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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THOMAS A. SPITZER, et al.,
Plaintiffs,
v.
TRISHA A. ALJOE, et al.,
Defendants.

Case No. [13-cv-05442-MEJ](#)
**PRELIMINARY ORDER RE: GOOD
FAITH SETTLEMENT HEARING**
Re: Dkt. No. 135

On August 7, 2015, Plaintiffs Thomas “Leroy” Spitzer and Craig Spitzer (“Plaintiffs”) and Defendants City of Pleasanton, Trisha Aljoe, Jonathan Lowell, George Thomas, Walter Wickboldt, Officer Ryan Tujague, and Robert Leong (“City Defendants”) engaged in court-ordered mediation, which resulted in a settlement agreement. Dkt. No. 135 at 5. Pending before the Court is the City Defendants’ Application for a Good Faith Settlement Determination pursuant to California Civil Code sections 877 and 877.6. Dkt. No. 136. The Court held a hearing on the matter on October 8, 2015.

In addition to the City Defendants’ Application, on September 12, 2015, Plaintiffs filed a Motion for Leave to File a Motion for Reconsideration with respect to the Court’s Order denying Plaintiffs’ Motion for Leave to File a Third Amended Complaint, or in the alternative for Leave to File a Motion for Leave to Amend. Dkt. No. 139. Specifically, Plaintiffs sought to re-assert claims against a former Defendant, J. Benjamin McGrew, whom the Court previously dismissed. *Id.*; see Dkt. No. 44 (Order re: Mot. to Dismiss McGrew). The Court recently granted that Motion in part, permitting Plaintiffs Leave to File a Motion to Amend their Complaint, on the basis that Plaintiffs may possess facts establishing a viable claim against McGrew. Dkt. No. 145.

Given the Court’s decision to allow Plaintiffs to file a motion to amend, and the potential

1 that McGrew may re-enter these proceedings, the Court ordered the City Defendants to be
2 prepared to discuss at the October 8 hearing the potential impact of McGrew’s re-entry to this case
3 on their Application for a Good Faith Settlement Determination, paying particular importance to
4 the proportionality factor. Dkt. No. 146. As McGrew may also be affected by the City
5 Defendants’ Good Faith Settlement Determination, the Court ordered him to attend the hearing
6 and be prepared to meaningfully discuss the City Defendants’ Application.

7 At the October 8, 2015 hearing on the City Defendants’ Application, the Court indicated
8 its preliminary approval of the application. However, as McGrew did not attend the hearing, the
9 Court shall give him a final opportunity to raise any objections. Accordingly, the Court **ORDERS**
10 McGrew to file any objections, up to five (5) pages, by October 15, 2015. No chambers copy is
11 required.

12 **IT IS SO ORDERED.**

13
14 Dated: October 8, 2015

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17 MARIA-ELENA JAMES
18 United States Magistrate Judge