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7 **UNITED STATES DISTRICT COURT**
8 **NORTHERN DISTRICT OF CALIFORNIA**
9 **SAN FRANCISCO DIVISION**
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11 JAMAL WILLIAMS,
12 Plaintiff,

13 v.

14 CITY OF BERKELEY,
15 Defendant.

Case No. 14-cv-01830 NC

**ORDER TO FILE MOTION
REGARDING APPROVAL OF
SETTLEMENT OF FLSA CLAIMS**

Re: Dkt. No. 18

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17 This action was commenced in the Alameda County Superior Court. *See* Dkt. Nos.
18 1; 1-1 at 2. The City of Berkeley removed the action to this Court under 28 U.S.C. § 1331
19 and 28 U.S.C. § 1441(a) on the basis that plaintiff's First Amended Complaint contains
20 claims for violations of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 207 and 211.
21 *See* Dkt. Nos. 1; 1-1 at 30. The case settled as a result of an Early Neutral Evaluation. *See*
22 Dkt. No. 17.


23 On December 4, 2014, the parties filed a stipulation purporting to dismiss the action
24 with prejudice. Dkt. No. 18. However, dismissal is premature because an employee's
25 claims under the FLSA are nonwaivable and may not be settled without supervision of
26 either the Secretary of Labor or a district court. *See Yue Zhou v. Wang's Restaurant*, No.
27 05-cv-0279 PVT, 2007 WL 2298046, at *1 (N.D. Cal. Aug. 8, 2007) (citing *Barrentine v.*
28 *Ark.-Best Freight Sys., Inc.*, 450 U.S. 728, 740 (1981); *Lynn's Food Stores, Inc. v. United*

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1 *States*, 679 F.2d 1350, 1352-53 (11th. Cir. 1982)). In order to obtain dismissal of the case,
2 the parties must file a joint motion for approval of the settlement of the FLSA claims,
3 accompanied by the settlement agreement. The motion must address whether the FLSA
4 settlement is “a fair and reasonable resolution of a *bona fide* dispute.” *See id.*; *see also Luo*
5 *v. Zynga Inc.*, No. 13-cv-00186 NC, 2014 WL 457742, at *2 (N.D. Cal. Jan. 31, 2014).

6 IT IS SO ORDERED.

7 Date: December 5, 2014

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10 Nathanael M. Cousins
11 United States Magistrate Judge
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