1	JAMES MCMANIS (40958)	
2	NEDA MANSOORIÀN (207832) CHRISTINE PEEK (234573)	
3	McMANIS FAULKNER A Professional Corporation	
4	50 West San Fernando Street, 10th Floor San Jose, California 95113	
5	Telephone: 408-279-8700 Facsimile: 408-279-3244	
6	Email: jmcmanis@mcmanisfaulkner.co cpeek@mcmanisfaulkner.com	m
7	Attorneys for Plaintiffs	
8		
9	RICHARD DOYLE (88625)	
10	NORA FRIMANN (93249) MICHAEL R. GROVES (85620)	
11	Office of the City Attorney 200 East Santa Clara Street	
12	San Jose, California 95113-1905 Telephone: (408) 535-1900	
13	Facsimile: (408) 998-3131 Email: CAO.Main@sanjoseca.gov	*E-FILED - 6/15/09*
14	Attorneys for Defendants	E TIEED 0/13/0/
15		
16	UNITED STATES DISTRICT COURT	
17	NORTHERN DISTRICT OF CALIFORNIA	
18	SAN JOSE DIVISION	
19		
20	BERNARDINO BARRERA, an individual, et al.,	No. C 09-00858 RMW
21	Plaintiffs,	STIPULATION AND JOINT REQUEST FOR AN ORDER EXTENDING TIME
22	VS.	TO SERVE SUMMONS AND
23	CITY OF SAN JOSE, a public entity, et al.,	COMPLAINT ON DEFENDANT GRAEME NEWTON; [RROPOSED]
24	Defendants.	ORDER
25		[Civil Local Rule 6-2]
26		
27		
28		
	STIPULATION AND JOINT REQUEST FOR AN ORD	DER EXTENDING TIME NO. C 09-00858 RMW

STIPULATION AND JOINT REQUEST

WHEREAS, Rule 4(m) of the Federal Rules of Civil Procedure provides that a defendant in a civil action must be served with the summons and complaint within 120 days after the complaint is filed;

WHEREAS, plaintiffs filed the complaint in this action on February 27, 2009;

WHEREAS, the 120-day period provided for in Rule 4(m) will elapse on June 27, 2009;

WHEREAS, defendant Graeme Newton is currently on military leave in Afghanistan and will not return to the United States until October 4, 2009, and has been on military leave since plaintiffs filed the complaint in this action;

WHEREAS, plaintiffs have attempted to obtain a waiver of formal service of process for defendant Newton from counsel for the City of San Jose and the forty-one other individual defendants, but plaintiffs have been unable to obtain a waiver of formal service;

WHEREAS, defendant Newton has not otherwise waived service of process; and WHEREAS, the parties are currently attempting to schedule a settlement conference before the Honorable Richard Seeborg, and a successful settlement conference could moot the service issue with respect to defendant Newton;

///

18 1 / / /

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

19 || / / /

20 | | / / /

21 | 1///

22 1///

23 | | / / /

24 | 1 / /

25 || / / /

26 ||///

27 | 1 / /

28 | | / ,

1	The parties to the above-entitled action hereby stipulate, by and through their respective	
2	counsel, and jointly request that the 120-day deadline to serve the summons and complaint on	
3	defendant Newton be extended by 130 days from June 27, 2009 to November 4, 2009. The	
4	parties make this stipulation and joint request for the reasons stated in the Declaration of	
5	Christine Peek in Support of Stipulation And Joint Request For An Order Extending Time To	
6	Serve Summons And Complaint On Defendant Graeme Newton, filed herewith.	
7	*	
8	Dated: June, 2009 McMANIS FAULKNER	
9		
10	TAMES MANUS	
11	CHRISTINE PEEK	
12	Attorneys for Plaintiffs, BERNARDINO BARRERA, DOLORES	
13	BARRERA, MARIA BARRERA, JOSE BARRERA, A.B., a minor child, by and through	
14	her Guardian ad Litem, DOLORES BARRERA	
15	Dated: June, 2009 RICHARD DOYLE, City Attorney	
16	\sim	
17	By:////////	
18	MICHAEL R. GROVES Sr. Deputy City Attorney	
19	Attorneys for Defendants, CITY OF SAN JOSE, OFCR. FAYSAL ABI-	
20	CHAHINE, OFCR. RYAN AGAMAU, OFCR. BETH ALBALOS, OFCR. CHRIS BIELECKI,	
21	OFCR. KYLE CARDIN, SGT. EDWARD CONOVER, OFCR. DEVLIN CREIGHTON,	
22	SGT. DENNIS DOLEZAL, OFCR. ADAM DORN, OFCR. RYAN DOTE, OFCR. ERIC	
23	DRAGOO, OFCR. CASSADY ELISCHER, OFCR. PAUL FUKUMA, OFCR. TEDROS	
24	HABIB, SGT. JOHN HAGELE, OFCR. ANTHONY HATTEY, OFCR. JAMES HOAG,	
25	OFCR. ADAM JENKINS, OFCR. BENJAMIN JENKINS, OFCR. HEIDI KINDORF, OFCR.	
26	STEVEN MARELLO, SGT. JOHN MARFIA, OFCR. MIGUEL MARTIN, OFCR. SEAN	
27	MATTOCKS, OFCR. SCOTT McCULLOCH, OFCR. JAMES MENARD, OFCR. KEITH	
28	MIZUHARA, OFCR. SCOTT MORASCI, OFCR. SEAN MORGAN, SGT. JANNA MUNK, OFCR. TROY MURRAY, OFCR.	
	2 STIPULATION AND JOINT REQUEST FOR AN ORDER EXTENDING TIME NO. C 09-00858 RMW	
l.	10.000 107	

JOSEPH PAOLINI, SGT. JEFF PROFIO, OFCR. ERIK SNELGROVE, OFCR. NICHOLAS SPEAKS, OFCR. MICHAEL SULLIVAN, OFCR. GARRIE THOMPSON, LT. RICK WEGER, SGT. BRUCE WILEY, OFCR. JODI WILLIAMS, OFCR. MACEDONIA ZUNIGA, and OFCR. **GRAEME NEWTON ORDER** PURSUANT TO STIPULATION, IT IS SO ORDERED. DATED: June 15 2009

STIPULATION AND JOINT REQUEST FOR AN ORDER EXTENDING TIME

NO. C 09-00858 RMW