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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ESTATE OF TYLER S. RUSHING, et al.,
Plaintiffs,
v.
AG PRIVATE PROTECTION, INC., et
al.,
Defendants.¹

No. 2:18-cv-01692-DAD-AC

FINAL PRETRIAL ORDER

On August 6, 2024, the court conducted a final pretrial conference in this case. Attorneys Mark E. Merin, Paul Hajime Masuhara, and Robert Lynn Chalfant appeared by video as counsel for plaintiffs; attorney Sharon Medellin appeared by video as counsel for defendants. Having considered the parties’ objections to the tentative pretrial order, the court issues this final pretrial order which will govern the trial of this action.

Plaintiffs Estate of Tyler S. Rushing, Scott K. Rushing, and Paula L. Rushing bring this civil rights action against defendants City of Chico, Chico Police Department, Scott Ruppel, Cedric Schwyzer, Alex Fliehr, and Jeremy Gagnebin (“defendants”), with claims arising under 42

¹ Although the docket in this action reflects eleven defendants, there are no remaining claims pending against defendants AG Private Protection, Inc., Edgar Sanchez, County of Butte, Butte County Sheriff’s Office, and Ian Dickerson. Accordingly, the court will direct the Clerk of the Court to update the docket to reflect that those defendants were terminated as of December 22, 2021, the date of the Ninth Circuit mandate affirming the previously assigned district judge’s order on summary judgment as to these defendants. (Doc. No. 78.)

1 U.S.C § 1983 for unreasonable use of force in violation of the Fourth and Fourteenth
2 Amendments, interference with familial association in violation of the Fourteenth Amendment,
3 interference with the right of association in violation of the First and Fourteenth Amendments, as
4 well as state law claims for unreasonable use of force in violation of the Bane Act and for
5 assault/battery, negligence, and wrongful death.²

6 I. JURISDICTION/VENUE

7 Jurisdiction is predicated on 28 U.S.C. §§ 1331, 1343(a)(3), and 1367. Jurisdiction is not
8 contested.

9 Venue is proper pursuant to 28 U.S.C. § 1391(b). Venue is not contested.

10
11 ² In their complaint, plaintiffs also brought a claim for use of excessive and unreasonable force in
12 violation of Article I, § 13 of the California Constitution (claim four). The previously assigned
13 district court judge initially granted summary judgment in favor of all defendants on this claim,
14 finding both that each defendant “acted entirely reasonably” and that there is no private cause of
15 action for damages conferred by Article I, § 13 of the California Constitution. (Doc. No. 62 at
16 13.) Subsequently, the Ninth Circuit held that summary judgment should not have been granted
17 as to any of the City defendants because a reasonable jury could conclude that Officer Fliehr
18 violated a right of Rushing’s when he tasered Rushing in the back over one minute after Rushing
19 had been shot twice by Officer Ruppel. (Doc. No. 77 at 4.) The panel noted that their ruling did
20 “not foreclose future motions for summary judgment brought by the City Defendants other than
21 Fliehr” as liability may turn on the particular defendants’ roles. (*Id.* at 10.) In the previously
22 assigned district judge’s second order on summary judgment, the court “interpret[ed] the panel’s
23 disposition to preclude Fliehr only from challenging the reasonableness of his conduct and the
24 clearly established nature of the applicable law, but not as preventing him from renewing this
25 legal challenge to the state constitutional claim.” (Doc. No. 92 at 8.) The district judge so
26 interpreted the Ninth Circuit’s mandate to avoid the “absurd result” of claim four “proceed[ing]
27 against Fliehr alone when the legal question was not addressed by the panel.” Accordingly, the
28 previously assigned district judge again granted summary judgment in favor of all remaining
defendants as to plaintiffs’ claim four, finding again that Article I, § 13 of the California
Constitution does not provide a private right of action for damages. (*Id.*) As discussed at the pre-
trial conference, there is now a dispute between the parties as to whether claim four still remains
extant. Plaintiffs argue that the previously assigned district judge disregarded the Ninth Circuit’s
mandate reversing dismissal of the claim and thus exceeded his discretion. (Doc. No. 111 at 11.)
However, no motion for reconsideration of the district court’s second order granting summary
judgment in favor of all defendants as to this claim was ever filed. The time in which to do so has
since elapsed and law and motion in this case is closed under the court’s scheduling order. At this
time, the court’s position is that this claim did not survive summary judgment and does not
remain for trial. If plaintiffs wish to address this issue in more detail, they are not precluded from
doing so by way of a motion in limine. The undersigned expresses no opinion in this order as to
the scope of the Ninth Circuit’s mandate or the existence of a private right of action for damages
under Article I, § 13 of the California Constitution.

1 II. JURY

2 Both parties have demanded a jury trial. The jury will consist of eight jurors.³

3 III. UNDISPUTED FACTS

4 1. Scott Rushing and Paula Rushing are the parents of the decedent, Tyler Rushing.

5 2. Tyler Rushing was 34 years old at the time of his death.

6 3. On July 23–24, 2017, Scott Ruppel, Cedric Schwyzer, Alex Fliehr, and Jeremy
7 Gagnebin were law enforcement officers employed by the City of Chico and Chico Police
8 Department, acting within the scope of employment and under color of state law.

9 4. The incident giving rise to this action occurred on July 23–24, 2017 at the Mid
10 Valley Title Company in Chico, CA.

11 5. Tyler Rushing encountered officers Scott Ruppel, Cedric Schwyzer, Alex Fliehr,
12 and Jeremy Gagnebin at the scene of where the incident occurred.

13 6. Officer Scott Ruppel shot Tyler Rushing twice with his department-issued firearm.

14 7. Officer Alex Fliehr deployed his department-issued taser in dart-mode at Tyler
15 Rushing.

16 8. Tyler Rushing died following the encounter with officers Scott Ruppel, Cedric
17 Schwyzer, Alex Fliehr, and Jeremy Gagnebin.

18 IV. DISPUTED FACTUAL ISSUES

19 Despite being provided three opportunities to do so, the parties did not cooperate to
20 provide a single list of disputed material facts. Instead, they have each now provided their own
21 positions as to what the disputed material facts are. (Doc. No. 114 at 2–3.) In the court’s view,
22 many of the parties’ “disputed material facts” actually address legal issues, are not disputed issues
23 of fact at all, and should not be listed in this section of the Final Pretrial Order. However, rather
24 than give the parties a fourth opportunity to amend this section, the court will instead merely

25 _____
26 ³ As discussed with counsel during the final pretrial conference, the court may elect to seat a
27 larger jury if deemed appropriate in light of public health conditions at the time the trial of this
28 action commences. In addition, counsel are advised that the undersigned is currently enforcing a
mandatory masking policy in his courtroom and is likely to continue to do so as long as the test
positivity rate for COVID-19 in California remains above 5%.

1 recite the parties' positions below. Neither party has expressed any view as to the other party's
2 position.

3 Plaintiffs' Position re Disputed Factual Issues:

- 4 1. Whether Alex Fliehr used excessive force by deploying a taser against Tyler
5 Rushing.
- 6 2. Whether Cedric Schwyzer and/or Jeremy Gagnebin were integral participants, or
7 failed to intervene, in Alex Fliehr's deployment of a taser against Tyler Rushing.
- 8 3. Whether Scott Ruppel's supervision or control over the actions of Alex Fliehr,
9 Cedric Schwyzer, and/or Jeremy Gagnebin caused the use of excessive force against Tyler
10 Rushing.
- 11 4. Whether Scott Ruppel, Cedric Schwyzer, Alex Fliehr, and/or Jeremy Gagnebin
12 acted with deliberate indifference to the violation of Tyler Rushing's constitutional rights.
- 13 5. Whether Scott Ruppel, Cedric Schwyzer, Alex Fliehr, and/or Jeremy Gagnebin
14 acted with specific intent to the violation of Tyler Rushing's constitutional rights.
- 15 6. Whether Scott Ruppel, Cedric Schwyzer, and/or Jeremy Gagnebin aided-and-
16 abetted Alex Fliehr's deployment of a taser against Tyler Rushing.
- 17 7. Whether Scott Ruppel, Cedric Schwyzer, Alex Fliehr, and/or Jeremy Gagnebin
18 breached a duty of care which harmed Tyler Rushing, including through:
 - 19 i. lack of ordinary care;
 - 20 ii. violation of a constitutional right;
 - 21 iii. non-compliance with California Peace Officer Standards and Training
22 ("POST"); and/or
 - 23 iv. non-compliance with Chico Police Department policies, training, and
24 procedures.
- 25 8. Whether Scott Ruppel, Cedric Schwyzer, Alex Fliehr, and/or Jeremy Gagnebin
26 caused Tyler Rushing's death.
- 27 9. If liability is established, the amount of hedonic damages owed.
- 28 10. If liability is established, the amount of wrongful-death damages owed.

