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 POLICE DEPARTMENT

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 8 UNITED STATES DISTRICT COURT
 9 EASTERN DISTRICT OF CALIFORNIA
 10 FRESNO DIVISION

12)	CASE NO.:1:08-CV-01675-OWW-SKO
13	DOMINGO LEYRO,)	
14	Plaintiff,)	ORDER AFTER HEARING ON
15	vs.)	MOTIONS IN LIMINE OF
16	CITY OF CHOWCHILLA, CHOWCHILLA)	DEFENDANTS CITY OF
17	POLICE DEPARTMENT, JEFF PALMER,)	CHOWCHILLA, OFFICER JEFF
18	TYLER J. HORMEL and DOES 1-100,)	PALMER AND OFFICER TYLER J.
19	inclusive,)	HORMEL
20	Defendants.)	
21)	Trial: June 8, 2010

20 This matter came on regularly for hearing on May 28, 2010, in Courtroom 3, before the
 21 Honorable Oliver Wanger. Steve Geringer with the Law Offices of Steve Geringer appeared on
 22 behalf of Plaintiff DOMINGO LEYRO (hereinafter "**Plaintiff**"). Michelle E. Sassano with the law
 23 firm of Mayfield & Leath appeared on behalf of DEFENDANTS CITY OF CHOWCHILLA,
 24 OFFICER JEFF PALMER AND OFFICER TYLER J. HORMEL (hereinafter "**Defendants**").

25 The Court issues the following rulings on Defendant's motions in limine.

26 **1. Defendants' Motion in Limine No. 1 to Exclude The Use of Evidence or Witnesses**
 27 **Not Previously Disclosed to Defendants During Discovery.** The Court GRANTS this motion in
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1 limine and EXCLUDES all evidence or witnesses not previously disclosed to Defendants during
2 discovery.

3 **2. Defendants' Motion in Limine No. 2 To Preclude Improper Comments Regarding**

4 **Damages.** The Court GRANTS this motion in limine and PRECLUDES Plaintiff's counsel from
5 making comment or argument before the jury that suggests that jurors should base Plaintiff's
6 damages, if any, on an amount that jurors would charge to endure similar injuries or to suggest that
7 jurors place themselves in the "shoes" of the party in order to determine damages. This is frequently
8 called "Golden Rule" argument.

9 **3. Defendants' Motion in Limine No. 3 To Preclude Evidence of Liability Insurance.**

10 The Court GRANTS this motion in limine and PRECLUDES Plaintiff's counsel
11 from presenting evidence concerning the insurance of Officer Palmer and Officer Hormel or their
12 employer, the City of Chowchilla.

13 **4. Defendants' Motion in Limine No. 4 To Preclude Evidence of Indemnification**

14 **of Defendant.** The Court GRANTS this motion in limine and PRECLUDES Plaintiff's counsel from
15 soliciting testimony, or presenting evidence, regarding Officer Palmer's and Officer Hormel's
16 indemnification for damages by the City of Chowchilla.

17 **5. Defendants' Motion in Limine No. 5 To Exclude Non-party Witnesses from**

18 **Courtroom.** The Court GRANTS this motion in limine and EXCLUDES non party witnesses from
19 being present in the courtroom during trial-related proceedings.

20 **6. Defendants' Motion in Limine No. 6 To Preclude Testimony Referencing Alleged**

21 **Inadequate Training.** The Court GRANTS this motion in limine and PRECLUDES Plaintiff from
22 making any statement, argument, or reference to any alleged inadequate training of City of
23 Chowchilla Police Department. There will not be a Monell claim.

24 **7. Defendants' Motion in Limine No. 7 To Preclude Evidence Regarding Other**

25 **Lawsuits Or Incidents Where There Is a Claim of Excessive Force Against Defendant Or Any**

26 **Other Chowchilla Police Officer.** The Court GRANTS this motion in limine and PRECLUDES
27 Plaintiff from introducing evidence or testimony regarding any other lawsuits in
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1 which Officer Palmer and/or Officer Hormel, or any other officer with the Chowchilla Police
2 Department, was named as an accused officer or a defendant.

3 **8. Defendants' Motion in Limine No. 8 To Preclude Evidence that Plaintiff Was**
4 **Found Not Guilty in His Second Criminal Trial.** The Court GRANTS this motion in limine in
5 part. Plaintiff may introduce evidence of the verdict in the second criminal trial for the purpose of
6 his damages claim and it can only be considered for that limited purpose. This will be subject to
7 admonition and jury instruction.

8 **9. Defendants' Motion in Limine No. 9 To Exclude Expert Opinions By Non**
9 **Experts, Including Plaintiff.** The Court GRANTS this motion in limine and PRECLUDES Plaintiff
10 from introducing expert opinions of any undisclosed experts, including Plaintiff.

11 **10. Defendants' Motion in Limine No. 10 To Preclude Evidence Related to either**
12 **Officer Hormel or Officer Palmer's Personnel File Including Discipline or Previous Internal**
13 **Affair Complaints.** The Court GRANTS this motion in limine and PRECLUDES Plaintiff from
14 presenting evidence included in the personnel records of either Officer Hormel or Officer Palmer.
15 This includes, but is not limited to, information of a personal nature as well as information concerning
16 any disciplinary actions or complaints levied against Officer Palmer or Officer Hormel. This motion
17 in limine does not preclude Defendants from introducing information contained in Officer Domingo
18 Leyro's personnel file.

19 **11. Defendants' Motion in Limine No. 11 To Exclude Pictures of Plaintiff Taken**
20 **After the Incident.** The Court GRANTS this motion in limine in part. Plaintiff may introduce
21 pictures which reflect the lay out of the residence, dimensions of the rooms, doors and such that
22 reflect the scene. Plaintiff may also introduce the two pictures of Plaintiff's cats. Plaintiff may not
23 introduce pictures which are a reenactment of the incident from Plaintiff's perspective. Plaintiff may
24 not introduce the picture taken of himself standing facing the hallway with his palms open and facing
25 out, allegedly showing his position at the time the officer's tased him.

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12. Defendants' Motion in Limine No. 12 to Exclude Emergency Protective Order.

The Court DENIES this motion in limine. Plaintiff may introduce the Emergency Protective Order.

IT IS SO ORDERED.

Dated: June 2, 2010

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE