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**\*E-FILED - 8/12/09\***

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10 Attorneys for Plaintiffs

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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

MARLO CUSTODIO, ROMELO ) Case No. C09-00527 RMW  
CUSTODIO, MARILOU CUSTODIO, and )  
OSCAR "O.J." CUSTODIO, JR., ) **JOINT STIPULATED REQUEST TO**  
Plaintiffs, ) **RESCHEDULE THE INITIAL CASE**  
v. ) **MANAGEMENT CONFERENCE AND**  
 ) **[ ] ORDER**

THE COUNTY OF SANTA CLARA, ) DATE: August 28, 2009  
CALIFORNIA, THE CITY OF SAN JOSE, ) TIME: 10:30 am  
POLICE CHIEF ROBERT DAVIS, ) DEPT: Courtroom 6, 4<sup>th</sup> Floor  
individually and in his official capacity as )  
Chief of the San Jose Police Department, ) JUDGE: Hon. Ronald M. Whyte  
SAN JOSE POLICE DEPARTMENT )  
SERGEANT EVANS (Badge #2339), )  
individually and in his official capacity as a )  
supervisory police officer for the CITY OF )  
SAN JOSE, SAN JOSE POLICE )  
DEPARTMENT OFFICERS EPP (Badge )

#3048), individually and in his capacity as a )  
police officer for the CITY OF SAN JOSE, )  
MORASCI (Badge #3292), individually and )  
in his capacity as a police officer for the CITY )  
CITY OF SAN JOSE, TRAN (Badge )  
#3269), individually and in his capacity as a )  
police officer for the CITY OF SAN JOSE, )  
UNGER (Badge #3080), individually and in )  
his capacity as a police officer for the CITY )  
OF SAN JOSE, DEMARIA (Badge #3728), )  
individually and in his capacity as a police )  
officer for the CITY OF SAN JOSE, )  
JEFFREY (Badge #3715), individually and )  
in his capacity as a police officer for the )  
CITY OF SAN JOSE, CRAWLEY (Badge )  
#3357), individually and in his capacity as a )

1 police officer for the CITY OF SAN JOSE,)  
2 PURNELL (Badge #3627), individually and )  
3 in his capacity as a police officer for the )  
4 CITY OF SAN JOSE, CAHILL (Badge )  
5 #3357) and BARRY (Badge #3703), )  
6 individually and in his capacity as a police )  
7 officer for the CITY OF SAN JOSE, and )  
8 DOES ONE through FIFTY, )  
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10 Defendants. )  
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7 Pursuant to Civil Local Rule 16-2(e), Plaintiffs MARLO CUSTODIO, ROMEL CUSTODIO,  
8 MARILOU CUSTODIO, and OSCAR "O.J." CUSTODIO, JR. (hereinafter "Plaintiffs"); Defendant  
9 THE COUNTY OF SANTA CLARA, CALIFORNIA; and Defendants THE CITY OF SAN JOSE,  
10 POLICE CHIEF ROBERT DAVIS, individually and in his official capacity as Chief of the San Jose  
11 Police Department, SAN JOSE POLICE DEPARTMENT SERGEANT EVANS (Badge #2339),  
12 individually and in his official capacity as a supervisorial police officer for the CITY OF SAN JOSE,  
13 SAN JOSE POLICE DEPARTMENT OFFICERS EPP (Badge #3048), individually and in his  
14 capacity as a police officer for the CITY OF SAN JOSE, MORASCI (Badge #3292), individually and  
15 in his capacity as a police officer for the CITY OF SAN JOSE, TRAN (Badge #3269), individually  
16 and in his capacity as a police officer for the CITY OF SAN JOSE, UNGER (Badge #3080),  
17 individually and in his capacity as a police officer for the CITY OF SAN JOSE, DEMARIA (Badge  
18 #3728), individually and in his capacity as a police officer for the CITY OF SAN JOSE, JEFFREY  
19 (Badge #3715), individually and in his capacity as a police officer for the CITY OF SAN JOSE,  
20 CRAWLEY (Badge #3357), individually and in his capacity as a police officer for the CITY OF SAN  
21 JOSE, PURNELL (Badge #3627), individually and in his capacity as a police officer for the CITY OF  
22 SAN JOSE, CAHILL (Badge #3357) and BARRY (Badge #3703), individually and in his capacity  
23 as a police officer for the CITY OF SAN JOSE (hereinafter collectively "Defendants") hereby  
24 stipulate to continue the Initial Case Management Conference currently scheduled for August 28, 2009  
25 at 10:30 a.m.