1 11. If liability is established, the amount of statutory penalties and/or treble damages
2 owed.

3 12. If liability is established and punitive damages awarded, the amount of punitive
4 damages owed.

5 Defendants' Position re Disputed Factual Issues:

6 1. Whether a reasonable officer in Alex Fliehr's position could reasonably believe
7 that Tyler Rushing continued to pose a threat to officer safety when he deployed the taser.

8 2. Whether the deployment of the taser was objectively reasonable.

9 3. Whether Scott Ruppel supervised and/or controlled the scene.

10 4. Whether Alex Fliehr acted with a purpose to harm Tyler Rushing without regard to
11 legitimate law enforcement objectives.

12 5. Whether Cedric Schwyzer, and/or Jeremy Gagnebin had a duty to intercede to
13 prevent deployment of the taser.

14 6. If Tyler Rushing's constitutional rights were violated, whether that violation was
15 the result of reasonable mistake.

16 V. DISPUTED EVIDENTIARY ISSUES/MOTIONS IN LIMINE

17 The parties have not yet filed motions *in limine*. The court does not encourage the filing
18 of motions *in limine* unless they are addressed to issues that can realistically be resolved by the
19 court prior to trial and without reference to the other evidence which will be introduced by the
20 parties at trial. The parties anticipate filing the motions *in limine* listed below. Any motions *in*
21 *limine* counsel elects to file shall be filed no later than **21 days before trial**. Opposition shall be
22 filed no later than **14 days before trial** and any replies shall be filed no later than **10 days before**
23 **trial**. Upon receipt of any opposition briefs, the court will notify the parties if it will hear
24 argument on any motions *in limine* prior to the first day of trial.

25 Plaintiffs' Motions in Limine

26 1. Motion to exclude defendants' experts' reports.

27 2. Motion to exclude Butte County District Attorney's officer-involved shooting
28 investigation's findings and conclusions.

1 3. Motion to exclude officer awards, accolades, and commendations.

2 4. Motion to exclude weapons in courtroom.

3 Defendants' Motions *in Limine*

4 7. Motion to exclude plaintiffs' expert witness reports.

5 8. Motion to exclude evidence of use of force by the named Chico officers during
6 incidents other than the incident involving Rushing.

7 9. Motion to exclude a post-incident PowerPoint presentation prepared by a now
8 retired member of the Chico Police Department.

9 10. Motion to exclude evidence disputing the reasonableness of the Chico Officers'
10 conduct prior to the tasing of Rushing, including the shots fired by Ruppel.

11 11. Motion to exclude evidence of a history of mental illness suffered by Rushing.

12 12. Motion to exclude evidence of Rushing's lack of criminal history.

13 13. Motion to exclude evidence of Chico Police Department policies and POST
14 Learning Domains unrelated to deployment of the taser.

15 VI. SPECIAL FACTUAL INFORMATION

16 Pursuant to Local Rule 281(b)(6), the parties provided special factual information that
17 pertains to this action, which has been incorporated into the above "Undisputed Facts" section of
18 this Final Pretrial Order.

19 VII. RELIEF SOUGHT

20 1. Plaintiff Estate of Tyler Rushing, through successor-in-interest Scott Rushing and
21 Paula Rushing, seeks compensatory, nominal, and punitive damages and statutory penalties.

22 2. Plaintiffs Scott Rushing and Paula Rushing seek compensatory, nominal, and
23 punitive damages and statutory penalties.

24 3. Plaintiffs also seek to recover attorneys' fees and costs.

