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 7 SAMMY CUEVAS

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

11 SAMMY CUEVAS,  
 12  
 13 Plaintiff,  
 14  
 15 v.

CASE NO. C 14-02540 BLF

**STIPULATION AND**  
**[PROPOSED] ORDER TO STAY**  
**CASE**

15 CAMPBELL PEACE OFFICER  
 16 ASSOCIATIONS' PORAC LDF PLAN,  
 17 PEACE OFFICERS RESEARCH  
 18 ASSOCIATION OF CALIFORNIA LEGAL  
 DEFENSE FUND, and DOES 1-10.  
 19 Defendants.

Location: Courtroom 3  
 Judge: Hon. Beth Labson Freeman

**STIPULATION**

22 In furtherance of judicial economy and to avoid potentially unnecessary expense,  
 23 the undersigned counsel for and on behalf of Plaintiff SAMMY CUEVAS ("Plaintiff")  
 24 and Defendant PEACE OFFICERS RESEARCH ASSOCIATION OF CALIFORNIA  
 25 LEGAL DEFENSE FUND ("PORAC LDF" or the "Fund") (collectively, the "parties")  
 26 wish to stay all proceedings in this case ("Civil Action") pending Plaintiff's completion  
 27 of the Fund's administrative claims procedures. Accordingly, Plaintiff and PORAC LDF  
 28 by and through their respective counsel hereby STIPULATE and AGREE as follows:

1 WHEREAS Plaintiff filed his initial Complaint in this action with the Santa Clara  
2 County Superior Court on May 10, 2012, and subsequently filed a First Amended  
3 Complaint on June 8, 2012;

4 WHEREAS Plaintiff filed a Second Amended Complaint on April 8, 2014, which  
5 was served on the PORAC LDF on May 10, 2014;

6 WHEREAS PORAC LDF removed the Civil Action to this Court under federal  
7 question jurisdiction;

8 WHEREAS PORAC LDF filed a Motion to Dismiss Plaintiff's Second Amended  
9 Complaint on June 10, 2014, which argued that Plaintiff failed to exhaust his  
10 administrative remedies under the LDF's internal claims and appeals procedure;

11 WHEREAS Plaintiff's Opposition to the Motion to Dismiss Plaintiff's Second  
12 Amended Complaint was due on or about June 24, 2014;

13 WHEREAS PORAC LDF filed a Response in support of their Motion to Dismiss  
14 Plaintiff's Second Amended Complaint on July 1, 2014;

15 WHEREAS Plaintiff filed a Motion to Set Aside Default on July 2, 2014;

16 WHEREAS the parties have discussed and agree that Plaintiff will return to the  
17 administrative process to seek a final determination of his claim under the Fund;

18 WHEREAS the parties request a stay of all the proceedings in this matter at the  
19 present time, including hearings, briefings, appearances, and any other deadlines imposed  
20 by law or the Court, pending the Fund's final determination of Plaintiff's administrative  
21 claim;

22 WHEREAS the parties further stipulate and agree that they will withdraw their  
23 respective pending motions should the Court grant the stay;

24 WHEREAS the parties further stipulate and agree that the stay requested herein is  
25 not requested for the purpose of delay and will not result in any prejudice to the parties or  
26 the Court;

1           **IT IS THEREFORE STIPULATED AND AGREED** by Plaintiff and PORAC  
2 LDF, by and through their respective counsel, that the Court is respectfully requested to  
3 order that:

- 4           1. This action is hereby stayed pending the Fund's final determination of the  
5           Plaintiff's claim through the Fund's administrative claims process; all existing  
6           case deadlines, including the deadline (1) to meet and confer regarding initial  
7           disclosures (9/30/14), (2) to file the ADR Certification (9/30/14), (3) to file a  
8           Stipulation to ADR Process (9/30/14), (4) to complete Initial Disclosures, (5)  
9           to file a Rule 26(f) report (10/30/14), and (5) for the Case Management  
10          Conference (11/6/14), are taken off calendar;
- 11          2. PORAC LDF's MOTION to Dismiss the Second Amended Complaint (Docket  
12          Item No. 9) is WITHDRAWN WITHOUT PREJUDICE;
- 13          3. Plaintiff's Motion to Set Aside Default (Docket Item No. 11) is  
14          WITHDRAWN AS MOOT;
- 15          4. Due to what may be a period of extended inactivity while the administrative  
16          claims process is completed, the clerk of the court shall administratively close  
17          the file; and
- 18          5. The Plaintiff shall provide notice to the Court within one week at the  
19          conclusion of the administrative claims process. In that notice, the Plaintiff  
20          shall state whether or not this matter should be reopened and a whether a case  
21          management conference should be scheduled.
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**IT IS SO STIPULATED.**

Dated: July 24, 2014

PICONE & DEFILIPPIS, A P.L.C.

BY: /s/ Steve M. Defilippis  
Steve M. Defilippis  
Andrew Velazquez  
Attorneys for Plaintiff  
SAMMY CUEVAS

Dated: July 24, 2014

TRUCKER ♦ HUSS

BY: /s/ Clarissa A. Kang  
R. Bradford Huss  
Clarissa A. Kang  
Michelle S. Lewis  
Attorneys for Defendants  
PEACE OFFICERS RESEARCH  
ASSOCIATION OF CALIFORNIA  
LEGAL DEFENSE FUND

**PURSUANT TO STIPULATION, IT IS SO ORDERED**

Dated: \_\_\_\_\_

Beth Labson Freeman  
HON. BETH LABSON FREEMAN  
United States District Judge