

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LARONTE STUDESVILLE,  
  
Plaintiff,  
  
v.  
  
ALAN LEAL,  
  
Defendant.

No. 09-cv-03004 CW  
  
ORDER REGARDING  
MOTIONS IN LIMINE  
AND PRETRIAL  
PREPARATION

\_\_\_\_\_ /

As discussed at the pre-trial conference, the Court issues the following orders, and rules on the parties' motions in limine:

**Plaintiff's Motions in Limine**

1. Motion to exclude evidence and/or reference to Plaintiff's alleged criminal history and arrest subsequent to the date of the incident. **GRANTED IN PART AND DENIED IN PART.**

Plaintiff's arrest, conviction, probation violation and resulting incarceration are admissible because they provide evidence of other possible causes of his emotional distress. If Defendant seeks to introduce evidence about the details surrounding the arrest, conviction, probation violation and incarceration, Defendant must make an offer of proof.

2. Motion to exclude witnesses and evidence not disclosed or otherwise made known to Plaintiff. **GRANTED.**

Defendant does not oppose this motion.

3. Motion to exclude evidence and/or reference to the neighborhood where the incident occurred as "Stone City" or "Dope

United States District Court  
For the Northern District of California

1 Spot" or "High Drug/Crime Area." **GRANTED IN PART AND DENIED IN**  
2 **PART.**

3 References to the neighborhood as "Stone City," "Dope Spot" or  
4 by other colloquialisms are excluded. However, evidence and  
5 references to the neighborhood as an area with a high incidence of  
6 crime and drug use are permitted.

7 4. Motion to bar Defendant from impeaching Plaintiff with  
8 evidence of character or prior conduct by Plaintiff. **DENIED**  
9 **WITHOUT PREJUDICE.**

10 Plaintiff's motion failed to identify character evidence or  
11 evidence of prior conduct that Defendant seeks to introduce. If  
12 Defendant intends to use such evidence, he may make an offer of  
13 proof. At that time the Court will consider the admissibility of  
14 the evidence.

15 5. Motion to exclude or limit testimony from Defendant's retained  
16 psychiatrist. **DENIED.**

17 Defendant's expert witness, Dr. Rappaport, may testify to the  
18 topics that Plaintiff's expert, Dr. Barchuk, addresses in his  
19 testimony. To the extent Dr. Barchuk testifies as to Plaintiff's  
20 emotional distress, Dr. Rappaport may provide testimony about  
21 other possible causes of Plaintiff's distress.

22 6. Motion to exclude evidence of and reference to Officer John  
23 Hege's death in the line of duty. **GRANTED.**

24 Defendant does not oppose this motion.

25 7. Motion to exclude reference to March 22, 2009 Lovell Mixon  
26 incident. **GRANTED.**

27 Defendant does not oppose this motion.

28 **Defendant's Motions in Limine**

1 1. Motion to exclude evidence and/or reference to Defendant's and  
2 other Oakland Police Officers' complaint and internal affairs  
3 history. **DENIED WITHOUT PREJUDICE.**

4 Defendant's motion failed to identify specific evidence of  
5 complaints or prior conduct that Plaintiff seeks to introduce. If  
6 Plaintiff intends to use such evidence, he may make an offer of  
7 proof. At that time the Court will consider the admissibility of  
8 the evidence. If the complaints or incidents of misconduct go to  
9 an officer's dishonesty or an unnecessary shooting, and there is  
10 some indicia of accuracy, then they may be admissible.

11 2. Motion to exclude evidence and reference to the permanent use  
12 and implantation of a spinal cord stimulator. **DENIED WITHOUT  
13 PREJUDICE.**

14 Evidence and references to a permanent spinal cord stimulator  
15 will only be permitted if Plaintiff establishes that it is  
16 probable that Plaintiff will need the permanent stimulator.

17 3. Motion to exclude refers to "Riders" litigation. **GRANTED.**

18 Plaintiff has not opposed this motion.

19 **Further Pretrial Preparation**

20 1. By January 27, 2011, Plaintiff shall file with the Court a  
21 statement indicating which state claims he intends to pursue at  
22 trial.

23 2. By January 31, 2011, the parties shall file new joint jury  
24 instructions based on the prior draft jury instructions the Court  
25 provided. The parties' submission shall include instructions  
26 related to the state claims Plaintiff intends to pursue.  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

3. Also by January 31, 2011, the parties shall file a new joint verdict form in accordance with the claims that will be tried.

4. On February 3, 2011, the parties shall contact the Courtroom Deputy, Ms. Nikki Riley, to learn whether the trial will begin on February 7, 2011 or will be continued.

5. The parties are ordered to recommence their settlement discussions, with the help of Magistrate Judge Larson to the extent he is available.

IT IS SO ORDERED.

Dated: 1/27/2011

  
\_\_\_\_\_  
CLAUDIA WILKEN  
United States District Judge