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8 Attorneys for Defendant, MICHAEL TROEHLER

9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

11	RANDALL EDGAR WILLIAMS,)	CASE NO. 1:08-CV-01523-OWW-GSA
12	SANDRA WILLIAMS,)	
13	Plaintiffs,)	STIPULATION AND ORDER
14	vs.)	REGARDING SUBMISSION OF
15	MICHAEL J. TROEHLER, City of Fresno)	DEPOSITION OF DARREN HISE FOR
16	Police Officer,)	IN CAMERA REVIEW
17	Defendant.)	
	_____)	Trial Date: August 31, 2010

18 **I**

19 **Introduction**

20 The parties hereby request that the court conduct an in camera review of the deposition of
21 Darren Hise. Mr. Hise is an expert designated by plaintiff on the issue of police procedures. He has
22 recently given a deposition in the case of Muldrew v. County of Fresno, Case No. 1:09 CV-00023
23 OWW-DLB, a lawsuit in which he is a plaintiff. Defense counsel requested a copy of the deposition
24 through Kim Thayer & Associates Court Reporters. The parties were advised of the request and
25 Rayma Church, who represents Mr. Hise in his action against the County of Fresno and Mr.
26 Williams in the instant action, objected to disclosure. Counsel for the parties met and conferred and
27 have agreed to submit the deposition of Mr. Hise to the Court for an in-camera review to determine
28 those portions that can be released to defense counsel.

Stipulation Regarding Submission of
Deposition of Darren Hise for In Camera Review

1 II

2 **Positions of the Parties**

3 Plaintiff's Position:

4 It is the position of plaintiff's counsel that Mr. Hise's deposition in his employment action
5 contains substantial amounts of personal and confidential information, including information relating
6 to his medical care, which is not subject to disclosure.

7 Defense Position:

8 Mr. Hise holds himself out as an expert on issues related to police training, misconduct, and
9 crime/accident reconstruction. His "expertise" is based on his tenure with the California Highway
10 Patrol and his employment as a criminal defense investigator with the Fresno County Public
11 Defender's Office. It is defendant's position that Mr. Hise's deposition testimony is relevant because
12 it provides information relating to his background, training, and experience which cannot be
13 separated from the substance of his proposed expert opinion. See Intermedics, Inc. v. Ventritex Co.
14 Inc., 139 F.R.D. 384, 395 (N.D. Cal. 1991). In addition, the deposition testimony is relevant as it
15 goes to Mr. Hise's credibility and reliability which are proper grounds for defense counsel to
16 question an expert. Defendant should be allowed to challenge the expert witnesses reliability based
17 on his prior deposition testimony relating to employment upon which he is basing his expertise.
18 Because Mr. Hise is basing his testimony on his experience and knowledge gained with his former
19 employer, the California Highway Patrol and his current employer, Fresno County, the defense
20 should be allowed access to sworn testimony regarding his employment and present evidence based
21 on that employment which may challenge his reliability, credibility and potential bias.

22 The United States Supreme Court when addressing the application of the Daubert's
23 gatekeeping requirement for expert testimony stated "[i]t is to make certain that an expert, whether
24 basing testimony upon professional studies or personal experience, employs in the courtroom the
25 same level of intellectual rigor that characterizes the practice of an expert in the relevant field." See
26 Kumho Tire Co., Ltd. v. Carmichael, 526 U.S. 137, 152 (1999).

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1 California also law recognizes the right of a party to challenge the credibility and reliability
2 of an expert through his background and experience within the field of claimed expertise. See
3 People v. Dawkins, 10 Cal.App.4th. 565, 569 (1992).

4 **III**
5 **Conclusion**

6 The parties request that the court review, in-camera, the deposition of Mr. Hise and determine
7 which portions of the transcript should be disclosed. If the court is agreeable to this request, the
8 deposition will be provided and a date and time convenient for the court.

9 Respectfully submitted,

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11 DATED: June 18, 2010

WEAKLEY, ARENDT & McGUIRE, LLP

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13 By: /s Rosemary T. McGuire
14 Rosemary T. McGuire
15 Attorney for Defendant

16 DATED: June 18, 2010

EMERSON, COREY, SORENSEN,
CHURCH & LIBKE

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19 By: /s/ Rayma Church
20 Rayma Church
21 Ryan Libke
22 Attorneys for Randall Williams and
23 Darren Hise

24 **ORDER**

25 Upon a review of the stipulation of the parties, the Court agrees to complete an *in camera*
26 review of the deposition transcript of Darren Hise. However, Defense counsel has previously
27 indicated that a large portion of the deposition transcript is already public record as portions were
28 filed in an opposition to a Motion for Summary Judgment in *Muldrew v. County of Fresno*, Case No.
1:09 -cv-00023 OWW DLB.

Accordingly, within five days of this order, defense counsel shall identify which pages of the

1 transcript he already has in his possession. Similarly, within five days of this order, Plaintiff shall
2 specifically identify which portions of the transcript he believes should not be released to Defendant
3 by identifying the line and page number of the deposition transcript, as well as the basis for each
4 objection. Plaintiff shall make arrangements to deliver the deposition transcript within five days of
5 this order so the Court can review the material. Alternatively, the Court will entertain signing a
6 stipulated protective order if the parties agree that the material is discoverable but is not suitable for
7 public disclosure.

8 IT IS SO ORDERED.

9 **Dated: June 23, 2010**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE

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