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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TAN LAM, et al.,
Plaintiffs,
v.
CITY OF LOS BANOS, et al.,
Defendants.

No. 2:15-cv-0531-MCE-KJN

ORDER

On February 29, 2016, the court conducted an informal telephonic discovery conference concerning certain requests for production of documents (“RPD”) propounded by plaintiffs on defendants. At the conference, attorney Melissa Nold appeared on behalf of plaintiffs, and attorneys Dale Allen and Philip Downs appeared on behalf of defendants. For the reasons discussed with the parties at that conference, IT IS HEREBY ORDERED that:

1. As to RPD Set One No. 9, defendants shall produce, for any of the non-defendant officers who later arrived at the scene of the incident, any internal affairs records that relate to discipline for tampering with evidence, dishonesty, or incidents of improper omission of information from reports that actually rose to the level of an investigation. Such records shall be provided no later than March 4, 2016.

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- 1 2. As to RPD Set One No. 10, the court denies plaintiffs’ request for any further
2 production of post-incident internal affairs records involving officer Acosta beyond
3 what defendants have already produced.
- 4 3. As to RPD Set One No. 11, defendants shall provide plaintiffs with a declaration
5 under penalty of perjury from an appropriate person who was present at the interview
6 of officer Acosta, who explains that a video recording of the interview was never
7 made due to error, malfunction, or other articulated reasons. The declaration shall be
8 provided no later than March 4, 2016.
- 9 4. As to RFP Set One No. 11, defendants shall further provide to plaintiffs the results of
10 any gunshot residue testing when it becomes available. Defendants have agreed to
11 provide such results even if it only becomes available after the discovery completion
12 deadline.
- 13 5. As to RFP Set Two Nos. 23 and 24, the court declines to rule on defendants’
14 production obligations at this juncture, especially as defendants’ responses are not yet
15 due. Nevertheless, the parties have agreed to cooperate to seek any responsive
16 documents from the VA by (a) defendants requesting such documents from the VA
17 directly with appropriate authorization from officer Acosta, and (b) plaintiffs
18 subpoenaing such documents from the VA, with an appropriate authorization from
19 officer Acosta provided by defendants and with production in response to that
20 subpoena to be made only to defendants’ counsel. Once defendants have received and
21 reviewed the documents, and if the parties are unable to informally resolve their
22 dispute with respect to whether such documents need to be produced to plaintiffs,
23 defendants may submit any disputed documents to the court for *in camera* review
24 before the operative discovery completion deadline. Plaintiffs have also agreed to
25 seek a narrow extension of the discovery deadline from Judge England for the limited
26 purpose of facilitating such production and resolution of related disputes.

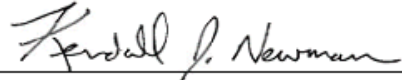
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IT IS SO ORDERED.

Dated: March 1, 2016



KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE