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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](#)

**ORDER FOR DANIEL LAWRENCE
BAXTER TO FILE DECLARATION**

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.

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 that McGrew may re-enter these proceedings, the Court ordered McGrew to attend the October 8, 2015 hearing on the City Defendants’ Application, as any good faith settlement determination in

1 favor of the City Defendants may affect Plaintiffs' claims against him. *Id.*

2 McGrew did not attend the October 8, 2015 hearing. Dkt. No. 148. At the hearing, the
3 Court indicated its preliminary approval of the City Defendants' Application, but on the same day
4 issued an Order permitting McGrew another opportunity to file objections to the Application by
5 October 15, 2015. Dkt. No. 147. As of the date of this Order, the Court has received no
6 objections or other response from McGrew. The Court has confirmed that McGrew's counsel,
7 Daniel Lawrence Baxter, received electronic notice of both the Order for McGrew to attend the
8 hearing and the Order for McGrew to submit any objections (the "Good Faith Settlement Orders").

9 As the settlement between Plaintiffs and the City Defendants involves claims that may
10 affect McGrew, the Court, out of an abundance of caution, **ORDERS** Daniel Lawrence Baxter to
11 file a declaration by **November 5, 2015**, responding to the following:

- 12 (1) Did Mr. Baxter notify McGrew of the Court's Order Granting Plaintiffs' Motion for
13 Leave to File a Third Amended Complaint?
- 14 (2) Did Mr. Baxter notify McGrew of the Good Faith Settlement Orders and the
15 opportunity to file objections to the City Defendants' Application for a Good Faith
16 Settlement Determination?

17 **IT IS SO ORDERED.**

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19 Dated: October 29, 2015

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23 MARIA-ELENA JAMES
24 United States Magistrate Judge
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