

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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HARRISON ORR,

Plaintiff,

V.

CALIFORNIA HIGHWAY PATROL, a public entity; STATE OF CALIFORNIA, a public entity; CALIFORNIA HIGHWAY PATROL OFFICERS BRAME, PLUMB, and DOES 1-10 individually.

Defendants.

CIV. NO. 2:14-585 WBS EFB

FINAL PRETRIAL ORDER

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A Final Pretrial Conference was held in this matter, pursuant to the provisions of Rule 16(d) of the Federal Rules of Civil Procedure and Local Rule 282, on April 13, 2015. Michael J. Haddad appeared as counsel for plaintiff, and Stephen C. Pass appeared as counsel for defendants. Following the conference, the court enters this Final Pretrial Order:

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I. Jurisdiction – Venue

Jurisdiction is predicated upon federal question jurisdiction, 28 U.S.C. § 1331, 1343, because plaintiff's claims arise under 42 U.S.C. § 1983, the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq., and the Rehabilitation Act, 29 U.S.C. §§ 701 et seq. Supplemental jurisdiction is predicated upon 28 U.S.C. § 1367. Venue is undisputed and is hereby found to be proper.

II. Jury - Non-Jury

All parties have demanded a jury trial. Accordingly, the action shall be tried, pursuant to Federal Rule of Civil Procedure 48, before a jury consisting of no less than six and no more than twelve members.

III. Jury Instructions and Proposed Form of Verdict

No later than ten court days before the trial date, counsel for plaintiff shall lodge and serve, pursuant to Local Rule 163, copies of all jury instructions that plaintiff requests be given on plaintiff's claims. At that time, counsel for plaintiff shall also file and serve a copy of a proposed form of verdict.

No later than seven court days before the trial date, counsel for defendants shall file and serve any objections to the instructions proposed by plaintiff. At the same time, counsel for defendants shall lodge and serve, pursuant to Local Rule 163, copies of any and all jury instructions not already proposed by plaintiff, which defendants requests be given. Also at that time, counsel for defendants shall file and serve a copy of any proposed form of verdict and shall also file any objections to

1 plaintiff's proposed form of verdict.

9 Pursuant to Local Rule 163, any other instructions
10 thereafter presented will be refused unless it is shown either:
11 (1) that the necessity for the request arose in the course of
12 trial; could not reasonably have been anticipated prior to trial
13 from the pleadings, discovery or nature of the action; and the
14 request for such additional instructions is presented to the
15 Court as promptly as possible; or (2) that the refusal to give
16 such instructions would constitute plain error.

17 Likewise, any objections to proposed instructions not
18 made in accordance with this order will be overruled as untimely
19 unless it is shown either: (1) that the grounds therefor arose in
20 the course of trial and the intention to make such objections is
21 communicated to the Court as promptly as possible, or (2) that
22 the giving of such instructions would constitute plain error.

IV. Voir Dire Questions

24 No later than fourteen calendar days before the trial
25 date, counsel for each party shall submit all proposed jury voir
26 dire questions. Each side shall have one-and-a-half hours to
27 question jurors.

28 || V. Trial Briefs

1 No later than fourteen calendar days before the trial
2 date, counsel for each party shall file trial briefs pursuant to
3 Local Rule 285.

4 VI. Remaining Claims

5 Plaintiff's counsel stated plaintiff will abandon his
6 claim for negligence under California law. Plaintiff's remaining
7 claims for trial against defendants Brame and Plumb are (1)
8 excessive force in violation of the Fourth Amendment, 42 U.S.C. §
9 1983; (2) unlawful arrest in violation of the Fourth Amendment,
10 42 U.S.C. § 1983; (3) excessive force, false arrest, bodily
11 restraint, harm or personal insult in violation of Cal. Civil
12 Code section 52.1; (4) assault and battery; (5) false arrest or
13 imprisonment; and (6) violation of the Rehabilitation Act and
14 Title II of the Americans with Disabilities Act.

15 || VII. Witnesses

16 (A) Plaintiff anticipates calling the witnesses
17 identified at Exhibit "A" attached hereto.

18 (B) Defendants anticipate calling the witnesses
19 identified at Exhibit "B" attached hereto.

20 (C) Except for retained experts, each party may call
21 any witness designated by any other party.

22 (D) No other witnesses will be permitted to testify at
23 trial unless:

24 (1) all parties stipulate that the witness may
25 testify;

26 (2) the party offering the witness demonstrates
27 that the witness is for the purpose of rebutting evidence which
28 could not have been reasonably anticipated at the time of the

1 Pretrial Conference; or

2 (3) the witness was discovered after the Pretrial
3 Conference.

4 (E) Testimony of a witness not designated in this
5 Order, which is offered under paragraph VII(D) (3), above, upon
6 the grounds that the witness was discovered after the Pretrial
7 Conference, will not be permitted unless:

8 (1) the testimony of the witness could not
9 reasonably have been discovered prior to the Pretrial Conference;

10 (2) the court and opposing counsel were promptly
11 notified upon discovery of the testimony; and

12 (3) counsel proffered the witness for deposition
13 if time permitted or provided all opposing counsel a reasonable
14 summary of the testimony if time did not permit a deposition.

15 VIII. Exhibits

16 (A) Plaintiff intends to offer the exhibits identified
17 at Exhibit "C" attached hereto.

18 (B) Defendants intend to offer the exhibits identified
19 at Exhibit "D" attached hereto.

