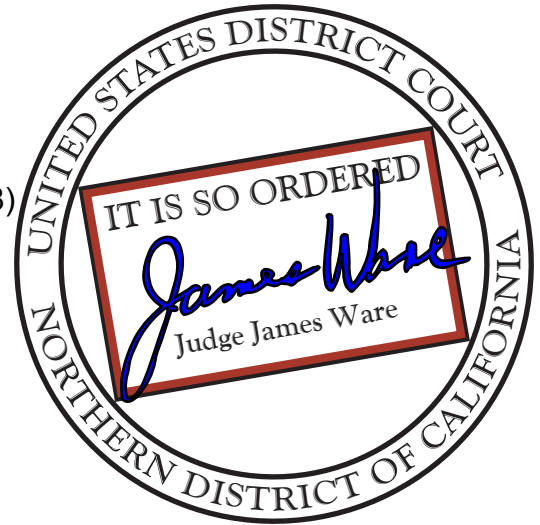


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10 Attorneys for CITY OF SAN JOSE



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

14 JEFFREY WELCH, GLEN BISHIP,  
 15 MITCHELL WITSINSKI, ROBERT  
 16 CULBERTSON and other employees  
 17 similarly situated,

18 Plaintiffs,

19 v.

20 CITY OF SAN JOSE,

21 Defendants.

Case Number: C08-02132 JW

**STIPULATION AND PROPOSED  
 ORDER CONTINUING THE CASE  
 MANAGEMENT CONFERENCE**

22 **STIPULATION**

23 This case involves the claim by certain plaintiff firefighters that the City of San Jose  
 24 has not made overtime payments to plaintiffs pursuant to the Fair Labor Standards Act. This  
 25 case has been related to *Diaz, et al. v. City of San Jose*, case number C07-06424 JW, which  
 26 also involves FLSA claims by certain firefighters against the City of San Jose.

27 In the related *Diaz* matter, the Court appointed Thomas Gosselin, Esq. as the early  
 28 neutral evaluator in this matter. The parties engaged in an ENE session before Mr. Gosselin  
 on July 21, 2008. At the end of session, it was determined that it would be most efficient for  
 the parties and the court, and would more likely result in the informal resolution of this

1 matter, were the parties to engage in another ENE session with Mr. Gosselin after having a  
2 reasonable opportunity to further study the scope of the damages being claimed by Plaintiffs  
3 under the Fair Labor Standards Act. The parties have also agreed to attempt to address this  
4 related case, *Welch v. City of San Jose*, at the second ENE.

5 The parties have now agreed with Mr. Gosselin to conduct the next phase of the ENE  
6 session, which will include both the *Diaz* and the *Welch* matter, on September 18, 2008.

7 The Case Management Conference in this case is currently scheduled for September  
8 8, 2008, ten days prior to the scheduled ENE. The parties agree that it would be more  
9 efficient and productive for the Case Management Conference to occur after the ENE  
10 session on September 18. After having consulted with court staff on available alternative  
11 dates, the parties have agreed to a new Case Management Conference date of October 20,  
12 2008, pending approval from this Court.

13 WYLIE, MCBRIDE, PLATTEN & RENNER  
14

15 Dated: August 22, 2008

By: /s/ Carol L. Koenig  
CAROL L. KOENIG

17 Attorney for Plaintiffs, JUAN DIAZ, KEITH  
18 KEESLING, CHRISTOPHER MURPHY,  
19 GARY WEEKLEY, and KAREN ALLEN

RICHARD DOYLE, City Attorney

20 Dated: August 22, 2008

By: /s/ Robert Fabela  
ROBERT FABELA  
Sr. Deputy City Attorney

23 Attorney for Defendant CITY OF SAN JOSE  
24

25 ATTESTMENT OF CONCURRENCE PER GENERAL ORDER 45 FOR FILING:

26 I attest that concurrence in the filing of this document by the signatories, Robert  
27 Fabela and Carol L. Koenig, has been obtained, and that a record of the concurrence shall  
28 be maintained at the Office of the City Attorney.

1 Date: August 22, 2008

By: /s/ Robert Fabela  
ROBERT FABELA

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[PROPOSED] ORDER

IT IS HEREBY ORDERED that the Case Management Conference in this matter shall be continued to October 20, 2008, at 10:00 a.m. The last day to file a Rule 26(f) Report and Case Management Statement shall be continued to October 10, 2008.

Dated: September 4, 2008

  
UNITED STATES DISTRICT JUDGE