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 WILLIAM BLAKE HATCHER and S. SPIRES

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

10 FREDERICK JACKSON; A. JACKSON, a)
 11 minor; B. JACKSON, a minor; SHAWNA)
 12 YVETTE MARTIN,)

13 Plaintiffs,)

14 v.)

15 CITY OF PITTSBURG; AARON L.)
 16 BAKER; individually and in his)
 17 Official Capacity as CHIEF OF POLICE OF)
 THE CITY OF PITTSBURG POLICE)
 18 DEPARTMENT; G. LOMBARDI,)
 19 individually and as an Officer of the CITY)
 OF PITTSBURG POLICE DEPARTMENT)
 20 (BADGE #275); C. SMITH, individually)
 and as an Officer of the CITY OF)
 21 PITTSBURG POLICE DEPARTMENT)
 (BADGE #285); P. DUMPA, individually)
 22 and as an Officer of the CITY OF)
 PITTSBURG POLICE DEPARTMENT)
 (BADGE #291); WILLIAM BLAKE)
 23 HATCHER, individually and as an Officer)
 of the CITY OF PITTSBURG POLICE)
 24 DEPARTMENT (BADGE #274) SARA)
 SPIRES,)
 25 individually and as an Officer of the CITY)
 OF PITTSBURG POLICE DEPARTMENT;)
 26 and DOES 1-100, inclusive,)

27 Defendants.)
 28

CASE NO.: C09-01016 WHA

**ORDER RE: PLAINTIFFS' AND
 DEFENDANTS' MOTIONS IN
 LIMINE**

Trial Date: 7/12/10

1 At the Pre-Trial Conference on July 7, 2010, the Court made the following
2 orders in connection with plaintiffs' and defendants' respective Motions in Limine.

3 **I. PLAINTIFFS' MOTIONS IN LIMINE**

4 **A. Plaintiffs' Motion in Limine #1 to Exclude Evidence of Plaintiff**
5 **Frederick Jackson's Prior Convictions**

6 The following convictions will be admitted for impeachment purposes:

- 7 1. 1997 burglary (second degree);
- 8 2. 1997 forgery;
- 9 3. 1997 receipt of stolen property;
- 10 4. 1997 burglary (second degree); and
- 11 5. 1997 possession of a completed check or money order with intent to
12 defraud.

13 The parties are only to refer to the title of these felonies. Plaintiff is entitled to
14 introduce evidence as to the age of these felonies. If plaintiff opens the door to the
15 underlying facts of his felony convictions, the Court may allow defendants to elicit
16 further testimony regarding those underlying facts.

17 Evidence of plaintiff's 1990 forgery is excluded at this time.

18 The felony convictions for infliction corporal injury to a spouse or cohabitant
19 and possession of marijuana for sale are not allowed because they do not go to
20 plaintiff's veracity. Defendants may impeach plaintiff as to the number of his felony
21 convictions so long as they do not telegraph the particulars of the excluded offenses to
22 the jury.

23 **B. Plaintiffs' Motion in Limine #2 to Exclude Plaintiff Frederick**
24 **Jackson's Prior Arrests**

25 This Motion in Limine was granted.

26 **C. Plaintiffs' Motion in Limine #3 to Exclude Evidence of the Presence**
27 **of Cocaine, Alcohol or Any Other Drug**

28 This Motion in Limine was denied.

1 **D. Plaintiffs' Motion in Limine #4 to Limit The Scope of The Evidence**
2 **Regarding The Events in Question and Plaintiff's Emotional State**
3 **After Sustaining His Injuries**

4 This Motion in Limine was denied.

5 **E. Plaintiffs' Motion in Limine #5 to Order All Named Defendants and**
6 **Their Deposed Employees to Appear at Trial**

7 This Motion in Limine is moot.

8 **II. DEFENDANTS' MOTIONS IN LIMINE**

9 **A. Defendants' Motion in Limine #1 to Exclude Evidence of Defendants'**
10 **Use of Their Tasers on Any Other Date Than The Date of The**
11 **Incident.**

12 This Motion in Limine was granted with the possible exception of Pamela
13 Jackson. Plaintiffs' opposition improperly attempted to shift the burden of proof to
14 defendants as to the propriety of these other tasers on any other date.