20 (C) Each party may offer any exhibit designated by any
21 other party.

22 (D) No other exhibits will be received in evidence
23 unless:

24 (1) all parties stipulate that the exhibit may be
25 received in evidence;

26 (2) the party offering the exhibit demonstrates
27 that the exhibit is for the purpose of rebutting evidence which
28 could not have been reasonably anticipated at the time of the

1 Pretrial Conference; or

2 (3) the exhibit was discovered after the Pretrial
3 Conference.

4 (E) An exhibit not designated in this Order, which is
5 offered under paragraph VIII(D)(3), above, upon the grounds that
6 the exhibit was discovered after the Pretrial Conference, will
7 not be received in evidence unless:

8 (1) the exhibit could not reasonably have been
9 discovered prior to the Pretrial Conference;

10 (2) the court and opposing counsel were promptly
11 notified upon discovery of the exhibit; and

12 (3) counsel provided copies of the exhibit to all
13 opposing counsel if physically possible or made the exhibit
14 reasonably available for inspection by all opposing counsel if
15 copying was not physically possible.

16 (F) Each party shall exchange copies of all exhibits
17 identified in this Order, or make them reasonably available for
18 inspection by all other parties, no later than seven calendar
19 days before the trial date. Any and all objections to such
20 exhibits shall be filed and served not later than four calendar
21 days before the trial date.

22 (G) The attorney for each party is directed to appear
23 before trial and present an original (and if physically possible
24 one copy) of each exhibit to Deputy Clerk Karen Kirksey Smith at
25 8:30 a.m. on the date of trial.

26 (H) Each exhibit which has been designated in this
27 Order and presented on the morning of the date of trial shall be
28 pre-marked by counsel. Plaintiff's exhibits shall bear numbers;

1 defendants' exhibits shall bear letters. If no objection has
2 been made to such exhibit pursuant to paragraph VIII(F), above,
3 such exhibit will require no further foundation and will be
4 received in evidence upon the motion of any party at trial.

5 IX. Further Discovery and Motions

6 At the pre-trial conference, the parties addressed
7 motions in limine they intended to bring, although no motions in
8 limine have been filed as of the time this Order is signed. The
9 court will be better able to rule on those evidentiary objections
10 in the course of trial. In addition, the following preliminary
11 determinations were made:

12 (1) if plaintiff seeks to introduce evidence of any
13 previous complaints against defendants, or if defendants intend
14 to introduce evidence of plaintiff's previous history, including
15 his anger management problems or his participation in the Golden
16 Gloves boxing competition, parties shall first address the court
17 at sidebar outside the presence of the jury; and

18 (2) with respect to plaintiff's objection as stated in
19 plaintiff's pretrial statement § 5(3), defendants stipulated that
20 they would not specifically argue that they could have been sued
21 if plaintiff had caused an accident had they released him at the
22 time of the incident.

23 Parties are reminded that they must preserve their
24 evidentiary objections at the time of trial. Motions in limine
25 should be restricted to issues where there is a risk that a bell
26 could be rung at trial that cannot later be unrung, resulting in
27 a mistrial.

28 Except for motions in limine, no further motions shall

1 be brought before trial except upon order of the court and upon a
2 showing of manifest injustice. Fed. R. Civ. P. 16(e). No
3 further discovery will be permitted except by the express
4 stipulation of all parties or upon order of the court and upon a
5 showing of manifest injustice. Id.

6 X. Use of Depositions or Interrogatories

7 No later than twenty calendar days before the trial
8 date, counsel for each party shall file and serve a statement
9 designating all answers to interrogatories and all portions of
10 depositions intended to be offered or read into evidence, with
11 the exception of portions to be used only for impeachment or
12 rebuttal. No later than ten calendar days before the trial date,
13 counsel for any other party may file and serve a counter-
14 designation of other portions of the same depositions intended to
15 be offered or read into evidence and may file evidentiary
16 objections to any other parties' designation. No later than
17 seven calendar days before the trial date, the parties may file
18 evidentiary objections to any other party's counter-designation.

19 XI. Date and Length of Trial

20 The trial is set for June 2, 2015, in Courtroom No. 5.
21 The court estimates that the trial will last approximately seven
22 to ten court days.

23 XII. Settlement Conference

24 A settlement conference is scheduled before Judge
25 Newman on May 27 at 9:30 a.m. in Courtroom 25, 8th Floor. Each
26 party is directed to have a principal capable of disposition at
27 the Settlement Conference or to be fully authorized to settle the
28 matter on any terms at the Settlement Conference. Each party is

1 further directed to submit via email to
2 KJNorders@caed.uscourts.gov a confidential settlement conference
3 statement no later than 12:00 p.m. on May 20, 2015. Such
4 statements are not to be filed with the clerk, although the
5 parties may agree, or not, to serve each other with the
6 settlement statements. However, each party shall e-file a one-
7 page document entitled "Notice of Submission of Confidential
8 Settlement Conference Statement." The Confidential Settlement
9 Conference Statement shall not be disclosed to the trial judge.

10 XIII. Daubert Procedure

11 Any challenges based on Daubert v. Merrell Dow
12 Pharmaceuticals, Inc., 509 U.S. 579 (1993) and Kumho Tire Co. v.
13 Carmichael, 526 U.S. 137 (1999) will be raised and resolved
14 outside the presence of the jury just prior to when the
15 challenged expert will be called to give testimony. Any
16 challenged expert shall be present for such a challenge, and
17 shall be available for questioning.

18 XIV. Evidence Presentation Equipment

19 If any party feels that electronic presentation is
20 necessary, they should contact the Courtroom Deputy prior to
21 trial to determine what equipment the court has and how to use
22 that equipment or bring their own audio visual equipment to the
23 courtroom and be prepared to operate it themselves.

24 XV. Objections to Pretrial Order

25 Any objections or suggested modifications to this
26 Pretrial Order shall be filed and served within five court days
27 from the file-stamped date of this Order. All references herein
28 to the date of this Order shall refer to the date the tentative

1 order is filed and not to the date any amended order is filed.
2 If no objections or modifications are made, this Order will
3 become final without further order of the Court and shall control
4 the subsequent course of the action, pursuant to Rule 16(e) of
5 the Federal Rules of Civil Procedure.

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7 Dated: April 14, 2015

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10 WILLIAM B. SHUBB
11 UNITED STATES DISTRICT JUDGE
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Exhibit A: Plaintiff's Witnesses

1. (Plaintiff) Harrison Luther Orr, Address: c/o Haddad &
2. Sherwin LLP, 505 17th Street, Oakland, CA 94612;
3. Eve Bolton (Plaintiff's Wife), Address: c/o Haddad &
4. Sherwin LLP, 505 17th Street, Oakland, CA 94612;
5. Lawrence Orr (Plaintiff's Son), Address: c/o Haddad &
6. Sherwin LLP, 505 17th Street, Oakland, CA 94612;
7. Deputy Roz McDaniel (or the current Custodian of Video
8. Recordings), Sacramento County Sheriff's Department, Main
9. Jail Archives, c/o Court Liaison Office, Sacramento
10. County Sheriff's Department, 901 G St. Rm. 131,
11. Sacramento, CA;
12. Thomas Gill, SRO II, #524 (or the current Custodian of
13. Jail Booking Records), Main Jail Archives, c/o Court
14. Liaison Office, Sacramento County Sheriff's Department,
15. 901 G St. Rm. 131, Sacramento, CA;
16. Vivian Koll, R.N., Sacramento County Sheriff's Department
17. Correctional Health Services, c/o Court Liaison Office,
18. Sacramento County Sheriff's Department, 901 G St. Rm.
19. 131, Sacramento, CA;
20. Kathleen Wainscott (or the current Custodian of Jail
21. Medical Records), Medical Records, Sacramento County
22. Sheriff's Department Correctional Health Services, c/o
23. Court Liaison Office, Sacramento County Sheriff's
24. Department, 901 G St. Rm. 131, Sacramento, CA;
25. Theresa Lopez, Custodian of Records (or the current
26. Custodian of Records), Sacramento Metropolitan Fire
27. District, 10545 Armstrong Ave., Ste. 200, Mather, CA

1 95655;

2 9. Custodian of Records, Sacramento Regional Fire/EMS

3 Communications Center, 10230 Systems Pkwy., Sacramento,

4 CA 95827;

5 10. Roger A. Clark (Plaintiff's Police Practices Expert

6 Witness), 10207 Molino Rd., Santee, CA 92071;

7 11. Curtis Cope (Defendants' Rebuttal Police Practices Expert

8 Witness), 8531 Palermo Drive, Huntington Beach, CA 92646-

9 2626;

10 12. Custodian of Records and/or Person Most Knowledgeable,

11 California Department of Motor Vehicles, c/o DMV Legal

12 Affairs Division, 2415 First Ave., C-128, Sacramento, CA

13 95818;

14 13. Custodian of Records, Release of Information Office,

15 Sacramento Veterans Administration Medical Center, 10535

16 Hospital Way, Mather, CA 95655;

17 14. Dawn Balance, R.O.I. Assistant II, Custodian of Records

18 (or the current Custodian of Records), Mercy San Juan

19 Medical Center, Release of Information Department, 916-

20 854-2090, 10545 White Rock Road, Ste. 150, Rancho

21 Cordova, CA 95670;

22 15. Dr. Asad Ali Chaudhary, M.D., Neurology Team, Mercy San

23 Juan Medical Center, Mercy Medical Group-Elk Grove, 8220

24 Wymark Dr., Elk Grove, CA 95757;

25 16. Dr. Satyen H. Matani, M.D., Hospitalist Team, Mercy San

26 Juan Medical Center, Methodist Hospital of Sacramento,

27 7500 Hospital Dr., Sacramento, CA 95823;

28 17. Dr. Simon Chan, M.D. Address: Chan & Chen MDs, 2560 N.

1 Texas St., Ste. C, Fairfield, CA 94533;

2 18. (Defendant) Officer Jay Brame, California Highway Patrol;

3 19. (Defendant) Officer Terrence Plumb, California Highway

4 Patrol;

5 20. Sergeant Ronnie Stott, California Highway Patrol;

6 21. Sergeant Shirley Kelly, California Highway Patrol

7 22. Officer Eric Hannem, California Highway Patrol;

8 23. Officer James Gutierrez, California Highway Patrol;

9 24. Sergeant Jennifer Hannum, California Highway Patrol

10 (Defendants' Expert Witness; also Rule 30(b)(6) Witness);

11 25. Commander Mieko S. Epps, Fiscal Management Section,

12 California Highway Patrol;

13 26. Sergeant Jeffrey Carlisle, California Highway Patrol;