25 VIII. POINTS OF LAW

26 The claims and defenses asserted in this action arise under both federal and state law.
27 Plaintiffs maintain seven claims which survive following the court's last order addressing
28 defendants' motion for summary judgment. (*See* Doc. No. 92.) Three of those claims are

1 brought by plaintiff Estate of Tyler Rushing against all defendants. One of those claims is
2 brought by plaintiff Estate of Tyler Rushing against the individual defendants. One of those
3 claims is brought by plaintiffs Scott Rushing and Paula Rushing against all defendants. Two of
4 those claims are brought by plaintiffs Scott Rushing and Paula Rushing against the individual
5 defendants. Based upon these surviving claims, the points of law in this case are:

- 6 1. The elements of, standards for, and burden of proof in a 42 U.S.C. § 1983 claim of
7 unreasonable use of force in violation of the Fourth and Fourteenth Amendments.
- 8 2. The elements of, standards for, and burden of proof in a § 1983 claim of
9 interference with familial association in violation of the Fourteenth Amendment.
- 10 3. The elements of, standards for, and burden of proof in a § 1983 claim of
11 interference with the right of association in violation of the First and Fourteenth
12 Amendment.
- 13 4. The elements of, standards for, and burden of proof in a claim of unreasonable
14 force in violation of the Bane Act, California Civil Code § 52.1.
- 15 5. The elements of, standards for, and burden of proof in an assault/battery claim.
- 16 6. The elements of, standards for, and burden of proof in a negligence claim.
- 17 7. The elements of, standards for, and burden of proof in a wrongful death claim.
- 18 8. The elements of, standards for, and burden of proof in an affirmative defense of
19 qualified immunity.⁴
- 20 9. The elements of, standards for, and burden of proof as to the affirmative defense of
21 failure to state a cause of action.
- 22 10. The elements of, standards for, and burden of proof as to the affirmative defense of
23 no duty to intercede.
- 24 11. The elements of, standards for, and burden of proof as to the affirmative defense of
25 self-defense/defense of others.

26 ⁴ Although this and other affirmative defenses have been listed in the joint pretrial statement the
27 court is skeptical that they all remain viable affirmative defenses in connection with the trial of
28 this action, especially in light of the limited nature of plaintiffs' remaining claims following the
Ninth Circuit's ruling and the pretrial litigation in this case.

- 1 12. The elements of, standards for, and burden of proof as to the affirmative defense of
2 privilege.
- 3 13. The elements of, standards for, and burden of proof as to the affirmative defense of
4 no vicarious liability.
- 5 14. The elements of, standards for, and burden of proof as to the affirmative defense of
6 comparative negligence.

7 Trial briefs addressing the points of law implicated by plaintiffs’ remaining claims shall
8 be filed with this court no later than **7 days before trial** in accordance with Local Rule 285.

9 ANY CAUSES OF ACTION OR AFFIRMATIVE DEFENSES NOT EXPLICITLY
10 ASSERTED IN THE PRETRIAL ORDER UNDER POINTS OF LAW AT THE TIME IT
11 BECOMES FINAL ARE DISMISSED, AND DEEMED WAIVED.

12 IX. ABANDONED ISSUES

13 All affirmative defenses not identified above in the “Points of Law” section.

14 X. WITNESSES

15 Plaintiffs’ witnesses shall be those listed in **Attachment A**. Defendants’ witnesses shall
16 be those listed in **Attachment B**. Each party may call any witnesses designated by the other.

17 A. **The court does not allow undisclosed witnesses to be called for any purpose,**
18 **including impeachment or rebuttal, unless they meet the following criteria:**

- 19 (1) The party offering the witness demonstrates that the witness is for the
20 purpose of rebutting evidence that could not be reasonably anticipated at
21 the pretrial conference, or
- 22 (2) The witness was discovered after the pretrial conference and the proffering
23 party makes the showing required in paragraph B, below.

24 B. Upon the post pretrial discovery of any witness a party wishes to present at trial,
25 the party shall promptly inform the court and opposing parties of the existence of
26 the unlisted witnesses by filing a notice on the docket so the court may consider
27 whether the witnesses shall be permitted to testify at trial. The witnesses will not
28 be permitted unless:

- 1 (1) The witness could not reasonably have been discovered prior to the
2 discovery cutoff;
- 3 (2) The court and opposing parties were promptly notified upon discovery of
4 the witness;
- 5 (3) If time permitted, the party proffered the witness for deposition; and
6 (4) If time did not permit, a reasonable summary of the witness's testimony
7 was provided to opposing parties.

