

1 M. Jeffery Kallis, SBN 190028
THE LAW FIRM OF KALLIS & ASSOCIATES, P.C.
 2 333 W. San Carlos St., 8th Floor
 San Jose, CA 95110
 3 Telephone: (408) 971-4655
 Facsimile: (408) 971-4644

4 Andrew V. Stearns, SBN 164849
 5 Steven M. Berki, SBN 245426
 Guarav D. Sharma SBN 269123

6 **BUSTAMANTE, O'HARA & GAGLIASSO, P.C.**
 333 W. San Carlos St., 8th Floor
 7 San Jose, California 95110
 Telephone: (408) 977-1911
 8 Facsimile: (408) 977-0746

E-FILED - 2/9/11

9 Attorneys for Plaintiffs
 10 RUSSELL COLE and
 STEPHANIE OBERG

11
 12 UNITED STATE DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA

14 RUSSELL COLE and STEPHANIE OBERG,

Case No.: C08-05017 RMW

15 Plaintiffs,
 16 vs.

**AMENDED STIPULATION AND []XXXXXXXXXX
 ORDER CONTINUING HEARING DATE FOR
 PARTIES' MOTIONS FOR SUMMARY
 JUDGMENT [ECF Docket No. 101]**

17 CITY OF SUNNYVALE, CHIEF DON JOHNSON,
 18 OFFICER STEVEN ROCHEVILLE, LIEUTENANT
 TRACY HERN, OFFICER SCOTT CORTESE, and
 19 CAPTAIN KELLY FITZGERALD,

20 Defendants.

21 At the August 27, 2010 Case Management Conference, the Court set a hearing date for all
 22 parties' Motions for Summary Judgment. The parties, acting by and through their respective
 23 legal counsel, herein stipulate for an Order continuing the hearing date for said motion
 24 presently set for Friday, March 11, 2011 to Friday April 15, 2011 at 9:00 a.m. in Courtroom 6,
 25 4th Floor of the U.S. District Courthouse located at 280 S. 1st St., Rm. 2112, San Jose, California.
 26 Good cause exists to move the hearing date for the following reasons. This *amended* Stipulation
 27 is necessary since the prior submission [ECF Docket No. 101] did not account for plaintiffs'
 28 request for a continuance of their Motion for Summary Judgment, a Stipulation agreed to by all

1 parties.

2 The parties have been cooperating on discovery and exchanged substantial documents
3 including all police reports involving Welfare and Institutions Section 5150 incidents for a
4 specified period of time. The parties submitted a Stipulation for a Protective Order to the Court
5 but have not received back a signed Order. The parties have been notified that a new
6 Magistrate Judge has been assigned to this case and will follow-up with the new Magistrate
7 Judge on the status of the Protective Order.

8 Receipt of that Protective Order is necessary so that counsel for the defense may
9 produce certain privileged police personnel files to plaintiffs' counsel and said production must
10 occur before the defendant officers are deposed. Both plaintiffs have been deposed in
11 December 2010. Counsel for all parties have presently scheduled depositions of defendant
12 police officers set for the latter part of January. However counsel for the defense has been
13 ordered to start a three week jury trial January 4, 2011 in Alameda County Superior Court
14 before the Hon. Judge Hunter in Department 520 [*Allstate v. City of Fremont, Consolidated Case*
15 *No.: FG07359350*]. This trial may require a rescheduling of the depositions of the defendant
16 officers until the first part of February. Counsel for the defense was also involved in a jury trial
17 from October 1 until November 3, 2010 in Alameda County Superior Court, Department 607,
18 Fremont, California (*Dunn v. City of Fremont, Case No. RG08415820*). This trial also delayed
19 discovery in the above captioned matter.

20 Parties will need sufficient time to obtain reported transcripts after the depositions.
21 The current deadline for e-filing of the Motion for Summary Judgment is February 4, 2011.

22 Counsel met and conferred on a continued hearing date for all parties to submit Motions
23 for Summary Judgment on Friday April 15th and the Court has also indicated that this date is
24 available for the Honorable Ronald M. Whyte.

25 On January 19, 2011, the Court signed the proposed Order which mistakenly did not
26 specifically encompass plaintiffs' intended Motion for Summary Judgment. [ECF Docket No.
27 101]. Further, for judicial economy and for purposes of coordinating all parties' schedules, the
28 parties request the Court continue the Case Management Conference currently set for March

1 11, 2011 until April 29, 2011, the proposed hearing date for both parties' Motions for Summary
2 Judgment. Accordingly, the parties submit this *amended* version to account for plaintiffs'
3 intended Motion and to document the parties' request for continuance of the March CMC. In all
4 other respects, this Stipulation and Order is unchanged from the version previously filed on
5 January 12, 2011. [ECF Docket No. 100].

6 So Stipulated:

7 Dated: February 1, 2011

KALLIS & ASSOCIATES P.C.

8
9 By: _____ /s/

10 M. Jeffrey Kallis
11 Attorneys for Plaintiffs
12 Russell Cole and Stephanie Oberg

13 Dated: February 1, 2011

BUSTAMANTE O'HARA & GAGLIASSO

14 By: _____ /s/

15 Andrew V. Stearns
16 Steven M. Berki
17 Attorneys for Plaintiffs
18 Russell Cole and Stephanie Oberg

19 Dated: February 1, 2011

BERTRAND, FOX & ELLIOT

20 By: _____ /s/

21 Gregory M. Fox
22 Attorneys for Defendants City of Sunnyvale,
23 Chief Don Johnson, Officer Steven Rocheville,
24 Lieutenant Tracy Hern, Officer Scott Cortese, and
25 Captain Kelly Fitzgerald
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27
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ORDER

The hearing date for the parties' Motion for Summary Judgment and the Case Management Conference in the above entitled case shall be continued from March 11, 2011 to April 29, 2011.

IT IS SO ORDERED.

Dated: 2/9/11

Ronald M. Whyte

UNITED STATES DISTRICT COURT JUDGE

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