14 27. William Michael Baldwin, Public Safety Communications

15 Section, California Office of Emergency Services

16 (Defendants' Rule 30(b)(6) Witness on Loss of Dispatch

17 Audio);

18 28. Robyn Lee Snow, Public Safety Dispatch Supervisor I,

19 California Highway Patrol (Defendants' Rule 30(b)(6)

20 Witness on Loss of Dispatch Audio).

Exhibit B: Defendants' Witnesses

1. Defendant CHP Officer Jay Brame
2. Defendant CHP Officer Terrence Plumb
3. CHP Sergeant Shirley Kelly, California Highway Patrol Auburn Area Office, 9440 Indian Hill Road, Newcastle, CA 95658-0709
4. CHP Sergeant Ronnie Stott, California Highway Patrol - Hollister-Gilroy Area Office, 740 Renz Lane, Gilroy, CA 95020
5. CHP Officer Kevin Craig, California Highway Patrol, Office of the Academy, 3500 Reed Avenue, West Sacramento, CA 95605
6. CHP Sergeant Jeffrey Carlisle, California Highway Patrol, Office of the Academy, 3500 Reed Avenue, West Sacramento, CA 95605
7. CHP Lieutenant Ken Roberts, California Highway Patrol, 601 North 7th Street, Sacramento, CA 95811.
8. CHP Officer James Gutierrez, CHP - North Sacramento Area Office, 5109 Tyler Street, Sacramento CA 95841.
9. Plaintiff Harrison Orr, address known to Plaintiff.
10. Eve Bolton Orr, address known to Plaintiff.
11. Lawrence Orr, address known to Plaintiff.
12. Joseph Maio, Assistant Information Systems Analyst, Department of Justice, Office of the Attorney General, 1300 I Street, Sacramento, CA 95814 (authentication of Sac. Co. Jail video).
13. Stevie Shevey, Case Manager, Litigation Support, Department

1 of Justice, Office of the Attorney General, 1300 I Street,
2 Sacramento, CA 95814 (authentication of Sac. Co. Jail video).

3 14. Jen Stewart, Legal Analyst, Litigation Support, Department
4 of Justice, Office of the Attorney General, 1300 I Street,
Sacramento, CA 95814 (authentication of Sac. Co. Jail video).

5 6 15. Thomas Kennedy Helm, IV, Haddad & Sherwin, 505 Seventeenth
7 St., Oakland, CA 94612 (authentication of Sac. Co. Jail
video).

8 9 16. Custodian of Records, Video Recordings, Sacramento Co.
Sheriff's Department, Main Jail Archives, 651 I Street,
10 Sacramento, CA 95814.

11 12 17. Custodian of Records, Jail Booking Records, Sacramento Co.
Sheriff's Department, Main Jail Archives, 651 I Street,
13 Sacramento, CA 95814.

14 15 18. Custodian of Records for Sacramento Co. Sheriff's
Department, Medical Records Unit, 651 I Street, Sacramento, CA
95814. (916) 875-9918.

16 17 19. Custodian of Records for Sacramento Metropolitan Fire
District, 10545 Armstrong Ave., Ste. 200, Mather, CA 95655.
18 (800) 906-6552.

19 20 20. Custodian of Records for Mercy San Juan Medical Center,
Medical Records, 6501 Coyle Ave., Carmichael, CA 62308.
(916) 537-5000.

21 22 21. Custodian of Records for Sacramento VA Medical Center, 10535
Hospital Way, Mather, CA 95655.

24 **EXPERT WITNESSES.**

25 26 1. CHP Officer Eric Hannem, CHP - North Sacramento Area Office,
5109 Tyler Street, Sacramento CA 95841. (Disclosed by
27 Plaintiff).

1 2. CHP Sgt. Jennifer Hannum, 601 North 7th Street, Sacramento, CA
2 95811. (Defendant's Reporting Expert).

3 3. Curtis J. Cope, 8531 Palermo Drive, Huntington Beach, CA
4 92646-2626. (714) 962-1931. (Defendant's Rebuttal Expert).

5 4. Vivian Koll, R.N., 8961 Panamint Court, Elk Grove, CA 95624.
6 (Treating Healthcare Professional).

7 5. Treating Healthcare Professionals at Sacramento Veterans
8 Administration Medical Center - Mather, 10535 Hospital Way,
9 Mather, CA 95655, (916) 843-7000:

- 10 a. Ruby Ali, M.D.
- 11 b. Simon Chan, M.D.
- 12 c. Pamela Crowder, R.N.
- 13 d. Laura Jones, DO
- 14 e. Gregoary Hachigian, M.D.
- 15 f. Valerie Hargiss, PT
- 16 g. Scott Hundahl, M.D.
- 17 h. Munish Kumar, M.D.
- 18 i. Carter G. Mosher, M.D.
- 19 j. William Mourad, M.D.
- 20 k. Emily Njoroge, PA
- 21 l. Neal Parrish, CADC II, CAMF
- 22 m. Gary Roberts, M.D.
- 23 n. William Smith, M.D.
- 24 o. Joseph C. Woo, M.D.

25 6. Treating Healthcare Professionals at Mercy San Juan Medical
26 Center, 6501 Coyle Ave., Carmichael, CA 95608, (916) 537-5000:

- 27 a. Graham Chandler, OT.
- 28 b. Rebekah Latham, D.O.
- 29 c. Satyen Matani, M.D.
- 30 d. Leslie McDaniel, M.D.
- 31 e. Thomas B. McIlraith, M.D.
- 32 f. Tim Tubra, P.T.A.
- 33 g. Robyn Nespole, P.T.
- 34 h. Eileen Wiseman, S.T.