15 **B. Defendants' Motion in Limine #2 to Exclude Any and All References**
16 **to The Fact That The District Attorney Did Not Prosecute Frederick**
17 **Jackson**

18 This Motion in Limine was granted with the possible exception that such
19 references may be allowed if the defense creates a misimpression with the jury that
20 could only be remedied by allowing evidence that the District Attorney did not
21 prosecute plaintiff Frederick Jackson. No such references should be made in front of
22 the jury pending further order by the Court.

23 **C. Defendants' Motion in Limine #3 to Exclude Any and All References**
24 **That Defense Counsel Instructed an Officer How to Testify**

25 This Motion in Limine was denied. The Court held that there is no expectation
26 of privacy in connection with the alleged conversation between counsel and the
27 clients.

28 **D. Defendants' Motion in Limine #4 to Exclude Any and All References**
 to Other Citizen Complaint

 This Motion in Limine was withdrawn.

1 **E. Defendants' Motion in Limine #5 to Exclude Any and All References**
2 **to Insurance Coverage**

3 This Motion in Limine was uncontested and is therefore granted.

4 **F. Defendants' Motion in Limine #6 to Exclude Any and All References**
5 **That The City of Pittsburg May Indemnify The Individual**
6 **Defendants**

7 This Motion in Limine was uncontested and is therefore granted.

8 **G. Defendants' Motion in Limine #7 to Exclude Plaintiffs' Anticipated**
9 **Golden Rule Argument**

10 This Motion in Limine was uncontested and is therefore granted.

11
12 **H. Defendants' Motion in Limine #8 to Prohibit Plaintiffs From Calling**
13 **Witnesses Not Property Disclosed**

14 Michelle and Sean Martin are excluded as witnesses in plaintiffs' case-in-chief.
15 They may possibly be allowed as rebuttal witnesses on behalf of plaintiffs pending
16 further ruling by the Court. Until such further ruling is made, no reference to them in
17 front of the jury is allowed.

18 Plaintiffs withdrew and will not call Randall Martin.

19 Christopher "Pinkie" Olson, Salvador Cornejo and Nicole Camacho are
20 precluded from testifying. Plaintiffs did not demonstrate substantial justification for
21 their late disclosure.

22 The court did not yet make a final ruling regarding Pamela Jackson.

23 Regarding Hilario Santayo Martinez, Danielle Pierce, Javier Ortiz, Francisco
24 Mendez and Deflina Martinez, the court overruled the Motion in Limine on Rule 26
25 grounds. However, in terms of relevancy, defendants are to attempt to subpoena these
26 individuals for depositions no later than Saturday, July 10, 2010. The depositions
27 shall last no more than one hour each.

28 Plaintiffs withdrew Curtitean Richone.

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I. **Defendants' Motion in Limine #9 to Exclude Evidence of Alleged Hearsay Statements by the Paramedics to Frederick Jackson**

This Motion in Limine was withdrawn.

J. **Defendants' Motion in Limine #10 to Limit the Testimony of Plaintiffs' Expert Roger Clark**

The court opined that Mr. Clark's report was inadequate and expressed improper opinions. The parties have until July 9, 2010 at 12:00 p.m. for experts to provide supplemental reports specifying the exact standards upon which they rely.

K. **Defendants' Motion in Limine #11 to Exclude References to Defendants' Post-Incident Conduct**

This Motion in Limine was denied.

L. **Defendants' Motion in Limine #12 to Exclude Any and All References to Defendants Being Motivated by Racial Animus**

This Motion in Limine was uncontested and is therefore granted.

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MEHERSLE VOIR DIRE

The Court will endeavor to voir dire the prospective jurors about the Mehersle verdict.

DATED: July 9, 2010 EDRINGTON, SCHIRMER & MURPHY LLP

By: _____ /s/
Peter P. Edrington, Esq.
Attorney for Defendants

DATED: July 9, 2010 LAW OFFICES OF PANOS LAGOS

By: _____ /s/
Panos Lagos, Esq.
Attorney for Plaintiffs

IT IS SO ORDERED

Dated: July 12, 2010.

Honorable William H. Alsup
United States District Judge