8 **XI. EXHIBITS, SCHEDULES, AND SUMMARIES**

9 Joint exhibits are listed in **Attachment C**. Plaintiffs' exhibits are listed in **Attachment D**.
10 Defendants' exhibits are listed in **Attachment E**. No exhibit shall be marked with or entered into
11 evidence under multiple exhibit numbers, and the parties are hereby directed to meet and confer
12 for the purpose of designating joint exhibits and to provide a list of joint exhibits. All exhibits
13 must be pre-marked as discussed below. At trial, joint exhibits shall be identified as JX and listed
14 numerically, e.g., JX-1, JX-2. Plaintiffs' exhibits shall be listed numerically, and defendants'
15 exhibits shall be listed alphabetically.

16 The parties must prepare three (3) separate exhibit binders for use by the court at trial,
17 with a side tab identifying each exhibit in accordance with the specifications above. Each binder
18 shall have an identification label on the front and spine. The parties must exchange exhibits no
19 later than **28 days before trial**. Any objections to exhibits are due no later than **14 days before**
20 **trial**. The final exhibits are due **the Thursday before the trial date**. In making any objection,
21 the party is to set forth the grounds for the objection. As to each exhibit which is not objected to,
22 no further foundation will be required for it to be received into evidence, if offered.

23 **The court does not allow the use of undisclosed exhibits for any purpose, including**
24 **impeachment or rebuttal, unless they meet the following criteria:**

25 A. The court will not admit exhibits other than those identified on the exhibit lists
26 referenced above unless:

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1 (1) The party proffering the exhibit demonstrates that the exhibit is for the
2 purpose of rebutting evidence that could not have been reasonably
3 anticipated, or

4 (2) The exhibit was discovered after the issuance of this order and the
5 proffering party makes the showing required in paragraph B, below.

6 B. Upon the discovery of exhibits after the discovery cutoff, a party shall promptly
7 inform the court and opposing parties of the existence of such exhibits by filing a
8 notice on the docket so that the court may consider their admissibility at trial. The
9 exhibits will not be received unless the proffering party demonstrates:

10 (1) The exhibits could not reasonably have been discovered earlier;

11 (2) The court and the opposing parties were promptly informed of their
12 existence;

13 (3) The proffering party forwarded a copy of the exhibits (if physically
14 possible) to the opposing party. If the exhibits may not be copied the
15 proffering party must show that it has made the exhibits reasonably
16 available for inspection by the opposing parties.

17 XII. DISCOVERY DOCUMENTS

18 Counsel must lodge the sealed original copy of any deposition transcript to be used at trial
19 with the Clerk of the Court no later than **14 days before trial**.

20 Plaintiffs have indicated the intent to use the following discovery documents at trial:

- 21 1. Deposition of Alex Flihr (06/04/2019)
- 22 2. Deposition of David Posey (04/01/2019)
- 23 3. Deposition of Scott Ruppel (06/11/2019)
- 24 4. Deposition of Edgar Sanchez (05/31/2019)
- 25 5. Deposition of Matthew York (06/05/2019)

26 Defendants have indicated the intent to use the following discovery documents at trial:

- 27 1. Deposition of Scott Ruppel
- 28 2. Deposition of Edgar Sanchez

- 1 3. Deposition of Thomas Resk, M.D.
- 2 4. Deposition of David Posey, M.D.
- 3 5. Deposition of Scott Rushing
- 4 6. Deposition of Paula Rushing

5 XIII. FURTHER DISCOVERY OR MOTIONS

6 None. Discovery and law and motion are closed under the scheduling order issued in this
7 case.

8 XIV. STIPULATIONS

9 None.

10 XV. AMENDMENTS/DISMISSALS

11 None.

12 XVI. SETTLEMENT

13 The parties have engaged in settlement discussions, including a mediation before Hon.
14 Kendall J. Newman (ret.) on February 9, 2024, which did not result in settlement. No further
15 court supervised settlement conference will be scheduled unless both parties indicate that a
16 further settlement conference may be productive.

