

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

HONORABLE PERCY ANDERSON, JUDGE PRESIDING

DARRYL HURT,)	
)	
Plaintiff,)	
)	
Vs.)	No. CV 08-6372 PA
)	
CITY OF RIVERSIDE, ET AL.,)	
)	
Defendants.)	
)	
_____)	
TIM BACON,)	
)	
Plaintiff,)	
)	
Vs.)	No. CV 08-6377 PA
)	
CITY OF RIVERSIDE, ET AL.)	
)	
Defendants.)	
)	
_____)	

REPORTER'S TRANSCRIPT OF STATUS CONFERENCE

LOS ANGELES, CALIFORNIA

MONDAY, APRIL 12, 2010; 2:18 P.M.

LEANDRA AMBER, CSR 12070, RPR
OFFICIAL U.S. DISTRICT COURT REPORTER
312 NORTH SPRING STREET, # 408
LOS ANGELES, CALIFORNIA 90012
www.leandraamber.com
(213) 894-6603

A P P E A R A N C E S

1
2
3 **IN BEHALF OF THE PLAINTIFFS,**
4 **DARRYL HURT AND TIM BACON:**

LACKIE DAMMEIER AND MCGILL APC
BY: RUSSELL MARC PERRY, ESQ.
367 NORTH SECOND STREET
UPLAND, CA 91786
(909) 985-4003
russell@policeattorney.com

5
6
7
8
9
10 **IN BEHALF OF THE DEFENDANT,**
11 **CITY OF RIVERSIDE, ET AL.:**

ROTH CARNEY KNUDSEN LLP
BY: RICHARD D. ROTH, ESQ.
3850 VINE STREET
SUITE 240
RIVERSIDE, CA 92507
(951) 682-6500
rroth@rothcarney.com

12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

PAGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HEARING: STATUS CONFERENCE

4

1 LOS ANGELES, CALIFORNIA; MONDAY, APRIL 12, 2010; 2:18 P.M.

2 -o0o-

3
4 THE CLERK: Calling Case Number CV 08-6372,
5 Darryl Hurt versus City of Riverside, et al., and Case Number
6 CV 08-6377, Tim Bacon versus City of Riverside, et al.

7 Counsel, please state your appearances.

8 MR. PERRY: Russell Perry for both plaintiffs.

9 MR. ROTH: Good afternoon, your Honor.

10 Richard Roth for defendants.

11 THE COURT: Good afternoon.

12 I understand the parties have reached a settlement
13 in this case.

14 MR. ROTH: We have, your Honor.

15 THE COURT: And what -- we have -- would either
16 counsel for the plaintiffs or counsel for the defendants
17 place the settlement on the record.

18 MR. ROTH: I'm prepared to do so, your Honor.

19 THE COURT: All right.

20 MR. ROTH: May I be seated, sir, or would you
21 prefer I stand?

22 THE COURT: As long as you -- well, if you would go
23 over to the lectern and use the microphone to make sure that
24 the court reporter can hear everything that you're saying.

25 MR. ROTH: Perfect, your Honor.

1 Your Honor, the -- it's my understanding the
2 parties have reached a settlement in this matter. And as
3 part of the settlement, that plaintiffs Hurt and Bacon have
4 agreed to execute a settlement agreement and general release
5 fully releasing defendants as to all claims and containing
6 the following essential terms, among others:

7 Hurt will retire from the City of Riverside Police
8 Department as a police lieutenant on January 19, 2011, and
9 Bacon will retire as a police lieutenant on July 17, 2010,
10 both 50 years of age.

11 And both will execute and return a completed
12 retirement application concurrent with the execution and
13 return of the settlement agreement document.

14 Within 30 days of receipt by the City of a fully
15 executed original of the settlement agreement, the City will
16 pay to Hurt and Bacon additional compensation from
17 January 25, 2008, to today's date per the captain pay scale
18 and during the administrative leave period provided for in
19 a bit or before the City will ensure that both received at
20 least 12 months of compensation at the top-step captain rate
21 prior to their retirement.

22 Upon retirement Hurt and Bacon will be entitled to
23 receive all benefits normally accorded retiring police
24 officers under City policy.

25 Prior to January 19, 2011, in the case of

1 Lieutenant Hurt, and July 17, 2010, in the case of Lieutenant
2 Bacon, the City will pay to them a sum sufficient to allow
3 them to purchase additional service credits under the
4 California Public Employees Retirement System rules and
5 regulations in order to enable them to retire with 30 years
6 of service.

7 The City will place Lieutenants Hurt and Bacon on
8 paid administrative leave at a monthly salary equivalent to
9 the top-step captain's monthly salary rate with full benefits
10 commencing tomorrow and continuing to the respective dates of
11 their retirement.

12 On or before January 19, 2011, the City will pay to
13 Lieutenant Hurt the sum of \$300,000 as noneconomic damages
14 and on or before July 17, 2010, pay to Bacon the sum of
15 \$250,000 as noneconomic damages.

16 Within 30 days of receipt by the City of a fully
17 executed original of the settlement agreement, the City will
18 pay to plaintiffs' law firm the sum of \$150,000 as full
19 payment of plaintiffs' attorneys' fees and costs in this
20 case.

21 Lieutenants Hurt and Bacon agree to maintain the
22 confidentiality of and to not discuss the facts of the case,
23 the allegations contained in the complaint or the amended
24 complaint, and/or the terms and conditions of this
25 settlement.

1 Finally, Lieutenants Hurt and Bacon agree that they
2 will not seek, apply for, or otherwise solicit employment
3 with the City in the future.

4 THE COURT: All right. Counsel, do you agree that
5 those are the terms of the settlement?

6 MR. PERRY: Your Honor, yes, to the extent there's
7 a couple of clarifications I need to make, though, as far as
8 the confidentiality agreement.

9 The plaintiffs will agree to a confidentiality
10 agreement, but they needed to be open enough to where if they
11 apply for subsequent employment, that if they're going
12 through a background investigation with the subsequent
13 employer that they would be allowed to disclose
14 information -- as required by the subsequent employer any
15 information that would be required.

16 THE COURT: Okay. Do you have any objection to
17 that?

18 MR. ROTH: Your Honor, may I confer with the City
19 representative for one minute?

20 THE COURT: Yes.

21 (An off-the-record discussion was held.)

22 MR. ROTH: Your Honor, the City would agree --
23 we'll agree if asked by a law enforcement agency during the
24 course of a background investigation that the plaintiffs may
25 provide a copy of the settlement agreement and general

1 release document.

2 MR. PERRY: I'm not sure limiting it to a law
3 enforcement agency would be necessary. It just could be
4 anything. It could be passing a -- it could be the State Bar
5 ten years from now asking about it as well.

6 MR. ROTH: Your Honor, if I may, our concern
7 obviously is with republication. So from a practical
8 standpoint we understand and recognize that as a government
9 agency that the settlement agreement and release document, if
10 there's a request made under the Public Records Act, we're
11 required to release that.

12 THE COURT: Uh-huh.

13 MR. ROTH: We do not in any way want to interfere
14 with the -- the opportunity of either Lieutenants Hurt or
15 Bacon to secure subsequent employment, but we are concerned
16 about republication beyond the essential question during the
17 interview process.

18 THE COURT: Okay. Do you have any objection to, if
19 asked by a future employer, providing a copy of the
20 settlement agreement in connection with an application for
21 employment?

22 MR. ROTH: No, your Honor.

23 THE COURT: Okay. Is that satisfactory?

24 MR. PERRY: So they would still not be limited --
25 they still would not be able to discuss the facts of the

1 case, but they would be presenting a settlement agreement?
2 Is that what --

3 THE COURT: It seems to me if some -- if -- in
4 connection with this employer, if some employer has a
5 question about the case, it seems to me they can disclose
6 if they reached a settlement with the City or in connection
7 with an employment case. That's a matter of public record.
8 And if they desire any -- if they desire to know the
9 circumstances of it, they can furnish them with a copy of the
10 settlement agreement.

11 MR. PERRY: Well, I think that covers the
12 settlement agreement part, but if the employer wanted to ask
13 more about the facts of the case, I think my clients should
14 be able to disclose that to the employer -- to the employer
15 if they had follow-up questions besides just the settlement
16 agreement, your Honor.

17 THE COURT: Well, it seems to me that if they have
18 follow-up questions, they could go to the City and ask the
19 City --

20 Well, look, it's not a time to negotiate this. I'm
21 not going to try to sit up here and negotiate it for you. If
22 you want to settle the case, that's fine. If you want to
23 have an opportunity to talk with the City about it, see if
24 can you reach some resolution, that's fine.

25 I think what the City is after -- as most people

1 are that seek confidentiality agreements -- they don't want
2 this to become conversation around some watercooler or locker
3 room. And if, in fact, they want to explain why they left
4 the City, it seems to me the settlement agreement probably
5 answers that.

6 And, you know, if they want to say we left on good
7 terms, that's probably something the City -- well, that's
8 going to be up to the City.

9 But to get into what the facts were -- you know,
10 that's something everybody wants to kind of put behind them.
11 And if it's in connection with some form of employment, I'm
12 sure the City will work with them to come up with some
13 satisfactory language that they can use in terms of trying to
14 gain future employment that's agreeable to both sides.

15 MR. PERRY: Your Honor, if I may, can -- could we
16 have a brief recess to be able to discuss it with the City?

17 THE COURT: That's fine. Let's see if we can cover
18 anything else before we take that break.

19 MR. PERRY: The --

20 THE COURT: Do you have any other issues?

21 MR. PERRY: The other -- I just want to make sure
22 it's clear when you said any and all in the release, that the
23 release doesn't include any Workers' Comp or disability
24 claims. I don't think that needs to be included in the
25 release.

