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Attorney for Defendants  
Stanislaus County, Beth Morrison,  
Erin Cary, Nichole Cunningham,  
Richard Allen, Bryan Hixson

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Elsa Maldonado, et al,  
Plaintiffs,  
vs.  
City of San Leandro, et al,  
Defendants.

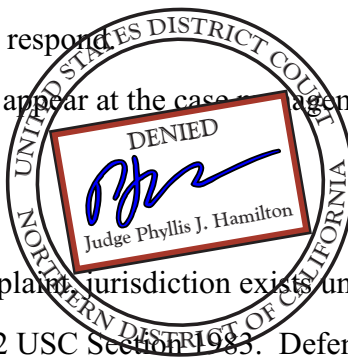
No. C 09-0470 PJH  
ORDER DENYING  
DEFENDANTS' CASE  
MANAGEMENT STATEMENT;  
REQUEST TO APPEAR BY  
TELEPHONE  
Date: January 7, 2010  
Time: 2:00 p.m.  
Courtroom: 3

This Case Management Statement is presented on behalf of the Stanislaus County affiliated defendants (Stanislaus County and its employees, Morrison, Cary, Cunningham, Allen and Hixson). By letter dated December 14, 2009, plaintiffs were provided a draft joint statement with a request for their input. Plaintiffs did not respond.

These defendants request permission to appear at the case management conference by telephone. 1/4/10

I. Jurisdiction and Service.

According to the allegations of the complaint, jurisdiction exists under 28 USC Section 1331 and 1343, and Federal Civil Rights Act 42 USC Section 1983. Defendants believe that there are *Younger v. Harris* abstention issues. Venue in this court was proper at the time of filing



1 under 28 USC Section 1391, based upon the inclusion of defendants residing in the District and  
2 allegations of activities that occurred in the District. Those defendants have since been  
3 dismissed. All of the remaining defendants reside in the Eastern District.

4 II. Facts.

5 It appears that the plaintiffs' children were removed from the plaintiffs' custody in 2004  
6 by Alameda County authorities. The plaintiffs ultimately moved to Stanislaus County and the  
7 child custody "file" was transferred from Alameda County to Stanislaus County. Plaintiffs'  
8 parental rights were terminated pursuant to Stanislaus County Superior Court orders entered in  
9 September of 2006. Plaintiffs appealed the orders and the Court of Appeal affirmed the trial  
10 court. Remittitur was issued July 5, 2007, and the children were placed for adoption.

11 Based upon the allegations of the complaint, it appears that most of the relevant and  
12 material facts are in dispute.

13 III. Legal Issues.

14 The primary legal issues raised by the allegations of the complaint are:

- 15 a. Whether the complaint alleges facts sufficient to state viable causes of action  
16 against each and every one of the defendants;
- 17 b. Whether the plaintiffs' claims are barred by applicable statutes of limitations;
- 18 c. Whether the defendants are immune from liability; and
- 19 d. Whether there are issues of collateral estoppel and /or *res judicata* based upon the  
20 state courts' rulings on the child custody issues.

21 IV. Motions.

22 The Stanislaus County affiliated defendants anticipate filing motions for summary  
23 judgment/adjudication.

24 V. Amendment of Pleadings.

25 The defendants do not anticipate any amendments to the responsive pleadings.

26 VI. Evidence Preservation.

27 All evidence in the defendants' possession is being preserved.

28 VII. Disclosures.

1 By letter dated May 6, 2009, the Stanislaus County affiliated defendants conferred with  
2 the plaintiffs' counsel regarding initial disclosure requirements. Plaintiffs' counsel did not  
3 respond to the letter. Defense counsel recently talked with Ms. Maldonado about disclosure and  
4 discovery issues but without any agreement.

5 VIII. Discovery.

6 Defendants believe that non-expert discovery should be completed by October 29, 2010;  
7 experts should be identified by November 3, 2010, and the expert discovery should be completed  
8 60 days hence.

9 IX. Class Actions.

10 Not applicable.

11 X. Related Cases.

12 None.

13 XI. Relief.

14 Unknown.

15 XII. Settlement and ADR.

16 By letters dated May 6, 2009, and December 14, 2009, the Stanislaus County affiliated  
17 defendants agreed to waive fees and costs in exchange for a dismissal of all claims. Defendants  
18 recently asked plaintiffs if they are willing to dismiss the action. Ms. Maldonado said "no."  
19 Defendants do not believe that plaintiffs' claims have any merit but are willing to participate in  
20 any ADR suggested or ordered by the court.

21 XIII. Consent to Magistrate Judge for All Purposes.

22 All parties do not consent to a magistrate judge.

23 XIV. Other References.

24 The defendants do not believe this case is suitable for reference.

25 XV. Narrowing of Issues.

26 Defendants anticipate that the issues will be narrowed through motions for summary  
27 adjudication/judgment. Whether issues can be narrowed by agreement remains to be seen.

28 XVI. Expedited Schedule.

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Unknown.

XVII. Scheduling.

Unknown.

XVIII. Trial.

Defendants have requested a jury trial.

XIX. Disclosure of Non-party Interested Entities or Persons.

The defendants are not aware of any non party interested entities or persons.

XX. Other Matters.

Dated: December 30, 2009

/s/ Dan Farrar /s/  
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Dan Farrar  
Attorney for Stanislaus County  
Affiliated Defendants

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**PROOF OF SERVICE**

I am a citizen of the United States. My business address is 2881 Geer Road, Suite A, Turlock, California, 95382 I am employed in the County of Stanislaus, where this service occurs. I am over the age of 18 years, and not a party to the within cause. I am readily familiar with my employer's normal business practice for collection and processing of correspondence for mailing with the U.S. Postal Service, and that practice is that correspondence is deposited with the U.S. Postal Service the same day as the day of collection in the ordinary course of business.

On the date set forth below, following ordinary business practice, I served a true copy of the foregoing document described as:

**Case Management Statement**

- (Facsimile) by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below, or as stated on the attached service list, on this date before 5:00 p.m.
- 1. (Ordinary Course of Business) by placing each such sealed envelope, with postage thereon fully prepaid for first-class mail, for collection and mailing following ordinary business practices.
- 1. (Personal Service) I caused such envelopes to be delivered by hand this date to the offices of the addressees.
- 2. (Overnight Delivery) I caused such envelopes to be delivered to an overnight delivery carrier with delivery fees provided for, addressed to the persons on whom it is to be served.

Rene and Elsa Maldonado  
3149 California Avenue  
Modesto, CA 95358

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed in Turlock, California on December 30, 2009.

/s/ Dan Farrar /s/

\_\_\_\_\_  
Dan Farrar