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10 Attorneys for Defendant, CITY OF SAN JOSE

11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA
 13 SAN JOSE DIVISION

14 CHIN-LI MOU,

15 Plaintiff,

16 v.

17 CITY OF SAN JOSE, SAN JOSE PUBLIC
 18 LIBRARY EDUCATION PARK BRANCH,

19 Defendants.

Case Number: C07-05740 JF

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

Date: May 30, 2008
 Time: 10:30 a.m.
 Courtroom: 3
 Judge: Hon. Jeremy Fogel

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

NOTE: ALTERNATIVE DISPUTE RESOLUTION

23 The parties have participated in an initial ENE telephone conference with Howard
 24 Herman on April 18, 2008 and believe that this matter will be assigned to a combination
 25 Mediation/ENE in the near future.

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

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

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

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

14 Ms. Mou's initial suspension from the San Jose Public Library was from November
15 1, 2006 to May 1, 2007. After Ms. Mou's Appeal Hearing which was held on January 4,
16 2007 the suspension was reduced to four months which therefore resulted in a condition
17 that she could return on March 1, 2007. There were a number of conditions in which she
18 was allowed to regain her library privileges which were outlined in a correspondence of
19 January 18, 2007.

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

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

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

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

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

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

6 None.

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

8 None.

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

11 None currently known.

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

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

16 **DISCLOSURES**

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

19 **DISCOVERY**

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

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TRIAL SCHEDULE

Defendant believes that post discovery motions will be necessary and therefore request that a Subsequent Case Management Conference be scheduled in approximately 120 days.

Both Plaintiff and Defendants demand a jury trial.

Dated: May 13, 2008

RICHARD DOYLE, City Attorney

By: 
ROBERT BURCHEL
Sr. Deputy City Attorney

Attorneys for Defendant,
CITY OF SAN JOSE

CASE MANAGEMENT ORDER

The Case Management Statement and [Proposed] Order is hereby adopted by the Court as the Case Management Order for the case and the parties are ordered to comply with this Order. In addition, the Court orders:

Dated: _____

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
8 described below occurred.

9 On May 15, 2008, I caused to be served the within:

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

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

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

18 Addressed as follows:

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

24 *In Propria Persona*

25 I declare under penalty of perjury under the laws of the State of California that the
26 foregoing is true and correct. Executed on May 15, 2008, at San Jose, California.

27 
28 Cecilia McDaniel