1 And other than that it sounds like everything --
2 all the other terms were -- the material terms of what was
3 discussed in the settlement conference was the -- their use
4 of a car. They were going to be allowed to use the car
5 during the time period on administrative leave.

6 Is that still there?

7 MR. ROTH: It's our intention that the -- that they
8 be placed on administrative leave and essentially perform no
9 duties but get paid, and there would be no need for a City
10 vehicle.

11 MR. PERRY: If we could add that to what we'll
12 discuss outside, your Honor, if that's okay.

13 THE COURT: That's fine. Why don't you take
14 a minute and talk about it. And let the clerk know when
15 you're ready.

16 MR. ROTH: Your Honor, if I may, with respect to
17 the Workers' Comp claim -- Workers' Compensation claims,
18 which are what I assume that's what counsel means when he
19 talks about disability, are excluded from the provisions in
20 the release language.

21 THE COURT: Okay.

22 THE CLERK: All rise.

23 (Whereupon, from 2:31 p.m. to 2:53 p.m. a break was
24 taken.)

25 THE COURT: All right. Did the parties have a

1 chance to confer?

2 MR. ROTH: We have, your Honor, and we've agreed on
3 a revision to the confidentiality provision to add the
4 following:

5 If the plaintiffs or either of them are asked by
6 prospective employers in the future regarding this case,
7 plaintiffs are authorized to provide a copy of the settlement
8 agreement in the case and documents from the Federal District
9 Court PACER file in conjunction with any such application for
10 employment. Any further release of information must be by
11 mutual consent.

12 In addition, the City -- and in that regard, the
13 City will take no action to impede or otherwise interfere
14 with plaintiffs' opportunity to secure future employment.

15 THE COURT: All right. Is that satisfactory?

16 MR. PERRY: That's satisfactory, your Honor.

17 THE COURT: All right.

18 MR. ROTH: And I believe that resolves all issues,
19 your Honor.

20 THE COURT: Do you agree?

21 MR. PERRY: I concur.

22 THE COURT: All right. Let me ask the City or the
23 representative from the City.

24 Are these the terms of the settlement as you
25 understand them?

1 MR. BROWN: Yes, they are, your Honor.

2 THE COURT: And are the terms of the settlement
3 acceptable to the City?

4 MR. BROWN: They are, your Honor. I was authorized
5 to accept the settlement proposal by the City Council.

6 THE COURT: All right. Thank you very much.

7 MR. BROWN: Thank you, your Honor.

8 THE COURT: And let me ask Plaintiff Bacon.

9 Are these the terms of the settlement as you
10 understand them?

11 PLAINTIFF BACON: Yes, they are, your Honor.

12 THE COURT: And are they acceptable to you?

13 PLAINTIFF BACON: That is correct.

14 THE COURT: All right. Thank you.

15 And let me ask Plaintiff Hurt.

16 Sir, are these the terms of the settlement as you
17 understand them?

18 PLAINTIFF Hurt: Yes, they are.

19 THE COURT: And are they acceptable to you?

20 PLAINTIFF Hurt: Yes, they are, your Honor.

21 THE COURT: All right. Thank you very much.

22 All right. Does counsel anticipate how much time
23 it will take to reduce this to writing?

24 MR. ROTH: Hopefully this next week, your Honor,
25 but if we could have perhaps 30 days.

1 THE COURT: That's fine.

2 What I'll do is I will dismiss the case without
3 prejudice to either party within the next 30 days coming back
4 to Court and seeking to have -- if for some reason the
5 settlement is not consummated within that 30-day period, to
6 come back to court to seek enforcement of the settlement
7 agreement.

8 So that everybody's clear, the settlement is not
9 contingent upon it being successfully reduced to writing. If
10 for some reason it's not, either party can come back before
11 the Court within the next 30 days and seek to have the Court
12 enforce the terms of the settlement that have been placed on
13 the record.

14 MR. PERRY: Thank you, your Honor.

15 MR. ROTH: Thank you, your Honor.

16 THE COURT: All right. Thank you very much.

17 Thanks again.

18 MR. BROWN: Thank you, your Honor.

19 THE CLERK: All rise.

20 (Whereupon, at 2:56 p.m. the proceeding concluded.)

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

COUNTY OF LOS ANGELES)
) ss.
 STATE OF CALIFORNIA)

I, LEANDRA AMBER, OFFICIAL FEDERAL COURT REPORTER, REGISTERED PROFESSIONAL REPORTER, IN AND FOR THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, DO HEREBY CERTIFY THAT PURSUANT TO SECTION 753, TITLE 28, UNITED STATES CODE, THE FOREGOING IS A TRUE AND CORRECT TRANSCRIPT OF THE STENOGRAPHICALLY REPORTED PROCEEDINGS HELD IN THE ABOVE-ENTITLED MATTER AND THAT THE TRANSCRIPT PAGE FORMAT IS IN CONFORMANCE WITH THE REGULATIONS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES.

DATE: _____

 LEANDRA AMBER, CSR 12070, RPR
 FEDERAL OFFICIAL COURT REPORTER