35 7. Treating Healthcare Professionals at Sacramento Metropolitan
36 Fire District, 10545 Armstrong Avenue, Suite 200, Mather,
37 California 95655-4102. (916) 859-4300.

- 38 a. Ted Ladyman, Sac Metro Fire, #29862.
- 39 b. Shani L. Cornell, Sac Metro Fire, #4885.

1 c. Scott Perryman, EMT # P20565.
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Exhibit C: Plaintiff's Exhibits

1. Photograph of Mr. Orr's disabled person's license plate
DP 429 DP
2. Photographs of Mr. Orr's injuries
3. Photographs of Mr. Orr taken by a CHP employee while Mr. Orr was in custody at the North Sacramento CHP Station
4. Photographs of Mr. Orr from his booking at the Sacramento County Jail
5. Photographs of the scene of the incident (Marconi Curve)
6. Google Earth aerial photographs and maps of the scene (Marconi Curve)
7. CHP MVARS video
8. CHP General Order 100.61 (rev'd. May 2010) Use of Mobile Video/Audio Recording Systems
9. CHP General Order 100.61 (rev'd. Sept. 2013) Use of Mobile Video/Audio Recording Systems
10. Excerpts from CHP DUI Enforcement Manual HPM 70.4 (rev'd. 2005)
11. Excerpts from CHP DUI Enforcement Manual HPM 70.4 (rev'd 1995) (pp. 2-7 - 2-15; 3-6 - 3-7; 4-11 - 4-12; 11-1 -11-13)
12. Excerpts from CHP Traffic Enforcement Manual HPM 100.68 (pp. 2-3-2-5) (DOJ001723-001725)
13. CHP HPM 70.6, Officer Safety Manual, Chapter 21, "Handcuffing/Standing/Walking/Flex-Cuffing," pp. 21-1-21-2 (DOJ001451-001452)
14. Declaration of CHP Commander of the Fiscal Management Section Mieko S. Epps, declaring that CHP receives federal

1 funding in the form of grants from the U.S. government.

2 15. Declaration of CHP Sergeant Jeffrey Carlisle declaring
3 that CHP has no specific ADA or RA policies other than the
4 handcuffing procedures in HPM 70.6 (pp. 21-1-21-2) and the
5 policies in HPM 100.69

6 16. California Commission on Peace Officer Standards and
7 Training (POST) Learning Domain 34, First Aid & CPR Version Four,
8 pp. 5-12-5-13

9 17. California Commission on Peace Officer Standards and
10 Training (POST) Learning Domain 28, Traffic Enforcement, Version
11 Four, pp. 5-1 - 5-31

12 18. California Commission on Peace Officer Standards and
13 Training (POST) Learning Domain 20, Use of Force, Version Two,
14 pp. 2-1 - 2-16, 4-1 - end

15 19. California Commission on Peace Officer Standards and
16 Training (POST) Learning Domain 1, Leadership, Professionalism
17 and Ethics, Version Five, pp. 2-1 - end

18 20. CHP 216 (Arrest-Investigation Report)

19 21. Ofc. Brame's CHP 180 (Vehicle Report)

20 22. Ofc. Brame's Arrest Report

21 23. Ofc. Hannem's CHP 202 DRE (Drug Recognition Evaluation),
22 08/06/13

23 24. Ofc. Ronnie Stott's CHP Use of Force Report

24 25. Citation for violation of P.C. 148

25 26. Mr. Orr's Discharge Summary, 09/03/06, Veterans
26 Administration Medical Records

27 27. Mr. Orr's Progress Note, 09/05/06, Veterans
28 Administration Medical Records

1 28. Mr. Orr's Discharge Summary, 09/06/06

2 29. Mr. Orr's Primary Care Note, 10/05/12, Veterans

3 Administration Medical Records

4 30. Sacramento Metropolitan Fire District Incident History

5 for #F13070690, 06/02/13 (Mr. Orr's TIA stroke)

6 31. Sacramento Metropolitan Fire District Records

7 for:#F13070690, 06/02/13 (Mr. Orr's TIA stroke)

8 32. Excerpt from Mr. Orr's Consultation during inpatient

9 visit, 06/02/13-06/05/13, from Mercy San Juan Medical Center

10 Records

11 33. Mr. Orr's Discharge Summary, 06/06/13, Mercy San Juan

12 Medical Center Records

13 34. Sacramento Metropolitan Fire District Dispatch Audio

14 Recording (.wav file "Audio_178516")

15 35. Sacramento Metropolitan Fire District Incident History

16 for #F13101442, 08/06/13 (CHP Incident with Mr. Orr)

17 36. Sacramento Metropolitan Fire District Incident History

18 for #F13101442, 08/06/13

19 37. Mr. Orr's Progress Note, 08/08/13, Veterans

20 Administration Medical Records

21 38. Mr. Orr's Veterans Administration Records regarding

22 treatment for injuries received in incident, 08/08/13- 08/15/13

23 39. Mr. Orr's Progress Note, 08/15/13, Veterans

24 Administration Medical Records

25 40. Sacramento Metropolitan Fire District Dispatch Audio

26 Recording (.wav file "Audio_178538") 08/26/13 (Eve Bolton calling

27 regarding Mr. Orr's post-incident hip pain)

28 41. Sacramento Metropolitan Fire District Incident History

1 for #F13110998, 08/26/13 (Mr. Orr's post-incident hip pain)

2 42. Sacramento Metropolitan Fire District Records for:

3 #F13110998, 08/26/13 (Mr. Orr's post-incident hip pain)

4 43. CHP Incident Detail Report (CAD log)

5 44. Email from Ronald Wade, CHP, to Robin Snow, CHP, on
6 01/22/14 asking for dispatch audio tapes

7 45. Email from Robyn Snow, CHP, to Ronald Wade, CHP, on
8 01/23/14 stating that neither radio recorded dispatch audio

9 46. Email on 03/11/14 from Jerianne Eckman, CHP, to Cortney
10 Walker, CHP, asking for confidential letter explaining why there
11 is no audio to preserve, and email response on 03/20/14 from
12 Cortney Walker to Jerianne Eckman explaining that the attached
13 letter is the certification sent out when there is a voiceprint
14 malfunction

15 47. CHP Certification Letter dated 03/20/14 referred to in
16 Cortney Walker's 03/20/14 email to Jerianne Eckman stating no
17 dispatch audio for incorrect date of 11/08/13

18 48. Declaration of Robyn Snow, CHP, 11/17/14, regarding
19 voiceprint audio system frequent malfunctioning as reason why
20 there is no dispatch audio for the incident with Mr. Orr

21 49. CHP Certification Letter, dated 08/28/14, from Lieut.
22 T.D. Johnson, Acting Commander, to Carolyn Lloyd re: Master Voice
23 Tape Audio Logger malfunction on 08/06/13 Case

24 50. List of Michael Baldwin's service tickets for 2013
25 pertaining to the Voice Print Logging Recorder (DOJ000932-000934)

26 51. Expert Report of Defendants' Expert Witness Sgt.
27 Jennifer Hannum

28 52. Watch Guard DV-1 User Manual Coverpage

1 53. Metadata from WELSH DV-1

2 54. Mr. Orr's Sacramento County Sheriff's Department

3 Correctional Health Services Records (PLF000025- 000032)

4 55. Mr. Orr's Sacramento County Sheriff's Department Jail

5 (Non-Medical) Records (PLF000033-000044)

6 56. Sacramento County Jail Booking Video Disc 1 of 3

7 (contains Video_TS folder)

8 57. Sacramento County Jail Booking Video Disc 2 of 3

9 (contains one Windows Media .ASF file)

10 58. Sacramento County Jail Booking Video Disc 3 of 3

11 (contains two Windows Media .ASF files)

12 59. Roger Clark's CV

13 60. Roger Clark's Rule 26 Expert Report

14 61. California Code of Regulations Title 24, Part 1, §§ 13-

15 102 and Part 2, § 1231, Minimum Standards for Local Detentions

16 Facilities (2008 Regulations)

17 62. California Code of Regulations, Title 15-Crime

18 Prevention and Corrections, Minimum Standards for Local Detention

19 Facilities, Division 1, Chapter 1, Subchapter 4. (2010

20 Regulations, effective September 19, 2012)

21 63. Performance-Based Standards for Adult Local Detention

22 Facilities, Fourth Edition

23 64. Defendants' Rebuttal Police Practices Expert Curtis Cope

24 Rule 26 Report

25 65. Defendants' Rebuttal Police Practices Expert Curtis

26 Cope's article *Understanding the Objectively Reasonable Standard*,

27 08/27/10

28 66. DMV Registration for Mr. Orr's Toyota (PLF 000018)

1 67. DMV Driver Safety/Field Referral, 11/07/13, for Mr. Orr
2 (PLF000010-000011)

3 68. Sacramento County District Attorney Letter, 09/19/14,
4 stating that the DA declined to charge Mr. Orr for violating Cal.
5 Penal Code § 148 "due to insufficient evidence." (PLF000045)

6 69. DMV form signed by Ofc. Brame requesting Driver's
7 Evaluation of Mr. Orr (PLF 20)

8 70. DMV records re: post-incident Driver's Evaluation (DMV
9 PLF 1-24)

10 71. Ofc. Brame performance evaluations (DOJ 2455, 2503,
11 2513, 2516, 2630, 2632, 2634, 2640, 2644, 2652, 2657, 2667, 2669,
12 2675, 2691, 2703) (in chronological order)

13 72. Ofc. Brame's notice of sustained complaint for
14 "discourtesy" arising from use of handcuffs and violation of HPM
15 100.68) (DOJ 2701, 2713-2717)

16 73. Ofc. Plumb's Resume and cover letter (DOJ 2350-2352)

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Exhibit D: Defendants' Exhibits

