

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF CALIFORNIA

3 RANDY BEAVERS,

4 Plaintiff,

5 v.

6 CITY OF TURLOCK, a municipal
7 corporation, Turlock Police Department
8 Officers GREGORY W. ROTON,
9 Individually, DUSTIN M. FERREIRA,
10 Individually, GABRIEL GONZALEZ,
11 Individually, PAUL INDERBITZEN,
12 Jointly and Severally,

13 Defendants.

Case No.: 1:16-cv-01878-LJO-BAM

**STIPULATION AND ORDER FOR
DISMISSAL OF CERTAIN ALLEGATIONS**

14 Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), IT IS HEREBY
15 STIPULATED among the parties, through their respective counsel, that the following allegations
16 from the Complaint be dismissed with prejudice.

- 17 1. “Plaintiff endured further substantial mental and emotional distress in worrying
18 whether or not he would be disciplined or terminated from his employment.” (Dkt.
19 No. 1, ¶ 20);
- 20 2. “... fear, anxiety, sleeplessness ...“ (Dkt. No. 1, ¶ 22(e)); and
- 21 3. The ninth cause of action, titled “Intentional Infliction of Emotional Distress”
22 (Dkt. No. 1, ¶¶ 69-72)

23 The parties further stipulate to the following:

- 24 1. Plaintiff RANDY BEAVERS (“Plaintiff”) specifically disclaims any allegation for
25 a specific mental or psychiatric injury or disorder, or unusually severe emotional
26 distress.
- 27 2. To the extent Plaintiff seeks recovery for emotional distress damages, such
28 damages are limited to so-called “garden variety” emotional distress. Plaintiff is

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barred from pursuing any of the following: (1) a claim for intentional or negligent infliction of emotional distress; (2) an allegation of a specific mental or psychiatric injury or disorder; and (3) a claim of unusually severe emotional distress. Plaintiff is also barred from offering expert testimony to support a claim of his emotional distress. See *Turner v. Imperial Stores*, 161 F.R.D. 89, 95 (S.D. Cal. 1995).

Respectfully Submitted,

Dated: January 2, 2018

LAW OFFICES OF SANJAY S. SCHMIDT AND
LAW OFFICES OF PANOS LAGOS

By: /s/ Panos Lagos
PANOS LAGOS
Attorneys for Plaintiff
RANDY BEAVERS

Dated: January 2, 2018

ALLEN, GLAESSNER,
HAZELWOOD & WERTH, LLP

By: /s/ Kevin P. Allen
DALE L. ALLEN, JR.
KEVIN P. ALLEN
Attorneys for Defendants
CITY OF TURLOCK; GREGORY W.
ROTON; DUSTIN M. FERREIRA; GABRIEL
GONZALEZ; and PAUL INDERBITZEN

PURSUANT TO THE STIPULATION SET FORTH ABOVE, IT IS SO ORDERED.

IT IS SO ORDERED.

Dated: January 4, 2018

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