

1 Gregory M. Fox, State Bar No. 070876
 Dana L. Soong, State Bar No. 168160
 2 BERTRAND, FOX & ELLIOT
 The Waterfront Building
 3 2749 Hyde Street
 San Francisco, California 94109
 4 Telephone: (415) 353-0999
 Facsimile: (415) 353-0990

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5 Attorneys for Defendants CITY OF SUNNYVALE,
 6 CHIEF DON JOHNSON, OFFICER STEVEN ROCHEVILLE,
 7 LIEUTENANT TRACY HERN, OFFICER SCOTT CORTESE,
 And CAPTAIN KELLY FITZGERALD

8 UNITED STATE DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

10
 11 RUSSELL COLE and STEPHANIE OBERG,

Case No.: C08-05017 RMW

12 Plaintiffs,

13 vs.

**STIPULATION AND [] ORDER
 CONTINUING CASE MANAGEMENT
 CONFERENCE**

14 SUNNYVALE, CHIEF DON JOHNSON,
 OFFICER STEVEN ROCHEVILLE,
 15 LIEUTENANT TRACY HERN, OFFICER
 SCOTT CORTESE, and CAPTAIN KELLY
 FITZGERALD,

16 Defendants.
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18 The parties, acting by and through their respective legal counsel, herein stipulate for an Order
 19 continuing the initial Case Management Conference presently set for March 20, 2009 to Friday June
 20 26, at 10:30 a.m. in Courtroom 6, 4th Floor of the U.S. District Courthouse located at 280 S. 1st St.,
 21 Rm. 2112, San Jose, California. At that same date and time the Defendants will move the Court to
 22 dismiss the Second Amended Complaint for failure to state a claim for relief per Federal Rule of
 23 Civil Procedure 12(b)(6).

24 Good cause exists to move the Case Management Conference for the following reasons. The
 25 plaintiffs initially represented themselves and filed a complaint in the United States District Court on
 26 November 8, 2008. The defendants filed a motion to dismiss scheduled for a hearing on January 23,
 27 2009. Plaintiffs pro se filed an opposition and lodged a proposed first amended complaint.
 28 Plaintiffs' pro se then notified defense counsel they were going to retain legal counsel. Defense

1 counsel agreed to take the motion to dismiss off calendar pending retention of new legal counsel and
2 the filing of a new complaint prepared by new legal counsel and also notified the Court by letter of
3 these developments. The Court on March 5, 2009 filed its order permitting substitution of new legal
4 counsel for plaintiffs who had been representing themselves. Also on March 5, 2009 the Court
5 ordered the filing of the second amended complaint which had been prepared by the new plaintiffs'
6 attorneys. Counsel for the defense have reviewed the second amended complaint. Defense counsel
7 have decided to again file a motion to dismiss. Defense counsel met and conferred with new
8 plaintiffs' counsel on both the scheduling of the Case Management Conference and motion to dismiss
9 and it was agreed the parties would request an Order from the Court continuing the Case
10 Management Conference to a mutually convenient date and at the same time schedule for that same
11 date a hearing on the motion to dismiss. Plaintiffs' new counsel will be unavailable for three months
12 for either a hearing or a Case Management Conference because he is scheduled for a jury trial
13 commencing April 30, 2009 before the Hon. James Ware in the case of Darla and Joseph Padgett v.
14 City of Monte Sereno, CV0403946 JW, and it is scheduled to end on June 19th. The parties also
15 request that all disclosures and discussion of ADR options be continued to reflect the new Case
16 Management Conference date of June 26, 2009. Additional time will allow the parties to meet and
17 confer on the second amended complaint and the preparation of a joint status conference statement.
18 The parties have also begun discussing Alternative Dispute Resolution (ADR) options. For all of
19 these reasons the parties stipulate to a continuance of the case management conference.

20 So Stipulated:

21
22 Dated: March 11, 2009

BERTRAND, FOX & ELLIOT

23
24 By: _____ /s/
25 Gregory M. Fox
26 Dana Soong
27 Attorneys for Defendants City of Sunnyvale,
28 Chief Don Johnson, Officer Steven Rocheville,
Lieutenant Tracy Hern, Officer Scott Cortese, and
Captain Kelly Fitzgerald

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Dated: March 11, 2009

KALLIS & ASSOCIATES P.C.

By: _____ /s/ _____

Jeffrey Kallis
Attorneys for Plaintiffs
Russell Cole and Stephanie Oberg

Dated: March 11, 2009

BUSTAMANTE O'HARA & GAGLIASSO

By: _____ /s/ _____

Andrew Stearns
Attorneys for Plaintiffs
Russell Cole and Stephanie Oberg

ATTORNEY ATTESTATION

I hereby attest that I have on file all holograph signatures for any signatures indicated by a "conformed" signature (/s/) within this E-filed document.

Dated: March 12, 2009

_____/s/_____
GREGORY M. FOX

ORDER

The Case Management Conference in the above entitled case shall be continued from March 20, 2009 to June 26, 2009. Counsel shall submit an updated joint statement one week prior. All other dates continued to reflect the new Case Management Conference date.

IT IS SO ORDERED.

Dated: 3/17/09


UNITED STATES DISTRICT JUDGE