

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

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|---|---|------------------------------|
| JOSEPH CIAMPI, |) | Case No.: 09-CV-02655-LHK |
| |) | |
| Plaintiff, |) | ORDER STRIKING FIRST AMENDED |
| v. |) | COMPLAINT; SETTING EXPEDITED |
| |) | BRIEFING SCHEDULE ON MOTION |
| CITY OF PALO ALTO, a government entity; |) | FOR LEAVE TO AMEND |
| LYNNE JOHNSON, an individual; CHIEF |) | |
| DENNIS BURNS, an individual; OFFICER |) | |
| KELLY BURGER, an individual; OFFICER |) | |
| MANUEL TEMORES, an individual; OFFICER |) | |
| APRIL WAGNER, an individual; AGENT DAN |) | |
| RYAN; SERGEANT NATASHA POWERS, |) | |
| individual, |) | |
| |) | |
| Defendants. |) | |
| |) | |

Defendants’ Motion to Strike Plaintiff’s First Amended Complaint (“FAC”) is currently set for hearing on December 16, 2010. However, on November 22, 2010, Plaintiff filed a motion in which he conceded that the FAC was improperly filed and requested that the Court strike the FAC. Because all parties now agree that the FAC should be stricken, the Court hereby STRIKES Plaintiff’s First Amended Complaint.

In his motion, Plaintiff further seeks leave of the Court to file a Second Amended Complaint (“SAC”) and requests that the Court hear this motion at the hearing previously scheduled for December 16, 2010. The proposed SAC attached to Plaintiff’s motion appears to be

1 substantially similar, if not identical, to the FAC that Defendants previously moved to strike, and
2 Plaintiff's motion presents the limited issue of whether he should be granted leave to amend.
3 Accordingly, the Court finds that Defendants will not be prejudiced if Plaintiff's motion for leave
4 to amend is heard on December 16, 2010. The Court therefore sets the following expedited
5 briefing schedule:

6 (1) Defendants shall file an opposition, or statement of non-opposition, to Plaintiff's motion
7 for leave to amend by Monday, December 6, 2010.

8 (2) Plaintiff shall file a reply, if any, by Friday, December 10, 2010.

9 A Case Management Conference will be held as previously scheduled to follow the motion hearing
10 on December 16, 2010.

11 **IT IS SO ORDERED.**

12
13 Dated: November 23, 2010



LUCY H. KOH
United States District Judge