

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  
 5

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6 Attorneys for Defendants  
 CITY OF SUNNYVALE,  
 CHRIS SEARLE and DARREN PANG  
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8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION  
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11 ERIKA CANAS, JOSE CANAS, a minor, by  
 and through his guardian ad litem, and JESUS  
 12 CANAS, by and through his guardian ad litem,

13 Plaintiffs,

14 vs.

15 CITY OF SUNNYVALE, CHRIS SEARLE,  
 DARREN PANG and DOES ONE through  
 16 TWENTY-FIVE,

17 Defendants.

Case No.: C08-05771 JF

**STIPULATION AND ~~PROPOSED~~ ORDER  
 TO CONTINUE MOTION TO DISMISS  
 PLAINTIFF'S THIRD AMENDED  
 COMPLAINT AND CASE MANAGEMENT  
 CONFERENCE**

18 IT IS HEREBY STIPULATED by the parties hereto, through their respective undersigned  
 19 attorneys of record, that defendants' Motion to Dismiss plaintiff's Third Amended Complaint be  
 20 continued to 60 days after the further Early Neutral Evaluation (hereinafter "ENE"), which has been  
 21 scheduled for November 20. In addition the parties wish to move the next Case Management  
 22 Conference to a date 60 days after the further ENE. The parties have agreed upon a proposed  
 23 protective order to be submitted to the court. Discovery will proceed once the proposed protective  
 24 order has been entered by the court. The parties felt that discovery was needed to conduct a  
 25 meaningful ENE, therefore a further ENE was scheduled. As the ENE may dispose of the case, we  
 26 hereby respectfully request that the court continue the defendants' Motion to Dismiss plaintiff's Third  
 27 Amended Complaint and the Case Management Conference to a date 60 days after the ENE  
 28 scheduled for November 20 and propose the date of January 15, 2010 at 9am for both the Motion to

1 Dismiss and further CMC.

2 Dated: October 9, 2009

BERTRAND, FOX & ELLIOT

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By: \_\_\_\_\_ /s/

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Gregory M. Fox

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Attorneys for Defendants

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CITY OF SUNNYVALE, CHRIS SEARLE and

DARREN PANG

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Dated: October 9, 2009

ROBERTS & ELLIOT LLP

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By: \_\_\_\_\_ /s/

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James Roberts, Esq.

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Sharmi Shah, Esq.

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Attorneys for Plaintiffs

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ERIKA CANAS, JOSE CANAS, and JESUS CANAS

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**ORDER**

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Good cause appearing,

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THE STIPULATION IS SO ORDERED.

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Dated: 10/22/2009, 2009

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\_\_\_\_\_  
Hon. Jeremy Fogel  
UNITED STATES DISTRICT COURT JUDGE

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**ATTORNEY ATTESTATION**

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

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Dated: October\_13, 2009

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/s/

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Gregory M. Fox

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