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11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**
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14 EDWARD PERUTA,
15 Plaintiff,

16 v.

17 COUNTY OF SAN DIEGO,
18 WILLIAM D. GORE,
INDIVIDUALLY AND IN HIS
19 CAPACITY AS SHERIFF,
20 Defendants.

) **CASE NO: 09-CV-2371 IEG (BGS)**

) **JOINT MOTION OF THE PARTIES
TO MODIFY SCHEDULING ORDER**

) *Pursuant to Fed. R. Civ. P. 16(b)(4)*

) Honorable Irma E. Gonzalez, presiding

) Action Filed: October 23, 2009

) Trial Date:

21 **I.**

22 **INTRODUCTION**

23 The parties, Plaintiff Edward Peruta (“Plaintiff”) and Defendants County of
24 San Diego and Sheriff William D. Gore (collectively “Defendants”), through their
25 respective attorneys of record, hereby move the Court to set a new Case
26 Management Conference in order to reschedule certain dates set by this Court in
27 the Case Management Conference Order Regulating Discovery and Other Pretrial
28 Proceedings dated March 22, 2010.

1 II.

2 RECITALS

3 WHEREAS, Plaintiff filed his Complaint on October 23, 2009;

4 WHEREAS, the Order of March 22, 2010, set the following dates:

- 5 1. Last Day to disclose expert witnesses and produce reports pursuant to
6 Fed. R. Civ. P. 26 (a) (2) shall be June 4, 2010; and
7 2. Discovery Cut-off Date shall be July 30, 2010;
8 3. Filing of pretrial motions cut-off date shall be June 27, 2010;

9 WHEREAS, Plaintiff filed a Motion for Leave to File Amended Complaint
10 on April 22, 2010;

11 WHEREAS, the Court has to date not ruled on Plaintiff's Motion for Leave
12 to File Amended Complaint and the deadline for disclosing expert witnesses and
13 producing reports pursuant to Fed. R. Civ. P. 26 (a) (2) according to the Order of
14 March 22, 2010 is June 4, 2010;

15 WHEREAS, Plaintiff's Motion for Leave to File Amended Complaint seeks
16 to add new parties;

17 WHEREAS, Fed. R. Civ. P. 26 (a) (1) (D) allows a party joined after a Fed.
18 R. Civ. P. 26 (f) Case Management Conference 30 days after being joined to
19 conduct initial disclosures, which possibly conflicts with this Court's Order of
20 March 22, 2010;

21 WHEREAS, all parties believe this Court's Order of March 22, 2010 should
22 be vacated, and a new Fed. R. Civ. P. 26 (f) Case Management Conference for this
23 Action should be scheduled to establish a new discovery schedule;

24 WHEREAS, the parties do not believe a new Case Management Conference
25 will prejudice any party or result in undue delay;

26 WHEREAS, Federal Rule of Civil Procedure ("FRCP") Rule 16(b)(4)
27 requires good cause and judicial consent as prerequisites to modifying a scheduling
28 order; and

1 WHEREAS, the parties have not yet requested any extension in this matter.
2 NOW, THEREFORE, BASED ON THE FOREGOING FACTS, THE PARTIES
3 HEREBY STIPULATE AND MOVE THIS COURT TO MODIFY THE ORDER
4 OF MARCH 22, 2010 AND ESTABLISH A REVISED DISCOVERY
5 SCHEDULE TO BE DETERMINED AT A NEW CASE MANAGEMENT
6 CONFERENCE.

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8 **IT IS SO STIPULATED AND AGREED.**

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10 Dated: June 4, 2010

MICHEL & ASSOCIATES, P.C.

11

12 /s/ C. D. Michel
13 C.D. Michel
14 Attorney for Plaintiff Edward Peruta

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15 Dated: June 4, 2010

PAUL NEUHARTH, JR., APC

16

17 /s/ Paul Neuharth, Jr.
18 Paul Neuharth, Jr.
19 Attorney for Plaintiff Edward Peruta

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19 Dated: June 4, 2010

JAMES M. CHAPIN, County Counsel

20

21 /s/ James M. Chapin
22 Attorney for Defendants County of San
23 Diego and William D. Gore

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IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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EDWARD PERUTA,
Plaintiff,

v.

COUNTY OF SAN DIEGO,
WILLIAM D. GORE,
INDIVIDUALLY AND IN HIS
CAPACITY AS SHERIFF,
Defendants.

) CASE NO. 09-CV-2371 IEG (BLM)
) CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 180 E. Ocean Blvd., Suite 200, Long Beach, California, 90802.

I am not a party to the above-entitled action. I have caused service of:

JOINT MOTION OF THE PARTIES TO MODIFY SCHEDULING ORDER

on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

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I declare under penalty of perjury that the foregoing is true and correct.
Executed on June 4, 2010.

/s/ C. D. Michel
C.D. Michel
Attorney for Plaintiff