26 WHEREAS, on June 30, 2009, the Court entered a Reassignment Order reassigning this case  
27 to the Honorable Ronald M. Whyte;

28 WHEREAS, on June 30, 2009, the Court issued a Clerk's Notice of Impending Reassignment

1 to a United States District Judge thereby rescheduling the Case Management Conference, previously  
2 set for July 14, 2009 before the Honorable Judge Patricia V. Trumbull, to August 28, 2009 before the  
3 Honorable Judge Ronald M. Whyte;

4 WHEREAS, Plaintiffs are currently on trial in the Superior Court of California, County of  
5 Santa Clara, San Jose Facility - Criminal Division, in the matter entitled *The People of the State of*  
6 *California vs. Marlo Alvarado Custodio, et al.*, Case No. CC756870, and the trial is ongoing;

7 WHEREAS, the parties request this continuance pending the determination of the criminal  
8 trial; and

9 WHEREAS, this is the first request for continuance in this matter.

10 NOW, THEREFORE, THE PARTIES HEREBY STIPULATE AND JOINTLY REQUEST,  
11 by and through their respective counsel of record, as follows:

12 (1) That the Initial Case Management Conference, currently set for August 28, 2009, be  
13 continued to October 2, 2009; and

14 (2) That the filing date of the Case Management Statement, currently due on August 21,  
15 2009, be set for September 25, 2009.

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17 SO REQUESTED AND STIPULATED:

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19 Dated: August 5, 2009

GROSS BELSKY ALONSO LLP

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By: /s/ Monique Alonso  
Monique Alonso  
Attorneys for Plaintiffs

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Dated: August 5, 2009

OFFICE OF THE CITY ATTORNEY

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By: /s/ Michael J. Dodson  
Michael J. Dodson  
Attorneys for Defendants

1 Dated: August 5, 2009

2 THE COUNTY OF SANTA CLARA

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4 By: /s/ Aryn Paige Harris

5 Aryn Paige Harris

6 Attorneys for Defendant

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## **DECLARATION OF CONSENT**

Pursuant to General Order No. 45, Section X(B) regarding signatures, I attest under penalty of perjury that concurrence in the filing of this document has been obtained from counsel for Defendants, Michael J. Dodson and Aryn Paige Harris.

Dated: August 5, 2009

By: /s/ Monique Alonso

## ORDER

**PURSUANT TO STIPULATION, IT IS SO ORDERED.** The Case Management Conference scheduled for August 28, 2009 is rescheduled to October 2, 2009 at 10:30 a.m. The parties' Case Management Statement will be due on September 25, 2009.

Dated: 8/12/09

Ronald M. Whyte  
The Honorable Ronald M. Whyte  
Judge of the United States District Court

## **CERTIFICATE OF SERVICE**

**RE: *Marlo Custodio et. al., v. The County of Santa Clara, California, et al.,***  
**Case No. C09-00527 RMW**

I am a citizen of the United States and employed in the County of San Francisco, State of California. I am over eighteen (18) years of age and not a party to the above-entitled action. My business address is GROSS BELSKY ALONSO LLP, 180 Montgomery Street, Suite 2200, San Francisco, CA, 94104. On the date set forth below, I served the following documents in the manner indicated on the below named parties and/or counsel of record:

• **JOINT STIPULATED REQUEST TO RESCHEDULE THE INITIAL CASE MANAGEMENT CONFERENCE AND [PROPOSED] ORDER**

**U.S. Mail**, with First Class postage prepaid and deposited in a sealed envelope at San Francisco, California. I am readily familiar with the firm's practice for the collection and processing of correspondence for mailing with the United States Postal Service, and said correspondence would be deposited with the United States Postal Service at San Francisco, California that same day in the ordinary course of business.

**Facsimile** transmission from (415) 544-0201 during normal business hours, complete and without error on the date indicated below, as evidenced by the report issued by the transmitting facsimile machine.

XX **By ECF:** I caused the aforementioned documents to be filed via the Electronic Case Filing (ECF) system in the United States District Court for the Northern District of California, on all parties registered for e-filing in the Docket Number C 09-00527 PVT.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 5, 2009 at San Francisco, California.

/s/ Jessica Dean  
JESSICA DEAN