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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NOVENDER FLEMING,)	
)	
Plaintiff(s),)	No. C09-1613 BZ
)	
v.)	
)	PRETRIAL ORDER
NADIA CLARK, et al.,)	
)	
Defendant(s).)	
_____)	
VICTOR JONES,)	No. C09-4757 BZ
)	
Plaintiff(s),)	
)	
v.)	
)	
NADIA CLARK, et al.,)	
)	
Defendant(s).)	
_____)	

The pretrial conference in this case was held on October 26, 2010. Plaintiffs Novender Fleming and Victor Jones were represented at the conference by Wayne Johnson, Esq. and Darryl Parker, Esq. Defendant Officers and City of Oakland were represented by Geoffrey A. Beaty, Esq. and Yvette Davis, Esq.

1 This Order shall control the subsequent conduct of the
2 case and be modified only to prevent manifest injustice. See
3 Fed. R. Civ. P. 16(e).

4 **1. LENGTH AND TIME OF TRIAL**

5 Trial shall begin on **Wednesday, November 10, 2010, at**
6 **8:30 a.m.** in Courtroom G, 15th Floor, Federal Building, 450
7 Golden Gate Avenue, San Francisco, California 94102. The
8 trial schedule is as follows: 8:30 a.m. - 1:30 p.m.

9 Plaintiff shall be prepared to call witnesses **Friday,**
10 **November 12, 2010.** Each side shall schedule witnesses to
11 avoid any interruption in the presentation of testimony.
12 Plaintiff will have **9 hours** to present evidence. Defendant
13 shall have **7 hours.**

14 **2. VOIR DIRE**

15 Any objections to the proposed voir dire questions
16 distributed at the conference, or requests for additional
17 questions, should be filed by **Wednesday, November 3, 2010.**

18 **3. MOTIONS**

19 Plaintiff's Motion in Limine no. 1 is **DENIED** to the
20 extent that defendants will be permitted to testify, if they
21 choose, that they believed that there was drug trafficking on
22 the premises. The concerns plaintiffs have raised are
23 properly addressed through cross-examination.

24 Motions nos. 2, 3 and 4 are **GRANTED** as unopposed.

25 Motion no. 5 is **GRANTED.** The defendants are free to
26 testify to the matters reflected in defendants' opposition,
27 such as what Officer Clark and Officer Barocio discussed. The
28 police report and affidavit themselves are hearsay, unless

1 they are offered for purposes other than proving the truth of
2 the matter asserted. That said, plaintiffs have listed police
3 reports as exhibits. If they elect to introduce the police
4 reports, or if other trial circumstances require, the Court
5 may reconsider this ruling.

6 Officer Clark will not be permitted to offer expert
7 opinions unless she has been designated as an expert and is
8 qualified as an expert. She will be permitted to testify to
9 her training and experience, to the extent relevant, and can
10 be cross-examined on those subjects.

11 **4. EXHIBITS AND EVIDENCE**

12 Exhibits shall not be a part of the record or go to the
13 jury unless sponsored by a witness or otherwise brought to the
14 jury's attention. The parties must lodge the entire
15 transcript of all depositions they anticipate using at trial
16 by the start of trial. The parties are to meet and confer in
17 an effort to agree on exhibits consistent with the rulings I
18 provided during the pretrial conference. The parties are to
19 submit joint and, if necessary, separate lists of exhibits by
20 **Wednesday, November 3, 2010.**

21 **5. JURY INSTRUCTIONS**

22 Rulings on the instructions were made on the record at
23 the pretrial conference on **October 26, 2010.** The Court has
24 distributed a proposed set of final instructions. Any
25 objections to the proposed instructions shall be filed by
26 **Wednesday, November 3, 2010.**

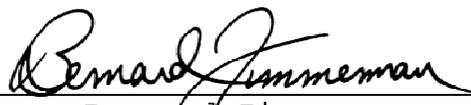
27 **6. MISCELLANEOUS**

28 Any party who desires a transcript of the trial must

1 make arrangements with the court reporter. Any party who
2 needs an interpreter or audio or visual equipment shall make
3 its own arrangements for same and clear all such equipment
4 with court security personnel.

5 The parties are instructed to notify the Court
6 immediately if this action should settle before the
7 commencement of trial.

8 Dated: October 27, 2010

9 
10 _____
11 Bernard Zimmerman
12 United States Magistrate Judge

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