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8
 9 IN THE UNITED STATES DISTRICT COURT
 10 FOR THE CENTRAL DISTRICT OF CALIFORNIA
 11

12
 13 **ANGELOTTI CHIROPRACTIC**
INC., et al.,
 14
 Plaintiff,
 15
 v.
 16
CHRISTINE BAKER, et al.
 17
 Defendants.

CV13-01139 GW JEM
JOINT STATUS REPORT
 Status Conference:
 Date: November 2, 2015
 Time: 8:30 a.m.
 Ctrm.: 10
 Judge: Hon. George H. Wu

18
 19
 20 The parties hereby submit the following joint status report.

21 **Status of Ninth Circuit Appeal**

22 On June 29, 2015, the United States Court of Appeals for the Ninth Circuit
 23 issued a decision holding that this Court’s preliminary injunction should be vacated.
 24 The decision also affirmed this Court’s dismissal of Plaintiff’s claims under the
 25 Takings and Due Process clauses, and held that Plaintiff’s claim under the Equal
 26 Protection Clause should also be dismissed.

27 On July 13, 2015, Plaintiffs filed a Petition for Rehearing with Suggestion for
 28 Rehearing En Banc (the “Rehearing Petition”). On October 18, 2015, the Court of

1 Appeals issued an order denying the Rehearing Petition. The Court of Appeals’
2 mandate issued on October 19, 2015.

3 **Order Vacating Injunction**

4 The parties are in agreement on the manner in which this Court should vacate
5 the preliminary injunction in accordance with the Court of Appeal’s mandate, and
6 submit herewith a proposed form of Order.

7 As previously explained in the parties’ July 30, 2015 Status Report, and as
8 discussed briefly at the August 3, 2015 Status Conference, there is an important
9 matter not raised in the Court of Appeals, or addressed in its decision, that the
10 parties agree should be addressed by the Court’s order vacating the preliminary
11 injunction.

12 Under SB863, lienholders were to be afforded until December 31, 2013 to
13 pay activation fees on any liens subject to the fees. This Court’s preliminary
14 injunction was entered on November 12, 2013, and went into effect on November
15 19, 2013. On November 19, 2013, pursuant to this Court’s preliminary injunction,
16 the Division of Workers Compensation deactivated the payment systems that had
17 been established for payment of lien activation fees, and those payment systems
18 have remained deactivated ever since. As a result, lienholders – including
19 lienholders not a party to this action – were unable to pay lien activation fees for 43
20 days prior to the December 31, 2013 deadline for lienholders to pay the lien
21 activation fees.¹

22 In order to address this issue, the parties agree that lienholders should be
23 afforded at least 43 days to pay activation fees after the preliminary injunction is
24 vacated and the former payment systems are re-activated. To provide adequate

25 _____
26 ¹ Some lienholders also reportedly experienced difficulties with the payment
27 systems before they were deactivated on November 19, 2013, suggesting that they
28 crashed at times due to high volumes of payments.

1 time to give notice to lienholders who are not parties to this action and to reduce the
2 risk the system may be overwhelmed, the parties jointly request that the deadline be
3 made December 31, 2015.

4 In addition, in order to ensure that they have sufficient time to reactivate the
5 payment systems and to address any technical problems that may arise, Defendants
6 request that they be given until November 9, 2015 to reactivate the payment
7 systems.

8 Accordingly, the parties jointly request that the Court's order vacating the
9 preliminary injunction allow Defendants until November 9, 2015 to reactivate the
10 payment systems that had been established prior to the Court's preliminary
11 injunction to allow for payment of activation fees, and that lienholders be given
12 until December 31, 2015 to pay those activation fees.²

13 Because the Court of Appeals did not consider or address this issue on
14 appeal, the parties agree that the requested order would not be inconsistent with the
15 mandate rule. *See United States v. Kellington*, 217 F.3d 1084, 1092-95 (9th Cir.
16 2000) (explaining that the mandate rule does not preclude a district court from
17 considering matters not expressly disposed of by the Court of Appeals' decision,
18 even if the decision does not state that the action is "remanded" for further
19 proceedings).

20 The parties would like to address this anticipated issue during the November
21 2, 2015 the status conference.

22 **Entry of Judgment**

23 The parties further agree that pursuant to the Ninth Circuit's decision, this
24 Court should enter judgment in favor of Defendants.

25 _____
26 ² The proposed order submitted herewith also has certain provisions for the
27 deadline to be extended in the event technical difficulties prevent the payment
28 systems from being continuously operational from November 9, 2015 to December
31, 2015.

1 Dated: October 29, 2015

Respectfully submitted,
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9 Dated: October 29, 2015

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