

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

BRIAN LANCASTER,
Plaintiff,

No. C 12-05267 WHA

v.

**ORDER DISMISSING
DEFENDANT MARTENS**

CITY OF PLEASANTON, et al.,
Defendants.

At a settlement conference with Magistrate Judge Donna Ryu, plaintiff and defendant Martens settled their dispute and plaintiff agreed to dismiss defendant Martens without prejudice. All other defendants except defendant Lesley Regina agreed to stipulate to the dismissal, forcing plaintiff to file a formal motion to dismiss defendant Martens.

Defendant Regina objects that if the dismissal of defendant Martens is without prejudice then plaintiff could vexatiously multiply the proceedings by re-filing the same claims against defendant Martens, presumably in bad faith. Defendant Regina contends the dismissal should be with prejudice; otherwise, plaintiff should be forced to “respond to Officer Martens’ summary judgment motion.”

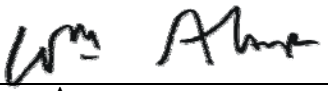
Assuming without deciding that defendant Regina has standing to raise this objection on defendant Martens’ behalf, the objection is **OVERRULED**. Defendant Regina’s objection is purely

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

speculative and the Court will not force the parties to litigate a dispute they have settled.
Plaintiff's claims against Defendant Martens are accordingly **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

Dated: July 1, 2013.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE