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**ATTORNEYS FOR INTERVENER**  
**PACIFIC POLK PROPERTIES, LLC**

15 UNITED STATES DISTRICT COURT  
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

16 CALIFORNIA-NEVADA ANNUAL  
 17 CONFERENCE OF THE UNITED  
 18 METHODIST CHURCH, a California religious  
 corporation,

19 Plaintiff,

20 PACIFIC POLK PROPERTIES, LLC, a  
 Delaware limited liability corporation,

21 Intervener,

22 v.

23 CITY AND COUNTY OF SAN FRANCISCO,  
 24 a chartered California city and county; and  
 25 DOES 1-100, inclusive,

26 Defendants.

Case No. CV 11-02338 YGR (LB)

**JOINT STATUS CONFERENCE**  
**STATEMENT AND [PROPOSED]**  
**SCHEDULING ORDER**

Hearing Date: March 3, 2014  
 Time: 2:00 p.m.  
 Place: Oakland Courthouse  
 Courtroom 5, 2<sup>nd</sup> Floor

Trial Date: TBD

1 Plaintiff California-Nevada Annual Conference of the United Methodist Church  
2 (“Conference”), Plaintiff-in-Intervention, Pacific Polk Properties, LLC (“Pacific Polk”), and the City  
3 and County of San Francisco (the “City”) referred herein collectively as the “Parties” respectfully  
4 submit this Joint Status Conference Statement and Proposed Scheduling Order pursuant to the Joint  
5 Stipulation And Order dated January 8, 2014, ECF No. 131, in advance of the case management  
6 conference set for March 3, 2014 at 2:00 p.m.

7 **I. BRIEF PROCEDURAL HISTORY**

8 The City brought a Rule 12(c) Motion for Judgment on the Pleadings, heard by the Court on  
9 February 12, 2013. After the Motion was heard, Plaintiffs voluntarily dismissed certain claims with  
10 prejudice. Pacific Polk dismissed the following claims: (1) First Cause of Action for Violation of  
11 RLUIPA; (2) the Second Cause of Action for Violation of RLUIPA; (3) the Third Cause of Action for  
12 Violation of First Amendment to U.S. Constitution; (4) the Fifth Cause of Action for Procedural Due  
13 Process; and (5) the Sixth Cause of Action for Substantive Due Process. The Conference dismissed  
14 the following claim: the Second Cause of Action for Violation of RFRA.

15 On September 30, 2013, the Court terminated the City’s Rule 12(c) Motion without prejudice.  
16 A few days later, on October 3, 2013, the San Francisco’s Planning Commission approved the  
17 Conditional Use authorization (“CUP”) for the project that Pacific Polk proposed for  
18 1601 Larkin Street in San Francisco. On November 4, 2013, Judy Berkowitz, Hiroshi Fukuda, and  
19 Linda Chapman appealed the CUP to the San Francisco Board of Supervisors. The appeal was  
20 rejected by the Clerk of the Board, on November 13, 2013, for failure to meet the statutory  
21 requirements. The Zoning Administrator issued a written Variance for the project on  
22 November 15, 2013. On November 25, 2013, that variance was appealed by members of a group  
23 calling themselves the Nob Hill Neighbors. The Board of Appeals hearing on the variance appeal is  
24 set for January 29, 2014, at 5:00 p.m. The City has suspended issuance of the variance pending the  
25 Board of Appeals’ determination of the variance appeal by the Nob Hill Neighbors. Likewise, the  
26 City has not issued a site permit for the project or a demolition permit, while the variance appeal  
27 remains pending. The Board of Appeals denied the appeal of the Zoning Administrator’s variance,  
28 and the Nob Hill Neighbors did not request a rehearing. The site permit for the project and the

1 demolition are permit are currently under review by the Department of Building Inspection and other  
2 departments.

3 Discovery here has been stayed during the entire pendency of the action. Discovery is  
4 currently still stayed.

5 **II. SETTLEMENT**

6 With the aid of Magistrate Judge Laurel Beeler, the Parties have been actively involved in the  
7 settlement process. The Parties continue to be interested in pursuing settlement options in order to  
8 avoid further litigation. From Plaintiffs' perspective no resolution is possible unless and until a  
9 demolition permit issues and the Church Structure has been leveled. From the City's perspective, the  
10 City's issuance of the Conditional Use authorization moots all injunctive aspects of this action. If  
11 plaintiffs intend to pursue claims for attorneys fees and damages, then the City believes it will be  
12 necessary for the Court to restore the City's 12(c) motion to the calendar. In the interim, the Parties  
13 intend to continue working with Judge Beeler to resolve all remaining aspects of this action.

14 **III. PRETRIAL SCHEDULE**

15 In view of the fact that the site permit for the project and the demolition permit are currently  
16 under review by the Department of Building Inspection and other departments, the parties jointly  
17 request that the Court reset the case management conference in this case to May 5, 2014, or the next  
18 date thereafter convenient to the Court. Such a continuance will give the project sponsor an  
19 opportunity to complete all steps necessary to obtain the requested permits and for the parties to report  
20 the settlement status.

21 **SIGNATURE ATTESTATION**

22 Concurrence in the filing of this document has been obtained from each other signatory.

23 Dated: February 24, 2014

DENNIS J. HERRERA, City Attorney  
KRISTEN A. JENSEN  
THOMAS S. LAKRITZ  
JAMES M. EMERY  
Deputy City Attorneys

24  
25  
26 By: \_\_\_\_\_ /s/  
27 James M. Emery  
28 **Attorneys for Defendant**  
**CITY AND COUNTY OF SAN FRANCISCO**

1 Dated: February 24, 2014

SIGNATURE LAW GROUP

2 By: \_\_\_\_\_/s/

3 Gordon Egan

4 **Attorneys for Plaintiff**

5 **CALIFORNIA NEVADA ANNUAL CONFERENCE  
OF THE UNITED METHODIST CHURCH**

6 Dated: February 24, 2014

WOOD ROBBINS LLP

7 By: \_\_\_\_\_/s/

8 B. Douglas Robbins

9 **Attorneys for Plaintiff-in-Intervention**

**PACIFIC POLK PROPERTIES LLC**

10 **ORDER**

11  
12 After considering the stipulation of the parties, and good cause appearing, **IT IS HEREBY**  
13 **ORDERED AS FOLLOWS:** The Status Conference Hearing set for March 3, 2014, at 2:00 p.m. is  
14 continued to **May 12, 2014, at 2:00 p.m., in Courtroom One, Fourth Floor**, of the Oakland Federal  
15 Building. The parties shall submit a Joint Status Conference Statement and Proposed Scheduling  
16 Order by May 5, 2014.

17  
18 **IT IS SO ORDERED.**

19 Dated: February 25, 2014

20 

21 YVONNE GONZALEZ ROGERS

22 UNITED STATES DISTRICT COURT JUDGE