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16 IN THE UNITED STATES DISTRICT COURT  
17 FOR THE EASTERN DISTRICT OF CALIFORNIA

18 Ivan Peña, et al.,	)	Case No. 2:09-CV-01185-KJM
	)	
19 Plaintiffs,	)	STIPULATION AND ORDER
	)	RE: AMENDED COMPLAINT
20 v.	)	RESET DATES FOR DISPOSITIVE
	)	MOTIONS
21 Stephen Lindley,	)	
	)	
22 Defendant.	)	
_____	)	

23 The parties, by and through undersigned counsel stipulate to the following developments:

- 24 1. This case was originally filed April 30, 2009. At that time the micro-stamping requirement  
25 of the California Unsafe Handgun Law was not operative, as the California Attorney  
26 General's Office had not, as required, certified that micro-stamping technology was  
27 unencumbered by patents. It was not known whether and when such certification would be  
28 provided. Disputing micro-stamping, specifically, would have been unripe.

1 2. Through no fault of the parties, the case has seen significant and unforeseeable delays, being  
2 repeatedly stayed for years owing to the protracted litigation of *Nordyke v. King*, 681 F.3d  
3 1041 (9th Cir. 2012).

4  
5 3. On May 17, 2013, California's Attorney General announced that the patent issues relating  
6 to microstamping were resolved, and that this provision of California's handgun roster was  
7 immediately effective. *See* [http://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/  
8 infobuls/2013-BOF-03.pdf](http://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/infobuls/2013-BOF-03.pdf)

9 4. The parties agree that if the Amended Complaint could not be read to reach the  
10 microstamping requirement, complete relief could not be obtained on all of Plaintiffs'  
11 claims, as the microstamping requirement would independently bar the rostering of three of  
12 the four handguns subject in this litigation.

13  
14 5. Plaintiffs believe that the current Amended Complaint, as written, encompasses the entire  
15 California Unsafe Handgun Act. However, Defendant disagrees, and Plaintiffs are not  
16 opposed to amending the complaint to more specifically address the microstamping  
17 development. Additionally, the parties agree that amending the complaint would assist the  
18 Court in that an amended complaint would update the statutory citations to the Penal Code,  
19 which has been recodified in the intervening years since the filing of the present complaint.  
20

21 6. The parties jointly request new case management orders for the purpose of:

- 22 a. Filing of an amended complaint by the plaintiffs.  
23 b. Filing of an amended answer or other response by the defendants.  
24 c. An accelerated schedule for limited factual discovery.  
25 d. Setting a new date for dispositive motions.  
26

27 **SO STIPULATED ON May 23, 2013,**

28 Attorneys for Plaintiffs

Attorney for Defendant

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Attorney for Defendant

### **ORDER**

Good cause being shown, the Court makes the following orders:

1. The dispositive motions deadline of June 28, 2013 is vacated.
2. Plaintiffs shall have until June 4, 2013 to file an amended complaint by stipulation, that is limited to adding claims relating to the micro-stamping provision of their challenge to the California Unsafe Handgun Act, or if no stipulation is reached, to move for leave to file an amended complaint.
3. Defendants shall respond to the second amended complaint within 20 days of its filing.
4. Discovery is reopened, limited to issues related to micro-stamping, through October 4, 2013, including the time to have discovery motions heard.

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5. Dispositive motions shall be heard no later than November 22, 2013, but may be set for earlier hearing in accordance with the local rules by agreement of both parties.

**SO ORDERED.**

Date:

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The Hon. Kimberly J. Mueller  
United States District Court Judge