



DENNIS J. HERRERA
City Attorney

MEREDITH B. OSBORN
Deputy City Attorney

DIRECT DIAL: (415) 554-3911
E-MAIL: meredith.osborn@sfgov.org

August 5, 2009

The Honorable Maria-Elena James
Courtroom B, 15th Floor
450 Golden Gate Ave.
San Francisco, CA 94102

Re: *Booher & Booher v. City and County of San Francisco et al.*
USDC No. C 09-01045 MHP

Dear Judge James:

I write to request that the following defendants be excused from attending the settlement conference scheduled in the above-captioned case for September 2, 2009 at 10:00 a.m.: Officers Frost, Casteneda, and Reyes.

There is good cause to excuse these individually-named defendants from attendance because any contribution they could make by way of factual input would be minimal and they can contribute nothing in terms of settlement authority. Plaintiffs' complaint alleges causes of action for false arrest, excessive force and related state law claims. Officer Schwab and Officer Chambers have already been identified as the arresting officers. Officer Casteneda arrested another individual at the scene of the incident who is not a party to this lawsuit. Officer Casteneda was not involved in the arrest of plaintiff Noah Booher at all. Officers Frost and Reyes' participation in the plaintiff Noah Booher's arrest was limited to assisting Officer Schwab after Officer Schwab had already initiated the arrest. Officers Casteneda, Frost and Reyes' involvement in the incident is described in the police report that has already been disclosed to plaintiffs in defendants' initial disclosures.

Judge Patel's initial case management order reflected the fact that Officer Schwab and Officer Chambers are the primary officer defendants in this case. Judge Patel limited discovery prior to this settlement conference to allow plaintiffs to take only these officers' depositions.

Given that the other officers will not be able to make factual contributions at the settlement conference beyond that which is contained in the police report, their attendance is unnecessary. Lt. Daniel Mahoney, a representative from the San Francisco Police Department with full authority to recommend a settlement will attend the settlement conference.

In sum, Officers Frost, Casteneda, and Reyes would have little to nothing to contribute to the settlement discussions, by way of factual input or settlement authority. Defendants therefore respectfully request that the Court not compel these defendants to attend a settlement conference in a case in which they have only a peripheral interest.

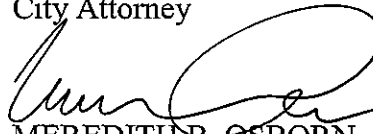
Counsel for plaintiffs has stated he does not oppose these officers' recusal from attendance.

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Thank you for your attention to this matter.

Very truly yours,

DENNIS J. HERRERA
City Attorney



MEREDITH B. OSBORN
Deputy City Attorney

cc: Joseph Boyle
Hersh & Hersh
601 Van Ness Ave., Ste. 2080
San Francisco, CA 94102

DATED: August 6, 2009



Chief United States Magistrate Judge