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Defendants’ Motion in Limine No. 3 is DISMISSED by consent of the parties.

Defendants’ Motion in Limine No. 4, seeking to exclude the resumes and written reports of all the retained experts in this action, is GRANTED. Federal Rules of Evidence 702 and 703 permit experts to testify to their opinions and to rely on inadmissible hearsay in forming the bases of those opinions, but they do not permit the introduction into evidence of documents containing expert opinions when offered for the truth of the matters addressed in those documents. The resumes and written reports do not appear to fall under any exception to the hearsay rule. Since the experts will testify at trial to their qualifications and to the matters addressed in their reports, it is not necessary to admit their resumes and written reports, which lack any independent guarantee of trustworthiness.

Defendants’ Motion in Limine No. 5, seeking to bar testimony by Plaintiffs’ expert, Roger Clark, is GRANTED IN PART and DENIED IN PART. In their opposition, Plaintiffs indicated that the parties had agreed that Clark would be deposed during the week of September 3, 2012; Defendants’ request to exclude Clark’s testimony because Plaintiffs failed to produce him for deposition therefore appears to be moot. Defendants otherwise fail to argue with sufficient specificity why the Court should bar the entirety of Clark’s proposed testimony. The motion therefore is DENIED insofar as Defendants seek to exclude Clark’s testimony in its entirety.

Defendants’ request to bar Clark’s testimony about the reasonableness of the officers’ conduct and about whether they acted recklessly or dangerously is GRANTED IN PART and DENIED IN PART. In a civil case, “[a]n opinion is not objectionable just because it embraces an ultimate issue.” Fed. R. Evid. 704(a). However, legal conclusions, such as whether or not the officers’ use of force was reasonable for Fourth Amendment purposes, are not appropriate topics of expert testimony. *See Aguilar v. Int’l Longshoremen’s Union*, 966 F.2d 443, 447 (9th Cir. 1992). The Court may revisit whether Clark’s testimony meets the requirements of Rule 702 based on the testimony presented at trial.

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2 Defendants' request to bar Clark from testifying about conduct by the Sunnyvale
3 Department of Public Safety is GRANTED as unopposed. This ruling does not preclude
4 Clark from testifying about police practices and protocols, including those of the Sunnyvale
5 Department of Public Safety, or from giving his opinion as to whether or not Defendants'
6 conduct conformed to those practices and protocols.

7 Finally, Defendants' request to exclude testimony by Clark about what Cañas may
8 have seen or thought is GRANTED. Any such testimony would be speculative and would be
9 an improper subject of testimony by Clark, whose expertise does not qualify him to draw
10 inferences with regard to what Cañas may have seen or thought beyond those inferences
11 which a jury would be competent to draw. Fed. R. Evid. 702(a).

12 Defendants' Motions in Limine No. 6 and No. 7, asking the Court to preclude
13 testimony about the colors the officers wore and the cars they drove, respectively, are
14 DENIED without prejudice. The relevance of such evidence to the negligence and Fourth
15 Amendment claims is not "substantially outweighed by the danger of unfair prejudice,
16 confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of
17 time, or needless presentation of cumulative evidence." Fed. R. Evid. 403. Depending on
18 the evidence Plaintiffs actually seek to present at trial, the Court may revisit this ruling.

19 Defendants' Motion in Limine No. 8 is GRANTED as unopposed. Witnesses may not
20 testify about what Cañas believed or perceived during the events leading up to his death.

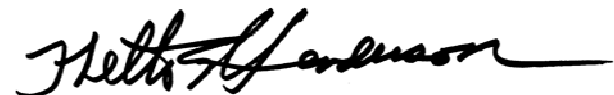
21 Defendants' Motion in Limine No. 9, requesting that the Court bar testimony and
22 arguments about what officers could or should have done in hindsight is DENIED insofar as
23 Defendants seek to exclude testimony on police practices and the standard of care, and
24 whether the officers' actions violated those policies or failed to adhere to that standard of
25 care.
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Defendants' Motion in Limine No. 10 is DISMISSED as moot. In their opposition, Plaintiffs assert that they agreed to produce their experts for deposition the week of September 3, 2012.

IT IS SO ORDERED.

Dated:



THELTON E. HENDERSON, JUDGE
UNITED STATES DISTRICT COURT