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6 CITY OF BENICIA, Police Chief
SANDRA SPAGNOLI, City Manager
7 JIM ERICKSON, Sergeant FRANK
HARTIG, Sergeant BOB OETTINGER,
8 Sergeant CHRIS BIDOU, Sergeant
SCOTT PRZEKURAT, Officer JOHN
9 McFADDEN, Officer MARK MENESINI,
Officer JAMES LAUGHTER, Officer
10 KEVIN ROSE, Officer JASON EAKIN,
Officer TED CRIADO and Officer
11 JAKE HEINEMEYER

12 UNITED STATES DISTRICT COURT
13 EASTERN DISTRICT OF CALIFORNIA

14 PETER KNOWLES,
15 Plaintiff,
16 v.
17 CITY OF BENICIA, Police Chief
SANDRA SPAGNOLI, City Manager
18 JIM ERICKSON, Sergeant FRANK
HARTIG, Sergeant BOB OETTINGER,
19 Sergeant CHRIS BIDOU, Sergeant
SCOTT PRZEKURAT, Officer JOHN
20 McFADDEN, Officer MARK MENESINI,
Officer JAMES LAUGHTER, Officer
21 KEVIN ROSE, Officer JASON EAKIN,
Officer TED CRIADO, Officer JAKE
22 HEINEMEYER and DOES I through
23 XXX, inclusive,
24 Defendants.

CASE NO. 2:09-CV-03470-WBS-DAD
**STIPULATION TO BIFURCATE
DISCOVERY AND TRIAL RE: PUNITIVE
DAMAGES; [PROPOSED] ORDER THEREON**

25 **IT IS HEREBY STIPULATED** by and between plaintiff Peter
26 Knowles, through his counsel of record, and defendants City of
27 Benicia, Police Chief Sandra Spagnoli, City Manager Jim Erickson,

1 Sergeant Frank Hartig, Sergeant Bob Oettinger, Sergeant Chris
2 Bidou, Sergeant Scott Przekurat, Officer John McFadden, Officer
3 Mark Menesini, Officer James Laughter, Officer Kevin Rose,
4 Officer Jason Eakin, Officer Ted Criado, and Officer Jake
5 Heinemeyer, through their counsel of record, as follows:

6 1. On or about December 16, 2009, plaintiff filed the
7 instant action entitled Knowles v. City of Benicia, et al.,
8 alleging seven (7) causes of action under 28 U.S.C. Section 1983
9 for violations of his civil rights against the City of Benicia
10 and thirteen (13) individually named defendants.

11 2. Plaintiff seeks damages from all defendants in the form
12 of compensatory damages, recovery of reasonable attorneys' fees
13 and costs, declaratory and injunctive relief, as well as punitive
14 damages against each of the thirteen (13) individually named
15 defendants.

16 3. The parties also acknowledge and agree that before
17 plaintiff would be entitled to recover punitive damages against
18 any individually named defendant in this action, there must be an
19 ultimate finding by the trier of fact that (1) the individual
20 defendant is liable to plaintiff in that defendant's individual
21 capacity, and (2) that the plaintiff is entitled to an award of
22 punitive damages against that defendant based upon appropriate
23 findings concerning the individual defendant's conduct.

24 4. The parties also acknowledge and agree that discovery
25 relating to the financial condition of the individually named
26 defendants would only be appropriate once there has been an
27 ultimate finding by the trier of fact that (1) the individual
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1 defendant is liable to plaintiff in that defendant's individual
2 capacity, and (2) that the plaintiff is entitled to an award of
3 punitive damages against that defendant, as set forth in
4 paragraph 3.

5 5. Further, the parties stipulate and agree that discovery
6 of the financial condition of any individually named defendant
7 should be stayed pending an ultimate finding by the trier of fact
8 that (1) the individual defendant is liable to plaintiff in that
9 defendant's individual capacity, and (2) that the plaintiff is
10 entitled to an award of punitive damages against that defendant,
11 as set forth in paragraph 3. Accordingly, the parties hereby
12 stipulate that the written discovery previously propounded in
13 this action by plaintiff to each individually-named defendant,
14 served by personal service on February 7, 2011, is hereby stayed
15 pending a finding that any defendant is liable to plaintiff in
16 that defendant's individual capacity and that the plaintiff is
17 entitled to an award of punitive damages against that defendant.
18 Any individual defendant against whom such a finding is made will
19 produce responses to the identified written discovery, and be
20 available for deposition, pursuant to any scheduling Order issued
21 by the Court. The parties agree that promptly following any such
22 findings, they will request that the Court enter such a
23 scheduling Order to set an expedited schedule to complete such
24 discovery and to address, if possible, any objections and
25 privileges that any such individual defendant may assert. The
26 written discovery that is the subject of this Stipulation
27 includes the following:

- 1 A. Plaintiff's Special Interrogatories to Defendant SANDRA
- 2 SPAGNOLI, Set One
- 3 B. Plaintiff's Request for Production of Documents from
- 4 Defendant SANDRA SPAGNOLI, Set One
- 5 C. Plaintiff's Special Interrogatories to Defendant JIM
- 6 ERICKSON, Set One
- 7 D. Plaintiff's Request for Production of Documents from
- 8 Defendant JIM ERICKSON, Set One
- 9 E. Plaintiff's Special Interrogatories to Defendant FRANK
- 10 HARTIG, Set One
- 11 F. Plaintiff's Request for Production of Documents from
- 12 Defendant FRANK HARTIG, Set One
- 13 G. Plaintiff's Special Interrogatories to Defendant BOB
- 14 OETTINGER , Set One
- 15 H. Plaintiff's Request for Production of Documents from
- 16 Defendant BOB OETTINGER, Set One
- 17 I. Plaintiff's Special Interrogatories to Defendant CHRIS
- 18 BIDOU , Set One
- 19 J. Plaintiff's Request for Production of Documents from
- 20 Defendant CHRIS BIDOU, Set One
- 21 K. Plaintiff's Special Interrogatories to Defendant SCOTT
- 22 PRZEKURAT, Set One
- 23 L. Plaintiff's Request for Production of Documents from
- 24 Defendant PRZEKURAT, Set One
- 25 M. Plaintiff's Special Interrogatories to Defendant JOHN
- 26 MCFADDEN, Set One
- 27 N. Plaintiff's Request for Production of Documents from
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- 1 Defendant JOHN MCFADDEN, Set One
- 2 O. Plaintiff's Special Interrogatories to Defendant MARK
- 3 MENESINI, Set One
- 4 P. Plaintiff's Request for Production of Documents from
- 5 Defendant MARK MENESINI, Set One
- 6 Q. Plaintiff's Special Interrogatories to Defendant JAMES
- 7 LAUGHTER, Set One
- 8 R. Plaintiff's Request for Production of Documents from
- 9 Defendant JAMES LAUGHTER, Set One
- 10 S. Plaintiff's Special Interrogatories to Defendant KEVIN
- 11 ROSE, Set One
- 12 T. Plaintiff's Request for Production of Documents from
- 13 Defendant KEVIN ROSE, Set One
- 14 U. Plaintiff's Special Interrogatories to Defendant JASON,
- 15 Set One
- 16 V. Plaintiff's Request for Production of Documents from
- 17 Defendant JASON EAKIN, Set One
- 18 W. Plaintiff's Special Interrogatories to Defendant TED
- 19 CRIADO, Set One
- 20 X. Plaintiff's Request for Production of Documents from
- 21 Defendant TED CRIADO, Set One
- 22 Y. Plaintiff's Special Interrogatories to Defendant JAKE
- 23 HEINEMEYER, Set One
- 24 Z. Plaintiff's Request for Production of Documents from
- 25 Defendant JAKE HEINEMEYER, Set One
- 26 6. The parties hereby stipulate to bifurcate punitive
- 27 damages determinations at trial, and that any discovery

1 pertaining to individual defendants' finances will occur only
2 after an ultimate finding by the trier of fact that (1) the
3 individual defendant is liable to plaintiff in that defendant's
4 individual capacity, and (2) that the plaintiff is entitled to an
5 award of punitive damages against that defendant, as set forth in
6 paragraph 3.

7 7. The parties agree that bifurcation of discovery and
8 trial relating to issues of liability and punitive damages will
9 mutually benefit all of the parties and preserve judicial
10 resources by precluding unnecessary and extensive discovery,
11 motion practice and trial preparation should the matter be
12 resolved during the liability phase.

13 8. The parties further stipulate and agree that if there
14 is a determination by the trier of fact that any defendant is
15 liable to plaintiff in that defendant's individual capacity and
16 that the plaintiff is entitled to an award of punitive damages
17 against that defendant, as set forth in paragraph 3, discovery
18 pertaining to the financial condition of any such defendant,
19 including service of responses to the above identified written
20 discovery requests and deposition, will commence forthwith and be
21 completed in a timely manner in accordance with any scheduling
22 Order issued by this Court.

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DATED: March 14, 2011 ROSEN, BIEN & GALVAN, LLP

By: /s/ Sanford Jay Rosen (as
authorized on March 14, 2011) _____
SANFORD JAY ROSEN
Attorneys for Plaintiff, PETER
KNOWLES

DATED: March 14, 2011 SELMAN BREITMAN LLP

By: /s/ Jennifer L. Rusnak _____
GREGG A. THORNTON
DANIELLE K. LEWIS
JENNIFER L. RUSNAK
Attorneys for Defendants
CITY OF BENICIA, Police Chief
SANDRA SPAGNOLI, City Manager JIM
ERICKSON, Sergeant FRANK HARTIG,
Sergeant BOB OETTINGER, Sergeant
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ORDER

Counsel shall contact the Clerk to arrange a status conference, to be attended in person or by phone, for the purpose of discussing the above request. Counsel shall be prepared to discuss whether they intend the issue of punitive damages to be decided by the same jury or a different jury than the one which decides liability and compensatory damages. If they intend the issues to be decided by the same jury, they shall be prepared to discuss how they expect the court to assure that the jurors will all be available at the later date and that during the time between the two phases the jurors will continue to adhere to the court's admonition not to discuss the case nor seek or receive any information regarding the issues in the case. If they intend the issues to be decided by a different jury, counsel shall be prepared to discuss how the second jury can decide the amount of punitive damages without (a) being told of the first jury's verdict and (b) hearing all of the same evidence the first jury heard.

IT IS SO ORDERED.

DATED: March 15, 2011



WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE