

1 **WO**

NOT FOR PUBLICATION

2

3

4

5

6

**IN THE UNITED STATES DISTRICT COURT**

7

**FOR THE DISTRICT OF ARIZONA**

8

9 L Alicia Rascon, *et al.*,

No. CV-14-00749-PHX-JJT

10

Plaintiffs,

**ORDER**

11

v.

12

Clinton H Brookins, *et al.*,

13

Defendants.

14

15

16

17

18

19

20

21

22

23

The Court considers Defendants Clinton H. Brookins, Jeremy King, Nicholas R. Welch, Steven Squire, and City of Phoenix's Joint Motion to Exclude Plaintiffs' Expert Randall C. Baselt, Ph.D. (Doc. 168, Baselt Mot.), Joint Motion to Exclude Medical Opinions from Plaintiffs' Police Expert Roger Clark (Doc. 169, Clark Mot.), Joint Motion to Exclude Plaintiffs' Expert Stan V. Smith, Ph.D. (Doc. 170, Smith Mot.), Joint Motion to Exclude Plaintiffs' Expert Michael M. Baden, M.D. (Doc. 172, Baden Mot.), Plaintiffs' Response (Doc. 207, Resp.), and Defendants' Reply (Doc. 213, Reply). The Court finds this matter appropriate for decision without oral argument. *See* LRCiv 7.2(f).

**I. LEGAL STANDARD**

24

25

26

27

28

Rule 702 of the Federal Rules of Evidence tasks the trial court with ensuring that any expert testimony provided is relevant and reliable. *Daubert v. Merrell Dow Pharm., Inc. (Daubert)*, 509 U.S. 579, 589 (1999). "Evidence is relevant if it has any tendency to make a fact more or less probable than it would be without the evidence and the fact is of consequence in determining the action." Fed. R. Evid. 401. The trial court must first

1 assess whether the testimony is valid and whether the reasoning or methodology can  
2 properly be applied to the facts in issue. *Daubert*, 509 U.S. at 592–93. Factors to consider  
3 in this assessment include: whether the methodology can be tested; whether the  
4 methodology has been subjected to peer review; whether the methodology has a known  
5 or potential rate of error; and whether the methodology has been generally accepted  
6 within the relevant professional community. *Id.* at 593-94. “The inquiry envisioned by  
7 Rule 702” is “a flexible one.” *Id.* at 594. “The focus . . . must be solely on principles and  
8 methodology, not on the conclusions that they generate.” *Id.*

9 The *Daubert* analysis is applicable to testimony concerning non-scientific areas of  
10 specialized knowledge. *Kumho Tire Co., Ltd. v. Carmichael*, 526 U.S. 137, 141 (1999).  
11 However, the *Daubert* factors may not apply to testimony that depends on knowledge and  
12 experience of the expert, rather than a particular methodology. *United States v. Hankey*,  
13 203 F.3d 1160, 1169 (9th Cir. 2000) (citation omitted) (finding that *Daubert* factors do  
14 not apply to police officer’s testimony based on 21 years of experience working  
15 undercover with gangs). An expert qualified by experience may testify in the form of  
16 opinion if his or her experiential knowledge will help the trier of fact to understand  
17 evidence or determine a fact in issue, as long as the testimony is based on sufficient data,  
18 is the product of reliable principles, and the expert has reliably applied the principles to  
19 the facts of the case. *See* Fed. R. Evid. 702; *Daubert*, 509 U.S. at 579.

20 The advisory committee notes on the 2000 amendments to Rule 702 explain that  
21 Rule 702 (as amended in response to *Daubert*) “is not intended to provide an excuse for  
22 an automatic challenge to the testimony of every expert.” *See Kumho Tire Co.*, 526 U.S.  
23 at 152. “Vigorous cross-examination, presentation of contrary evidence, and careful  
24 instruction on the burden of proof are the traditional and appropriate means of attacking  
25 shaky but admissible evidence.” *Daubert*, 509 U.S. at 595 (citation omitted).

1 **II. ANALYSIS**

2 **A. Randall C. Baselt, Ph.D.**

3 Defendants move to exclude the testimony of the Plaintiffs' expert, Randall C.  
4 Baselt, because he is not qualified to offer opinions on issues other than  
5 methamphetamine and alcohol use, and his report fails to comply with *Daubert* reliability  
6 requirements. (Doc. 168, Baselt Mot. at 4, 9.) Plaintiffs contend that Dr. Baselt's opinion  
7 is reliable because he is an expert in toxicology which is "good science" and his opinion  
8 is relevant to the case. (Doc. 207, Resp. at 4.) Defendants concede that Dr. Baselt is  
9 qualified to opine about the decedent's level of methamphetamine intoxication.  
10 (Doc. 168, Baselt Mot. at 2.)

11 **1. Dr. Baselt's Qualifications**

12 Defendants argue that Dr. Baselt is not qualified to offer expert opinions on law  
13 enforcement restraints, TASER usage, physical exertion, or cardiorespiratory  
14 compromise. (Doc. 168, Baselt Mot. at 4.) Defendants allege Dr. Baselt has no  
15 experience or training as a police officer or on TASER usage, and he does not have a  
16 medical degree qualifying him to diagnose patients or opine about medical causation.  
17 (Doc. 168, Baselt Mot. at 4.) Plaintiffs respond that as a well-recognized toxicologist and  
18 a leading expert in the field, whose work is relied upon by medical examiners,  
19 Dr. Baselt's opinion is reliable. (Doc. 207, Resp. at 4).

20 The Court has reviewed Dr. Baselt's CV. Dr. Baselt has a Ph.D. in pharmacology  
21 and over fifty years of experience in the field of toxicology. (Doc. 168-1, Baselt Mot.,  
22 Ex. 2, Baselt CV at 1-2.) Dr. Baselt has written numerous peer-reviewed publications on  
23 the effects of toxic drugs on humans. (Doc. 168-1, Baselt CV at 3-7.) The Court finds that  
24 through his ample research and experience Dr. Baselt is qualified to offer expert opinion  
25 on the decedent's level of methamphetamine intoxication, as Defendants concede.

26 The Court is not persuaded that Dr. Baselt is qualified to offer expert opinions on  
27 law enforcement restraints, TASER usage, cardiorespiratory compromise, or specific  
28 medical causation and individual diagnosis. Dr. Baselt's CV contains no reference to

1 research or experience with law enforcement restraining techniques and their effect on  
2 the human body or about TASER usage and its effect on an individual. (Doc. 168-1,  
3 Baselt CV.) Further, Dr. Baselt is a trained toxicologist, not a medical doctor, and his CV  
4 lacks any reference to qualifications and experience, such as a medical degree or  
5 experience diagnosing patients, to offer an opinion about specific medical causation and  
6 individual diagnosis. (Doc. 168-1, Baselt CV); *see In re Silicon Gel Breast Implants*  
7 *Products Liability Litigation*, 318 F. Supp. 2d 879, 913 (C.D. Cal. 2004) (finding a  
8 toxicologist is not qualified to testify on specific medical causation or individual  
9 diagnosis). Dr. Baselt thus is not qualified to opine on law enforcement restraints,  
10 TASER usage, cardiorespiratory compromise, or specific medical causation and  
11 individual diagnosis relating to any of these areas.

