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17 Attorneys for Plaintiff MISSION LINEN SUPPLY

18 UNITED STATES DISTRICT COURT
19 EASTERN DISTRICT OF CALIFORNIA - FRESNO DIVISION

20 MISSION LINEN SUPPLY, a California
21 Corporation,

22 Plaintiff,

23 v.

24 CITY OF VISALIA, and Does 1-20, inclusive,

25 Defendants.

Case No.: 1:15-cv-00672-AWI-EPG

26 **STIPULATION AND ~~PROPOSED~~**
27 **ORDER DISMISSING WITH**
28 **PREJUDICE CERTAIN**
AFFIRMATIVE DEFENSES

Honorable Judge Anthony W. Ishii

Plaintiff Mission Linen Supply (“Mission Linen”) and the City of Visalia (the “City”) (collectively the “Parties”) hereby agree, stipulate and request that the Court enter an Order dismissing, *with prejudice*, the first, second, third, eighth, twenty-third, twenty-fourth, twenty-ninth, thirty-first, thirty-second, thirty-third, thirty-seventh, thirty-eighth and fortieth affirmative defenses

1 raised by the City in its Answer [Document No. 8], only. All remaining affirmative defenses raised
2 in the City's Answer remain operative.

3 The dismissal of said affirmative defenses is not intended to operate as an adjudication on the
4 merits, and no admission shall be construed as a result of the dismissal. Additionally, the dismissal
5 of the first affirmative defense (failure to state a claim) is intended to waive the City's right to
6 challenge the pleadings, and is not intended to operate a waiver of relief under any substantive relief
7 afforded under Federal Rules of Civil Procedure, Rules 50, 52 or 56, or any other similar motions or
8 relief.

9 Good cause exists to dismiss said affirmative defenses because this stipulation was reached
10 voluntarily and in good faith and following the Parties' meet and confer effort, made pursuant to the
11 Court's Scheduling Order [Document 11] and Local Rule 260 regarding Mission Linen's intent to
12 file a motion for partial summary judgment as to certain affirmative defenses raised by the City.

13
14 Date: July 13, 2016

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15
16 (Authorized on 7/13/16)

/s/ Lori J. Gualco

Lori J. Gualco
Attorney for Plaintiff Mission Linen Supply

17
18 Date: July 13, 2016

GREBEN & ASSOCIATES

19
20 /s/ Jan A. Greben

21 Jan A. Greben
22 Christine M. Monroe
23 Attorneys for Plaintiff Mission Linen Supply

24 Date: July 13, 2016

HERR, PEDERSEN & BERGLUND LLP

25
26 (Authorized on 7/13/16)

/s/ Ron Statler

27 Leonard C. Herr
28 Ron Statler
Attorneys for Defendant City of Visalia

1 **~~[PROPOSED]~~ ORDER**

2 The Parties have stipulated and agreed, and good cause appearing thereon, it is hereby
3 ORDERED:

- 4 1. The City's first, second, third, eighth, twenty-third, twenty-fourth, twenty-ninth,
5 thirty-first, thirty-second, thirty-third, thirty-seventh, thirty-eighth and fortieth
6 affirmative defenses, as set forth in its Answer filed in the above captioned case as
7 Document No. 8, are hereby dismissed *with prejudice*.
- 8 2. The stipulation and Order shall not operate as an adjudication on the merits or
9 admission by either party.
- 10 3. The dismissal of the first affirmative defense (failure to state a claim) shall not
11 operate as a waiver of the City's right to substantive relief under the Federal Rules of
12 Civil Procedure.
- 13 4. All remaining affirmative defenses raised in the City's Answer remain operative.

14
15 IT IS SO ORDERED.

16 Dated: July 15, 2016


17 _____
18 SENIOR DISTRICT JUDGE