1	CHRISTOPHER E. PLATTEN - 111971	ATES DISTRICT		
2	CAROL L. KOENIG - 162037 WYLIE, McBRIDE, PLATTEN & RENNER			
3	2125 Canoas Garden Avenue, Suite 120 San Jose, California 95125	TT IS SO ORDERED		
4	Telephone: (408) 979-2920 Facsimile: (408) 979-2934	TI IS SO ORDERED		
5	Attorneys for Plaintiffs			
6	Attorneys for Plaintiffs Juan Diaz, Keith Keesling, Christopher Murphy, Garo, Weekley, Karen Allen and other employees similarly situa			
7	THE ST			
8	UNITED STATES DISTRICT CONTENTS			
9	NORTHERN DISTRICT OF CALIFORNIA			
10	SAN JOSE DIVISION			
11				
12	JUAN DIAZ, KEITH KEESLING, CHRISTOPHER MURPHY, GARY	Case Number: C07-06424 JW		
13	CHRISTOPHER MURPHY, GARY WEEKLEY, KAREN ALLEN and other employees similarly situated,			
14	Plaintiffs,	JOINT CASE MANAGEMENT CONFERENCE STATEMENT		
15	V.	ORDER VACATING PRELIMINARY PRETRIAL CONFERENCE;		
16	v.	SETTING STATUS CONFERENCE RE: SETTLEMENT		
17	CITY OF SAN JOSE,	KE: SEITLEWENT		
18	Defendant.			
19	Pursuant to the Court's June 25, 2009	Order Continuing Preliminary Pretrial		
20	Pursuant to the Court's June 25, 2009 Order Continuing Preliminary Pretrial			
21	Conference, the parties hereby submit the following Joint Preliminary Pretrial Statement. As			
22	this Court is aware, this is a Fair Labor and Standards Act case in which the Plaintiffs are			
23	asserting, based on several different theories, that Defendant City of San Jose has not paid Plaintiff firefighters overtime consistent with the Fair Labor and Standards Act for the last			
24	several years. The City denies these allegations.			
25 26	Since the parties last submitted a joint pretrial conference statement on June 19,			
26 27	2009, the parties have made significant progress in their ongoing settlement discussions.			
27	Although all of the details are not, as yet, worked out, the parties are in tentative agreement			
20				
	JOINT CASE MANAGEMENT CONFERENCE STATE			

regarding the major terms that would be included in a settlement agreement. These major
terms include agreement back pay and liquidated damages, the "credits" to which the City is
entitled against back pay, and the kinds of premium pays that will be included in future FLSA
calculations. The parties are in discussions regarding attorneys fees and costs, the method
to be used for binding all plaintiffs to the settlement agreement, and the development of a
process that plaintiffs can use to ensure compliance with the settlement agreement in the
future.

8 Because of their focus on settlement discussions, which have been complex and time 9 consuming, and in an effort to minimize costs, the parties have yet to engage in substantial 10 discovery in preparation for trial. In light of the current status of settlement discussions, and 11 the uncertainty of what a reasonable pre-trial schedule in this case should be at this time, the 12 parties request a 60 day continuance of the pre-trial conference. The parties believe that, 13 within the additional 60 days, the parties will most likely be able to finalize a settlement in this 14 matter, to narrow the issues by agreeing to a partial settlement, or else be at impasse.

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Dated: August 21, 2009RICHARD DOYLE, City Attorney

By: /S/ ROBERT FABELA Sr. Deputy City Attorney

Attorney for Defendant CITY OF SAN JOSE WYLIE, McBRIDE, PLATTEN & RENNER

By: <u>/S/</u> CAROL L. KOENIG

Attorneys for Plaintiffs JUAN DIAZ, KEITH KEESLING, CHRISTOPHER MURPHY, GARY WEEKLEY and KAREN ALLEN

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Dated: August 21, 2009

1	ATTESTMENT OF CONCURRENCE PER GENERAL ORDER 45 FOR FILING:			
2	I attest that concurrence in the filing of this document by the signatories, Robert			
3	Fabela and Carol Koenig, has b	Fabela and Carol Koenig, has been obtained, and that a record of the concurrence shall be		
4	maintained at the Office of the City Attorney.			
5	Date: August 21, 2009	By:	/s/ CAROL L. KOENIG	
6			CAROL L. KOENIG	
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	JOINT CASE MANAGEMENT CONFI	ERENCE STATEMENT		U1-00424 JW

	CASE MANACEMENT IDPORTING DI ODDED		
1	CASE MANAGEMENT [PROPOSED] ORDER Based on the representations in the parties' Joint Statement, the Court finds good cause to VACATE the Preliminary Pretrial Conference currently set for August 31, 2009. The Court sets a Status Conference re: Settlement for November 2, 2009 at 10 a.m. On or before October 23, 2009, the parties shall file a Joint Status Statement to update the Court on the progress of their settlement.		
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6	Dated: August 31, 2009		
7	JAMPS WARE		
8	United States District Judge		
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	4 JOINT CASE MANAGEMENT CONFERENCE STATEMENT C07-06424 JW		