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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

JOSEPH CIAMPI,	)	C-09-02655 LHK
	)	
PLAINTIFF,	)	SAN JOSE, CALIFORNIA
	)	
VS.	)	AUGUST 27, 2010
	)	
CITY OF PALO ALTO, A	)	PAGES 1-26
GOVERNMENT ENTITY; LYNNE	)	
JOHNSON, AN INDIVIDUAL;	)	
CHIEF DENNIS BURNS, AN	)	
INDIVIDUAL; OFFICER KELLY	)	
BURGER, AN INDIVIDUAL;	)	
OFFICER MANUEL TEMORES,	)	
AN INDIVIDUAL; OFFICER	)	
APRIL WAGNER, AN	)	
INDIVIDUAL; AGENT DAN	)	
RYAN; SERGEANT NATASHA	)	
POWERS, AN INDIVIDUAL,	)	
	)	
DEFENDANTS.	)	
	)	

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TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE LUCY H. KOH  
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S :

FOR THE PLAINTIFF: JOSEPH CIAMPI  
IN PROPRIA PERSONA  
P.O. BOX 1681  
PALO ALTO, CALIFORNIA 94302

APPEARANCES CONTINUED ON NEXT PAGE

OFFICIAL COURT REPORTER: LEE-ANNE SHORTRIDGE, CSR, CRR  
CERTIFICATE NUMBER 9595

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APPEARANCES (CONTINUED)

FOR THE DEFENDANT: FERGUSON, PRAET & SHERMAN  
BY: STEVEN A. SHERMAN  
1631 EAST 18TH STREET  
SANTA ANA, CALIFORNIA 92705

1 SAN JOSE, CALIFORNIA

AUGUST 27, 2010

2 P R O C E E D I N G S

3 (WHEREUPON, COURT CONVENEED AND THE  
4 FOLLOWING PROCEEDINGS WERE HELD:)

5 THE CLERK: CALLING FIRST CASE, NUMBER  
6 09-02655 LHK, CIAMPI VERSUS CITY OF PALO ALTO, ET  
7 AL.

8 PARTIES COME FORWARD, PLEASE, AND STATE  
9 YOUR APPEARANCE.

10 MR. CIAMPI: GOOD MORNING, YOUR HONOR.

11 MR. SHERMAN: GOOD MORNING, YOUR HONOR.  
12 STEVEN SHERMAN ON BEHALF OF ALL THE DEFENDANTS ON  
13 COURT CALL.

14 MR. CIAMPI: YOU WANT ME TO COME FORWARD  
15 TO THE PODIUM?

16 THE COURT: NO, THAT'S FINE. PLEASE TAKE  
17 A SEAT THERE AND YOU CAN USE THE MICROPHONE. GO  
18 AHEAD AND BE COMFORTABLE.

19 ARE YOU MR. CIAMPI?

20 MR. CIAMPI: YES.

21 THE COURT: OKAY. DID I PRONOUNCE THAT  
22 CORRECTLY?

23 MR. CIAMPI: CIAMPI.

24 THE COURT: CIAMPI. OKAY, THANK YOU.

25 ALL RIGHT. MR. CIAMPI, DO YOU INTEND TO

1 REPRESENT YOURSELF?

2 MR. CIAMPI: YES, FOR THE TIME BEING.

3 THE COURT: "FOR THE TIME BEING"? WHAT  
4 DOES THAT MEAN? UNTIL TRIAL OR --

5 MR. CIAMPI: WELL, I'M GOING TO PROCEED  
6 IN PRO SE UNTIL I FIND AN ATTORNEY. IF I DON'T  
7 FIND AN ATTORNEY, I'LL CONTINUE IN PRO SE.

8 THE COURT: OKAY. ALL RIGHT. SO I  
9 UNDERSTAND THAT YOU ARE -- YOU HAVE DISCOVERY  
10 RESPONSES THAT ARE DUE ON SEPTEMBER 3RD.

11 MR. CIAMPI: YES.

12 THE COURT: OKAY. LET ME ASK, WHAT  
13 DISCOVERY -- WHAT DISCOVERY DO BOTH SIDES NEED TO  
14 RESOLVE THIS CASE?

15 MR. SHERMAN: GOOD MORNING, YOUR HONOR.  
16 SHOULD I LET MR. CIAMPI SPEAK FIRST?

17 MR. CIAMPI: SURE.

18 I'M NOT CERTAIN WHAT THE DEFENDANTS AND  
19 THEIR COUNSEL, MR. SHERMAN, ARE GOING TO BE  
20 PROVIDING ON SEPTEMBER 3RD, BUT THE -- I GUESS THE  
21 MOST PERTINENT EVIDENCE THAT I'M SEEKING WOULD BE  
22 TO INSPECT AND DOWNLOAD TECHNICAL DATA DIRECTLY  
23 FROM THE ORIGINAL SOURCES IN THE POLICE DEPARTMENT,  
24 AND THIS WOULD INCLUDE THE TASER GUN DATA PORTS;  
25 THE DOWNLOADING OF THE TASER CAMERA DIRECTLY, WHICH

1 WOULD INCLUDE THREE TASER CAMERAS; THE INSPECTION  
2 OF THE ORIGINAL DVDS FROM THE MAV SYSTEM, MAV IS  
3 MOBILE AUDIO VISUAL SYSTEM FROM THE PATROL CARS;  
4 AND PRODUCTION OF A COPY OF THE VERIFICATION  
5 SOFTWARE WHICH ANALYZES AN ADDITIONAL WATER MARK ON  
6 THE MAV VIDEOS THEMSELVES TO DETERMINE IF THEY'VE  
7 BEEN TAMPERED WITH.

8 OBVIOUSLY THERE'S A LOT MORE EVIDENCE  
9 THAT I'M SEEKING, BUT THAT'S THE MOST PERTINENT.

10 THE COURT: OKAY. LET ME HEAR FROM  
11 MR. SHERMAN. WHAT DOES THE DEFENSE NEED OR WANT?

12 MR. SHERMAN: THANK YOU, YOUR HONOR.

13 AS YOUR HONOR CAN PROBABLY SURMISE FROM  
14 THE JOINT CASE MANAGEMENT CONFERENCE, I'VE BEEN  
15 TRYING TO COOPERATE WITH MR. CIAMPI TO THE EXTENT  
16 THAT I CAN.

17 HE HAS RECENTLY PROPOUNDED OVER 3500  
18 DISCOVERY RESPONSES. HE DID, IN FACT, PARE THEM  
19 DOWN, ALTHOUGH THEY ARE STILL SIGNIFICANT IN  
20 NATURE.

21 WITH REGARD TO WHAT HE JUST SAID, I AM  
22 WORKING ON GETTING HIM ANOTHER COPY BECAUSE WE  
23 HAVE, IN FACT, PROVIDED PREVIOUSLY OTHER COPIES.

24 SOME OF HIS DEMANDS ARE GOING TO BE  
25 DIFFICULT TO COMPLY WITH IN LIGHT OF THE FACT

1 THAT --

2 THE COURT: LET ME INTERRUPT YOU HERE.  
3 WHAT COPIES DID YOU PROVIDE? COPIES OF WHAT? THE  
4 VIDEO CAMERA TAPE OR AUDIO?

5 MR. SHERMAN: YES, WE -- ACTUALLY BOTH,  
6 YOUR HONOR. MR. CIAMPI WAS ACTUALLY REPRESENTED BY  
7 LEGAL COUNSEL, AND THEY --

8 THE REPORTER: I CAN'T HEAR HIM.

9 THE COURT: OKAY. WAIT, MR. SHERMAN --

10 MR. CIAMPI: I CAN'T HEAR HIM EITHER THAT  
11 WELL.

12 THE COURT: MR. SHERMAN?

13 MR. SHERMAN: YES, YOUR HONOR?

14 THE COURT: WE'RE HAVING DIFFICULTY  
15 HEARING YOU.

16 IS HE ON COURT CALL, MS. PARKER-BROWN?

17 THE CLERK: HE IS. I DON'T KNOW IF HE'S  
18 ON A SPEAKER PHONE.

19 YOU'RE KIND OF BREAKING UP, COUNSEL.

20 MR. SHERMAN: IS THIS ANY BETTER, YOUR  
21 HONOR? YOUR HONOR?

22 THE COURT: ARE YOU ON SPEAKER PHONE?

23 MR. SHERMAN: ACTUALLY, IS THIS ANY  
24 BETTER, YOUR HONOR? I'M ON A CELL PHONE IN THE  
25 HALLWAY OF A COURTHOUSE, YES.

1 THE REPORTER: THAT'S OKAY.

2 THE COURT: OKAY. IT'S A LITTLE BIT  
3 BETTER.

4 GO AHEAD. WHAT HAVE YOU PROVIDED?

5 MR. SHERMAN: THANK YOU, YOUR HONOR.

6 NOT -- WHAT I HAD INDICATED PREVIOUSLY,  
7 YOUR HONOR, WAS THAT MR. CIAMPI HAD PREVIOUSLY BEEN  
8 REPRESENTED BY LEGAL COUNSEL, WHO PROPOUNDED  
9 DISCOVERY TO WHICH WE COMPLIED WITH EVERYTHING  
10 BASICALLY.

11 IN THAT, WE PROVIDED THE COMPLETED  
12 DOWNLOADS, THE INFORMATION THAT HE'S BASICALLY ONCE  
13 AGAIN REQUESTING.

14 WHAT I INDICATED PREVIOUSLY, THE COURT  
15 MAY NOT HAVE HEARD, IS SOME OF THE ITEMS THAT  
16 MR. CIAMPI IS SEEKING ARE GOING TO BE DIFFICULT TO  
17 COMPLY WITH BECAUSE HE'S SEEKING PROPRIETARY  
18 SOFTWARE AND I CANNOT PRODUCE COPIES, COPYRIGHTED  
19 ITEMS THAT HE IS SEEKING. IT'S LIKE ASKING FOR A  
20 COPY OF MICROSOFT WINDOWS. I CAN'T PRODUCE IT.

21 THE COURT: WELL, LET ME ASK YOU, SO YOU  
22 HAVE ALREADY PRODUCED THE VIDEO OF THE TASING, OR  
23 NOT?

24 MR. CIAMPI: YES, WE HAVE, YOUR HONOR,  
25 SEVERAL TIMES. MR. CIAMPI IS NOT HAPPY WITH OUR

1 PRODUCTION, THOUGH.

2 MR. CIAMPI: MAY I RESPOND TO THAT, YOUR  
3 HONOR?

4 THE COURT: GO AHEAD.

5 MR. CIAMPI: THE MAV -- ONE OF THE MAV  
6 VIDEOS THAT THE DEFENDANTS HAVE PRODUCED DOES NOT  
7 HAVE THE DATE OF THE INCIDENT, WHICH IT SHOULD  
8 HAVE. IT HAS A LATER DATE, AND IT ACTUALLY HAS  
9 THREE LATER DATES.

