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13 CITY OF MARTINEZ, DAVID CUTAIA, TOM  
14 SIMONETTI, MARK SMITH, GARY PETERSON  
and DON BLUBAUGH

15 UNITED STATES DISTRICT COURT  
16 NORTHERN DISTRICT OF CALIFORNIA

17  
18 ROBIN GONZALES,  
19 Plaintiff,  
20  
21 v.  
22 CITY OF MARTINEZ, DAVID CUTAIA,  
TOM SIMONETTI, MARK SMITH,  
23 GARY PETERSON, DON BLUBAUGH  
AND DOES 1-100 INCLUSIVE,  
24 Defendants.

Case No. C-08-01754 JSW

**AMENDED STIPULATION AND  
[PROPOSED] ORDER REGARDING  
PLAINTIFF'S CLAIMS.**

25  
26 WHEREAS, Plaintiff is currently employed by the City of Martinez in its Police  
27 Department and alleges in this lawsuit that Defendants harassed her and the City of Martinez  
28 retaliated against her;

Case No. C-08-01754 JSW

AMENDED STIP. AND [PROPOSED] ORDER RE:  
PLAINTIFF'S CLAIMS

1 WHEREAS, the parties have reached a partial settlement pursuant to which Plaintiff  
2 agrees to withdraw various allegations in the First Amended Complaint in this action, but does  
3 not agree to dismiss any causes of action or defendants;

4 Plaintiff ROBIN GONZALES, through her counsel of record, and Defendants CITY OF  
5 MARTINEZ, GARY PETERSON, TOM SIMONETTI, DON BLUBAUGH, MARK SMITH  
6 AND DAVID CUTAIA, by and through their counsel of record, hereby stipulate and agree as  
7 follows:

8 1. The parties agree that Plaintiff will not allege the following in this action: that  
9 Defendant Gary Peterson and the Martinez Police Department Dispatch supervisor created a  
10 hostile work environment for Plaintiff by having a conversation on the recorded Dispatch line in  
11 2007; that Plaintiff complained that the conversation created a hostile work environment; that the  
12 City Of Martinez harassed, discriminated against or retaliated against Plaintiff by opening an  
13 Internal Affairs investigation into whether Plaintiff violated the Department's Media Use Policy  
14 in listening to the recorded conversation; or that the City Of Martinez harassed, discriminated  
15 against or retaliated against Plaintiff by issuing a written reprimand to Plaintiff regarding the  
16 Media Use Policy and/or by changing the signup procedures for Dispatch Center overtime.  
17 Accordingly, the following portions of the First Amended Complaint should be, and hereby are,  
18 stricken: Paragraph 33 in its entirety; the phrase "instigating internal affairs investigations against  
19 her" from paragraph 54 (at page 15, line 6); and the phrase "by instigating unfounded internal  
20 affairs investigations against her" from paragraph 74 (at lines 27 and 28 of page 19).

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23 2. The parties agree that Plaintiff will not allege in this action that Defendant Gary  
24 Peterson mentioned in Plaintiff's performance evaluations that she had used excessive sick leave.

25 3. The parties agree that Plaintiff will not allege in this action that Defendant Gary  
26 Peterson made any negative comments in Plaintiff's performance evaluations regarding her  
27 purging of evidence. The Parties agree that Plaintiff may make any other allegations regarding  
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1 any alleged connection between purging and the decision by the City Of Martinez to eliminate the  
2 Evidence/Property Technician position. The Parties also agree that at the trial of this action, Gary  
3 Peterson may use the original performance evaluation comments regarding purging to refresh his  
4 recollection while testifying, but the Parties agree not to offer that document into evidence.  
5

6 4. The parties agree that Plaintiff will not make allegations in this action regarding an  
7 alleged incident where Defendant Gary Peterson called Plaintiff on or about June 15, 2005 to  
8 order her in to work on or about June 20, 2005.

9 5. The parties agree that Plaintiff will not allege in this action that Defendant Gary  
10 Peterson made any negative comments in Plaintiff's performance evaluations regarding Plaintiff's  
11 attendance or non-attendance at CAPE meetings.  
12

13 6. The parties agree that Plaintiff will not allege in this action that the CITY OF  
14 MARTINEZ issued a written reprimand to Plaintiff dated December 2, 2002 regarding an alleged  
15 violation of CLETS policy during a Dispatch "sit-along."

16 IT IS SO STIPULATED.

17 Dated: April 2, 2009

LIEBERT CASSIDY WHITMORE

By: 

Suzanne Solomon

Attorneys for Defendants  
CITY OF MARTINEZ, DAVID CUTAIA,  
TOM SIMONETTI, MARK SMITH, GARY  
PETERSON, and DON BLUBAUGH

TOSCHI, SIDRAN, COLLINS, DOYLE

By: 

David Sidran

Attorneys for Plaintiff  
ROBIN GONZALES

18  
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23  
24 Dated: April 2, 2009

25 IT IS SO ORDERED.

26 Dated: April 3, 2009

  
The Honorable Jeffrey S. White

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28  
Case No. C-08-01754 JSW