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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NATHANIEL HOLMES,

Plaintiff,

No. C 09-5781 PJH

v.

ORDER

TENDERLOIN HOUSING CLINIC, INC.,
et al.,

Defendants.

_____ /

In light of the discussion at the pretrial conference and the rulings made at that time, the court has carefully reviewed the transcripts of the deposition of plaintiff Nathaniel Holmes, submitted by the parties. The court finds no specific references in plaintiff's testimony to any adverse actions taken against him on account of his having complained about racial discrimination by defendant Tenderloin Housing Committee ("THC") or anyone employed by THC. Nor does the court recall any such evidence presented by plaintiff in his opposition to defendants' prior motions for summary judgment.

Thus, in the interest of conservation of judicial resources, the court will determine whether there is indeed any admissible evidence to put before the jury in support of the § 1981 retaliation claim. Upon further consideration, the court concludes that the THC defendants' motion to file a second motion for summary judgment on the sole remaining claim (the § 1981 retaliation claim) should be GRANTED.

The motion shall be filed no later than June 1, 2011. The opposition shall be filed 14 days thereafter, and the reply shall be filed 7 days after the filing of the opposition. Given that the court has already conducted two hearings on various motions in this case, the

United States District Court
For the Northern District of California

1 motion will likely be decided on the papers. The court will contact counsel if it finds that a
2 hearing is required.

3 The date for the trial, presently set for May 23, 2011, will be CONTINUED to a date
4 to be set by the court should the THC defendants' motion be denied. If the trial goes
5 forward, it will be governed by the final pretrial order filed separately this day.

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7 **IT IS SO ORDERED.**

8 Dated: April 29, 2011

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PHYLLIS J. HAMILTON
United States District Judge

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