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UNITED STATES DISTRICT COURT
Northern District of California

DELORES STRINGER, *et al.*,

Plaintiffs,

v.

CITY OF SAN PABLO, *et al.*,

Defendants.

No. C 07-03544 MEJ

**ORDER RE PLAINTIFFS' MOTION
TO MODIFY SCHEDULING ORDER
TO REOPEN DISCOVERY [DKT. #56]**

Pending before the Court is Plaintiffs' Motion to Modify Scheduling Order to Reopen Discovery (Dkt. #56). Defendants have filed an Opposition (Dkt. #60), to which Plaintiffs filed a Reply (Dkt. #62). On December 17, 2009, the Court held a hearing on the matter.

In their Motion, Plaintiffs request that the Court reopen discovery to allow them to investigate a shooting incident concerning Officer Perino that occurred on November 14, 2009. Plaintiffs seek to depose the officers involved and any percipient witnesses, and argue that they are entitled to completed portions of the Internal Affairs investigation on the matter. They advance that the information would lead to evidence relevant to the credibility of Defendant Officer Perino's perceptions and his state of mind in similar incidents, and evidence relevant to Plaintiffs' *Monell* claims.


Defendants oppose the Motion on several grounds. They contend that the incident has no relevance to the facts at issue in this matter. Further, they contend that in order to rule on the relevance and admissibility of any facts Plaintiffs could gain through discovery of the November 14 incident, the Court would have to continue the trial to allow Internal Affairs to complete its investigation. Additionally, Defendants argue that to allow Plaintiffs to depose Officer Perino and the other officer involved in the November 14 incident would have a prejudicial effect on ongoing

1 disciplinary investigation and the criminal investigation of the other three suspects involved in the
2 November 14 incident.

3 The Court has carefully considered the parties' arguments and finds that Plaintiffs have
4 failed to meet their burden of showing that facts relating to the November 14 incident are relevant or
5 would lead to relevant evidence for purposes of the instant case. Further, Defendants have
6 adequately demonstrated that allowing Plaintiffs to take discovery on the November 14 incident
7 would substantially prejudice Defendants, delay the trial of this matter, and potentially jeopardize
8 the investigation of the November 14 incident. Accordingly, the Court **DENIES** Plaintiffs' Motion.

9 **IT IS SO ORDERED.**

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11 Dated: December 28, 2009



12 Maria-Elena James
13 Chief United States Magistrate Judge
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