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6 **UNITED STATES DISTRICT COURT**

7 **EASTERN DISTRICT OF CALIFORNIA**
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9 JOSE J. MARTINEZ, ELIDA ARIAS,
10 JOSEPH D. MARTINEZ, and JESSE L.
11 MARTINEZ,

12 Plaintiffs,

13 v.

14 TIMOTHY WEBSTER and JASON
15 COOK,

16 Defendants.

Case No. 1:13-CV-00320-LJO-SMS

ORDER ON PARTIES' MOTIONS IN
LIMINE.

(Docs. 56-57)

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18 This case concerns the circumstances surrounding the March 4, 2011 detention of Plaintiffs
19 Joseph D. and Jesse L. Martinez and the arrest of their father, Jose J. Martinez, by Stanislaus County
20 Sheriff's Department (SCSD) officer Jason Cook and Stanislaus County Animal Control Officer
21 Timothy Wester. Both parties submitted timely motions in limine. Plaintiffs opposed the single
22 motion brought by Defendants. Defendants opposed two of Plaintiffs' seven motions and stipulated to
23 the remainder.

24 **I. DISCUSSION**

25 **A. Defendants' Request to Exclude Post-Criminal Complaint Activities**

26 Defendants seek to exclude evidence of "all events occurring after a criminal complaint was
27 filed, including the District Attorney's decision to dismiss the case." Doc. 56. Generally, the filing of
28 a criminal complaint immunizes investigating officers from damages suffered thereafter "because it is

1 presumed that the prosecutor filing the complaint exercised independent judgment in determining
2 that probable cause for an accused's arrest exists at that time.” *Smiddy v. Varney*, 665 F.2d 261, 266
3 (9th Cir. 1981) (overruled on other grounds). This presumption may be rebutted, however, where
4 arresting officers knowingly present false information to the district attorney. *Id.* at 266-67.
5 Plaintiffs previously produced testimonial evidence that, if believed, suggests Defendant Timothy
6 Wester knowingly presented false information to the district attorney, and the Court anticipates
7 such evidence will be presented at trial. At this time, the Court will not exclude preemptively
8 evidence of events occurring after any criminal complaint was filed. Accordingly, the Court
9 DENIES WITHOUT PREJUDICE Defendants’ request.
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11 **B. Plaintiffs’ Requests to Exclude Evidence of Prior Lawsuits and Certain Character**
12 **Evidence**

13 Plaintiffs seek to exclude evidence of any other lawsuits they have brought against law
14 enforcement agencies, along with any testimony provided by Plaintiffs in the context of such
15 lawsuits. Doc. 58. Defendants concede that such evidence may not be relevant to this case standing
16 alone, but may become so depending on testimony provided at trial. Doc. 58. This Court agrees that
17 such evidence cannot be excluded entirely at this time, as such evidence may be relevant,
18 depending on the nature of Plaintiffs’ testimony. Accordingly, the Court DENIES WITHOUT
19 PREJUDICE Plaintiffs’ requests to exclude evidence of prior lawsuits.
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21 Plaintiffs separately seek to exclude character evidence. “Evidence of a crime, wrong, or
22 other act is not admissible to prove a person's character in order to show that on a particular
23 occasion the person acted in accordance with the character.” Fed. R. Evid. 404(b)(1). However,
24 such evidence may be allowed on cross-examination “if it is probative of the character for
25 truthfulness or untruthfulness of [] the witness or [] another witness whose character the witness
26 being cross-examined has testified about.” Fed. R. Evid. 608(b). The Court cannot rule on the
27 admissibility of character evidence in a vacuum. Accordingly, the Court DENIES WITHOUT
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1 PREJUDICE Plaintiffs' requests to exclude certain character evidence.

2 **II. ORDER**

3 The Court DENIES WITHOUT PREJUDICE Defendants' motion in limine and the fourth
4 and seventh requests contained in Plaintiffs' motion in limine. The Court need not address
5 Plaintiffs' other requests, because Defendants stipulate to them.
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8 IT IS SO ORDERED.

9 Dated: **July 6, 2015**

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE