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 13 LABORATORY, MARK MORIYAMA,  
 14 JOHN LUFT

15 UNITED STATES DISTRICT COURT  
 16 NORTHERN DISTRICT OF CALIFORNIA  
 17 (SAN JOSE)

13 JEFFREY RODRIGUEZ,	)	No. C08-01377
14 Plaintiff,	)	<b>STIPULATION AND <del>PROPOSED</del> ORDER TO CONTINUE CASE MANAGEMENT DEADLINE</b>
15 v.	)	
16 COUNTY OF SANTA CLARA, et al.,	)	
17 Defendant(s).	)	

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 19 Plaintiff Jeffrey Rodriguez and Defendants County of Santa Clara, John Luft, and Mark  
 20 Moriyama, by and through their counsel of record, hereby stipulate for purposes of this request  
 21 to continue case management deadline and respectfully request an Order as follows:

- 22 1. This case was filed on March 11, 2008. Plaintiff was incarcerated for a robbery and  
 23 later released from prison and declared factually innocent by the District Attorney’s Office.  
 24 This lawsuit against the crime lab analyst and the prosecutor has followed.
- 25 2. This Court issued a case management conference order on August 20, 2008, setting  
 26 the following deadlines: (1) close of fact discovery on April 24, 2009; (2) last day to disclose  
 27 expert witnesses on May 22, 2009; (3) close of expert discovery on June 19, 2009; and (4) last  
 28 day to file dispositive motions on July 31, 2009.

1           3. Mr. Rodriguez obtained a factual finding of innocence and pursuant to that finding,  
2 the Superior Court of California ordered destruction of all records pertaining to his criminal  
3 prosecutions and incarceration (e.g. Department of Correction Records, San Jose Police  
4 Department, etc.). Defendants issued subpoenas to these entities who refused to produce, or  
5 even acknowledge, that they had responsive records in light of the court order. Many of these  
6 documents are discoverable and necessary to Defendants' defense of this case. Thus,  
7 Defendants with cooperation of Plaintiff's counsel, are attempting to modify the state court  
8 order so that documents not yet destroyed can be retrieved. Defendants are not in a position to  
9 conduct depositions until they have the available documents.

10           4. This case is also complicated. It involves three underlying criminal trials and  
11 multiple parties. Plaintiff spent several years in prison, which may or may not be relevant to his  
12 damages claims.

13           5. Defendants will likely file motions for summary judgment after having adequate  
14 time to develop the facts. Counsel for both sides have nevertheless discussed their willingness  
15 to participate in settlement conference with a magistrate judge.

16           6. For the reasons stated above and because of the complexity of this case, the parties  
17 are requesting and stipulate to 10 month continuance of the above deadlines as follows:

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|----|---|-------------------|
| 18 | a. CLOSE OF FACT DISCOVERY                  | February 12, 2010 |
| 19 | b. LAST DAY TO DISCLOSE EXPERT<br>WITNESSES | March 19, 2010    |

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