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5 Attorneys for Defendant West Valley Community
 College District (erroneously sued herein as West
 6 Valley College), John Hendrickson, Philip L. Hartley,
 Ernest Smith, Dave Fishbaugh, Laura Lorman, Cathy
 7 Aimonetti, Fred Prochaska, Chris Rolan & Marcus Lindberg

8 Chin-Li Mou
 4141 Boneso Circle
 9 San Jose, CA 95134
 Telephone: (408) 954-8085

10 Plaintiff, Pro Se

11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA

13 CHIN-LI MOU,)	Case No: C09 01910 JF
)	
14 Plaintiff,)	
)	JOINT CASE MANAGEMENT
15 v.)	CONFERENCE STATEMENT
)	
16 WEST VALLEY COLLEGE, an individual and a)	
17 nonprofit educational corporation; JOHN)	Date: October 9, 2009
HENDRICKSON, an individual; PHILIP L.)	Time: 10:30 a.m.
18 HARTLEY, an individual; ERNEST SMITH, an)	Dept: Courtroom 3, 5 th Floor
individual; DAVE FISHBAUGH, an individual;)	
19 LAURA LORMAN, an individual; CATHY)	The Honorable Jeremy Fogel
AIMONETTI, an individual; FRED)	
20 PROCHASKA, an individual; CHRIS ROLEN, an)	
individual; LINBERO #107, an individual,)	
)	
21 Defendants.)	
)	
22 _____)	

23 Defendants prepared this Joint Case Management Conference Statement with the expectation
 24 that plaintiff would review it and provide her input so that it could be timely filed as a joint
 25 statement. Plaintiff having failed to respond to defendants' request for input, defendants now files
 26 this Proposed Joint Statement without plaintiff's concurrence.

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1 1. JURISDICTION AND SERVICE

2 Plaintiff's Statement: Jurisdiction of this court is invoked pursuant to the provisions of 28
3 U.S.C. section 1343(3), (4), 42 U.S.C. section 1983 (28 U.S.C.A. §§1343(a)(3), 1343(a)(4), 42
4 U.S.C. §1983, 1985, the First, Eighth, Ninth Amendments to the United States Constitution (Art. I,
5 U.S. Constitution, Art. IX, U.S. Constitution, Art. XIV, U.S. Constitution).

6 Defendants' Statement: Plaintiff apparently invokes federal question jurisdiction under 28
7 U.S.C. section 1343(a), to enforce her Constitutional rights under 42 U.S.C. sections 1983 and
8 1985.

9 Venue is proper in the Northern District of California.

10 2. FACTUAL ISSUES:

11 The following are the primary factual issues in dispute:

12 a. Plaintiff's Position:

13 b. Defendants' Position:

14 (i) Whether plaintiff was asked to leave the restroom so it would be cleaned, and
15 offered the use of an alternative restroom during that interval;

16 (ii) Whether plaintiff assaulted/battered a campus police officer, and whether she
17 disobeyed the lawful order to leave the restroom;

18 (iii) Whether defendants had just cause to impose discipline (suspension) upon
19 plaintiff, and whether plaintiff was offered an administrative hearing in connection
20 with student discipline;

21 (iv) Other factual issues, the contours of which are not yet known.

22 3. LEGAL ISSUES:

23 The following are the primary legal issues in dispute:

24 a. Plaintiff's Statement:

25 b. Defendants' Statement:

26 (i) Whether plaintiff's claims under 42 U.S.C. sections 1983 and 1985 are barred
27 by the Eleventh Amendment immunity, or by the fact that as State actors these
28 defendants are not "person" within the meaning of the civil rights laws plaintiff

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- invokes.
- (ii) To the extent plaintiff sues only for injunctive/declaratory relief, whether any defendant violated a constitutional right of plaintiff, under the First, Fourth or Fourteenth Amendments.
- (iii) To the extent plaintiff sues individual defendants in their personal capacities, whether the conduct of those defendants violated constitutional rights of plaintiff which were “clearly established” as to the date of alleged misconduct.
- (iv) Whether any speech plaintiff engaged in was protected speech, under the factual circumstances involved.
- (v) Whether plaintiff waived her right to an administrative hearing in connection with her student discipline.
- (vi) Whether adequate cause existed for the discipline imposed.
- (vii) Other legal issues, the contours of which are not presently known.

4. MOTIONS:

The parties anticipate that the following motions may be filed before trial:

- Plaintiff’s Statement:
- Defendants’ Statement: Motion for Summary Judgment.