12         Additionally, Dr. Baselt offers no methodology, peer reviewed studies, or data he  
13 relied upon about TASERs, law enforcement restraints, or cardiorespiratory compromise  
14 to form the basis for his report. (Doc. 168-1, Baselt Mot., Ex. 1, Baselt Report at 2.)  
15 Plaintiffs fail to offer any additional argument regarding Dr. Baselt’s qualifications or the  
16 reliability of his opinions on these specific areas, leaving the court—and, as importantly,  
17 Defendants—to guess how Dr. Baselt formed his opinion and on what, if any, scientific  
18 methodology he rested his inferences. (Doc. 207, Resp. at 4.) The Court is not required  
19 “to admit opinion evidence that is connected to existing data only by the *ipse dixit* of the  
20 expert.” *Kumho Tire Co.*, 526 U.S. at 157 (quoting *Gen. Elec. Co. v. Joiner*, 522 U.S.  
21 136, 137 (1997)). Therefore, the Court will exclude Dr. Baselt’s opinions on law  
22 enforcement restraints, TASER usage, physical exertion, and cardiorespiratory  
23 compromise on the *Daubert* reliability basis as well.

24         Similarly, Dr. Baselt’s opinion that “methamphetamine by itself would not have  
25 caused this unfortunate outcome” is excluded. (Doc. 168-1, Baselt Report at 2.) This  
26 statement is intrinsically intertwined with his above opinions regarding medical causation  
27 and contributing factors to cause of death, and is therefore inadmissible. The Court will  
28 not reach a *Daubert* reliability analysis on the general effects of the decedent’s level of

1 methamphetamine intoxication because Dr. Baselt’s report offers no generalized  
2 conclusions regarding this subject, only an individualized medical causation opinion  
3 which is excluded, pursuant to the above analysis.<sup>1</sup>

4 **B. Roger Clark**

5 Defendants move to exclude all medical opinions proffered by Plaintiffs’ expert,  
6 Roger Clark. (Doc. 169, Clark Mot. at 1.) In addition, Defendants move to exclude all  
7 legal opinions and conclusions from Clark’s testimony. (Doc. 169, Clark Mot. at 2.)  
8 Plaintiffs admit that Clark is not qualified to give medical opinions, and concede that his  
9 expert testimony will be limited to law enforcement subjects of: use of force, training,  
10 policies, tactics, procedures, administration, supervision, and discipline. (Doc. 207, Resp.  
11 at 6.)

12 The Court accepts Plaintiffs’ concession, and finds that Clark is not qualified to  
13 opine about medical causation, physiological effects of a TASER, the progression of  
14 asphyxiation, the medical effects of a carotid hold, or any medical opinions related to  
15 Sanchez’s cause of death. Clark has no medical training, experience in medical diagnosis,  
16 or any qualifications that would permit him to address medical issues. (Doc. 169-1, Clark  
17 Mot., Ex.1, Roger Clark CV.) The Court accepts Plaintiffs limitations that Clark will not  
18 opine about “(1) TASER engineering, or electronic function, (2) medical risks or  
19 physiological effects associated with being exposed to a TASER, . . . (3) the lethality of  
20 the TASER . . . [or] whether the activated TASER actually delivered a stream of  
21 electricity to Sanchez.” (Doc. 207, Resp. at 6).

22 Defendants’ second contention, that Clark is not permitted to offer legal  
23 conclusions, raises the question about the extent to which an expert may offer opinions

---

24  
25 <sup>1</sup> Although the Court excludes the opinion evidence offered in Dr. Baselt’s expert  
26 report under *Daubert*, the Court also notes that Dr. Baselt’s report defies the requirements  
27 set forth by Federal Rule of Civil Procedure 26(a)(2)(b). “The purpose of the expert  
28 report is to ‘set forth the substance of the direct examination’ and in effect, dispense with  
the need to depose the expert witness.” *Burk v. State Farm Fire & Cas. Ins. Co.*, No. 14-  
cv-02642-PHX-SMM, 2017 WL 4676588, at \*4 (D. Ariz. Mar. 27, 2017) (quoting Fed.  
R. Civ. P. 26 advisory committee’s note to 1993 amendment). Plaintiff’s attempt to offer  
an expert report by Dr. Baselt comprising two paragraphs fails to set forth any such  
substance and fails to give Defendants any notice of what his testimony will comprise.

