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11  
12 **UNITED STATES DISTRICT COURT**  
13 **SOUTHERN DISTRICT OF CALIFORNIA**  
14

15 EDWARD PERUTA,  
16 Plaintiff,

17 v.

18 COUNTY OF SAN DIEGO,  
WILLIAM D. GORE,  
19 INDIVIDUALLY AND IN HIS  
CAPACITY AS SHERIFF,  
20 Defendants.  
21

) **CASE NO: 09-CV-2371 IEG (BGS)**  
) **DECLARATION IN SUPPORT OF**  
) **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:  
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1 I, C.D. Michel, declare as follows:

2 1. I represent the Plaintiffs in this action.

3 2. Under the Case Management Conference Order Regulating Discovery  
4 and Other Pretrial Proceedings ("Case Management Scheduling Order") dated  
5 March 22, 2010, the last day to disclose expert witnesses and produce reports  
6 pursuant to Fed. R. Civ. P. 26 (a) (2) was June 4, 2010.

7 3. Plaintiff filed a Motion for Leave to File Amended Complaint ("Motion")  
8 on April 22, 2010 seeking to add new parties and new claims.

9 4. As of June 4, 2010, the Court's ruling on Plaintiff's Motion is still  
10 pending.

11 5. Fed. R. Civ. P. 26 (a) (1) (D) allows a party joined after a Fed. R. Civ. P.  
12 26 (f) Case Management Conference 30 days after being joined to conduct initial  
13 disclosures, which potentially conflicts with the Court's Order of March 22, 2010.

14 6. I, along with opposing counsel, stipulated in good faith to file a joint  
15 motion seeking a new Case Management Scheduling Order to discuss establishing  
16 new deadlines for conducting discovery once the Amended Complaint issue is  
17 decided.

18 7. This action was undertaken as an attempt to allow both parties an  
19 opportunity to determine their respective needs concerning discovery in this matter,  
20 to eliminate wasted effort and expense, and to clarify any potential conflicts  
21 between this Court's Order and the Federal Rules of Civil Procedure with respect to  
22 initial disclosures.

23 8. I have made a good faith effort to comply with the dates and deadlines set  
24 in the Case Management Scheduling Order by obtaining a list of potential expert  
25 statisticians and other experts available for the purposes of consulting and  
26 generating a report as required pursuant to Fed. R. Civ. P. 26. Further action to  
27 finalize these reports is premature and unnecessarily costly.

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1           9. This expert discovery is premature at this stage considering the recently  
2 filed Amended Complaint claims and the uncertainty of the ruling on that  
3 Complaint and the issues that may remain after that ruling.

4           10. The areas of expertise appropriate for presentation as to testimony may  
5 vary as this case progresses.

6           11. Plaintiff may have no need to call certain expert witnesses unless the  
7 Motion is granted by the Court and the additional plaintiffs and claim for equal  
8 protection are added.

9

10           I declare under penalty of perjury that the foregoing is true and correct.

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12 Executed within the United States on:	MICHEL & ASSOCIATES, P.C.:
13 June 8, 2010	/s/ C.D. Michel
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	C.D. Michel
	Attorney for Plaintiffs

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

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 (BGS)**

**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:

**DECLARATION IN SUPPORT 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 8, 2010

/s/ C.D. Michel  
C.D. Michel