

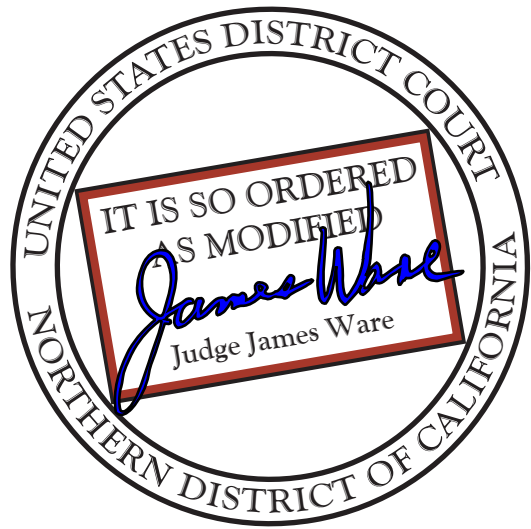
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15 Attorneys for City Defendants



17 UNITED STATES DISTRICT COURT
 18 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

20 THERESE ARIZMENDI; BABY
 ARIZMENDI, a minor, by and through his
 21 mother THERESE ARIZMENDI,
 22 Plaintiffs,
 23 v.
 24 CITY OF SAN JOSE, et al.,
 25 Defendants.

Case Number: C-08-05163 JW

**STIPULATION AND [PROPOSED]
 ORDER MODIFYING SCHEDULING
 ORDER**

27 Plaintiffs and Defendants in the above-entitled matter hereby stipulate, and
 28 respectfully request that the Court adopt the following proposed modifications to the

1 Court's Scheduling Order filed on March 6, 2009. The parties request the following
2 proposed modifications:

- 3 1. Close of all discovery: Extended from October 21, 2009 to December 21,
4 2009;
- 5 2. Last date for hearing dispositive motions: Extended from December 21,
6 2009 to March 1, 2010 (60 days from December 21, 2009 falls on a Court
7 Holiday);
- 8 3. Preliminary Pretrial Conference rescheduled to 11:00 a.m. on November 23,
9 2009;
- 10 4. Preliminary Pretrial Conference Statements: November 13, 2009.

11 It is also the parties' stipulation, and request, that all remaining deadlines, including
12 the deadline for disclosure of expert witnesses, rebuttal expert witnesses as well as filing
13 any objection to proposed testimony of expert witnesses also be extended in accordance
14 with the proposed modifications above.

15 The reason for this request is that the husband of Plaintiff, Therese Arizmendi, has
16 pending criminal charges arising out of the incident which forms the basis of this lawsuit.
17 Defendants' counsel has not taken his deposition to date due to the fact that it is
18 anticipated that most, if not all questions directed to him will be responded to with the
19 invocation of his fifth amendment privilege against self incrimination. Accordingly, any
20 deposition of the Plaintiff's husband until the criminal charges are resolved would be
21 essentially useless. Defendants counsel has attempted to ascertain the status of the
22 pending criminal charges, including by inquiring of Plaintiff's counsel. However, as of the
23 date of this stipulation, that information has not been received. In addition, there are
24 numerous Defendant police officers and it is anticipated that Plaintiffs' counsel will be
25 requesting the depositions of most, if not all, of the Defendant police officers. It will
26 therefore be extremely difficult to complete the remaining discovery prior to the discovery

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1 cutoff deadline set forth in the Court's Scheduling Order. The parties therefore request
2 that the Court adopt the proposed modifications to the Scheduling Order set forth above
3 and enter an Order thereon.

4 Respectfully submitted,

5
6 Dated: August _____, 2009

By: _____
M. JEFFERY KALLIS

7 Attorney for Plaintiffs

8
9 Dated: August _____, 2009

By: _____
IGNASCIO CAMARENA, II

10 Attorney for Plaintiffs

11
12 Dated: August _____, 2009

RICHARD DOYLE, City Attorney

13
14
15 By: _____/s/_____
MICHAEL J. DODSON
16 Sr. Deputy City Attorney

17 Attorney for Defendants

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1 **ORDER**

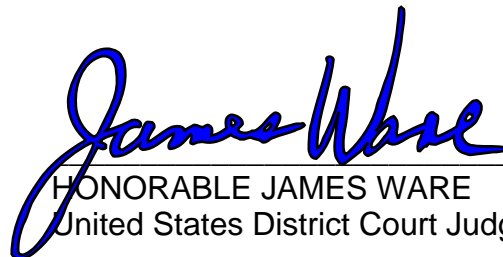
2 The Court, having considered the Stipulation of the parties, and good cause
3 appearing:

4 **IT IS HEREBY ORDERED** that the Court's Scheduling Order filed on March 6, 2009
5 is modified as follows:

- 6 1. Close of all discovery: December 21, 2009
- 7 2. Last day for hearing dispositive motions: **February 22, 2010 at 9 a.m.**
- 8 3. Preliminary Pretrial Conference: **November 16, 2009 at 11 a.m.**
- 9 4. Preliminary Pretrial Conference Statements: **November 6, 2009**
- 10 5. In addition, the deadlines for Disclosure of Expert Witnesses, Disclosure of
11 Rebuttal Expert Witnesses, and Objections to Proposed Testimony of an
12 Expert are also hereby modified in accordance with the modified dates.

13 **IT IS SO ORDERED.**

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19 Dated: September 1, 2009


HONORABLE JAMES WARE
United States District Court Judge