1 on matters that should lie with the jury. Federal Rule of Evidence 704 allows an expert to  
2 express an opinion on an ultimate issue to be decided by the jury, however, the Ninth  
3 Circuit has made clear that the propriety of an expert opinion on “ultimate issues” does  
4 not permit an expert to offer legal conclusions. *Muhktar v. Cal. State Univ., Hayward*,  
5 299 F.3d 1053, 1065 n.10 (9th Cir. 2002) (“However, an expert witness cannot give an  
6 opinion as to her legal conclusion, i.e., an opinion on an ultimate issue of law.”).

7 To the extent that Defendants seek to preclude Clark from testifying as to what use  
8 of force is justified, or offering an opinion that a particular amount of force was not  
9 justified under the facts of this case, the motion is denied. In addition, in light of Clark's  
10 experience and training in police practices and the use of force generally, and the  
11 undisputed fact that a TASER is a device designed to obtain compliance through the  
12 application of physical force, Clark may opine about whether the use of the TASER was  
13 justified under the circumstances. Defendants have not established that such testimony  
14 must be excluded nor that this testimony constitutes a legal conclusion.

15 However, to the extent that Clark offers legal opinions and conclusions, his  
16 testimony is precluded. While Clark may freely opine that the officers should not have  
17 acted in the manner that they did, or that they should have done something else, he should  
18 not volunteer an opinion that the officers acted unconstitutionally or exercised excessive  
19 force. Legal opinions or conclusions are excluded from Clark’s testimony. Accordingly,  
20 Defendants’ motion is granted to the extent reflected above and is otherwise denied.

21 **C. Stan V. Smith, Ph.D.**

22 Defendants move to exclude the testimony of Stan V. Smith, Ph.D. relating to  
23 decedent’s economic loss and the “loss of value of life”. (Doc. 170, Smith Mot. at 1.)  
24 Defendants argue that the economic loss calculations are based on speculation and that  
25 Smith reviewed insufficient data in order to reach such an opinion. (Doc. 170, Smith Mot.  
26 at 1–2.) Additionally, Defendants argue that Dr. Smith’s “loss of value of life” opinion  
27 lacks reliability and invades the province of the jury. (Doc. 170, Smith Mot. at 2.)  
28 Plaintiffs maintain that Dr. Smith’s opinions are admissible because they are based on

1 economics, which is a widely accepted and relied upon science, and the “loss of value of  
2 life” opinion in particular is well accepted and published in peer reviewed journals.  
3 (Doc. 207, Resp. at 6-7, 9.)

#### 4 **1. Economic Loss Opinion**

5 Turning first to Dr. Smith’s opinions on economic loss, Defendants argue that his  
6 economic damages calculations are speculative and not based on sufficient data.  
7 (Doc. 170, Smith Mot. at 3.) Defendants focus on the fact that Dr. Smith made his  
8 calculations assuming Sanchez would obtain a Commercial Driver’s License (“CDL”)  
9 and be working full-time as a truck driver by January 1, 2014 and continue to do so until  
10 age eighty. (Doc. 170-1, Smith Report at 4-5.) Defendants argue that this assumption is  
11 too speculative, and that Dr. Smith failed to evaluate how a truck driver employer would  
12 assess Sanchez’s criminal and substance abuse history and the regular drug testing  
13 required in order to maintain truck driving employment. (Doc. 170, Smith Mot. at 4-5.)

14 Reliability analysis focuses on the “principles and methodology” of the expert,  
15 “not on the conclusions that they generate.” *Daubert*, 509 U.S. at 595. However,  
16 “conclusions and methodology are not entirely distinct from one another” and nothing  
17 “requires a district court to admit opinion evidence that is connected to existing data only  
18 by the *ipse dixit* of the expert.” *Gen. Elec.*, 522 U.S. at 146. In loss of future income  
19 calculations, some assumptions about the future are required. For example, any  
20 calculation would have to assume how long an individual will work, whether or not they  
21 will be injured in the future, and that the individual will not change career paths, go to  
22 school, or otherwise make a significant life change. Here, Dr. Smith clearly identifies his  
23 assumptions that Sanchez would finish his CDL training and obtain employment in that  
24 area by 2014. (Doc. 170-1, Smith Report at 4-5.) The accuracy of these assumptions and  
25 whether Dr. Smith could project Sanchez’s future earnings from those assumptions is a  
26 question better left to the jury. “Vigorous cross-examination” and “presentation of  
27 contrary evidence” during trial is the appropriate method for such a determination. *See*  
28 *Daubert*, 509 U.S. at 595. Additionally, these assumptions are not connected to the data

1 only by the *ipse dixit* of the expert, but rather by Sanchez’s history of enrollment in the  
2 Phoenix Truck Driving Institute in 2011. (Doc. 170-1, Smith Report at 4; Doc. 170,  
3 Smith Mot. at 4-5.)

4 Despite challenging those base assumptions, Defendants do not argue that  
5 Dr. Smith’s methodology for calculating the loss of future earnings projections was  
6 unreliable. Dr. Smith clearly identified the source of his wage data, accounted for the  
7 offset of personal consumption, real wage growth, and discount rates. (Doc. 170-1, Smith  
8 Report at 2-5.) Additionally, by looking at Table 9 of Dr. Smith’s report, the jury can  
9 estimate wage loss based off of any age Mr. Sanchez stopped working, rather than just at  
10 age eighty. (Doc. 170-1, Smith Report at 25.) The Court therefore finds that Dr. Smith’s  
11 calculation of future earnings does not entail the unreliability that would warrant  
12 exclusion of his opinion under the *Daubert* standard.

## 13 **2. Loss of Value of Life Opinion<sup>2</sup>**

14 Defendants argue that Dr. Smith’s “loss of value of life” or hedonic damages  
15 opinions are unreliable. (Doc. 170, Smith Mot. at 2.) Dr. Smith’s methodology combines  
16 many economic studies about what society pays to preserve the ability to lead a normal  
17 life. (Doc. 170-1, Smith Report at 6.) The underlying studies use government statistics to  
18 determine what risk premium employees demand to work in riskier jobs, assess consumer  
19 behavior and purchases of safety devices, evaluate what people spend on government-  
20 required reduction of risk purchases, as well as to perform cost-benefit analyses of  
21 government safety regulations and programs that reduce risk of death. From these  
22

---

23  
24 <sup>2</sup> Although Defendants argue in their Reply that Mr. Smith’s opinion about  
25 hedonic damages is irrelevant as a matter of Arizona law, (Doc. 213, Reply at 8), the  
26 Court does not consider new arguments made for the first time in a reply. *Surowiec v.*  
27 *Capital Title Agency, Inc.*, 790 F. Supp. 2d 997, 1002 (D. Ariz. 2011) (“It is well  
28 established in this circuit that courts will not consider new arguments raised for the first  
time in a reply brief.”) (citing *Bach v. Forever Living Prods. U.S., Inc.*, 473 F. Supp. 2d  
1110, 1122 n.6 (W.D. Wash. 2007)). The relevance argument has not been fully briefed  
by both sides; therefore, the Court will not decide the relevance issue at this time. The  
Court will move forward with the reliability analysis assuming that the hedonic damages  
are relevant for the purposes of this motion.



1 numbers, economists extrapolate the cost per life saved. (Doc. 170-1, Smith Report at 7.)

2 For example, Dr. Smith explains:

3 [a]s a hypothetical example of the methodology, assume that  
4 a safety device such as a carbon monoxide detector costs \$46  
5 and results in lowering a person's risk of premature death by  
6 one chance in 100,000. The cost per life saved is obtained by  
7 dividing \$46 by the one in 100,000 probability, yielding  
8 \$4,600,000.

(Doc. 170-1, Smith Report at 7.)

9 While the Ninth Circuit Court of Appeals has not directly ruled on the  
10 admissibility of the type of hedonic damage evidence that Dr. Smith offers, the court has  
11 offered concerns regarding Dr. Smith's model. The Ninth Circuit notes that it "may be  
12 informative to a jury to know what people spend voluntarily out of their own pockets to  
13 reduce their own chances of death." *Dorn v. Burlington N. Santa Fe R.R. Co.*, 397 F.3d  
14 1183, 1195 (2005). However, the court notes that the usefulness of Dr. Smith's testimony  
15 is reduced when he averages the figure individuals may pay out of pocket "with other  
16 estimates, [which are] likely to be much higher, and not at all informative about how  
17 much people value their own enjoyment of life." *Id.* As the Ninth Circuit goes on to  
18 explain,

19 [t]hat a government safety program costs a certain amount per  
20 life saved, or that the government requires purchase of a  
21 certain kind of safety equipment, may suggest a collective  
22 policy judgment the government has made, or may represent a  
23 policy selected for reasons other than the cost-benefit analysis  
24 "hedonic analysis" implies, or even a mistaken policy.

25 *Id.*; see *Mercado v. Ahmed*, 974 F.2d 863, 871 (7th Cir. 1992) (identifying other issues  
26 such as, election years and the influence of lobbying, that prompt government health and  
27 safety measures).

28 The Court agrees with the Ninth Circuit's evaluation that Dr. Smith's  
quantification of hedonic damages does not accurately project the value people place on  
the enjoyment of life, but rather an altered figure that could reflect many different

1 government policy judgements. Further, even if the figure only reflected what the public  
2 spends out of its own pockets on safety devices, this spending “is probably influenced as  
3 much by advertising and marketing decisions made by profit-seeking manufacturers . . .  
4 as it is by any consideration by consumers of how much life is worth.” *Smith v. Jenkins*,  
5 732 F.3d 51, 66-67 (1st Cir. 2013) (quoting *Mercado*, 974 F.2d at 871). The Court finds  
6 that Dr. Smith’s calculations are too speculative and unconnected to how an individual  
7 values their life and is therefore not sufficiently tied to the facts of the case and is  
8 unhelpful to the jury in determining the “loss of value of life”. Under Rule 702,  
9 Dr. Smith’s “loss of value of life” testimony is inadmissible. *See, e.g., Daubert*, 509 U.S.  
10 at 591 (“scientific validity for one purpose is not necessarily scientific validity for other,  
11 unrelated purposes”); *Ayers v. Robinson*, 887 F. Supp. 1049, 1064 (N.D. Ill. 1995)  
12 (ruling, after an extensive analysis of the methodology involved, that Dr. Smith’s  
13 testimony failed to survive *Daubert* analysis and was unhelpful to the jury).

14 **D. Michael M. Baden, M.D.**

15 Finally, Defendants move to exclude Michael M. Baden’s, M.D, opinion on the  
16 City’s TASER Policy and his medical testimony about methamphetamine, restrictive  
17 breathing, and effects of TASER electrocution. (Doc. 172, Baden Mot. at 2.) Defendants  
18 argue that Dr. Baden is not qualified to offer opinions about police policy and his  
19 statements regarding police TASER policy should be excluded. (Doc. 172, Baden Mot. at  
20 7.) Further, the Defendants argue that Dr. Baden’s medical opinions are mere conclusions  
21 without any support from objective, independent research or verifiable evidence.  
22 (Doc. 172, Baden Mot. at 7-8.) Plaintiffs respond that Dr. Baden is a world renowned  
23 forensic pathologist and forensic pathology is “good science.” Therefore Dr. Baden’s  
24 opinion is reliable. (Doc. 207, Resp. at 10-11.)

