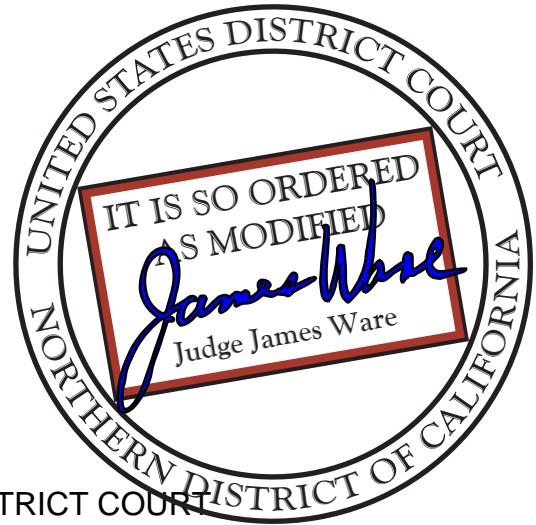


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 10 Jeffrey Welch, Glen Bishop, Mitchell
 11 Witsinski, Robert Culbertson
 12 and other employees similarly situated



13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA

15 JEFFREY WELCH, GLEN BISHOP,
 16 MITCHELL WITSINSKI, ROBERT
 17 CULBERTSON and other employees
 18 similarly situated,
 19 Plaintiffs,
 20 vs.
 21 CITY OF SAN JOSE,
 22 Defendant.

23 **Case No. C08-02132 JW**
 24 **JOINT CASE MANAGEMENT**
 25 **CONFERENCE STATEMENT**
 26 **ORDER VACATING PRELIMINARY**
 27 **PRETRIAL CONFERENCE;**
 28 **SETTING STATUS CONFERENCE**
RE: SETTLEMENT

29 Pursuant to the Court's June 25, 2009 Order Continuing Preliminary Pretrial
 30 Conference, the parties hereby submit the following Joint Preliminary Pretrial Statement.
 31 As this Court is aware, this is a Fair Labor and Standards Act case in which the Plaintiffs
 32 are asserting, based on several different theories, that Defendant City of San Jose has not
 33 paid Plaintiff firefighters overtime consistent with the Fair Labor and Standards Act for the
 34 last several years. The City denies these allegations.

35 Since the parties last submitted a joint pretrial conference statement on June 19,
 36 2009, the parties have made significant progress in their ongoing settlement discussions.
 37 Although all of the details are not, as yet, worked out, the parties are in tentative agreement
 38 regarding the major terms that would be included in a settlement agreement. These major

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

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

15 Dated: August 21, 2009

RICHARD DOYLE, City Attorney

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

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Attorney for Defendant CITY OF SAN JOSE

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Dated: August 21, 2009

WYLIE, McBRIDE, PLATTEN & RENNER

21

22

By: _____/S/_____
CAROL L. KOENIG

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Attorneys for Plaintiffs JEFFREY WELCH,
GLEN BISHOP, MITCHELL WITSINSKI,
ROBERT CULBERTSON

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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.

Dated: August 31, 2009



JAMES WARE
United States District Judge