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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

JAMES TAYLOR, et al.)
)
Plaintiffs,)
)
v.)
)
CITY OF OAKLAND, et al.)
)
Defendants.)

No. C-04-4843 MHP

**ORDER RELATING CASES
AND DEEMING CLAIMS MISJOINED**

JIMMY RIDER, et al.)
)
Plaintiffs,)
)
v.)
)
CITY OF OAKLAND, et al.)
)
Defendants.)

No. C-05-3204 MHP

DARNELL FOSTER AND CLASS)
MEMBERS, et al.,)
)
Plaintiffs,)
)
v.)
)
CITY OF OAKLAND, et al.)
)
Defendants.)

No. C-05-3110 MHP

JOINT CAPTION CONTINUED ON NEXT PAGE

1 TYRONE MOORE, et al.)
 2 Plaintiffs,)
 3 v.)
 4 CITY OF OAKLAND, et al.)
 5 Defendants.)

No. C-06-2426 MHP

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JEFFRIE MILLER, et al.)
 7 Plaintiffs,)
 8 v.)
 9 CITY OF OAKLAND, et al.)
 10 Defendants.)

No. C-07-1773 MHP

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TERRELL TURNER, et al.)
 12 Plaintiffs,)
 13 v.)
 14 CITY OF OAKLAND, et al.)
 15 Defendants.)

No. C-08-3114 MHP

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LAWRENCE COLEY, et al.)
 17 Plaintiffs,)
 18 v.)
 19 CITY OF OAKLAND, et al.)
 20 Defendants.)

No. C-08-4255 MHP

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24 The court has reviewed the filings in the foregoing cases referring particularly to C-08-4255
 25 and C-09-5316. It appears that the latter action was related to the constellation of cases related to
 26 C-04-4843 by order dated February 17, 2010, but that the earlier of the two cases was not related
 27 although it had been assigned to this judge. Apparently no proposed order was submitted and no

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1 action was actually taken relating that case. Therefore, IT IS HEREBY ORDERED that C-08-
2 4255MHP is deemed related to C-04-4843MHP.

3 The court also notes in reviewing these two cases that a disturbing pattern seems to be
4 emerging. Claims are being misjoined, for in both of these cases there are individuals making
5 claims that although they may be related as to common questions of law, do not allege incidents
6 occurring on the same date or involving the same facts, persons or officers. Each of the incidents
7 complained of in these cases is separate and distinct.

8 Federal Rule of Civil Procedure 18(a) provides that “[a] party asserting a claim...may
9 join...as many claims as *it* has against an opposing party.” Whether claims are misjoined is
10 governed by Rule 21 which adverts to Rule 20(a)(1) when determining whether separate persons
11 may join in a single action. That rule states that such claims may be joined if “(A) they assert any
12 right to relief jointly, severally, or in the alternative *with respect to or arising out of the same*
13 *transaction, occurrence, or series of transactions or occurrences; and (B) any question of law or*
14 *fact common to all plaintiffs will arise in the action.” These two conditions are in the conjunctive.*
15 Any claims failing to meet these conditions are “misjoined”. The court finds that the claims in C-
16 08-4255 and C-09-5316 are misjoined.

17 In accordance with Rule 21, the remedy may be the dropping of some of the parties from the
18 complaint or the severance of claims. The court finds that the better procedure, since these plaintiffs
19 should not all be joining in the same action, is for the court to give plaintiffs in these actions twenty
20 (20) days to drop all but one of the plaintiffs in each of these actions and file new actions as to **each**
21 of the dropped plaintiffs. The court will consider the dates of the original filings as being the dates
22 of filings for the new actions. In other words, the statute of limitations is deemed tolled as of the
23 date of original filing and will continue tolled until the new actions are filed, if they are filed within
24 the twenty days or, if extended by the court, within the extended time.

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1 In the future, counsel for plaintiffs are instructed that any new actions shall comply with the
2 preceding paragraphs. The court will not allow the joining of claims that do not meet the provisions
3 of Rule 20(a)(1).

4 THE FOREGOING IS SO ORDERED.

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6 Dated: March 3, 2010



MARILYN HALL PATEL
United States District Court Judge

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