

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

LAWRENCE HICKMAN,
Plaintiff,
v.
CITY OF BERKELEY,
Defendant.

No. C -11-04395 EDL

**ORDER REGARDING BINDING
ARBITRATION**

On September 18, 2013, the parties participated in a settlement conference with Magistrate Judge Maria-Elena James. On the same day, they executed a stipulation to resolve this case through binding arbitration, which the Court ordered. Docket No. 152. Since that time, the Court's ADR Department has communicated with the parties in an attempt to appoint an arbitrator, but no arbitrator has been assigned. Accordingly, the Court issues the following Order.

Pursuant to the Court's September 18, 2013 Order, this matter is referred to binding arbitration before a single arbitrator. The current ADR Local Rules do not provide for an arbitrator selection process, but because the parties stipulated to a selection process, the Court orders the following procedure.

A single arbitrator will be selected from the Court's list of arbitrators on the Court's Arbitration Panel who have expertise in Police Misconduct matters. Attached to this Order is an alphabetical list of all of the arbitrators on the Court's Arbitration Panel who state that they have such expertise.¹ No later than March 5, 2014, the parties shall select their preferred arbitrator as set forth below. They may exchange information in order to accomplish this process by whatever

¹ The Court notes that Defendants have filed objections to three of the arbitrators on this list (Docket No. 157) and that Plaintiff has filed an opposition to those objections. Because the Court now orders an arbitrator selection process, Defendant's objections are moot.

1 means they find most convenient, e.g., via email, by phone or in person.

2 The parties shall each be entitled to strike two names from the list, with Plaintiff striking the
3 first name, Defendant the next, then Plaintiff, then Defendant. The parties shall then select the
4 arbitrator from the remaining five names by alternately selecting one name, Defendant to make the
5 first choice, Plaintiff the next, and continuing in this fashion until all five names are listed in order of
6 preference.

7 At the conclusion of this process, the parties shall jointly file their list of five names in order
8 of preference. There is no specific ECF form for this purpose. The parties shall use the "Notice
9 (Other)" designation for this filing. The parties shall also notify the ADR Department of the filing
10 by telephone at 415-522-2199 on the day that they make this filing. In the event that the parties fail
11 to submit their list by March 5, 2014, the ADR Department will make the selection at random from
12 the original list of nine names.

13 The ADR Department shall promptly notify the person whose name appears as the first
14 choice, or, if no choices have been made, the person who has been selected at random to serve. If
15 any person so selected is unable or unwilling to serve, the ADR Department shall notify the next
16 person on the list. Once an arbitrator has agreed to serve, the ADR Department shall promptly issue
17 a Notice of Appointment. Once an arbitrator has been appointed, the arbitration will in all other
18 respects follow the current procedures set forth under ADR Local Rule 4.

19 **IT IS SO ORDERED.**

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22 Dated: February 20, 2014

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24 ELIZABETH D. LAPORTE
25 United States Chief Magistrate Judge
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