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 6 COUNTY OF SANTA CLARA, SANTA
 7 CLARA COUNTY SHERIFF'S
 DEPARTMENT, DEPUTY ENG,
 8 DEPUTY ANDERSON AND DEPUTY
 ROGERS

9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA
 (SAN JOSE)

11 NICK MASTERS,)	No. 0802473 PVT
)	ORDER APPROVING
12 Plaintiff,)	STIPULATION AND REQUEST FOR ORDER
)	MODIFYING CASE MANAGEMENT
13 v.)	ORDER; DECLARATIONS OF B. ROBERT
)	ALLARD AND DAVID M. ROLLO
14 COUNTY OF SANTA CLARA, et al.,)	
)	
15 Defendants.)	

16
 17 COME NOW THE PARTIES who have stipulated to the following request for an Order
 18 modifying the Case Management order as follows:

19 CURRENT CASE MANAGEMENT ORDER	PROPOSED NEW DATE/ORDER
20 Fact Discovery Cutoff. October 2, 2009	October 30, 2009 (to complete Plaintiff's Deposition only)
21	
22 Designation of Experts October 9, 2009	November 20, 2009
23 Designation of Rebuttal Expert . . . October 23, 2009	December 4, 2009
24 Expert Discovery Cutoff. November 20, 2009	December 31, 2009
25 Deadline(s) for Filing Discovery Motions. See Civil Local	See Civil Local Rule 26-2
26 Rule 26-2	
27 Last Day for Dispositive Discovery Motions. January 26, 2010	January 26, 2010, 10:00 a.m.
28 10:00 a.m.	

1 Final Pretrial Conference. February 16, 2010 February 16, 2010, 2:00 p.m.
2 2:00 p.m.

3 Jury Trial. March 29, 2010 March 29, 2010, 9:30 a.m.
4 9:30 a.m.

5 This Stipulation and proposed Order is accompanied by the Declarations of B. Robert
6 Allard and David M. Rollo attached hereto.

7 **IT IS SO STIPULATED.**

8
9 Dated: October 8, 2009 By: /S/
10 B. ROBERT ALLARD, Esq.
11 Attorney for Plaintiff

12 I hereby attest that I have on file the holograph signature for the signature indicated by a
13 “conformed” signature (/S/) within this e-filed document.

14 Dated: October 9, 2009 Respectfully submitted,
15 MIGUEL MÁRQUEZ
16 Acting County Counsel

17 By: /S/
18 DAVID M. ROLLO
19 Deputy County Counsel
20 Attorneys for Defendants

21 **ORDER**

22 The Court has considered the Stipulation to modify the Case Management Order. The
23 Court makes the following Order pursuant to the Stipulation. The Case Management Order is
24 modified as follows:

- 25 Designation of Experts. **November 20, 2009**
- 26 Designation of Rebuttal Experts. **December 4, 2009**
- 27 Fact Discovery Cutoff. **October 30, 2009**
- 28 Expert Discovery Cutoff. **December 31, 2009**
- Deadline(s) for Filing Discovery Motions. **Civil Local Rule 26-2**
- Last Day for Dispositive Discovery Motions. **January 26, 2010, 10:00 a.m.**

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Final Pretrial Conference..... February 16, 2010, 2:00 p.m.
Jury Trial. March 29, 2010, 9:30 a.m.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Date: October 13, 2009

MAGISTRATE PATRICIA V. TRUMBULL
United State District Court Judge

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DECLARATION OF B. ROBERT ALLARD IN SUPPORT OF
STIPULATION AND REQUEST FOR ORDER

1. I am an attorney at law duly licensed to practice before the courts of the State of California. I am a partner of the law offices of Corsiglia, McMahon & Allard, attorneys for Plaintiff NICK MASTERS herein.

2. I think that a continuation of the discovery cut off and trial date is warranted in this case for the following reasons:

3. The case has become more complex both from a liability and damages standpoint. This is an excessive force case. The personnel file of the subject police officer was recently turned over. These documents as well as others will have to be forwarded to an expert for review and analysis. The parties have otherwise been diligent with regard to liability. Plaintiff in particular has taken three depositions: the subject officer, his partner and supervisor.

4. With regard to damages, the medical bills and injuries are more expansive as originally contemplated. My client by all accounts has a serious neck injury which has necessitated medical care totaling almost \$70,000, which includes multiple cervical injections. Surgery is apparently indicated. Therefore, more assessment and analysis needs to be done in this regard.

5. Otherwise, my schedule is such that a continuation is necessary. As it stands now, I have, a serious auto case involving a family of 6 in early November in Yolo County and a wrongful death case which is set for trial in Santa Clara County on November 30, 2009.

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was executed on October 8, 2009, in the City of San Jose, State of California.

/S/
B. ROBERT ALLARD

DECLARATION OF DAVID M. ROLLO IN SUPPORT OF STIPULATION AND REQUEST FOR ORDER

1 I, David M. Rollo, state that I am a Deputy County Counsel duly licensed to practice
2 law before this Court and all California courts, and am the attorney of record for the defendants
3 herein.

4 2. This request for an order modifying the Case Management Order is jointly made by
5 both sides. Plaintiff's medical condition continues to be unpredictable. Plaintiff's deposition
6 had been rescheduled to September 8, 2009 for completion. Due to unforeseen medical reasons,
7 the deposition was cancelled at the last minute and was not able to be rescheduled before
8 October 2, 2009 due to various calendar conflicts for both sides.

9 3. Plaintiff did appear at scheduled medical examination on September 28, 2009. I
10 expect a report from the examiner shortly. I also expect to be able to complete the plaintiff's
11 deposition within the next three weeks. The requested modification to the Case Management
12 Schedule will allow both sides time to evaluate the plaintiff's current condition and assess the
13 need for further expert review and/or retention, and allow for the orderly designation of experts
14 under the proposed new deadline.

15 4. The parties have previously requested modifications to the Case Management Order
16 on May 18, 2009 (Document 23) and July 20,2009 (Document 29) in response to changing
17 circumstances regarding the plaintiff's medical condition and to accommodate the calendars of
18 counsel. Counsel have met and conferred and make this further request which is not expected to
19 impact the pretrial or trial dates.

20 I declare under penalty of perjury that the foregoing is true and correct and that this
21 Declaration was executed on October 9, 2009, in the City of San Jose, State of California.

22 /S/
23 _____
24 DAVID M. ROLLO