Exhibit	Description
201	Arrest-Investigation Report (CHP216) of Subject Incident by Officer Brame.
202	Vehicle Report (CHP 180) for Subject Incident by Officer Brame.
203	CAD Logs of Subject Incident
204	MVARS video for Subject Incident
205	Defendants' Report of Expert Witness: Sgt. Jennifer Hannum.
206	Sgt. Jennifer Hannum CV.
207	Drug Recognition Evaluation (DRE202)) for Subject Incident by Officer Hannem.
208	6 Photos of Plaintiff taken at CHP N. Sac. Area Office.
209	Sac Metro Fire Dept Paramedic Records, 8/6/2013 PLF 000056-62
210	8/6/2013 DVD Video of approx. first 17 minutes of Plaintiff's booking at Sac. Co. Jail.
211	Thumb drive from Plaintiff's Attorney Helm with Sac. Co. Jail video clips.
212	Video on disc or other media of Plaintiff's booking at Sac. Co. Jail as provided by Sacramento Co. Jail to Plaintiff's attorneys. (Plaintiff Exhibits 56-58)
213	8/6/2013 Sacramento Co. Sheriff's Dept.; Declaration of Custodian of Records. PLF 000034
214	Jail booking photos 8/6/2013 PLF 000035-36
215	Sacramento Co. Sheriff's Dept., Release Screening form. PLF 000043
216	8/6/2013 Sacramento Co. Sheriff's Dept., Medical Intake PLF 000027-30
217	8/6/2013 Sacramento Co. Sheriff's Dept., Intake Classification. PLF 000041
218	8/6/2013 Sacramento Co. Sheriff's Dept., Arrest Report. PLF 000042
219	Sacramento Co. Sheriff's Dept., Correctional Health Svcs., Declaration of Custodian of Records. PLF000025
220	Subpoena to Custodian of Records, VA Hosp., Sacramento. VA 00001-00004.

1	221	Ntc. of Privacy Rights, Dept. of Veterans Affairs Release, Subpoena Proof of Service, and Custodian of Records response. VA 00005-00010.
2	222	10/3/2008 Primary Care Note; VA (Sacramento VA Medical Center) 00320 - 00323.
3	223	10/3/2008 Addendum. VA 00325-00327
4	224	11/3/08 Consult. VA 00360-00314.
5	225	12/4/08 Primary Care Note. VA 00303- 00305
6	226	3/16/2009 Student Note VA 00300 - 00303
7	227	4/28/10 Hematology and Oncology Note. VA 00279-00282.
8	228	5/26/2010 Primary Care Note. VA 00276- 00279
9	229	6/14/2010 Opthamology Note. VA 00273- 00276.
10	230	11/23/10 Discharge Note. VA 00258- 00262
11	231	12/7/10 PT Initial Eval. VA 00254- 00258.
12	232	1/14/11 PT Outpatient Note. VA 00249- 00251.
13	233	1/19/11 Primary Care Note. VA 00246- 00249.
14	234	Hematology and Oncology Note. VA 00268-00270.
15	235	9/23/2010 Ortho Surg. Consult. VA 00264-00268.
16	236	10/5/12 Primary Care Note. VA 00195- 00199.
17	237	2/18/11 PT OPT Discharge Note. VA 00244-00246.
18	238	11/22/11 Anesthesiology Note. VA 00231-00237
19	239	1/23/12 Primary Care Note. VA 00215- 00220.
20	240	6/8/2012 Nursing OPT Note. VA 00211- 00212
21	241	7/11/2012 Opthamology Note. VA 00206- 00210.
22	242	10/5/12 Primary Care Interim Note. VA 00195-00199
23	243	1/14/2013 Opthamology Note. VA 00188- 00192.
24	244	1/22/2013 Emergency Dept. Note. VA 00181-00188.

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1	245	5/23/2013 Surgery Consult. VA00171-00176.
2	246	5/30/2013 Gen Surg and Oncology Progress Note. VA 00160-00163.
3	247	Sac Metro Fire Dept Paramedic Records, 6/2/2013 PLF 000063-000066, 000068-000069.
4	248	Subpoena to Mercy San Juan Med. Ctr.; Ntc. of Priv. Rts.; Proof of Service; and Decl. of Custodian of Records. MSJ 00001-00009.
5	249	6/2/2013 Emergency Documentation MSJ (Mercy San Juan Medical Center) 00021-00028.
6	250	6/3/13 PT Documentation. MSJ 00385-00387
7	251	6/3/2013 Occupational Therapy Documentation MSJ380-00383
8	252	6/4/2013 Neurological MSJ 00455-00456
9	253	6/4/2013 Neurological 00458-00459
10	254	6/5/2013 PT Documentation MSJ 00388-00389
11	255	6/3/2013 History and Physical. MSJ 00014-00016.
12	256	6/5/2013 Consultation. MSJ 00017-00020.
13	257	6/5/2013 Progress note. MSJ 00038-00044.
14	258	Orders. MSJ 00103.
15	259	6/4/2013 Social Services Documentation MSJ 00391.
16	260	6/5/2013 Speech Therapy Eval. MSJ 00392-00395.
17	261	6/5/2013 Discharge Summary. MSJ 0010-0013.
18	262	7/1/2013 Surgery Consult. VA 00139-00143.
19	263	7/24/13 DMV App. For Disabled Person Placard or Plates PLF 000024-000025.
20	264	7/22/2013 Primary Care Note. VA 00137-00139.
21	265	7/24/2013 Mental Health Ed. Note. VA 00135-00137.
22	266	7/31/2013 Mental Health Ed. Note. VA 00134-00135.
23	267	8/15/13 PA Student Note. VA 00119-00127.
24	268	8/25/13 Physician Emergency Dept. Note. VA 00115 -00118.

