendants  
12 to file a renewed Motion for Summary Judgment on the remaining issues in this case no  
13 later than thirty (30) days following the date of the Court's Order hereon.

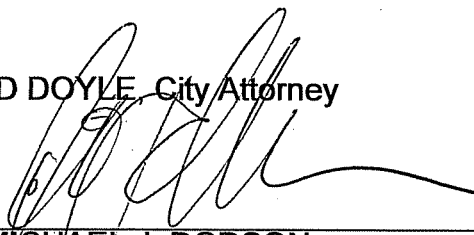
14  
15 Respectfully submitted,

16  
17 Dated: May 1, 2009

18 By:   
PLAINTIFF, In Pro Se

19 Dated: May 1, 2009

20 RICHARD DOYLE, City Attorney

21 By:   
MICHAEL J. DODSON  
Sr. Deputy City Attorney

22  
23 Attorney for Defendants CITY OF SAN  
24 JOSE, ROBERT DAVIS, STEPHEN  
25 DONOHUE, TONY RUELAS, DANIEL  
26 GUERRA

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**ORDER**

The Court, having considered the Stipulation of the parties, and good cause appearing therefore, **HEREBY ORDERS:**

1. That the May 11, 2009 Trial date of this matter and the May 7, 2009 Pretrial Conference be vacated;
2. That should the Trial of this matter be necessary following additional briefing by the parties, the Trial date is continued to 8/3/09 @ 1:30 PM; and
3. Defendants are ordered to file a renewed Motion for Summary Judgment on the remaining claims in this matter for which the Court denied their earlier Motion for Summary Judgment without prejudice no later than thirty (30) days from the date of entry of this Order. Pretrial Conference set for 7/30/09 @ 2:00 PM.

Dated: 5/7/09

  
HONORABLE RONALD M. WHYTE  
United States District Judge