25 The Court has reviewed Dr. Baden’s CV and finds that he is not qualified to offer  
26 testimony regarding police policy or TASER use. Although Dr. Baden is a well  
27 credentialed forensic pathologist, the Court finds no reference to his experience or  
28 qualifications to offer opinions about police policy or TASER use in a law enforcement

1 setting. (Doc. 206-14, Baden CV.) Therefore, any reference in Dr. Baden’s opinion to  
2 police procedures on police TASER use or appropriate TASER usage is excluded.

3 Dr. Baden’s medical opinions are excluded entirely. The Court must evaluate the  
4 expert’s reasoning and methodology to ensure that inferences or assertions are grounded  
5 in the scientific method. *Id.* at 592-93. Here, Dr. Baden’s medical opinions are given  
6 without any reference to the scientific method. (Doc. 172-1, Baden Mot., Ex. 2, Baden  
7 Report.) The Court is unable to evaluate whether Dr. Baden’s opinions are reliable  
8 because he does not include any reference to peer reviewed publications or any objective  
9 evidence to support his conclusions. (Doc. 172-1, Baden Report at 9-10.) Although  
10 Plaintiffs assert that “a forensic pathologist . . . can certainly render medical opinions  
11 based upon lab results,” (Doc. 207, Resp. at 12), the Court cannot evaluate those opinions  
12 unless the methods used are identified, articulated, and presented to the Court.  
13 Dr. Baden’s opinion, in its entirety, provides no basis to even start a *Daubert* analysis  
14 because he neither sets forth nor explains any methodology or reasoning. Therefore, the  
15 Court is unable to determine whether the methodology satisfies the *Daubert* factors of  
16 testability, peer review and publication, rate of error, or general acceptance. For this  
17 reason, Dr. Baden’s medical opinions are excluded.

18 The Court need not address individual arguments of reliability surrounding  
19 positional asphyxia, methamphetamine lethality, and the physiological effects of  
20 electrocution. Although the parties may argue that a particular method is reliable in their  
21 briefing, the Court has no way of knowing what method Dr. Baden used in order to come  
22 to his particular conclusions. Dr. Baden’s opinion is excluded entirely.

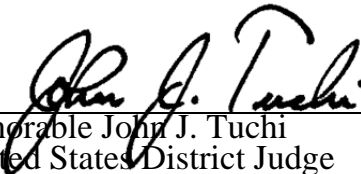
### 23 **III. CONCLUSION**

24 The Court finds that Dr. Baselt is not qualified to offer opinions regarding law  
25 enforcement restraints, TASER usage, cardiorespiratory compromise, or specific medical  
26 causation and individual diagnosis. Mr. Clark is limited to opinions about law  
27 enforcement use of force, training, procedures, and administration, and may not opine  
28 about medical causation or any medical opinions related to Mr. Sanchez’s cause of death.

1 To the extent Clark offers legal opinions and conclusions, his opinion is excluded.  
2 Dr. Smith’s “loss of value of life” opinion is not relevant, is unhelpful to the jury and is  
3 therefore inadmissible and excluded; however, Dr. Smith’s economic loss opinion is  
4 reliable and admissible. Finally, Dr. Baden’s opinion is unreliable in whole because he  
5 fails to identify any methodology or procedures in forming his opinion.

6 **IT IS THEREFORE ORDERED** denying in part and granting in part  
7 Defendants’ Motion to Exclude Plaintiffs’ Expert Randall C. Baselt Ph.D. (Doc. 168),  
8 denying in part and granting in part Defendants’ Motion to Exclude Medical Opinions  
9 From Plaintiffs’ Police Expert Roger Clark (Doc. 169), denying in part and granting in  
10 part Defendants’ Motion to Exclude Plaintiffs’ Expert Stan V. Smith, Ph.D. (Doc. 170),  
11 and granting Defendants’ Motion to exclude Plaintiffs’ Expert Michael M. Baden, M.D.  
12 (Doc. 172).

13 Dated this 7th day of February, 2018.

14  
15   
16 \_\_\_\_\_  
17 Honorable John J. Tuchi  
18 United States District Judge  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28