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1	269	8/26/2013 Primary Care Note. VA 00112-00115.
2	270	Sac. Metro Fire Dist., Complete narrative. PLF 000051
3	271	8/26/2013 Patient Non-Transport form. PLF 000054
4	272	Sac. Metro Fire Dist., Billing PLF 000053
5	273	8/30/2013 DMV Driver Medical Evaluation. PLF 000004-00008.
6	274	Driver Medical Questionnaire. PLF 000009.
7	275	Driver Safety Referral. PLF 000010.
8	276	DMV Affidavit of Custodian of Records. 10/22/2014 PLF 000015.
9	277	8/16/2013 DMV Registration. PLF 000018.
10	278	9/27/2013 Primary Care Note. VA 00104-00107.
11	279	1/3/2014 Primary Care Note. VA 00093-00095
12	280	4/23/2014 Urgent Care Note. VA 00013, 00014 & 00090.
13	281	LD 15 "Laws of Arrest", cover page and pp. 3-2 - 3-7, 3-9 - 3-11, 3-16, 4-3 - 4-5, 4-7 - 4-8, 4-11 - 4-12, 4-24. (Clark Depo. Ex. 4).
14	282	LD 20 "Use of Force", cover page, table of contents pp. i - ii and pp. 1-6 - 1-9, 2-1 - 2-16. (Clark Depo. Ex. 4).
15	283	LD 28 "Traffic Enforcement", cover page, table of contents pp. i - iii and pp. 1-3 - 1-4, 2-2 - 2-4, 3-3, 3-30, 3-40, 5-1 - 5-50, G-1 - G-5. (Clark Depo. Ex. 4).
16	284	LD 33 "Arrest Methods, Defensive Tactics", cover page, table of contents pp. i - iv and pp. 1-3 - 1-9, 1-11 - 1-15, 3-1 - 3-4, 3-5 - 3-6, 3-7 - 3-9, 5-1 - 5-10, 9-1 - 9-5, G-1 - G-2. (Clark Depo. Ex. 4).
17	285	LD 34 "Laws of Arrest" cover page, table of contents pp. i - iii and pp. 1-1 - 1-6, 4-1 - 4-6, 4-14 - 4-17, 5-1 - 5-8, 5-12 - 5-13, 5-37 - 5-38, G-1 - G-11. (Clark Depo. Ex. 4).
18	286	LD 37 "People With Disabilities" cover page, table of contents pp. i - ii and pp. 1-3 - 1-8, 3-1 - 3-5, 3-21 - 3-27, 3-29, G-1 - G-4. (Clark Depo. Ex. 4).
19	287	Min. Stds. for Local Detention Facilities Title 15 (Clark Depo. Ex.

1	5B).
2	288 Min. Stds. for Local Detention Facilities Title 24 (Clark Depo. Ex. 5C).
3	289 11/15/2014 email. (Clark Depo. Ex. 7).
4	290 Transcript Excerpts of 9/26/2014 Clark Deposition in <i>Lozano v. City of Rialto</i> .
5	291 Transcript Excerpts of 8/20/2012 Clark Deposition in <i>Harb v. City of Bakersfield</i> .
6	292 Transcript Excerpts of 10/23/2014 Clark Deposition in <i>Dopporto v. City of Tulare</i> .
7	293 Transcript Excerpts of 3/19/2015 Clark trial testimony.
8	294 Opinion Excerpt <i>Lucas v. City of Visalia</i> , 2013 U.S. Dist. LEXIS 65855 (E.D. Cal. May 7, 2013).
9	295 Opinion Excerpt <i>Barkley v. Dillard Dep't Stores, Inc.</i> , 277 Fed. Appx. 406 (5th Cir. 2008).
10	296 Opinion Excerpt <i>Echols v. Gardiner</i> , 2013 U.S. Dist. LEXIS 170037 (S.D. Tex. Dec. 3, 2013).
11	297 HPM 70.4, Chapter 2 Excerpts: DOJ000936 - DOJ000938, DOJ000944 - DOJ000949, DOJ000953 - DOJ000959, DOJ000965 - DOJ000966.
12	298 HPM 70.4, Chapter 3 Excerpts: DOJ000978 - DOJ000979, DOJ000981 - DOJ000982.
13	299 HPM 70.4, Chapter 4 Excerpts: DOJ001008 - DOJ001010.
14	300 HPM 70.6, Chapter 1 Excerpts: 1-1 - 1-11 (DOJ001205 - DOJ001214).
15	301 HPM 70.6, Chapter 21 Excerpts: pp. 21-1 - 21-2 (redacted) (DOJ001451- DOJ001452).
16	302 HPM 70.6, Chapter 24 Excerpts: pp. 24-13 (DOJ001563).
17	303 HPM 100.68, Chapter 2 Excerpts: pp. 2-3 - 2-5 (DOJ001723-).
18	304 HPM 100.68, Chapter 3 Excerpts: pp. 3-5 - 3-6 (DOJ001743- DOJ001744).
19	305 Curtis Cope CV.
20	306 Curtis Cope Expert Witness Declaration.
21	307 Curtis Cope Invoices.
22	308 Excerpt from Golden Gloves of America Official Website and Wikipedia concerning Golden Gloves (D MSJ, Ex.

1	O) .
2	309 Government Claims Form, CA Victim Compensation and Gov't. Claims Bd. for Claimant Harrison Orr.
3	310 Plaintiff Orr's First Amended Complaint for Damages and Jury Demand.
4	311 CHP 118, Officer Brame, 11/16/2012 - 11/15/2013.
5	312 July 23, 2012 Letter to Commander McGagin re: Officer Brame. (DOJ002431)
6	313 CHP 118, Officer Plumb, 11/03/2012 - 11/02/2013.
7	314 Email re: 12/06/2012 encounter involving Officer Plumb.

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