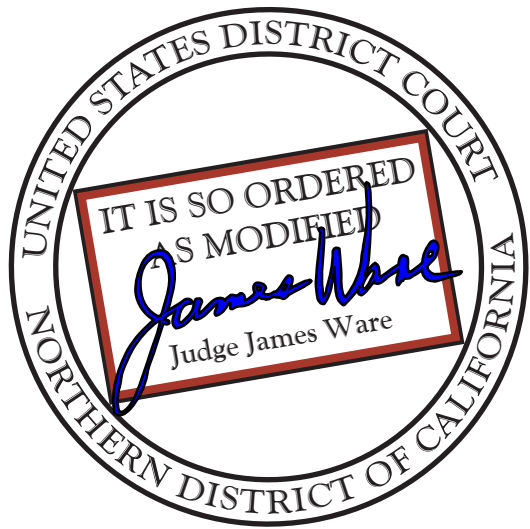


1 CHARLES J. McKEE (SBN 152458)
 County Counsel
 2 WILLIAM K. RENTZ (SBN 058112)
 Sr. Deputy County Counsel
 3 Office of the County Counsel
 168 W. Alisal Street, 3rd Floor
 4 Salinas, California 93901-2680
 Telephone: (831) 755-5045
 5 Facsimile: (831) 755-5283
rentzb@co.monterey.ca.us
 6



7 Attorneys for COUNTY OF MONTEREY

1/25/2011

8 **UNITED STATES DISTRICT COURT**
 9 **NORTHERN DISTRICT OF CALIFORNIA**
 10 **SAN JOSE DIVISION**

12 DAN MITCHELL, acting for himself and
 others similarly situated,
 13
 Plaintiffs,
 14
 v.
 15 COUNTY OF MONTEREY,
 16
 Defendant.
 17 _____ /

CASE NO.: C08-01166 JW

**STIPULATION AND
 [PROPOSED] ORDER
 TO CONTINUE DATES FOR TRIAL
 AND PRE-TRIAL CONFERENCE, AND
 FOR FILING IN LIMINE MOTIONS,
 PRE-TRIAL CONFERENCE
 STATEMENTS, AND JURY
 INSTRUCTIONS.**

Hearing Date: January 31, 2011
 Time: 9:00 a.m.
 Courtroom: 8, 4th Floor
 Judge: Hon. James Ware

Trial Date: March 22, 2011

21 Defendant, COUNTY OF MONTEREY, by and through their attorney of record herein,
 22 and Plaintiffs, DAN MITCHELL, et al, by and through their attorneys of record, stipulate as
 23 follows:

24 1. The above-referenced action was brought under the Fair Labor Standards Act. There
 25 are twenty-two plaintiffs in this action; each alleging the county violated the FLSA by failing to
 26 properly compensate them over a period of approximately five years. The County's First Amended
 27 Answer sets forth nineteen affirmative defenses.
 28

Daniel Mitchell et al. v. County of Monterey, Case No C08-01166 RS
**STIPULATION TO CONTINUE DATES FOR TRIAL AND RELATED DEADLINES;
 ORDER**

1 2. The case is presently set for a hearing on cross motions for summary judgment and
2 partial summary judgment on January 31, 2011.

3 3. Defendant's motion consists of a notice of motion and points and authorities and 10
4 supporting declarations, with numerous pages of exhibits attached. This motion moves for
5 summary judgment or partial summary judgment on 10 separate issues (one of which included 3
6 sub-issues for consideration in the ruling). Some of these issues are directed towards one, two, or
7 three named plaintiffs. Other issues are directed towards all 22 of the plaintiffs.

8 4. Plaintiffs' motion seeks a resolution of a number of issues affecting some or all of
9 the 22 of the plaintiffs in the case and requires a consideration of all the differing factual situations
10 for these plaintiffs. These documents include declarations by 13 of the plaintiffs and numerous
11 exhibits. The plaintiffs' motions include:

- 12 A. Motion for Summary Judgment or Partial Summary Judgment of Plaintiffs'
13 Second Cause of Action;
- 14 B. Motion for Summary Judgment or Partial Summary Judgment of
15 Defendant's Sixth Affirmative Defense.
- 16 C. Motion for Summary Judgment or Partial Summary Judgment of
17 Defendant's Nineteenth and Twentieth Affirmative Defense; and
- 18 D. Motion for Summary Judgment or Partial Summary Judgment with regard to
19 Plaintiffs' Claims for Uncompensated Jail Operations and Patrol Activities.

20 5. Beyond the January 31, 2011, hearing date for the motion for summary judgment,
21 the following dates have been set by the court:

- 22 2/7/11 File In limine motions, jury instructions, and pre-trial conference statement
- 23 3/7/11 Pre-trial conference
- 24 3/22/11 Jury trial

25 6. The parties believe that a decision on the issues raised in the summary judgment
26 motions will take sufficient time, such that it will be impracticable to comply with the above
27 schedule. In addition, the parties believe that a decision on the issues raised in the summary
28

1 judgment motions will define a number of legal issues that will govern the case, will limit the
2 issues that need to be tried, and will increase the likelihood that the case can be settled without the
3 necessity of a trial.

4 7. Due to the complexity of the issues in this action, and the extensive Motions for
5 Summary Judgment or Partial Summary Judgment filed on behalf of both Plaintiffs and Defendant
6 in this case, the parties therefore request that, at the hearing on the motion for summary judgment,
7 the court continue the dates above to a date to be set by the court, so as to allow sufficient time for
8 settlement discussions to proceed before it becomes necessary to prepare for trial beyond what has
9 already been done.

10 8. With the continuation of the above referenced dates, the parties and the court will
11 have the appropriate time to deal with the complex issues in this case.

12 9. On September 9, 2010, the court set the current dates identified above, including the
13 trial date. This was the court's first and only setting of a trial date. (Document 72).

14

15 Dated: January 20, 2011

Respectfully submitted,

16

CHARLES J. MCKEE,
County Counsel

17

18

By: /s/ William K. Rentz
WILLIAM K. RENTZ,
ATTORNEYS FOR COUNTY OF
MONTEREY

19

20

Dated: January 20, 2011

MASTAGNI HOLSTEDT AMICK
MILLER & JOHNSEN

21

22

By: /s/ David E. Mastagni
DAVID E. MASTAGNI,
ISAAC STEVENS,
ATTORNEYS FOR PLAINTIFFS,
DAN MITCHELL, et al

23

24

25

26

27

28

ORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

GOOD CAUSE APPEARING, IT IS ORDERED:

The stipulation filed and agreed to by Defendant, County of Monterey and Plaintiffs, Dan Mitchell, et al, requesting the dates scheduled for trial, pre-trial conference, and for filing of in limine motions, jury instructions and pre-trial conference statements. is approved and the continuances requested are granted as follows:

1. The dates previously set for trial, pre-trial conference, and filing of in limine motions, jury instructions, and pre-trial conference statement are vacated.

The Court shall set new dates for pre-trial filings, the Pre-Trial Conference and Trial in its Order addressing the parties' dispositive Motions, if necessary.

DATED: January 25, 2011



JUDGE OF THE U.S. DISTRICT COURT