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12 UNITED STATES DISTRICT COURT  
 13 NORTHERN DISTRICT OF CALIFORNIA

14 YGNACIO FLORES

Case No.: C 10 02396 (MEJ)

15 Plaintiff,

JOINT CASE MANAGEMENT  
 CONFERENCE STATEMENT

16 -vs-

17 CITY OF HAYWARD, and K. LANDRETH,

Date: March 17, 2011  
 Time: 1:30 p.m.  
 Courtroom: B

18 Defendants

19 \_\_\_\_\_  
 20 1. Jurisdiction.

21 **Plaintiff:**

22 Jurisdiction is based up ton Title 28 U.S.C. Sections 1331, 1343 and 1341 and as stated in  
 23 the complaint.

24 **Defendants:**

25 All named parties are purportedly subject to the Court’s jurisdiction pursuant to Title 28  
 26 of the United States Code Sections 1331 and 1343. Defendants CITY OF HAYWARD (“City”)  
 27 and K. LANDRETH (“Landreth”) filed a motion to dismiss all state claims. Pursuant to Court  
 28 Order all state claims plead against Defendants were dismissed with prejudice. Defendants

1 answered as to plaintiff's remaining federal claims.

2 2. Substance of Action.

3 **Plaintiff's Claim:**

4 On February 4, 2009, Plaintiff was being detained by two police officers for suspicion of  
5 earlier fleeing the police in a vehicle. He was unarmed and under their control. He was not  
6 engaged in assaultive behavior, not resisting arrest or interfering with the police officer's  
7 execution of duties. Defendant Officer K. Landreth then approached the scene with his police  
8 service dog, and released the dog who had been under his control resulting in severe and  
9 permanent injuries to Plaintiff.

10 **Defendants' Claim:**

11 On February 4, 2009, at approximately 3:40 a.m., Alameda County Sheriff's Office  
12 ("ACSO") attempted to stop a vehicle driven by Plaintiff Ygnacio Flores ("Flores") with three  
13 passengers to determine their involvement in numerous automobile thefts. Rather than stop,  
14 Flores' vehicle lead ACSO on a high speed pursuit at speeds of approximately 95 miles per hour  
15 on Highway 880 and city streets which terminated when the vehicle crashed in front of 215  
16 Parrot Street in San Leandro. Four persons fled from the vehicle on foot including Flores. ACSO  
17 set up a perimeter in the area of Washington Boulevard and Parrot Street. Hayward Police  
18 Department ("HPD") Officer Landreth responded to the area with his police service dog ("PSD")  
19 to assist with the search. Landreth and his PSD searched several residential yards. Landreth  
20 announced several times, "Hayward Police with a K9! Surrender to an officer now or the dog  
21 will find you and bite you!". Flores failed to reply and did not surrender. Due to darkness,  
22 obstructions to his field of vision, and in the interests of officer safety, Landreth commanded the  
23 PSD to search for Flores. The PSD made contact with Flores. Flores was taken into custody by  
24 ACSO.

25 3. Identification of Issues

26 **Plaintiff:**

27 The main issues involve whether the Defendants actions constituted unreasonable and excessive  
28 use of force; whether Defendants actions subject them to punitive damages, whether Plaintiff's

1 damages were cause by defendant's actions and whether Defendant City is liable.

2 **Defendants:** The principal issues in dispute are the following: whether the force used by the  
3 Defendant police officer was reasonable; whether Defendant police officer is entitled to qualified  
4 immunity; whether Plaintiff's damages were caused by Defendant's action; whether the City is  
5 liable for Defendant police officer's conduct; whether Plaintiff is entitled to an award of punitive  
6 damages.

7 4. Narrowing of Issues.

8 **Plaintiff:**

9 Same as #3.

10 **Defendants:** That the force used by the Defendant police officer, if any, was reasonable; that  
11 Defendant police officer is entitled to qualified immunity; that Plaintiff's damages were caused  
12 by Defendant's action; that the City is liable for Defendant police officer's conduct; that Plaintiff  
13 is entitled to an award of punitive damages.

14 5. Motions

15 **Plaintiff:** Motion to Restore Stated Causes of Action

16 **Defendants:** Absent agreement, dispositive motion re above.

17 6. Relief. Plaintiff prays for the following damages according to proof: compensatory  
18 damages, punitive damages; attorneys fees and costs.

19 7. Evidence Preservation/Disclosures/Discovery.

20 The parties anticipate that initial disclosures shall be made on or before the initial case  
21 management conference. The parties anticipate conducting discovery as per the protocol defined  
22 in the FRCP including taking the depositions of all parties, and third party witnesses. In the event  
23 that the number of witnesses to be deposed exceeds the maximum under the FRCP, the parties  
24 shall seek relief from the Court. The parties also anticipate serving written discovery including  
25 but not limited to interrogatories, request for production of documents, request for admissions,  
26 and subpoena duces tecum prior to the non-expert discovery cut-off date.

27 8. ADR. On December 8, 2010, the parties completed three hours of mediation. The parties  
28 were set to continue the mediation process on February 16, 2011, however due to outstanding

