

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
(WESTERN DIVISION - LOS ANGELES)

LA ALLIANCE FOR HUMAN RIGHTS,)	CASE NO: 2:20-CV-02291-DOC-KES
ET AL.,)	
	CIVIL
Plaintiffs,)	
	Los Angeles, California
vs.)	
	Monday, September 18, 2023
CITY OF LOS ANGELES, ET AL.,)	
	(10:02 a.m. to 10:13 a.m.)
Defendants.)	(10:42 a.m. to 10:50 a.m.)

STATUS CONFERENCE

BEFORE THE HONORABLE DAVID O. CARTER,
UNITED STATES DISTRICT JUDGE

APPEARANCES:

CONTINUED ON PAGE 2

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Defendants:

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Intervenor:

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Proposed Intervenor:

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Yagman & Reichmann
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Also present:

U.S. DISTRICT JUDGE ANDRÉ BIROTTE

1 Los Angeles, California; Monday, September 18, 2023; 10:02 a.m.

2 --oOo--

3 **THE COURT:** And counsel, I'd like to call LA Alliance
4 for Human Rights versus the City of Los Angeles at 20-02291
5 please.

6 And counsel, enter your appearances please. We'll
7 begin with Plaintiff.

8 **MR. UMHOFFER:** Good morning, Your Honor. Matthew
9 Umhofer and Elizabeth Mitchell --

10 **THE COURT:** Thank you.

11 **MR. UMHOFFER:** -- on behalf of the Plaintiff.

12 **THE COURT:** Nice seeing you.

13 And then as proposed intervenor?

14 **MR. YAGMAN:** Good morning, Your Honor. Steven
15 Yagman --

16 **THE COURT:** Oh just have a seat, use the microphone.
17 I'm trying to keep folks from cross pollinating on the lectern
18 during the flu season so seated is fine.

19 **MR. YAGMAN:** Good morning, Your Honor. Steven Yagman
20 on behalf of the Proposed Intervenors.

21 **THE COURT:** Thank you. Counsel on behalf of the
22 County?

23 **MS. HASHMALL:** Good morning, Your Honor. Mira
24 Hashmall for the County of Los Angeles.

25 **THE COURT:** And Counsel?

1 **MS. BRODY:** Good morning --

2 **THE COURT:** As the -- I'm sorry.

3 **MS. BRODY:** This is Lauren Brody. I'm also here for
4 the County.

5 **THE COURT:** All right, thank you.

6 And as the intervenor?

7 **MS. MYERS:** Good morning, Your Honor.

8 **THE COURT:** Pleasure.

9 **MS. MYERS:** Shayla Myers on behalf of the
10 Intervenors.

11 **THE COURT:** All right. I received a email that
12 was -- or I'm sorry, a docketing on Friday evening.

13 (Quote): "The parties have reached an agreement in
14 principle and are continuing to work diligently and
15 expeditiously in good faith to negotiate the few
16 remaining terms.

17 "On Friday, September 15th, 2023, the parties met
18 with United States District Court Judge André Birotte
19 and Special Master Michelle Martinez to update them
20 regarding the terms and to discuss the remaining
21 issues.

22 "To concentrate on settlement discussions and avoid
23 significant and likely unnecessary discovery costs,
24 the parties have temporarily suspended discovery and

1 again request the Court grant the parties'
2 stipulation to continue associated dates at
3 Docket 609. This will allow the parties to
4 concentrate on finalizing and submitting necessary
5 settlement documents.

6 "The parties intend to have a fully executed
7 agreement, including all client signatures submitted
8 to the Court within 21 days."

9 Let me turn this over to the parties. I represent to
10 you I've had a discussion with Judge Birotte and the Special
11 Master sometime on Friday evening. I'm not sure of the certain
12 of the particulars of that, I've drawn somewhat of a wall in
13 good faith but I'll begin with Plaintiff.

14 **MS. MITCHELL:** Thank you, Your Honor.

15 So the parties have reached an agreement on the
16 significant majority of the terms, updated agreements since the
17 last time on terms that we feel the Court would accept and
18 would be pleased with in order to retain continuing
19 jurisdiction which is something the Plaintiffs feel is quite
20 important. So we're confident on that.