10 SO IT'S NOT A COPY OF THE ORIGINAL VIDEO.  
11 IT'S A COPY OF AN EDITED VERSION OF THE VIDEO.

12 MR. SHERMAN: UM, YOUR HONOR --

13 THE COURT: OKAY. NOW, WHAT ABOUT THE --  
14 NOW, IS THIS THE VIDEO THAT'S ON THE PATROL CAR  
15 THAT YOU'RE ASKING FOR?

16 MR. CIAMPI: YES.

17 THE COURT: HAS THAT BEEN PRODUCED,  
18 MR. SHERMAN?

19 MR. SHERMAN: YES, YOUR HONOR.

20 THE COURT: AND YOU'RE NOT SATISFIED WITH  
21 THAT, MR. CIAMPI?

22 MR. CIAMPI: IT'S NOT THE ORIGINAL, NO.

23 IT'S -- IT'S -- THE ORIGINAL DATE WAS  
24 MARCH 15TH, 2008. THE VIDEO FILE, THE ELECTRONIC  
25 FILE DATE OF CREATION, DATE OF MODIFICATION, THE



1 EARLIEST ONE THAT WAS PROVIDED TO ME DURING MY  
2 CRIMINAL CASE WAS MARCH 18TH, THREE DAYS LATER.

3 THE -- SUBSEQUENTLY THE DEFENDANTS  
4 PRODUCED COPIES OF THE VIDEOS. THERE'S TWO  
5 DIFFERENT MAV VIDEOS, ONE FROM OFFICER TEMORES'S  
6 PATROL CAR, ONE FROM OFFICER BURGER'S PATROL CAR.

7 THEY HAVE PRODUCED A COPY OF BURGER'S MAV  
8 RECORDING. HE HAS NO VIDEO. HE DIDN'T CAPTURE THE  
9 INCIDENT. HE JUST HAS AUDIO.

10 THE COURT: OKAY. LET ME STOP YOU HERE.

11 WHAT HAPPENED BEFORE JUDGE BARRETT? WAS  
12 THERE A MOTION TO DISMISS? WAS THERE A PRELIMINARY  
13 HEARING? WHAT HAPPENED IN THAT CASE?

14 MR. CIAMPI: THERE WAS A PRELIMINARY  
15 EXAMINATION IN WHICH HE DISMISSED THE CHARGES  
16 AGAINST ME AS A RESULT OF A CONSTITUTIONAL RIGHTS  
17 VIOLATION OF AN UNLAWFUL DETAINMENT.

18 MR. SHERMAN: IF I MAY, YOUR HONOR?

19 THE COURT: GO AHEAD.

20 MR. SHERMAN: THE DEFENDANTS RESPECTFULLY  
21 DISAGREE WITH THAT ASSERTION.

22 WHAT ESSENTIALLY HAPPENED IS THE -- THE  
23 SUPERIOR COURT JUDGE, IN WHAT I BELIEVE WAS  
24 RELIANCE ON, IMPROPER RELIANCE ON TWO CASES,  
25 DISMISSED IT AS AN IMPROPER RUSE AND THAT'S HOW THE

1 CRIMINAL FILING GOT DISMISSED.

2 MR. CIAMPI: BUT THE RUSE WAS BASED  
3 UPON --

4 THE COURT: OKAY. I DON'T WANT TO  
5 RELITIGATE THAT CRIMINAL CASE. OKAY?

6 MR. SHERMAN: IF I MAY, YOUR HONOR, MAY I  
7 MAKE A SUGGESTION?

8 THE COURT: WHAT'S THAT?

9 MR. SHERMAN: I MADE THIS OFFER TO  
10 MR. CIAMPI'S PREVIOUS CRIMINAL ATTORNEY,  
11 MR. CIAMPI'S PREVIOUS ATTORNEYS.

12 THE ISSUE THAT I BELIEVE HE'S RAISING HAS  
13 TO DO WITH DUPLICATION DATES. EVERY TIME IT'S  
14 DUPLICATED, OF COURSE, IT COMES UP WITH A DIFFERENT  
15 DATE.

16 I BELIEVE IT WOULD POSSIBLY BE BEST IF I  
17 COULD ARRANGE A TIME, SOMETHING I'VE OFFERED TO DO  
18 WITH HIS ATTORNEYS, FOR THEM TO COME IN AND INSPECT  
19 THE ITEMS THEMSELVES, THE ORIGINAL ITEMS  
20 THEMSELVES.

21 MR. CIAMPI'S ATTORNEYS WERE IN THE  
22 PROCESS OF ARRANGING THAT WHEN MR. CIAMPI RELIEVED  
23 THEM AS COUNSEL.

24 IT IS ALSO POSSIBLE, YOUR HONOR, THAT IN  
25 LIGHT OF THE ISSUES THAT MR. CIAMPI BELIEVES EXIST,

1 THAT A DISCOVERY REFEREE OR SOMEONE THAT MAY ASSIST  
2 HIM WOULD BE BENEFICIAL IN THIS MATTER AS WELL,  
3 YOUR HONOR.

