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E-Filed 3/25/2010

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

PAUL CICALA, et al.,

Plaintiffs,

v.

CITY OF SAN JOSE, et al.,

Defendants.

Case No. C 08-04032 JF (PVT)

(This order also is to be filed in
Case No. C 09-02617 JW (PVT))

ORDER¹ RELATING CLAIMS

Pursuant to Civ. L. R. 3-12, the Court has considered whether *Heiman v. Officer Johnson, et al.*, C 09-02617 JW (PVT), a later-filed action pending before Judge Ware, should be related in part to the instant case. The motion is unopposed.

The Court addressed an almost identical motion when Plaintiffs moved to relate another case, *Valdez v. City of San Jose*, 09-00176 RMW (PVT), to the instant action. The Court granted that motion on June 10, 2009. As was true in that instance, both cases at issue here concern alleged civil rights violations by San Jose police officers in the enforcement of Cal. Pen. Code § 647(f). Plaintiffs in the instant case assert individual claims for damages and also seek relief pursuant to *Monell v. Department of Social Services*, 436 U.S. 658 (1989). Plaintiff in *Heiman* asserts an individual claim for damages and also alleges a claim that he has been subjected to the

¹ This disposition is not appropriate for publication in the official reports.

1 same policies, customs and practices challenged by the *Monell* claim in the instant case.
2 Plaintiffs concede that the disputed factual issues with respect to the *Heiman* plaintiff's claim for
3 damages are distinct and that relating that claim would not promote judicial economy. It is
4 apparent, however, that it would promote judicial economy to coordinate the proceedings with
5 respect to the injunctive relief sought as to the *Monell* claims in both actions. The Court, as it did
6 in its previous order relating the instant action and *Valdez*, concludes that the status of the *Monell*
7 claim in *Heiman v. Officer Johnson, et al.* should be resolved prior to trial of the individual claim
8 for damages.

9 Accordingly, and good cause therefor appearing, IT IS HEREBY ORDERED as follows:

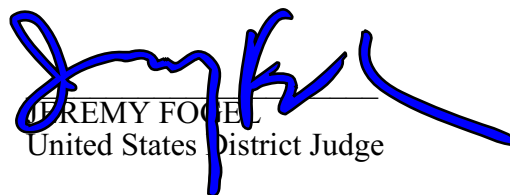
10 1. Plaintiff's claim for injunctive relief under the *Monell* theory of municipal liability in
11 *Heiman v. Officer Johnson, et al.* is hereby related to the above-captioned case for all purposes;

12 2. Any discovery disputes with respect to the related claims shall be heard by Magistrate
13 Judge Patricia V. Trumbull;

14 2. The remaining claims in *Heiman v. Officer Johnson, et al.* are hereby stayed pending
15 disposition of related claims or until further order of the Court;

16 3. Upon dissolution of the stay, the remaining claims in *Heiman v. Officer Johnson, et al.*
17 shall proceed before Judge Ware.

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19 DATED: 3/25/2010

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JEREMY FOGEL
United States District Judge