

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
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CHIN-LI MOU,

Plaintiff,

v.

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

Defendants.

Case Number: C07-05740 JF

**DEFENDANT'S CASE MANAGEMENT
CONFERENCE STATEMENT**

Date: August 29, 2008
Time: 10:30 a.m.
Courtroom: 3
Judge: Hon. Jeremy Fogel

Defendant City of San Jose submits this Case Management Statement. A joint
Case Management Statement is made impossible by Plaintiff's conduct.

NOTE: ALTERNATIVE DISPUTE RESOLUTION

The parties have participated in an initial ENE telephone conference with Howard
Herman on April 18, 2008 and the matter was assigned for ENE. Due to the complaints
and unwillingness of Plaintiff Mou, the assignment to ENE was terminated and referred
back to the Court.

/////

/////

Mou v. City of San Jose et al

Dockets.Jurix.com

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.

27 /////

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 Defendant City of San Jose served Plaintiff with Defendant's Initial Disclosure
18 pursuant to Rule 26 in May of 2008. Defense counsel for the City of San Jose has
19 attempted on numerous times to coordinate both Plaintiff's Initial Disclosure pursuant to
20 Rule 26 and initial discovery with no success. The Plaintiff's failure to comply with the
21 Initial Disclosure was brought to the Court's attention at the Case Management
22 Conference hearing held on May 30, 2008. The Court at that time issued a Minute Order
23 that initial disclosure would be concluded by July 1, 2008 which was agreed to by Plaintiff
24 at the time of the hearing. Plaintiff has still not complied with this Scheduling Order.

25 **DISCOVERY**

26 Due to Plaintiff's unwillingness to provide information pursuant to Federal Rule of
27 Civil Procedure 26, Defendant has served Plaintiff with Set One of Initial Interrogatories

1 and Production of Documents, along with noticing her deposition for August 27, 2008.
2 Plaintiff has given all indications that she will not comply with the properly served
3 discovery.

4 Defendant reluctantly requests the Court Order compliance by Plaintiff with the
5 discovery served by Defendants so that this case may be adjudicated in a timely and
6 economic fashion.

7 **TRIAL SCHEDULE**

8 Given Plaintiff's consistent uncooperative nature, Defendant City of San Jose can
9 not speculate as to when Plaintiff will give factual testimony and evidence so that a
10 dispositive motion can be filed by Defendant and therefore makes the setting of a trial date
11 impossible.

12 Both Plaintiff and Defendants demand a jury trial.

13
14 Dated: August 13, 2008

RICHARD DOYLE, City Attorney

15
16 By: 
17 ROBERT BURCHFIEL
18 Sr. Deputy City Attorney

19 Attorneys for Defendant,
20 CITY OF SAN JOSE

21
22
23
24
25
26
27
28

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 August B, 2008, I caused to be served the within:

10 **DEFENDANT'S CMC STATEMENT**

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 August B, 2008, at San Jose, California.

27 
28 Cecilia McDaniel