21 There are two remaining issues that we could use the
22 Court's direction in but other than, other than those two which
23 we feel are pretty minor issues compared to the significant
24 events that are agreed to in the settlement agreement, other
25 than those two remaining issues, we are in agreement.

1 **THE COURT:** Okay. I'll turn to the County please.

2 **MS. HASHMALL:** Thank you, Your Honor.

3 The parties are very very close to what we think will
4 be an executed document to memorialize the agreement. And we
5 do think we have made significant progress with the guidance
6 that the Court has provided during the course of these
7 proceedings. And so our hope is to really just hunker down and
8 get that done and hopefully obviate the need for litigating
9 these issues.

10 **THE COURT:** Okay. And counsel, the counsel --

11 **MS. BRODY:** I've nothing further to add.

12 **THE COURT:** Then as intervenor?

13 **MS. MYERS:** Your Honor, as you know the intervenors
14 continue to be excluded from all settlement negotiations. We
15 made that clear the last time. We were not invited to
16 participate, we have not weighed in on this, we do not know the
17 terms so I mean we are -- we don't have a position as to the
18 settlement.

19 **THE COURT:** Okay. Then as the proposed intervenor?

20 **MR. YAGMAN:** I would respectfully request that the
21 Court read Docket Number 634 if it already hasn't done that.

22 **THE COURT:** I have. You submitted that this morning
23 and Docket 634, I think -- just a moment.

24 **MR. YAGMAN:** And I put that in writing because I was
25 reluctant to say those things in open court.

1 **THE COURT:** Well, particularly I think all parties
2 should be aware of page 2, lines 19 through 24. And this has
3 been docketed by the way. So how would you like me to proceed?

4 I think I may be aware or at least be able to
5 speculate on one of the two issues that may remain but I don't
6 want to do that without Judge Birotte and Michelle Martinez,
7 the special master involved.

8 Second, I would ask this. If we're going to reach a
9 resolution, I know that we've gone back and forth in terms of
10 the ability to communicate but this is really something that
11 Mayor Bass would be I think want to have input in because she's
12 got 15 to 17,000 people she's trying to move off the street. I
13 think she deserves that courtesy of saying if this works with
14 her efforts and certainly Janice Hahn who the Court has a great
15 relationship with.

16 I'm going to ask if we can lift that so that the
17 Court can communicate if need be with Janice Hahn or Janice
18 Hahn can communicate with the Court directly because although
19 the attorneys are involved, this is going to have to come from
20 the highest levels and representations in court made by the
21 respective parties. And I don't want any surprises, I don't
22 want any embarrassment.

23 So let me turn to the County first.

24 **MS. HASHMALL:** Your Honor, I don't have authority as
25 I sit here today --

1 **THE COURT:** Okay.

2 **MS. HASHMALL:** -- to agree to ex parte communications
3 but I certainly will have a conversation with my client.

4 **THE COURT:** Sure.

5 **MS. HASHMALL:** And if the Court feels that that would
6 meaningfully move --

7 **THE COURT:** Why don't I take a recess and you make a
8 call? Because if we're going to go any further, I need that
9 ability to have that relationship with the parties as I had in
10 the past. So let's ...

11 I need to know if this has reality or not and I'm
12 going to trust all of the parties but it can't just go over
13 21 days or 30 days. I need a time schedule and I would suggest
14 that it is proposed settlements to the Court by next Monday.

15 And then I would propose that if this is going back
16 to the Board for approval what that date would be, and then we
17 have a date for an open hearing with and invite Mayor Bass and
18 invite the Chairman of the Board, and also a chance for the
19 intervenors to see what this document is -- which you haven't
20 seen yet -- neither has the Court.

21 But unless we do that, what I'm afraid of is if I
22 just start granting continuances, 30 days, et cetera, two
23 issues that you've raised as the proposed intervenor; one, I
24 don't know about the "enforcement" -- which is a bad word --
25 but enforcement provisions in the document itself and you set

1 that forth on page 2 at line 19. And second, building in a
2 series of continuances that make dates impossible to comply
3 with in case this isn't reality. So I'd like to get that back
4 to the Court as quickly as possible to see if there's any
5 issues. And I'm prepared to stay tonight if you'd like to work
6 those issues out with Judge Birotte and Michelle Martinez
7 because I just don't want to put this over 30 days.