17 XVII. JOINT STATEMENT OF THE CASE

18 The parties have agreed to the following joint statement of the case:

19 This trial will focus on whether police employed excessive force
20 during an encounter with Tyler Rushing. On July 23, 2017, Chico
21 Police Department officers, including Scott Ruppel, Cedric
22 Schwyzer, Alex Fliehr, and Jeremy Gagnebin, encountered Tyler
23 Rushing inside a bathroom of the Mid Valley Title Company in
Chico, California. A struggle between Tyler Rushing and the
officers resulted. Alex Fliehr deployed a taser against Tyler
Rushing. Tyler Rushing died at the scene. Tyler Rushing is
survived by his parents, Scott Rushing and Paula Rushing.

24 XVIII. SEPARATE TRIAL OF ISSUES

25 The court will bifurcate the trial with respect to plaintiffs’ punitive damages claim as
26 follows. The court will submit the question of defendants’ liability, including liability for
27 punitive damages, to the jury in the first phase of trial. If the jury makes the requisite finding that

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1 punitive damages are available, the trial will then proceed to a second phase on the question of
2 the amount of punitive damages to be awarded.

3 **XIX. IMPARTIAL EXPERTS/LIMITATION OF EXPERTS**

4 None.

5 **XX. ATTORNEYS' FEES**

6 Plaintiffs will seek attorneys' fees and costs if they prevail.

7 **XXI. TRIAL PROTECTIVE ORDER AND REDACTION OF TRIAL EXHIBITS**

8 None.

9 **XXII. MISCELLANEOUS**

10 None.

11 **XXIII. ESTIMATED TIME OF TRIAL/TRIAL DATE**

12 Jury trial is scheduled for **October 7, 2024**, at 9:00 a.m. in Courtroom 4 before the
13 Honorable Dale A. Drozd. Trial is anticipated to last approximately 8 court days. The parties are
14 directed to Judge Drozd's Standing Order in Civil Actions, available on his webpage on the
15 court's website.

16 Counsel are directed to contact Pete Buzo, courtroom deputy, at (916) 930-4016, no later
17 than one week prior to trial to ascertain the status of the trial date.

18 **XXIV. PROPOSED JURY VOIR DIRE AND PROPOSED JURY INSTRUCTIONS**

19 The parties shall file any proposed jury *voir dire* **7 days before trial**. Each party will be
20 limited to fifteen minutes of supplemental jury *voir dire*.

21 The court directs counsel to meet and confer in an attempt to generate a joint set of jury
22 instructions and verdicts. The parties shall file any such joint set of instructions **14 days before**
23 **trial**, identified as "Joint Jury Instructions and Verdicts." To the extent the parties are unable to
24 agree on all or some instructions and verdicts, their respective proposed instructions are due **14**
25 **days before trial**.

26 Counsel shall e-mail a copy of all proposed jury instructions and verdicts, whether agreed
27 or disputed, as a Word document to dadorders@caed.uscourts.gov no later than **14 days before**
28 **trial**; all blanks in form instructions should be completed and all brackets removed.

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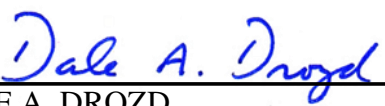
Objections to proposed jury instructions must be filed **7 days before trial**; each objection shall identify the challenged instruction and shall provide a concise explanation of the basis for the objection along with citation of authority. When applicable, the objecting party shall submit an alternative proposed instruction on the issue or identify which of his or her own proposed instructions covers the subject.

XXV. TRIAL BRIEFS

As noted above, trial briefs are due **7 days before trial**.

IT IS SO ORDERED.

Dated: August 27, 2024



DALE A. DROZD
UNITED STATES DISTRICT JUDGE

ATTACHMENT A

Plaintiffs' Witness List

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1. Edgar Sanchez
2. Scott Ruppel
3. Cedric Schwyzer
4. Alex Fliehr
5. Jeremy Gagnebin
6. Ian Dickerson
7. Billy Aldridge
8. Marcelo Escobedo
9. Ryon Mitchell
10. Scott Rushing
11. Paula Rushing
12. Matthew York
13. David M. Posey, M.D.
14. Thomas K. Resk, M.D.
15. Roger A. Clark
16. Jaron D. Ross, M.D.
17. Joyce Weckl
18. John D. Barta, M.D.
19. Bill L. Posey
20. County of Butte Custodian of Records
21. City of Chico Custodian of Records

