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5/24/2010

19 Attorneys for Plaintiffs,  
 20 THERESE ARIZMENDI and BABY ARIZMENDI

21 UNITED STATES DISTRICT COURT  
 22 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

23 THERESE ARIZMENDI, et al.,  
 24 Plaintiffs,  
 25 v.  
 26 CITY OF SAN JOSE, et al.,  
 27 Defendants.  
 28

Case Number: C08-05163 JW  
**STIPULATION AND [Proposed] ORDER MODIFYING DATE FOR DEFENDANTS' DISPOSTIVE MOTION**  
 Complaint filed November 13, 2008  
 Pre-Trial Conference Date: None  
 (Docket No. 72)  
 Trial Date: None

1 IT IS HEREBY STIPULATED AND AGREED BY AND BETWEEN THE PARTIES  
2 through their counsel of record as follows:

3 WHEREAS, fact discovery in this matter is currently set to close on May 14, 2010 per  
4 the Court's Order Partially Modifying Scheduling Order (E-Pacer Docket Entry 103);

5 WHEREAS, the due date for expert reports has been extended to June 1, 2010 (E-  
6 Pacer Docket Entry 103);

7 WHEREAS, the expert depositions are set to be completed by June 15, 2010 (E-  
8 Pacer Docket Entry 103);

9 WHEREAS, the final date for hearing dispositive motions was previously set by the  
10 Court for June 21, 2010, but was not adjusted in the most recent Scheduling Order  
11 modification (E-Pacer Docket Entry 46);

12 WHEREAS, the final date for filing dispositive motions, including Motions for Summary  
13 Judgment/Adjudication is thirty-five (35) days prior to the hearing date pursuant to Northern  
14 District Civil Local Rules and Federal Rules of Civil Procedure and the defendants have  
15 prepared and are ready to file a Motion for Summary Judgment by May 17, 2010 pursuant to  
16 the current Scheduling Order;

17 WHEREAS, no trial date has been currently set by the Court;

18 WHEREAS experts reports and depositions will not have taken place by the date  
19 required for parties Motions for Summary Judgment/Adjudication, the parties request an  
20 extension of the dispositive motion date for defendants' Motion for Summary Judgment so  
21 the Court may have before it, expert reports and other information necessary to decide the  
22 Motion for Summary Judgment/Adjudication;

23 THEREFORE, the parties have stipulated and agreed to the following modifications to  
24 the Scheduling Order and seek this Court's approval of the same:

- 25 1. Defendants shall have until July 30, 2010 to file a dispositive motion with a  
26 hearing date of September 16, 2010, all Opposition and Reply papers shall be  
27 filed in conformance with the dates prescribed by Northern District Local Rule  
28 7-3;

1           2.       In the alternative, should the Court not issue an Order by Monday, May 17,  
2                           2010 and defendants file their Motion for Summary Judgment on that date,  
3                           plaintiffs shall have until July 26, 2010 to file their Opposition to Motion for  
4                           Summary Judgment, with defendants' Reply due August 2, 2010 and a hearing  
5                           date on the Motion of August 16, 2010.  
6

7 DATED: May 14, 2010

THE LAW FIRM OF KALLIS & ASSOCIATES, P.C.

8  
9 By:           /s/ M. Jeffery Kallis            
          M. JEFFERY KALLIS, ESQ.

10 Attorneys for Plaintiffs,  
11 THERESE ARIZMENDI and BABY ARIZMENDI

12 DATED: May 14, 2010

BUSTAMANTE, O'HARA & GAGLIASSO, PC

13  
14 By:           /s/ Steven M. Berki            
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          STEVEN M. BERKI, ESQ.

15 Attorneys for Plaintiffs,  
16 THERESE ARIZMENDI and BABY ARIZMENDI  
17

18 DATED: May 14, 2010

RICHARD DOYLE, City Attorney

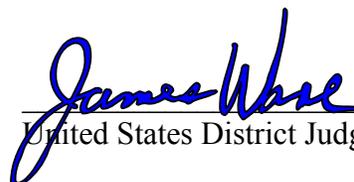
19  
20 By:           /s/ Michael R. Groves            
          MICHAEL R. GROVES, Sr. Deputy City Attorney

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23 DELOSSANTOS, OFFICER COOK, OFFICER  
24 MIRI, OFFICER SIT, OFFICER KURRELE,  
25 OFFICER ORDAZ, OFFICER LUTTICKEN,  
26 OFFICER PARENTE, OFFICER VAUGHN,  
27 SGT. BOYLE, SGT. IMOBERSTEG, SGT.  
28 BENNETT, and SGT. PATE

**ORDER**

The Court continues the Motion for Summary Judgment (Docket Item No. 105) from June 21, 2010 to **October 25, 2010 at 9:00 AM**. Plaintiffs' shall file their Opposition on or before **August 30, 2010**. Defendants' shall file their reply briefs on or before **September 20, 2010**. Plaintiffs' Letter re supplemental request to alter Motion for Summary Judgment hearing date and response dates (Docket Item No. 109) is found as MOOT.

Date: May 24, 2010

  
United States District Judge

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