4 HE'S NOT NECESSARILY GOING TO BELIEVE ME.  
5 HE DIDN'T BELIEVE HIS PRIOR ATTORNEYS AS WELL.

6 THE COURT: WOULD YOU ALLOW MR. CIAMPI TO  
7 INSPECT THE ORIGINAL ITEMS?

8 MR. SHERMAN: ABSOLUTELY.

9 THE COURT: SO WHY DON'T WE DO THAT?

10 MR. CIAMPI: THAT'S FINE WITH ME, AS LONG  
11 AS WE GO ON RECORD WHAT WE MEAN BY "THE ORIGINAL  
12 ITEMS" AND WHAT IT MEANS BY "INSPECTING" THEM.

13 DOES THAT MEAN THAT I WILL BE ABLE TO  
14 DOWNLOAD THE DATA PORTS DIRECTLY?

15 MR. SHERMAN: WELL, LET'S -- THERE'S  
16 POTENTIAL PROBLEMS WITH THAT, YOUR HONOR, IN THAT I  
17 DON'T KNOW IF HE'LL BE ABLE TO DOWNLOAD WHAT HE  
18 WANTS TO DOWNLOAD WITHOUT SOFTWARE IN WHICH TO  
19 RECEIVE THE DOWNLOAD.

20 MR. CIAMPI: THE TASER GUNS HAVE BEEN  
21 SECURED BY POLICE CHIEF DENNIS BURNS FOR THE VERY  
22 PURPOSE OF THE CRIME LAB TO DOWNLOAD THE TASER  
23 CAMERA VIDEOS, AS WELL AS THE ACTIVATION DATA.

24 THE COURT: I'M SORRY. LET ME INTERRUPT  
25 YOU.

1                   THIS IS WHAT WE'RE GOING TO DO: I'M  
2 GOING TO ORDER -- WE'RE GOING TO DO THREE THINGS  
3 HERE. WE ARE GOING TO SET A CASE SCHEDULE AND  
4 WE'RE GOING TO SET A TRIAL DATE; I'M ALSO GOING TO  
5 ORDER THAT YOU DO ALTERNATIVE DISPUTE RESOLUTION;  
6 THIRD IS WE HAVE A BOOKLET CALLED CONSENTING TO A  
7 MAGISTRATE JUDGE'S JURISDICTION IN THE NORTHERN  
8 DISTRICT OF CALIFORNIA. I WANT BOTH PARTIES,  
9 MR. CIAMPI AND MR. SHERMAN TO TALK TO HIS CLIENT,  
10 THE CITY OF PALO ALTO, AND LOOK AT ALL THE  
11 BIOGRAPHIES. WE HAVE THE BEST MAGISTRATE JUDGES IN  
12 THIS COUNTRY.

13                   AND YOU'RE GOING TO LOOK THROUGH ALL THE  
14 BIOGRAPHIES AND SEE IF THERE'S ANYONE THAT YOU  
15 WOULD CONSENT TO, OKAY, SO THAT YOUR CASE WOULD  
16 PROCEED BEFORE A MAGISTRATE JUDGE.

17                   BY NEXT FRIDAY, SEPTEMBER THE 3RD, YOU  
18 ARE GOING TO FILE A DECLARATION WITH THE COURT THAT  
19 SAYS THAT "I HAVE REVIEWED ALL OF THE BIOGRAPHIES  
20 OF THE MAGISTRATE JUDGES IN THIS DISTRICT AND I"  
21 EITHER "CONSENT TO THE FOLLOWING" OR "I STILL  
22 DECLINE TO PROCEED BEFORE A MAGISTRATE JUDGE."

23                   DO YOU UNDERSTAND, MR. CIAMPI?

24                   MR. CIAMPI: YES.

25                   THE COURT: OKAY. MR. SHERMAN, DID YOU

1 UNDERSTAND THAT?

2 MR. SHERMAN: YES, YOUR HONOR.

3 THE COURT: ALL RIGHT. I WANT THAT FILED  
4 NEXT FRIDAY, SEPTEMBER 3RD.

5 NOW, NUMBER TWO, I'M ORDERING THAT YOU  
6 ALL PARTICIPATE IN MEDIATION. HAVE YOU HAD -- I  
7 KNOW YOU ORIGINALLY HAD A SCHEDULE THAT WAS VACATED  
8 BECAUSE OF THE WITHDRAWAL OF MR. CIAMPI'S ATTORNEY.

9 YOU HAD SELECTED MEDIATION LAST SPRING.  
10 LET ME ASK IF THE PARTIES ARE AMENABLE TO DOING  
11 MEDIATION NOW.

12 MR. SHERMAN: THE CITY AND THE DEFENDANTS  
13 ARE STILL AMENABLE, YOUR HONOR. NOTHING HAS  
14 CHANGED WITH US.

15 THE COURT: OKAY. WHAT ABOUT MR. CIAMPI?

16 MR. CIAMPI: I'M AGREEABLE WITH THAT AS  
17 WELL.

18 THE COURT: OKAY. SO I NEED TO ASK YOU  
19 THE NEXT QUESTION OF WOULD YOU LIKE A MEDIATOR  
20 THROUGH THE COURT'S ALTERNATIVE DISPUTE RESOLUTION  
21 PROGRAM?

