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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

THE COMMITTEE CONCERNING
COMMUNITY IMPROVEMENT, et al,

Plaintiffs,

vs.

CITY OF MODESTO, et al,

Defendants.

CASE NO. CV-F-04-6121 LJO DLB

**ORDER AFTER STATUS CONFERENCE;
REINSTATING CLAIMS; SETTING
BRIEFING SCHEDULE AND A
SETTLEMENT CONFERENCE; ORDER
DIRECTING SERVICE**

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This matter came on for a status conference following a remand from the Ninth Circuit. *See The Committee Concerning Community Improvement v. City of Modesto*, 583 F.3d 690 (9th Cir. 2009). Plaintiff appeared by counsel Brian Brosnahan and Robert Rubin. Defendant City of Modesto appeared by counsel Richard J. Burdge. Defendant County of Stanislaus and the Stanislaus County Sheriff appeared by counsel Kristina Hall. At the hearing, the Court considered the parties' Joint Status Report and the arguments of all counsel on the record. The Court ruled from the bench on most of the issues and incorporates those rulings herein. For the reasons described on the record and in this order, the Court issues the following written order:

1. State Law Claims, including the FEHA claims

The Court exercises its discretion for supplemental jurisdiction and reinstates the state law claims previously dismissed by this Court, including the claim for alleged violation the California Fair Employment and Housing Act.

2. Potential Reinstatement of Defendant Stanislaus Regional 911

The Court has provided notice to defendant Stanislaus Regional 911 ("SR911") that it may

1 remain a party to this litigation, in light of the Ninth Circuit's ruling. The Court sets the following
2 Briefing Schedule on this issue:

3 (A) SR911's position statement regarding whether it is a party, in light of the Ninth
4 Circuit's order, is **due by noon on July 12, 2010.**

5 (B) Oppositions/non-oppositions by plaintiff and the other defendants are **due by**
6 **noon July 15, 2010.**

7 (C) The Court intends to rule on the issue by end of the day of **July 16, 2010.**

8 **3. Reopening of Discovery**

9 The Court reopens discovery. If a party objects to any discovery on the basis that the discovery
10 addresses issues involving SR911 before the Court has ruled upon SR911's reentry into the case, the
11 parties shall meet and confer. If the parties cannot resolve the objection through meet and confer, the
12 Court will rule informally with the parties via a conference call.

13 **4. Settlement Conference**

14 This Court sets a settlement conference for **August 24, 2010 at 8:30 a.m.** in Department 1
15 (Fresno Courthouse) before United States Magistrate Judge Jennifer L. Thurston. Unless otherwise
16 permitted in advance by the Court, the attorneys who will try the case shall appear at the settlement
17 conference with the parties and the person or persons having full authority to negotiate and settle the
18 case, on any terms, at the conference.

19 **No later than July 27, 2010**, each party shall submit directly to the settlement conference
20 judge's chambers (in Bakersfield) a confidential settlement conference statement. This statement should
21 neither be filed with the clerk of the Court nor served on any other party. Each statement shall be
22 clearly marked "CONFIDENTIAL" with the date and time of the mandatory settlement conference
23 indicated prominently. Counsel are urged to request the return of their statements. If such request is
24 not made, the Court will dispose of the statement.

25 The confidential settlement conference statement shall include the following:

26 A. A brief statement of the facts of the case;

27 B. A brief statement of the claims and defenses (i.e., statutory or other grounds upon which
28 the claims or defenses are based), a forthright evaluation of the parties' likelihood of prevailing on the

1 claims and defenses, and a description of the major issues in dispute;

2 C. A summary of the proceedings to date;

3 D. An estimate of the cost and time to be expended for further pretrial and trial matters,
4 including discovery;

5 E. The relief sought; and

6 F. The party's position on settlement, **including the amount which or otherwise what the**
7 **party will accept to settle, realistic settlement expectations**, present demands and offers, and a history
8 of past settlement discussions, offers, and demands.

9 This Court will vacate the settlement conference if the Court finds the settlement conference will
10 be neither productive nor meaningful to attempt to resolve all or part of this case. As far in advance of
11 the settlement conference as possible, a party shall inform the Court and other parties that it believes
12 the case is not in a settlement posture so the Court may vacate or reset the settlement conference.
13 Otherwise the parties shall proceed with the settlement conference in good faith to attempt to resolve
14 all or part of the case.

15 At the time of the settlement conference, the parties shall request Magistrate Judge Thurston to
16 set dates for briefing any motions to bifurcate by the City or the County.

17 **5. Service of Order**

18 The Clerk of the Court is directed to serve this Order to Show Cause on Lucian Thomas,
19 Director, Stanislaus Regional 911, 3705 Oakdale Rd., Modesto CA 95357.

20 IT IS SO ORDERED.

21 **Dated: June 18, 2010**

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE

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