

1 RICHARD DOYLE, City Attorney (#88625)
NORA FRIMANN, Chief Trial Attorney (#93249)
2 ROBERT BURCHFIEL, Sr. Deputy City Attorney (#112318)
Office of the City Attorney
3 200 East Santa Clara Street
San José, California 95113-1905
4 Telephone Number: (408) 535-1900
Facsimile Number: (408) 998-3131
5 E-Mail Address: cao.main@sanjoseca.gov

6 Attorneys for Defendant, CITY OF SAN JOSE

7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11
12 CHIN-LI MOU,

13 Plaintiff,

14 v.

15 CITY OF SAN JOSE, SAN JOSE PUBLIC
16 LIBRARY EDUCATION PARK BRANCH,

17 Defendants.

Case Number: C07-05740 RS

**DEFENDANT'S CASE MANAGEMENT
CONFERENCE STATEMENT AND
[PROPOSED] ORDER**

Date: April 2, 2008
Time: 2:30 p.m.
Courtroom: 4
Judge: Magistrate Seeborg

18
19 Defendant City of San Jose submits this Case Management Statement and
20 [Proposed] Order and request the Court to adopt it as its Case Management Order in this
21 case.

22 **1. A BRIEF DESCRIPTION OF EVENTS UNDERLYING THIS ACTION**

23 This action alleges violation of the Federal Civil Rights Act (42 U.S.C. § 1983),
24 arising from the suspension of Plaintiff Mou's library privileges for a period of six months
25 within the City of San Jose Library system. Plaintiff Mou believes that her constitutional
26 rights have been violated by Defendant City of San Jose in taking such action in
27 suspending her library privileges.

1 Plaintiff further alleges that she has "suffered severe mental distress and was
2 injured in her health as a direct result of the action taken by Defendants."

3 Neither parties dispute the fact that the City of San Jose Library Department had a
4 policy and procedure in place for suspensions of library privileges and available procedure
5 for a hearing to review the grounds for the suspension. Ms. Mou availed herself of the
6 hearing process and attended a Suspension Review Hearing with her attorney before the
7 Assistant Library Director for the City of San Jose Public Library.

8 Ms. Mou's initial suspension from the San Jose Public Library was from November
9 1, 2006 to May 1, 2007. After Ms. Mou's Appeal Hearing which was held on January 4,
10 2007 the suspension was reduced to four months which therefore resulted in a condition
11 that she could return on March 1, 2007. There were a number of conditions in which she
12 was allowed to regain her library privileges which were outlined in a correspondence of
13 January 18, 2007.

14 **2. THE PRINCIPAL FACTUAL ISSUES WHICH THE PARTIES DISPUTE**

15 The underlying facts and circumstances existing at the time for the basis of Plaintiff
16 Mou's suspension are in dispute.

17 **3. THE PRINCIPAL LEGAL ISSUES WHICH THE PARTIES DISPUTE**

18 The first issue in dispute is whether or not there is a liberty interest within the due
19 process clause of the fourteenth amendment within Plaintiff's ability to freely use the
20 public library when she was suspended from such privileges.

21 A second area of legal dispute would be the determination of the amount of
22 process which is due before the Defendants can act to suspend a person such as Plaintiff
23 Mou from access to the library.

24 **4. OTHER FACTUAL ISSUES WHICH REMAIN UNRESOLVED FOR THE**
25 **REASONS STATED BELOW AND HOW THE PARTIES PROPOSE TO RESOLVE**
26 **THOSE ISSUES**

26 None.

27 /////

1 **5. THE PARTIES WHICH HAVE NOT BEEN SERVED AND THE REASONS**

2 None.

3 **6. THE ADDITIONAL PARTIES WHICH TO THE BELOW SPECIFIED PARTIES**
4 **INTEND TO JOIN IN THE INTENDED TIME FRAME FOR SUCH JOINDER**

5 None currently known.

6 **7. THE FOLLOWING PARTIES CONSENT TO A ASSIGNMENT OF THIS CASE TO**
7 **A U. S. MAGISTRATE JUDGE FOR JURY TRIAL**

8 Defendant City of San Jose consents to assignment of this case to a United States
9 Magistrate Judge for jury trial.

10 **ALTERNATIVE DISPUTE RESOLUTION**

11 The parties have discussed the potential for ADR, and believe that the best process
12 for this case an Early Neutral Evaluation.

13 **DISCLOSURES**

14 The parties have agreed to make Rule 26 Initial Disclosures on or before the date
15 for the Case Management Conference in this matter.

16 **DISCOVERY**

17 The parties have no reason to believe that discovery in this matter will exceed those
18 outlined in the Federal Rules.

19 **TRIAL SCHEDULE**

20 Defendant believes that post discovery motions will be necessary and therefore

21 /////

22 /////

23 /////

24 /////

25 /////

26 /////

27 /////

1 request that a Subsequent Case Management Conference be scheduled in approximately
2 120 days.

3 Both Plaintiff and Defendants demand a jury trial.

4
5 Dated: March 27, 2008

RICHARD DOYLE, City Attorney

6
7 By: /s/
8 ROBERT BURCHFIEL
Sr. Deputy City Attorney

9 Attorneys for Defendant,
10 CITY OF SAN JOSE

11
12 **CASE MANAGEMENT ORDER**

13 The Case Management Statement and [Proposed] Order is hereby adopted by the
14 Court as the Case Management Order for the case and the parties are ordered to comply
15 with this Order. In addition, the Court orders:
16
17
18
19
20
21

22 Dated: _____

23 Magistrate Seeborg
United States District Court Judge

1 **PROOF OF SERVICE**

2 CASE NAME: Mou v. CSJ, et al.

3 CASE NO.: C07-05740 RS

4 I, the undersigned declare as follows:

5 I am a citizen of the United States, over 18 years of age, employed in Santa Clara
6 County, and not a party to the within action. My business address is 200 East Santa Clara
7 Street, San Jose, California 95113-1905, and is located in the county where the service
described below occurred.

8 On March 27, 2008, I caused to be served the within:

9 **DEFENDANT'S CMC STATEMENT AND [PROPOSED] ORDER**

10 ☒ by MAIL, with a copy of this declaration, by depositing them into a sealed envelope,
11 with postage fully prepaid, and causing the envelope to be deposited for collection
12 and mailing on the date indicated above.

13 I further declare that I am readily familiar with the business' practice for collection
14 and processing of correspondence for mailing with the United States Postal
15 Service. Said correspondence would be deposited with the United States Postal
16 Service that same day in the ordinary course of business.

17 Addressed as follows:

18 Ms. Chin-Li Mou
19 4141 Boneso Circle
20 San Jose, CA 95134
21 Phone Number: (408) 954-8085
22 E-Mail: cmou@hotmail.com

23 *In Propria Persona*

24 I declare under penalty of perjury under the laws of the State of California that the
25 foregoing is true and correct. Executed on March 27, 2008, at San Jose, California.

26 
27 _____
28 Cecilia McDaniel