22 MR. CIAMPI: THAT'S FINE WITH ME.

23 THE COURT: MR. SHERMAN, WHAT ABOUT THE  
24 CITY?

25 MR. SHERMAN: THAT WOULD BE FINE, YOUR

1 HONOR.

2 IF I MAY SAY SOMETHING?

3 THE COURT: GO AHEAD, PLEASE.

4 MR. SHERMAN: PREVIOUSLY WHEN A MEDIATOR  
5 WAS ASSIGNED, HE ACTUALLY PUT SOME TIME INTO IT. I  
6 KNOW I SUBMITTED A BRIEF, I THINK MR. CIAMPI'S  
7 ATTORNEY SUBMITTED A BRIEF AS WELL WHEN IT ALL FELL  
8 APART. I DON'T KNOW IF THE COURT WOULD BE INCLINED  
9 TO RESUBMIT IT TO HIM.

10 THE COURT: WELL, LET ME -- THE FILE  
11 THAT --

12 MR. SHERMAN: THE --

13 THE COURT: I'M SORRY, MR. SHERMAN, FOR  
14 INTERRUPTING.

15 THE FILE THAT WE'VE INHERITED DOESN'T SAY  
16 WHETHER YOU ACTUALLY HAD ANY MEDIATION SESSIONS.

17 DID YOU ACTUALLY MEET?

18 MR. CIAMPI: NO, YOUR HONOR.

19 MR. SHERMAN: NO, YOUR HONOR.

20 THE COURT: SO YOU HAD JUST FILED SOME  
21 PREMEDIATION STATEMENT? IS THAT WHAT YOU'RE  
22 REFERRING TO?

23 MR. SHERMAN: YES, YOUR HONOR.

24 THE COURT: OKAY. WHO WAS THAT MEDIATOR?

25 MR. SHERMAN: I DON'T REALLY REMEMBER HIS

1 NAME, YOUR HONOR. I WANT TO SAY MAYBE IT WAS  
2 ATTORNEY KEANE OR SOMEONE ASSOCIATED WITH THE CITY  
3 OF OAKLAND SOMEHOW. I THINK IT WAS THE CITY OF  
4 OAKLAND CITY ATTORNEY'S OFFICE.

5 THE COURT: OKAY. MR. CIAMPI, WOULD YOU  
6 BE WILLING TO PROCEED WITH MEDIATION BEFORE THAT  
7 SAME MEDIATOR?

8 MR. CIAMPI: THAT'S FINE WITH ME.

9 THE COURT: OKAY. ALL RIGHT. THEN I'M  
10 REFERRING THIS CASE TO MEDIATION. YOU HAVE 90  
11 DAYS.

12 NOW, WHEN I SAY 90 DAYS, IT NEEDS TO BE  
13 COMPLETED WELL BEFORE THE 90 DAYS.

14 IF YOU'RE ABLE TO REACH AN AGREEMENT,  
15 THEN BEFORE THE 90 DAYS WHEN YOU COME BACK HERE, I  
16 WANT YOU TO HAVE A WRITTEN SETTLEMENT AGREEMENT,  
17 AND YOU SHOULD FILE YOUR VOLUNTARY DISMISSAL AND A  
18 REQUEST TO VACATE THIS NEXT CMC. OKAY?

19 SO YOU NEED TO MOVE ON THIS RIGHT AWAY.  
20 I WILL NOT GRANT A CONTINUANCE IF YOU WAIT UNTIL  
21 THE LAST MINUTE TO TRY TO GET THIS DONE. IT'S YOUR  
22 RESPONSIBILITY TO GET THIS DONE TIMELY.

23 SO YOU ARE GOING TO COME BACK FOR A  
24 FOLLOW-UP CMC FOLLOWING YOUR MEDIATION. I'LL GIVE  
25 YOU 90 DAYS. COME BACK ON -- COME BACK ON

1 DECEMBER 1ST. OKAY?

2 MR. SHERMAN: DECEMBER 1ST. WHAT TIME,  
3 YOUR HONOR?

4 THE COURT: THAT'S AT 2:00 O'CLOCK.

5 MR. SHERMAN: AT 2:00 P.M.?

6 THE COURT: THAT'S RIGHT.

7 MR. SHERMAN: YOUR HONOR, I -- ONE LAST  
8 ITEM, IF I MAY BRIEF IT WITH THE COURT?

9 THE COURT: GO AHEAD.

10 MR. SHERMAN: AND IT WOULD BE WITH  
11 MR. CIAMPI'S APPROVAL.

12 THERE ARE MANY DEFENDANTS IN THIS MATTER.  
13 I'VE RECENTLY COME TO LEARN THAT THE RETIRED CHIEF  
14 OF POLICE, WHO IS ONE OF THE DEFENDANTS, IS  
15 PRESENTLY OUT OF THE COUNTRY AND UNAVAILABLE TO  
16 RESPOND TO THE DISCOVERY WHICH IS DUE  
17 SEPTEMBER 3RD.

18 I DON'T KNOW HOW INCLINED HE WILL BE TO  
19 GRANT AN EXTENSION. I WOULD REQUEST THAT HE GRANT  
20 ONE FOR LYNNE JOHNSON ONLY BASED ON HER  
21 UNAVAILABILITY OUT OF THE COUNTRY.

