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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA - FRESNO DIVISION

MISSION LINEN SUPPLY, a California Corporation,

Plaintiff,

v.

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

Defendants.

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

**STIPULATION AND [~~PROPOSED~~]
ORDER DISMISSING WITHOUT
LEAVE TO AMEND 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, *without leave to amend*, the first, second, third, eighth, twenty-third, twenty-fourth, twenty-ninth, thirty-first, thirty-second, thirty-third, thirty-seventh, thirty-eighth and fortieth

1 affirmative defenses raised by the City in its Answer [Document No. 8], only. All remaining
2 affirmative defenses raised 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 as a waiver of relief under any substantive
7 relief afforded under Federal Rules of Civil Procedure, Rules 50, 52 or 56, or any other similar
8 motions or 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 efforts, 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 19, 2016

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15
16 /s/ Lori J. Gualco as authorized on 7/19/16

17 Lori J. Gualco
18 Attorney for Plaintiff Mission Linen Supply

19 Date: July 19, 2016

GREBEN & ASSOCIATES

20
21 /s/ Jan A. Greben

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

25 Date: July 19, 2016

HERR, PEDERSEN & BERGLUND LLP

26
27 /s/ Leonard C. Herr as authorized on 7/19/16

28 Leonard C. Herr
Ron Statler

[PROPOSED] ORDER

The Parties having stipulated and agreed, and good cause appearing thereon, it is hereby ORDERED:

1. The City's first, second, third, eighth, twenty-third, twenty-fourth, twenty-ninth, thirty-first, thirty-second, thirty-third, thirty-seventh, thirty-eighth and fortieth affirmative defenses, as set forth in its Answer filed in the above captioned case as Document No. 8, are hereby dismissed *without leave to amend*.
2. The stipulation and Order shall not operate as an adjudication on the merits or admission by either party.
3. The dismissal of the first affirmative defense (failure to state a claim) shall not operate as a waiver of the City's right to substantive relief under the Federal Rules of Civil Procedure.
4. All remaining affirmative defenses raised in the City's Answer remain operative.

IT IS SO ORDERED.

Dated: July 20, 2016



SENIOR DISTRICT JUDGE