8 So if that meets with your compliance, could you make
9 that call to whomever the authority, say hello to them.
10 Chairman of the Board, I've got a great relationship with her,
11 okay? And see if we can start talking one on one just in case
12 we run into that last moment issue because this, although
13 you're able counsel on both sides -- I'll put that on the
14 record -- this eventually has to come from the Mayor of the
15 City, the Chairman of the Board and the Court, okay? So come
16 back and see me when you've made that call. Thank you very
17 much.

18 And Judge Birotte, by the way, is prepared to come
19 down. He's in trial so we're going to work around his
20 schedule, and he has a number of issues I think he wants to
21 raise and I've asked for representation from Judge Birotte if
22 he's comfortable going forward or not. I think he is but I
23 haven't delved into the settlement discussions with him.

24 Okay. thank you very much.

25 **(Brief aside regarding next matter)**

1 And by the way, the last call came to the Court so
2 counsel for the County knows? Counsel, the last court [sic]
3 came from Janice Hahn to me, okay? It wasn't initiated by the
4 Court but I think we've got a really good trusting relationship
5 over working together in the past.

6 **MS. HASHMALL:** Thank you.

7 **THE COURT:** Okay, thank you.

8 **(Proceeding in recess from 10:13 a.m. to 10:42 a.m.)**

9 **(In progress)**

10 **THE COURT:** -- sets up a delay and a potential
11 continuance unless there's a settlement on the table with some
12 reality, whether he objects or not we'll see. Also Ms. Myers
13 has -- is concerned because she's not been a participant and
14 that would give time for you to see this document, whatever
15 this document is.

16 I will share with all of you, three or four entities
17 through Judge Birote and the Special Master that this Court
18 feels comfortable with. And eventually that special master, if
19 reach an agreement, is the arm of the court. That's ultimately
20 it must be my decision but I'll put out three or four names,
21 including some of the names that you've suggested on the
22 County's part and the Plaintiff's part.

23 I want to reiterate though that the County's
24 agreement, if there is one -- and the Plaintiff should include
25 provisions that ensure accountability, including provisions of

1 enforcement.

2 And I would ask you to take a look at the City's
3 settlement agreement which I believe provides useful or a
4 useful model for those enforcement or accountability
5 provisions.

6 And the Court's proceeded in good faith with Mayor
7 Bass. This Court has not interjected itself needlessly in the
8 last eight or nine months, giving her an opportunity to be
9 successful, frankly, and without any intervention by the Court.

10 Judge Birotte, you're privy to these agreement
11 discussions. Are they meaningful and worthwhile? And give me
12 your best --

13 **JUDGE BIROTTE:** Well look, I was reached out I think
14 last week. The parties seemed to be working in good faith
15 diligently to try to come up with terms. They're details that
16 they've been working on.

17 I told them I'd make myself available. I'm in trial
18 right now but I think like last week I was in trial, made
19 myself available at the conclusion of the trial in the
20 afternoon to help facilitate to the extent I could.

21 My sense is that a lot of the terms -- or I should
22 say my sense is that there are significant terms that there is
23 agreement. There are some other terms that need to be worked
24 through. My hope or I am cautiously optimistic that with some
25 time and effort, those final details can be worked out. And

1 like I said, I'd make myself available every day at the
2 conclusion of my trials if necessary to try to facilitate and
3 get this resolved if that's what the parties are willing to do.

4 **THE COURT:** I've also asked counsel for the County to
5 have communication with the chairman of the board, Janice Hahn,
6 who I represent an excellent relationship with over the years.

7 By the same token, I think I'm going to remove myself
8 from that any initial conversation and represent this to you
9 but it's been a little bit disconcerting that the Court can
10 talk to Janice Hahn or she phones me and I can't talk to her
11 and it's gone back and forth. In other words, sometimes I can
12 communicate, sometimes I can't. It puts all of us in an
13 awkward position.