22 THE COURT: HAVE YOU ADDRESSED THAT WITH  
23 MR. CIAMPI?

24 MR. SHERMAN: I JUST FOUND OUT ABOUT IT  
25 YESTERDAY, YOUR HONOR, SO THE ANSWER IS NO.



1 THE COURT: MR. CIAMPI, WHAT'S YOUR  
2 POSITION? I PREFER THAT THE PARTIES DO IT BY  
3 STIPULATION.

4 MR. CIAMPI: WELL --

5 THE COURT: ACTUALLY, LET ME STOP YOU ONE  
6 SECOND.

7 HOW MUCH TIME DOES MS. JOHNSON NEED?  
8 WHEN IS SHE COMING BACK?

9 MR. SHERMAN: I DO NOT NECESSARILY KNOW  
10 THAT ANSWER AT THIS TIME, YOUR HONOR. THERE ARE  
11 SEVERAL E-MAILS AND VOICEMAIL MESSAGES LEFT FOR  
12 HER.

13 I AM, IN FACT -- I TRIED TO ASCERTAIN  
14 THAT INFORMATION ONCE I FOUND OUT THAT SHE WAS OUT  
15 OF THE COUNTRY FOR TODAY'S HEARING.

16 UNFORTUNATELY, I WAS NOT ABLE TO DO SO,  
17 SO I DON'T DO NOT HAVE AN ANSWER FOR HER HONOR.

18 SHE'S RETIRED, SO I DON'T KNOW HOW LONG  
19 SHE'S GONE FOR.

20 I CERTAINLY CAN FIND OUT. I WOULD -- I  
21 CAN, YES, I WOULD VENTURE TO SAY.

22 YOU KNOW, I DON'T KNOW HOW LONG ACTUALLY.

23 THE COURT: WELL, SHE UNDERSTANDS THAT  
24 SHE IS A DEFENDANT IN THIS LAWSUIT AND SHE HAS AN  
25 OBLIGATION TO TAKE CARE OF THAT, WHETHER SHE'S ON

1 VACATION OR NOT.

2 I ASSUME SHE CAN E-MAIL WHAT HER  
3 RESPONSES TO INTERROGATORIES OR RFK'S WOULD BE. I  
4 DON'T UNDERSTAND WHY SHE CAN'T DO THAT FROM EUROPE.

5 MR. SHERMAN: I DON'T HAVE AN ANSWER TO  
6 THAT ONE EITHER, YOUR HONOR, OTHER THAN I'M  
7 ATTEMPTING TO ASCERTAIN HER AND MAKE CONTACT.

8 I WOULD SAY POSSIBLY 30 DAYS WOULD  
9 SUFFICE, YOUR HONOR, BUT I REALLY AM GOING OUT ON A  
10 LIMB WITHOUT ANY INFORMATION.

11 THE COURT: I'M NOT GOING TO GRANT THAT.  
12 YOU'LL HAVE TO WORK IT OUT WITH MR. CIAMPI. IF YOU  
13 CAN'T, GO TO THE MAGISTRATE JUDGE AND GET AN  
14 EXTENSION.

15 BUT IT DOESN'T SOUND LIKE THE HOMEWORK  
16 HAS BEEN DONE AS TO HOW LONG SHE'S GOING TO BE  
17 UNAVAILABLE, SO I'M NOT GOING TO GRANT A BLANKET  
18 EXTENSION.

19 MR. SHERMAN: I TRIED, YOUR HONOR. LIKE  
20 I SAID, I ONLY LEARNED THIS INFORMATION YESTERDAY.

21 THE COURT: I UNDERSTAND. YOU HAVE UNTIL  
22 SEPTEMBER 3RD, SO IN THE NEXT WEEK, WHY DON'T YOU  
23 FIND OUT WHEN SHE'S AVAILABLE.

24 MR. SHERMAN: I WILL DO SO, YOUR HONOR.  
25 THANK YOU.

1 THE COURT: ALL RIGHT. NOW, LET'S SET  
2 THE SCHEDULE FOR THE REST OF THE CASE.

3 YOU ORIGINALLY HAD A TRIAL DATE OF  
4 JANUARY 2011, AND THAT WAS SET BY JUDGE FOGEL AT  
5 THE INITIAL CMC ON DECEMBER 4TH.

6 I DON'T SEE WHY WE SHOULDN'T KEEP THAT  
7 SCHEDULE.

8 MR. SHERMAN: I NEED TO FILE A  
9 DISPOSITIVE MOTION, YOUR HONOR, ONCE ALL THESE  
10 DISCOVERY ISSUES HAVE SETTLED DOWN.

11 THE COURT: ALL RIGHT. WELL, THEN, THIS  
12 IS WHAT I'M GOING TO DO BECAUSE I SEE NO REASON WHY  
13 THIS CASE SHOULD LANGUISH.

14 LET ME ASK, ARE EITHER SIDE GOING TO HAVE  
15 ANY EXPERTS?

16 MR. SHERMAN: YES, YOUR HONOR.

17 THE COURT: WHAT ARE YOU GOING TO HAVE AN  
18 EXPERT ON?

19 MR. SHERMAN: I'LL HAVE A USE OF FORCE  
20 EXPERT, AND BASED ON THE ACCUSATIONS MADE BY  
21 MR. CIAMPI, I'M GOING TO HAVE TO HAVE A TASER  
22 EXPERT AND A MAV VIDEO RECOGNITION ALTERING EXPERT  
23 BECAUSE MR. CIAMPI BELIEVES THAT THE EVIDENCE HAS  
24 BEEN TAMPERED WITH.

25 THE COURT: AND WHEN ARE YOU GOING TO

1 DESIGNATE YOUR EXPERTS?

2 MR. CIAMPI: I HAVE ONE EXPERT, YOUR  
3 HONOR. I'M WORKING ON GETTING OTHERS.

4 I STILL HAVE TO DEPOSE MR. CIAMPI AS  
5 WELL.

6 THE COURT: OKAY. AND MR. SHERMAN, I  
7 DIDN'T CATCH IT ALL. YOU HAVE -- YOU WILL HAVE A  
8 TASER EXPERT, A USE OF FORCE EXPERT, AND THEN A  
9 TECHNICAL EXPERT ON THE RECORDINGS?

10 MR. SHERMAN: MR. CIAMPI -- YES, ON  
11 RECORDINGS, TO PROVE OR ESTABLISH THAT THEY HAVE  
12 NOT BEEN ALTERED.

13 THE COURT: OKAY. ALL RIGHT. SO GIVE  
14 ME -- WHEN ARE YOU GOING TO GET ALL OF THOSE  
15 EXPERTS DESIGNATED?

16 MR. SHERMAN: I HAVE THE USE OF FORCE  
17 EXPERT NOW, YOUR HONOR. I'M WORKING ON  
18 ASCERTAINING FROM TASER INTERNATIONAL WHO I SHOULD  
19 UTILIZE ON THAT ISSUE.

20 AND AS FAR AS THE FABRICATION OR ALTERING  
21 OF THE TAPE RECORDED EVIDENCE, I HAVEN'T EVEN FOUND  
22 ANYBODY YET, YOUR HONOR, SO I'M WORKING ON IT.

23 THE COURT: OKAY. AND THEN YOU NEED THE  
24 DEPOSITION OF MR. CIAMPI?

25 MR. SHERMAN: YES, YOUR HONOR.

1 THE COURT: OKAY. MR. CIAMPI, DO YOU  
2 ANTICIPATE TAKING ANY DEPOSITIONS?

3 MR. CIAMPI: NO.

4 THE COURT: OKAY. ALL RIGHT.

5 SO THE DESIGNATION OF EXPERTS, THE  
6 DEADLINE TO DO THAT IS GOING TO BE SEPTEMBER 24TH  
7 OF 2010; THE DISCOVERY CUT OFF, THAT'LL BE BOTH  
8 FACT AND EXPERT, WILL BE NOVEMBER 5TH OF 2010; THE  
9 HEARING ON ANY DISPOSITIVE MOTIONS, I'LL GIVE YOU  
10 TWO WEEKS AFTER DISCOVERY CUT OFF TO FILE THEM, SO  
11 YOU'LL HAVE TO FILE THEM BY NOVEMBER 19TH; THE  
12 HEARING ON THE DISPOSITIVE MOTIONS WILL BE -- LET'S  
13 DO THAT JANUARY THE 6TH OF 2011.

14 MR. CIAMPI: EXCUSE ME, YOUR HONOR.

15 THE COURT: YES?

16 MR. CIAMPI: CAN YOU REPEAT THAT?

17 THE COURT: YES. AND DON'T WORRY, I AM  
18 GOING TO ISSUE AN ORDER TODAY THAT'LL SET OUT ALL  
19 THESE DATES THAT I'VE DECIDED, OKAY, AND I'LL HAVE  
20 THAT FILED, SO YOU'LL HAVE A COPY OF THAT.

21 MR. CIAMPI: ALL RIGHT.

22 THE COURT: THE PRETRIAL CONFERENCE IS  
23 GOING TO BE -- I'LL SET THAT FOR JANUARY 26TH,  
24 2010. THAT'LL BE AT 2:00 P.M.

25 MR. SHERMAN: WOULD THAT BE 2011, YOUR

1 HONOR?

2 THE COURT: 2011, I'M SORRY.

3 MR. SHERMAN: AT WHAT TIME?

4 THE COURT: 2:00 P.M.

5 AND THE TRIAL DATE, THEN, WILL BE TWO  
6 WEEKS AFTER THAT, SO WE'LL SET THAT ON  
7 FEBRUARY 14TH, VALENTINE'S DAY, 2011. THAT'LL BE  
8 AT 9:00 O'CLOCK.

9 MR. SHERMAN: MY WIFE WILL CERTAINLY  
10 APPRECIATE THAT, YOUR HONOR. THANK YOU.

11 THE COURT: WELL, GIVE HER MY APOLOGIES  
12 IN ADVANCE.

13 I DO NOT WANT THIS CASE TO LANGUISH.  
14 IT'S ALREADY ALMOST A YEAR AND A HALF OLD. THERE'S  
15 NO REASON WHY THIS CAN'T BE MOVING QUICKLY.

16 IS THERE ANYTHING ELSE?

17 MR. SHERMAN: NO, YOUR HONOR. MY BIGGEST  
18 CONCERN WAS THE ABSENCE OF THE FORMER CHIEF OF  
19 POLICE FROM THE COUNTRY.

20 THE COURT: OKAY. MR. CIAMPI, I DO WANT  
21 YOU TO BE REASONABLE. DO YOU UNDERSTAND?

22 MR. CIAMPI: I'VE ALREADY GIVEN HIM  
23 SEVERAL EXTENSIONS AND HAVE REMOVED MOST OF MY  
24 REQUESTS FOR DISCOVERY.

25 I DON'T SEE ANY REASON WHY -- I WOULD

1 THINK THAT MR. SHERMAN WOULD HAVE PROVIDED  
2 DEFENDANT JOHNSON WITH MY DISCOVERY REQUEST TWO  
3 MONTHS AGO WHEN I SUBMITTED IT TO HIM.

4 MR. SHERMAN: IF I MAY, YOUR HONOR?

5 THE COURT: GO AHEAD.

6 MR. SHERMAN: MR. CIAMPI, AS I INDICATED  
7 EARLIER, HAD PROPOUNDED OVER 3500 DISCOVERY  
8 RESPONSES, TO WHICH I INFORMED HIM I WAS GOING TO  
9 SEEK A PROTECTIVE ORDER.

10 AND TO HIS CREDIT, HE AND I WORKED IT OUT  
11 AND HE DID, IN FACT, REDUCE IT DOWN.

12 HOWEVER, TO HIS STATEMENT, I DID NOT --  
13 I DO NOTE I DID NOT PROVIDE ANYTHING TO THE  
14 DEFENDANTS IN LIGHT OF THE LIMBO TACTICS AND THE  
15 FACT THAT HE ELIMINATED MANY OF THEM.

16 SO SHE HAS NOT HAD THEM FOR SEVERAL  
17 MONTHS.

18 MR. CIAMPI: I DIDN'T SAY SEVERAL MONTHS.

19 THE COURT: IT DOESN'T MATTER.

20 I'M GOING TO GIVE A TWO WEEK EXTENSION,  
21 BUT --

22 MR. SHERMAN: THANK YOU, YOUR HONOR.

23 THE COURT: BUT SHE'S A DEFENDANT IN A  
24 LITIGATION THAT MAKES SERIOUS ALLEGATIONS AGAINST  
25 HER FORMER POLICE DEPARTMENT. SHE NEEDS TO BE

1 RESPONSIVE TO THIS LAWSUIT, WHETHER SHE'S ON  
2 VACATION OR NOT.

3 MR. SHERMAN: I WILL --

4 THE COURT: OKAY. SO SEPTEMBER 17TH,  
5 2010 IS ONLY AS TO LYNNE JOHNSON, THE FORMER CHIEF  
6 OF POLICE OF PALO ALTO.

7 MR. SHERMAN: THANK YOU, YOUR HONOR.

8 THE COURT: OKAY?

9 ALL RIGHT. THANK YOU ALL VERY MUCH.

10 I DO EXPECT A VERY FRUITFUL MEDIATION,  
11 OKAY? LET'S MAKE THAT WORK.

12 OTHERWISE, AS YOU'VE SEEN, I'M GOING TO  
13 PUT YOU ON A VERY, VERY TIGHT SCHEDULE. YOU WILL  
14 BE SPENDING A LOT OF MONEY AND TIME ON THIS CASE.

15 MR. SHERMAN: IF I MAY MAKE ONE STATEMENT  
16 IN RESPONSE TO WHAT HER HONOR JUST INDICATED?

17 THE COURT: I'M SORRY? I DIDN'T HEAR  
18 YOU.

19 MR. SHERMAN: YOUR HONOR, IF I MAY MAKE A  
20 STATEMENT IN RESPONSE TO WHAT HER HONOR JUST  
21 INDICATED?

22 THE COURT: GO AHEAD.

23 MR. SHERMAN: EARLY ON IN THIS MATTER,  
24 THE DEFENDANTS DID, IN FACT, MAKE AN OFFER TO THE  
25 DEFENDANT (SIC) WHEN HE WAS REPRESENTED BY COUNSEL.



1                   WHEN THAT OFFER WAS NOT ACCEPTED, WE PUT  
2                   IN A RULE 58 OFFER, WHICH WAS QUITE SOME TIME AGO.

3                   SO THE DEFENDANTS HAVE, IN FACT,  
4                   ATTEMPTED TO RESOLVE THIS. I BELIEVE THAT IS WHAT  
5                   CREATED THE DIVISION BETWEEN MR. CIAMPI AND HIS  
6                   ATTORNEYS.

7                   MR. CIAMPI: THAT'S FALSE.

8                   THE COURT: BLESS YOU.

9                   I DID SEE THAT YOU HAVE MADE OFFERS, AND  
10                  I APPRECIATE THE ATTEMPTS ON THE DEFENDANT'S PART  
11                  TO TRY TO RESOLVE THIS CASE.

12                  MR. SHERMAN: THANK YOU, YOUR HONOR.

13                  THE COURT: SO I DID SEE THAT. I'M AWARE  
14                  OF IT. THANK YOU.

15                  MR. SHERMAN: WE WILL GIVE BEST EFFORTS  
16                  TO THE MAGISTRATE AS WELL, OR TO THE SETTLEMENT  
17                  CONFERENCE.

18                  THE COURT: YES. LET'S PLEASE DO THAT.

19                  OKAY. THANK YOU.

20                  MR. SHERMAN: THANK YOU. THANK YOU FOR  
21                  EXTENDING THE TIME, YOUR HONOR.

22                  THE COURT: OKAY. THANK YOU,  
23                  MR. SHERMAN.

24                  THANK YOU, MR. CIAMPI.

25                  (WHEREUPON, THE PROCEEDINGS IN THIS

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CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT  
REPORTER OF THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH  
FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY  
CERTIFY:

THAT THE FOREGOING TRANSCRIPT,  
CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND  
CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS  
SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS  
HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED  
TRANSCRIPTION TO THE BEST OF MY ABILITY.

/s/

\_\_\_\_\_  
LEE-ANNE SHORTRIDGE, CSR, CRR  
CERTIFICATE NUMBER 9595