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10 Attorneys for Defendant, CITY OF SAN JOSE

11
12 UNITED STATES DISTRICT COURT
13 COUNTY OF SANTA CLARA
14 SAN JOSE DIVISION

15 CHIN-LI MOU,

16 Plaintiff,

17 v.

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

20 Defendants.

Case Number: C07-05740 JF

**DECLARATION OF NED HIMMEL IN
SUPPORT OF DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT**

Date: August 28, 2009

Time: 9:00 a.m.

Courtroom: 3

Judge: Jeremy Fogel

21 I, Ned Himmel, declare the following:

- 22 1. I am currently and in January 2007, the Assistant Library Director for the San
23 Jose Public Library which is a department within the City of San Jose.
- 24 2. As part of my job responsibilities, I conducted an Appeals Hearing on
25 January 4, 2007 concerning the library suspension of Karen Mou dated November 1,
26 2006.
- 27 3. On January 4, 2007, Ms. Mou and her attorney Jeffrey Kallis participated in a
28 hearing in which we discussed the allegations of Ms. Mou's behavior as documented
within the Notice of Library Suspension.

1 4. After review of the facts pertaining to Ms. Mou and discussions with library
2 staff, I reduced the suspension for Ms. Mou to four (4) months under specific conditions
3 that are outlined in Exhibit A to this Declaration.

4 5. Attached as Exhibit A to my Declaration is a true and correct copy of the
5 correspondence dated January 18, 2007 to Karen Mou in care of her attorney Jeffrey
6 Kallis outlining the conditions in which Ms. Mou's suspension was reduced to four (4)
7 months.

8 I declare under penalty of perjury under the laws of the State of California that the
9 foregoing is true and correct and that this declaration was executed on

10 June 29, 2009, at San Jose, California.

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12 _____
13 NED HIMMEL
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EXHIBIT A

*San José Public Library*

1-18-07

Karen Mou
C/o M. Jeffery Kallis, Attorney at Law
333 W. San Carlos, Suite 800
San Jose, CA 95112

Re: Suspension from San Jose Public Libraries 11/1/06-5/1/07

Ms. Mou,

Based on the Notice of Library Suspension, discussion with library staff, and the appeal hearing held on January 4, 2007, I am reducing the period of suspension to four months. You may return to library facilities as of March 1, 2007 under the following conditions:

- o Rather than confronting other library customers yourself about their behavior, you will bring up your concern with staff;
- o Ranking staff person makes the decision on what the appropriate action will be in addressing your concerns, including asking you or other customers to leave the facility;
- o The Educational Park Branch will be fairly noisy from 2-5 PM on weekdays although library staff sets the standard of acceptable behavior and maintains order;
- o Cubicles near the designated homework center may be more quiet than other areas in the branch and you should consider sitting there and wearing headphones to further block sounds
- o The newer branch libraries, such as Berryessa and Dr. Roberto Cruz-Alum Rock, have Quiet Rooms, where strict noise standards are maintained and I recommend you consider going to one of those branches for a quieter environment;
- o Should you incur another suspension, it will be for six months

Sincerely,

Ned Himmel
Assistant Library Director
San José Public Library

Cc: A. Decker
✓ D. Porter
B. Burchfiel
C. Frost
M. Somerville