

United States District Court  
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KFD ENTERPRISES, INC.,  
Plaintiff,  
v.  
CITY OF EUREKA, et al.,  
Defendants

No. C-08-4571 MMC


**ORDER VACATING OCTOBER 2, 2009  
HEARING ON MOTION TO DISMISS  
PORTIONS OF FIRST AMENDED  
COUNTERCLAIM AND THIRD-PARTY  
COMPLAINT OF CITY OF EUREKA AND  
MOTION TO STRIKE PORTIONS OF  
FIRST AMENDED COUNTERCLAIM AND  
THIRD-PARTY COMPLAINT OF CITY OF  
EUREKA**

AND RELATED COUNTERCLAIMS AND  
THIRD PARTY CLAIMS

Before the Court are two motions: (1) counterclaimant KFP Enterprises, Inc. ("KFP") and third-party defendant Kenneth Daer's ("Daer") Motion to Dismiss Portions of the First Amended Counterclaim and Third-Party Complaint of City of Eureka, filed August 10, 2009; and (2) KFP and Daer's Motion to Strike Portions of the First Amended Counterclaim and Third-Party Complaint of City of Eureka, filed August 10, 2009. The motions have been fully briefed. Having read and considered the papers filed in support of and in opposition to the motions, the Court deems the matters suitable for decision on the parties' respective submissions, and VACATES the hearing scheduled for October 2, 2009.

**IT IS SO ORDERED.**

Dated: September 30, 2009

  
MAXINE M. CHESNEY  
United States District Judge