14 And eventually, if there is a settlement, I would
15 expect that the Chairman of the Board would be able to
16 represent that this is in the best interest of the citizens of
17 this county in open court. I would expect that Mayor Bass
18 would be here representing that this is in her best interest
19 proceeding forward with a number of people that she's trying to
20 find shelter or housing for. And I think that this would be or
21 have to be obviously directly from the Court, having that kind
22 of confidence in going forward.

23 So Judge Birotte, any further input from you?

24 **JUDGE BIROTTE:** Well, like I said, I'll make myself
25 available if the parties reach out to me and let me know. Like

1 I said, I'm in trial right now but we conclude every day at
2 4:30 so if we need to meet after that then that's what we'll do
3 so --

4 **THE COURT:** And I'll be available. I'll be in the
5 building if needed but I won't be under foot. I'll leave this
6 to the Special Master. But I would encourage you to meet as
7 early as this evening if Judge Birotte's able to do that or as
8 late as tomorrow and hammer things out if there's going to be a
9 settlement.

10 Otherwise, then the proposed intervenor's taking the
11 position that over 30 days, over 60 days, I think that that
12 needs to stop. We need to know if there's reality to this and
13 these last provisions are worked out.

14 So did you have any input back from Janice from the
15 chairman of the board?

16 **MS. HASHMALL:** Your Honor, on behalf of the County,
17 we will lift the prohibition on ex parte communications --

18 **THE COURT:** Thank you.

19 **MS. HASHMALL:** -- between the Court and Supervisor
20 Hahn.

21 **THE COURT:** Let me represent to you in good faith, I
22 will not contact the supervisor at this time. Okay. So if
23 you're lifting that provision, I want to thank you for that.

24 Number two, let that communication take place
25 initially between Judge Birotte and the Special Master and the

1 Chairman of the Board and the Board just in case something goes
2 wrong. But if not, then I don't want any surprises, okay? I
3 don't want any embarrassment.

4 **MS. HASHMALL:** Thank you, Your Honor. And I also
5 think we can meet the Court's request to get you our deal
6 points within a week. I think that we can do that.

7 **THE COURT:** I'm prepared to supply those names
8 immediately to you.

9 **MS. HASHMALL:** Okay, thank you.

10 **THE COURT:** Okay. All right. Thank you. Well thank
11 you.

12 Just I'll put on the record, I couldn't have any
13 better colleague to work with on a Friday evening or any better
14 special master who's giving up their time.

15 And I would say this to you on this next provision
16 that we're going to examine about who's going to work with the
17 Court, I want to represent to you that over the last seven
18 years -- and where's Brooke Weitzman? Every person the Court's
19 been involved with has not accepted one penny. Let me repeat
20 that. So I've been able to surround myself with virtuous
21 people who have no other side issue other than helping the
22 people of the City. And I'll name a couple. Tom La Bond
23 (phonetic). I mean those who's outstanding of the people who
24 stepped forward with no pay. Michelle Martinez, Judge Smith,
25 General Quinlan, for goodness sakes. I can go down the list

1 and list of people who just voluntarily joined.

2 Only in this last endeavor with the monitor has there
3 been any payment to the special master and it's been minimal,
4 you'll find, compared to what some of these other firms or
5 entities are going to charge. So I would encourage you in
6 looking at this to be frugal and make this transaction as
7 knowledgeable as possible, okay?

8 So we'll be available tonight. Let us know and Judge
9 Birotte will let us know if you want to meet with him tonight
10 and if so I'll stay in the building or in the area.

11 I want to thank you very much. I want to get to the
12 next matter but if you meet and consult and get back to me
13 maybe at lunch time about what the availability is for all of
14 you folks and so we can communicate with Judge Birotte because
15 he's paying us a tremendous service by interrupting his trial.

16 Thank you very much.

17 **MS. MITCHELL:** Your Honor, briefly? The entities or
18 the individuals which the Court will accept, should we get that
19 information from Judge Birotte or Ms. Martinez?

20 **THE COURT:** Judge Birotte and Michelle Martinez have
21 -- well, communicate with -- communicating with both of them on
22 Sunday.

23 **MS. MITCHELL:** Understood, thank you.

24 **THE COURT:** Okay. Thank you very much.

25 **(Proceeding adjourned at 10:50 a.m.)**

CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.



September 21, 2023

Signed

Dated

TONI HUDSON, TRANSCRIBER