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

18 MAT MUSTARD, BENJAMIN HILL, on behalf of  
 19 themselves and all similarly situated individuals,

20 Plaintiffs,

21 v.

22 CITY OF VALLEJO,

23 Defendant.

Case No. 2:16-CV-01485-KJM-CKD

**STIPULATION TO MODIFY CLAIM FORM  
 AND CONFIRM PROCESS FOR DISMISSAL;  
 ORDER**

Hon. Kimberly J. Mueller

**STIPULATION**

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2 1. The parties' Settlement Agreement provides that "The City shall pay any Putative Plaintiff  
3 who timely submitted an executed claim form within 30 days of filing of the Court's Order dismissing  
4 this action." (Dkt. 28-1, p. 8, ¶ 26(e).)

5 2. The Claim Form & Release attached as Exhibit B to the Settlement Agreement provides  
6 that "If you timely submitted a claim form, your check will be mailed to you within 30 business days of  
7 its receipt by the City." (Dkt. 28-1, p. 20.)

8 3. These terms are inconsistent, and the parties intend that the Time for Performance  
9 provision in paragraph 26 of the Settlement Agreement is controlling.

10 4. Paragraph 26(b) of the parties' Settlement Agreement provides that following the close of  
11 the claims period, the City has 14 days to exercise its right to withdraw from the settlement, and if it does  
12 not do so, the parties will then jointly request that the Court enter an order dismissing the action with  
13 prejudice. (Dkt. 28-1, p. 8, ¶ 26(b).) The Court's order approving the settlement states that "following  
14 the conclusion of the claims period, [the Court] anticipates dismiss[ing] this action with prejudice."  
15 (Dkt. 30 at 2:17-18.) The parties seek to confirm that the Court will not dismiss this action based solely  
16 upon the passage of time and conclusion of the claims period, but only once the time for the City to  
17 exercise its right of withdrawal has expired and the parties have jointly applied for an order dismissing  
18 the action.

19 5. Based upon the foregoing, the parties stipulate to amend the Claim Form & Release to  
20 state that "If you timely submitted a claim form, your check will be mailed to you within 30 days of  
21 filing of the Court's Order dismissing this action." An updated version of the Claim Form & Release,  
22 containing the proposed change, is attached hereto as Exhibit A. The parties jointly request that the  
23 Court issue an order approving the modified Claim Form & Release attached hereto as Exhibit A, and  
24 issue an order confirming that this action will not be dismissed until the parties jointly request dismissal.

25 IT IS SO STIPULATED.  
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Dated: June 2, 2017

MASTAGNI HOLSTEDT PC

By: /s/ Ace. T. Tate (as authorized on 6/2/17)  
Ace T. Tate

Attorneys for Plaintiffs  
MAT MUSTARD, et al.

Dated: June 2, 2017

RENNE SLOAN HOLTZMAN SAKAI LLP

By: /s/ Kevin P. McLaughlin  
Kevin P. McLaughlin

Attorneys for Defendant  
CITY OF VALLEJO

**ORDER**

Based on the foregoing stipulation of the parties, and good cause appearing, the Court hereby approves the modified Claim Form & Release submitted herewith as Exhibit A. The Court confirms that, in accordance with the Settlement Agreement, the Court will not enter an order dismissing this action with prejudice until the parties jointly request that the Court enter such an order.

**IT IS SO ORDERED.**

DATED: June 9, 2017.

  
UNITED STATES DISTRICT JUDGE