ATTACHMENT B

Defendants' Witness List

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1. Edgar Sanchez
2. Scott Ruppel
3. Cedric Schwyzer
4. Alex Fliehr
5. Jeremy Gagnebin
6. Ian Dickerson
7. Marcelo Escobedo
8. Ryon Mitchell
9. Roy Partch
10. Scott Rushing
11. Paula Rushing
12. Clarence Robert Chapman
13. David Barnes, M.D.
14. Parris Ward, J.D.
15. Mark Kroll, PhD
16. Thomas K. Resk, M.D.
17. David M. Posey, M.D.
18. Bill L. Posey
19. Mark H. Schwab
20. John M. Whitman, M.D.
21. David Walter McKinney, M.D.
22. Craighton Chin, M.D.
23. Lt. Jason Barkley
24. Brandy C. Spas

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ATTACHMENT C

Joint Exhibit List

Exh.	Description
1	Body-Worn Camera Recordings
2	Autopsy Reports of Tyler Rushing, including report prepared by Dr. Thomas Resk and Dr. David M. Posey

1 **ATTACHMENT D**

2 Plaintiffs' Exhibit List

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Exh.	Description
4 1	Incident Photos
5 2	Training Records of Scott Ruppel, Cedric Schwyzer, Alex Fliehr, and Jeremy Gagnebin
6 3	Chico Police Department Policy Manual
7 4	California Peace Officer Standards and Training ("POST") Learning Domains
8 5	Documents Compelled for Production in <i>Rushing v. City of Chico</i> , No. 23-cv-02395 (Cal. Super. Ct., Butte County), including the Chico Police Department PowerPoint based on the Rushing Officer-Involved Shooting
9 6	Family Photos
10 7	Butte County District Attorney's Office – Officer-Involved Shooting Investigation (Butte County District Attorney's Office No. 1700279 / Chico Police Department No. 17005125), including reports [COB 000001–COB 003595, COB 003761–COB 003774, COB 003776, COB 003778, COB 003780, COB 003782, COB 003783–COB 003819], video recordings [COB 003596–COB 003617, COB 003619–COB 003638, COB 003749–COB 003760, COB 003775, COB 003777, COB 003779, COB 003781], and audio recordings [COB 003618, COB 003639–COB 003748].
11 8	Plaintiffs' documents, including financial documents, tax returns, correspondence, medical records, text messages, emails, photos, and recordings [ETSR 1–ETSR 301, SKR 1–SKR 18, PLR 1–PLR 112]
12 9	Expert Report of Roger A. Clark, including associated materials (08/09/2019)
13 10	Expert Report of Jaron D. Ross, M.D., including associated materials (08/02/2019)

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1 **ATTACHMENT E**

2 Defendants' Exhibit List

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Exh.	Description
4 A	Butte County District Attorney's Office – Officer-Involved Shooting 5 Investigation, including all attachments (BCDA No. 1700279/Chico PD No. 17005125)
6 B	7 Real time recordings taken from body camera worn by Defendant Cedric Schwyzer in multiple view format
8 C	9 Real time recordings taken from body camera worn by Defendant Alex Fliehr in multiple view format
10 D	11 Real time recordings taken from body camera worn by Defendant Jeremy Gagnebin in multiple view format
12 E	13 Real time recordings taken from body camera worn by Ryon Mitchell in multiple view format
14 F	Real time recordings taken from body camera worn by Roy Partch
15 G	Still images taken from body camera recording of Defendant Cedric Schwyzer
16 H	Still images taken from body camera recording of Defendant Jeremy Gagnebin
17 I	Still images taken from body camera recording of Roy Partch
18 J	19 Chico Police Department Administrative Investigation Report (PCN:17-14 / CPD 17-5125), including all attachments
20 K	Expert Report of Clarence Robert Chapman, including all attachments
21 L	Expert Report of David Barnes, including all attachments
22 M	Expert Report of Parris Ward, including all attachments
23 N	Expert Report of Mark Kroll, including all attachments
24 O	25 Butte County District Attorney Letter of September 28, 2017

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