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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
WESTERN REGION

GREG SPENCER; RANDALL)	Case No. 04CV2314-BEN(WMC)
FRENCH; MARGARET ARMSTRONG;)	
JIMMY WARD; JEFFREY MILES;)	San Diego, California
SYLVIA LIEVANOS; JUAN)	Wednesday, Feb. 21, 2007
ALEJO; STEVEN GREER; and)	3:55 p.m.
ROBERT YBARRA, individually)	
and on behalf of themselves)	
and all others similarly)	
situated,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
The CITY OF SAN DIEGO;)	
CITY OF SAN DIEGO POLICE)	
DEPARTMENT; and CHIEF OF)	
POLICE WILLIAM LANSDOWNE,)	
in his official capacity)	
only,)	
)	
Defendants.)	
_____)	

TRANSCRIPT OF SETTLEMENT CONFERENCE
BEFORE THE HONORABLE WILLIAM McCURINE, JR.
UNITED STATES MAGISTRATE JUDGE

Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

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APPEARANCES:

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1 SAN DIEGO, CALIFORNIA WEDNESDAY, FEB. 21, 2007 3:55 P.M.

2 --oOo--

3 (Call to order of the Court.)

4 MR. AGUIRRE: Good afternoon, Your Honor.
5 Michael Aguirre and Chris Morris representing the City of
6 San Diego.

7 MR. COHELAN: Timothy Cohelan, Scott Dreher,
8 Kimberly Neilson for the proposed Plaintiff class, Your
9 Honor.

10 THE COURT: Okay. I'm going to call Case Number
11 04CV2314. Gentlemen, I understand that a settlement has
12 been reached. Is that correct?

13 MR. AGUIRRE: That is correct, Your Honor. And
14 this is Mike Aguirre for the City of San Diego. We first
15 want to thank Your Honor very much for facilitating and
16 making possible a resolution to this matter.

17 As I have told Mr. Cohelan, the normal and
18 regular processes of the City are for the City Council to
19 actually have to formally adopt this. But I will represent
20 to the Court that I don't believe that that's going to be a
21 problem.

22 Your Honor, under the terms of the agreement in
23 this action, the parties have agreed to be bound by the
24 terms and specifications set forth in the San Diego Police
25 Department's training bulletin of November 17th, 2006, a

1 full, true and correct copy of which has been initialed and
2 dated by myself on the left-hand side and corner, and on
3 the right-hand side by Mr. Cohelan, with the following
4 additions and covenants.

5 First, the language that is contained on page 2
6 of the document, which currently reads in the context:

7 "Illegal lodging enforcement guidelines.

8 The following guidelines are to be
9 followed with respect to illegal lodging
10 enforcement.

11 "(2) Officers should refrain from issu-
12 ing citations between the hours of 2100
13 and 0500."

14 That language has been changed under the terms of our
15 agreement to read:

16 "Officers shall not ordinarily issue
17 Penal Code Section 647(j) citations
18 between the hours of 2100 and 0500."

19 There are altogether six specified guidelines
20 under the illegal lodging and enforcement guidelines which
21 will be incorporated in the formal settlement agreement and
22 are incorporated in this settlement agreement under heading
23 number (3), "illegal lodging enforcement procedures."
24 Again, there are two specific subheadings, one entitled
25 "lodging," and the other entitled "without permission."

1 And under paragraph (iv), there is another heading entitled
2 "additional investigative considerations," and with regard
3 to that heading, there are three subheadings. The entirety
4 of the document will be reflected in a formally drafted
5 settlement agreement and the document, being the training
6 bulletin of November 17th, 2006 of the San Diego Police
7 Department, which is the essence of our settlement
8 agreement.

9 In addition, the parties reserve the right to
10 alter or amend the specific conditions and specifications
11 set forth in the training bulletin, by way, though, of
12 application to the Court. The Court, as the parties have
13 already entered into stipulations providing for the Court
14 to have ongoing, continuous jurisdiction over this matter
15 in order to enforce the specific provisions of the
16 settlement agreement, as well as to resolve any conflicts,
17 and the parties have agreed that the decisions of the Court
18 will be final and binding, neither side retaining the right
19 to take an appeal.

20 The parties also reserve the right to make
21 application to the Court to terminate the agreement at an
22 appropriate time and under -- and with a proper showing of
23 good cause. The matter will be set according to the terms
24 of the agreed-upon schedule for a review and status
25 conference six months hence. And I don't know if Your

1 Honor wants to set that date --

2 THE COURT: I will send out an order later and
3 give you the date.

4 MR. COHELAN: One minor point of clarification,
5 Your Honor. We felt that the time frame would be -- for
6 the -- mentioned in paragraph 2 would be 2100 to 0600, I
7 think --

8 MR. AGUIRRE: 0600, that's fine.

9 MR. COHELAN: -- as opposed to 0500.

10 MR. AGUIRRE: That's fine. 0600 is fine.

11 The parties will be issuing a joint statement
12 later on this afternoon to the media. Counsel has very
13 graciously agreed to not apply for attorneys' fees.

14 Again, we want to -- the City of San Diego wants
15 to thank Your Honor for the courtesy and the facilitation
16 of this agreement. We very much appreciate it on behalf of
17 the City.

18 MR. COHELAN: Your Honor, should we set perhaps a
19 review time to have the formal stipulation submitted to the
20 Court?

21 THE COURT: Yes. But before we do, let me ask a
22 couple of questions. Mr. Cohelan, did City Attorney Mike
23 Aguirre correctly state the terms of the settlement?

24 MR. COHELAN: Yes, he did, Your Honor.

25 THE COURT: And you are authorized to enter this

1 settlement on behalf of the class?

2 MR. COHELAN: Yes, Your Honor.

3 THE COURT: And you have signed the consent to my
4 continuing jurisdiction, including the entry of judgment?

5 MR. COHELAN: That's correct, Your Honor.

6 THE COURT: And you have done that in consulta-
7 tion with your client?

8 MR. COHELAN: That's correct, Your Honor.

9 THE COURT: Your client has given you authority
10 to enter into that consent?

11 MR. COHELAN: That's correct, Your Honor.

12 THE COURT: And you have signed it?

13 MR. COHELAN: Yes, I have.

14 THE COURT: And you will also have the named
15 Plaintiff sign it as soon as possible?

16 MR. COHELAN: Will do. Yes, Your Honor.

17 THE COURT: And you understand and explained to
18 the clients who are present that my decisions are final,
19 binding and non-appealable?

20 MR. COHELAN: That's correct, Your Honor.

21 THE COURT: Okay. Mr. Aguirre.

22 MR. AGUIRRE: Yes, Your Honor.

23 THE COURT: You represent to the Court that you
24 have authority to enter into this -- to set forth the terms
25 on behalf of the City, understanding that a vote of the

1 City Council remains necessary.

2 MR. AGUIRRE: That is correct, Your Honor.

3 THE COURT: And it is your anticipation that the
4 City Council will enter this agreement without modifying
5 any of the present terms?

6 MR. AGUIRRE: It is, Your Honor, and I have
7 confirmed that with the Mayor, as well.

8 THE COURT: And it will be your recommendation to
9 the City that the City formally enter into this agreement,
10 including the consent to my jurisdiction. It is your
11 anticipation that the City Council will in fact follow your
12 recommendation.

13 MR. AGUIRRE: Yes, Your Honor. And I will
14 schedule the matter at the first opportunity for closed
15 session for consideration by the Council.

16 THE COURT: Okay. All right. You have signed
17 the consent?

18 MR. AGUIRRE: I have on behalf of the City. I am
19 authorized to bind the City, and I so bind the City to Your
20 Honor's ongoing jurisdiction, and that all resolutions of
21 any outstanding disputes or issues are final and binding
22 upon the City based upon Your Honor's judgment.

23 THE COURT: Great. And on the consent, there's a
24 signature block of J. Goldstone. You will secure his
25 consent also?

1 MR. AGUIRRE: I will, Your Honor.

2 THE COURT: Thank you. Then I am going to set a
3 telephone disposition conference in approximately two
4 weeks. I will send out an order setting the date and time,
5 and I will ask Mr. Cohelan to initiate that telephone
6 call. The order will also give a date by which the final
7 documentation will be prepared and submitted to the Court
8 for my review. We will have another six-month review just
9 to touch bases, and that date will be in the order also.

10 I'd like to take this opportunity to say both to
11 Mr. Aguirre and to Plaintiffs' counsel that this is an
12 extraordinary work on behalf of the citizens of San Diego.
13 I recall years ago reading a biography of Abraham Lincoln,
14 and a cabinet member had asked him an issue about slavery,
15 to which he responded, the issues are complex, and good men
16 disagree. Here we have a situation, regardless of the
17 complexity of the issues, good men agree. The City can
18 only benefit profoundly from, one, the leadership you have
19 demonstrated, and the example that you have set for the way
20 that difficult issues can be resolved. It could not have
21 happened without Mr. Aguirre's leadership at the City. It
22 could not have happened without the Plaintiffs' attorneys
23 cooperating so unselfishly to bring about this result. I
24 especially commend them. They would have the right under
25 various acts to seek reimbursement for their attorneys'

1 fees. They have waived that right. In the highest
2 tradition of pro bono service to the community have they
3 waived that right. It is remarkable that they have waived
4 the right, and it is so commendable that their interests in
5 the community so override their personal financial
6 interests that they would voluntarily, not under
7 compulsion, and not under the Court's suggestion, that they
8 would voluntarily say we waive our right to attorneys'
9 fees. How marvelous that you would do so.

10 The City is so strengthened and benefited by
11 efforts like this. It makes the Court just want to throw
12 up its hands and shout. This is often the thing that
13 people don't see, and often the thing that the press won't
14 publicize, because there's no conflict. There's recon-
15 ciliation and resolution.

16 So my highest praise to all of you, and to the
17 clients who were involved, because if you did not have a
18 heart to get involved with this issue, it would die or it
19 would sink in ugly public rancor, which doesn't benefit the
20 City at all. So you make me proud to be a citizen of San
21 Diego. I thank you so very, very much.

22 With that, we're off the record.

23 MULTIPLE SIMULTANEOUS VOICES: Thank you, Your
24 Honor.

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(Proceedings recessed 4:07 p.m.)

I, Michael J. Williamson, certify that the foregoing is a correct transcript from the official electronic sound recording provided to me of the proceedings in the above-entitled matter.

Transcriber

Date

Michael J. Williamson
Ad Hoc Reporting
Approved Transcription Provider
for the U.S. District Court,
Southern District of California