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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

HAROLD FUNK,

Plaintiff,

No. CIV S-09-1000 MCE EFB (TEMP)

vs.

TOWN OF PARADISE, et al.,

Defendants.

ORDER

On May 11, 2011, the undersigned held a hearing on plaintiff's motion to compel and defendants' motion to compel and for protective order and for sanctions. Attorney Larry Baumbach appeared at the hearing on behalf of plaintiff; attorney Douglas Thorn appeared on behalf of defendants.

For the reasons stated on the record, it is hereby ORDERED that:

1. Plaintiff's motion to compel (Dckt. No. 22) is granted in part and denied in part as follows:

a. Within fifteen days from the date of this order, defendants shall produce for inspection and copying the Funk IA, the training and disciplinary records of defendants Pickering and Cooper, and documents relating to claims of excessive force made by Baltierra and Shumacher, subject to a protective order that documents produced pursuant to the order will

1 be used solely for purposes of the instant litigation. If responsive documents pertaining to
2 Baltierra and Shumacher do not exist, defendants shall provide a verified response stating so.
3 Defendants may redact personal matters such as home addresses and phone numbers, names and
4 contact numbers of family members, medical and psychological information, and medical,
5 disability and life insurance information.

6 b. Within fifteen days from the date of this order, defendant Town of Paradise
7 shall respond to interrogatories nos. 7-13.

8 c. Within fifteen days from the date of this order, defendants Pickering and
9 Cooper shall provide their height and weight at the time of the incident, provide their department
10 serial numbers, and shall respond to interrogatories nos. 4-18.

11 d. The depositions of defendants Pickering and Cooper shall reconvene no later
12 than June 30, 2011 in the conference room of plaintiff's counsel. The duration of the depositions
13 is limited to two hours for each deposition. Defense counsel shall pay the costs of the court
14 reporter's appearance fee.¹

15 2. Defendants' motion to compel and for protective order (Dckt. No. 23) is granted in
16 part and denied in part.

17 a. Within fifteen days from the date of this order, plaintiff shall provide a verified
18 response identifying all health care providers who have provided treatment from November 17,
19 2002 to the present, limited to treatment of plaintiff's left elbow and any other body parts
20 allegedly injured as a result of the subject incident. Plaintiff shall further provide a verified

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23 ¹ Defense counsel is reminded of the admonitions made at the hearing on this matter. If
24 objection is made based on the form of the question, said objection shall be stated succinctly in a
25 nonargumentative and nonsuggestive matter. Defense counsel may direct the deponent not to
26 answer a question only when necessary to preserve a privilege. Fed. R. Civ. P. 30(c)(2).
Defense counsel shall not direct plaintiff's counsel in the marking or order of exhibits and shall
not interject editorial comments into the middle of a question.

1 response that all documents in plaintiff's possession² pertaining to the calculation of damages
2 have been produced.

3 b. Except as provided above, the motion for protective order is denied.

4 3. Reasonable expenses are awarded to plaintiff against defendants in the amount of
5 \$3,800.00.

6 DATED: May 12, 2011.

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8 EDMUND F. BRENNAN
9 UNITED STATES MAGISTRATE JUDGE
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25 ² At hearing on this matter, plaintiff's counsel represented that the only documents
26 withheld from production that are responsive to the calculation of damages are statements
provided to plaintiff's counsel from plaintiff and his wife. The withholding of these statements
is not at issue here.