5. AMENDMENT TO THE PLEADINGS:

- Plaintiff’s Statement:
- Defendants’ Statement: Defendants do not anticipate any further amendment to the pleadings.

6. EVIDENCE PRESERVATION:

- Plaintiff’s Statement:
- Defendants’ Statement: Defendants have agreed to make reasonable efforts to preserve evidence.

7. DISCLOSURES:

The parties will provide Rule 26 initial disclosures by the required date.

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- 1 8. DISCOVERY, AND LIMITATIONS THEREON:
2 No discovery has yet commenced.
3 Plaintiff's Statement:
4 Defendants' Statement: Defendants anticipate propounding interrogatories, requests for
5 production of documents and requests for admissions. Defendants also anticipate a reasonable
6 number of depositions.
- 7 CLASS ACTIONS:
8 This is not a class action suit.
- 9 10. RELATED CASES:
10 There are no related cases.
- 11 11. RELIEF:
12 a. Plaintiff's Statement:
13 (i) Declaratory relief;
14 (ii) Injunctive relief, judgment and costs.
15 b. Defendants' Statement:
16 (i) Judgement for defendants and costs.
- 17 12. SETTLEMENT AND ADR:
18 a. Plaintiff's Statement:
19 b. Defendants' Statement: Defendants are amenable to Court ADR process.
- 20 13. CONSENT TO MAGISTRATE JUDGE FOR ALL PURPOSES:
21 a. Plaintiff's Statement:
22 b. Defendants' Statement: Defendants do not consent.
- 23 14. OTHER REFERENCES:
24 No other reference would be appropriate in this case.
- 25 15. NARROWING OF ISSUES:
26 A narrowing of issues does seem appropriate.
- 27 16. EXPEDITED SCHEDULE:
28 Plaintiff's Statement:

1 Defendants' Statement: Defendants do not believe an expedited schedule is necessary in this
2 case.

3 17. SCHEDULING:

4 PROPOSED SCHEDULING:

- 5 a. Non-Expert Discovery Deadline: February 10, 2010
- 6 b. Expert Disclosures Deadline: March 5, 2010.
- 7 c. Expert Discovery Cutoff: March 30, 2010
- 8 d. Dispositive Motion Filing Deadline: April 15, 2010
- 9 e. Joint Pretrial Statement: June 10, 2010
- 10 f. Pretrial Conference: July 5, 2010
- 11 g. Jury Trial: August 16, 2010

12 18. TRIAL:

13 Plaintiff's Statement:

14 Defendants' Statement: Defendants do not demand a jury trial unless there are damages
15 claims, in which case they do demand a jury.

16 19. DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS:

17 Plaintiff's Statement:

18 Defendants' Statement: None known of at this time.

19 20 OTHER MATTERS:

20 None known.

21 Dated: October 2, 2009

SHUPE AND FINKELSTEIN

22

23

By _____/s/_____
John A. Shupe, Attorneys for Defendant

24

25

Dated: _____

Chin Li Mou, Pro Se

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1 *Mou v. West Valley - Case No: C09-01910 JF*

2 **PROOF OF SERVICE**

3 1. I am over the age of 18 and not a party to this cause. I am a resident of or employed in the
4 county where the mailing took place and my residence or business address is:

5 177 Bovet Road, Suite 600, San Mateo, California 94402-3191

6 2. I served a copy of the following document(s):

7 **Joint Case Management Statement**

8 3. I served a copy of the foregoing documents by mailing them in a sealed envelope with first
9 class postage fully prepaid, to the address stated below, as follows:

10 a. [X] I placed the envelope for collection and processing for mailing following this
11 business's ordinary practice with which I am readily familiar. On the same day
12 correspondence is placed for collection and mailing, it is deposited in the ordinary
13 course of business with the United States Postal Service.

14 b. [] I faxed a copy of the above described document to the following fax number:

15 c. [] I had hand-delivered such sealed envelope to the address noted below or left
16 with the receptionist or the person having charge of the attorney's office.

17 d. [] I served a copy of the foregoing documents by placing them in a sealed envelope
18 via **ON TRAC** service, to the address stated below, as follows:

19 4. Date of Service: October 2, 2009

20 5. Place mailed from: 177 Bovet Road, Suite 600, San Mateo, CA 94402

21 6. Addressed as follows:

22 Chin-Li Mou
23 4141 Boneso Circle
24 San Jose, CA 95134

25 I declare under penalty of perjury under the laws of the United States of America that the
26 foregoing is true and correct. Executed on the above date at San Mateo, California.

27 _____
28 Marcia Scatena

922

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