

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

NOREEN SALINAS, <i>et al.</i> ,)	5:09CV4410
)	
Plaintiffs,)	
v.)	ORDER
)	
CITY OF SAN JOSE, <i>et al.</i> ,)	
)	
Defendants.)	

On July 25, 2012, the undersigned held an unrecorded conference call with counsel for all parties. The following matters were discussed and decided:

1. Jury selection will commence in San Jose on Tuesday, October 9, 2012.
2. A meeting will be held with counsel in chambers at 10:00 a.m. that morning, following jury orientation.
3. The parties jointly will prepare a short (1-1½ page) written questionnaire for prospective jurors and submit the same to me for approval at the final pretrial conference. Approved questionnaires will be distributed at or before jury orientation on October 9, 2012, completed by all prospective jurors, and then returned to counsel prior to jury selection. Voir dire will take place in the afternoon on October 9, 2012, after counsel have had the opportunity to digest the answers to the questionnaires.
4. The parties estimate that 15 trial days will be required.
5. The trial will be bifurcated regarding the amount of any punitive damages. The plaintiffs estimate that their evidence regarding the amount of punitive damages can be presented in 1 to 2 hours.
6. An 8-person jury will be used. Twenty prospective jurors will be put in the box. After the panel is passed for cause, the parties will exercise peremptory challenges by striking names from a list that will be passed among counsel, on a rotating basis: The plaintiffs will go first, followed by the City defendants, followed by the plaintiffs, followed by Taser. The plaintiffs will have a total of 6 strikes, the City defendants will have total of 3 strikes, and

Taser will have a total of 3 strikes. There will be three rounds of strikes. Plaintiffs will exercise 2 strikes and each defendant group will then exercise 1 strike during each of the three rounds.¹ If a party does not exercise a peremptory challenge during its turn, it forfeits that strike and I will later strike a name on a random or other impartial basis in order to reduce the panel to 8 jurors. The foregoing procedure for the exercise of peremptory challenges may be altered at the pretrial conference.

7. Tentatively, the following time limits will be placed on voir dire: Plaintiffs, 30 minutes total; City defendants, 20 minutes total; and Taser, 20 minutes total.
8. A final pretrial conference will be held in San Jose at 10:00 a.m. on Monday, September 24, 2012, in a courtroom location yet to be determined. The conference will be on the record. The necessity and timing of trial briefs will be determined at the pretrial conference.
9. By September 10, 2012, the parties will file any proposed jury questionnaire, motions in limine and briefs related to such motions, their witness and exhibit lists, an agreed upon set of jury instructions and verdict form (including the full names of all parties), and any separately requested jury instructions. The parties will also jointly prepare and file a statement of the case. Deposition designations are not required.
10. By September 20, 2012, the parties will file any objections to the proposed jury questionnaire, motions in limine, witnesses, exhibits, jury instructions, or other filed materials.
11. If the Ninth Circuit affirms *Marquez* shortly before trial, an expedited summary judgment procedure will be used. That is, (a) the previously developed summary judgment record will be used with the understanding that a slight expansion of the record may be necessary depending upon the particulars of the *Marquez* decision and (b) the parties will submit simultaneous briefs and reply briefs, and oral argument will be held in San Jose. It is likely that a ruling will be made from the bench, with a written opinion to follow in the event the motion is granted.

¹I suppose one could explain the three rounds of strikes in arithmetic fashion; that is, $2 + 1 + 1 = 4 \times 3 = 12$.

12. The parties agree that Case No. CV08-2625 has been fully consolidated with this case, such that a judgment in this case will also dispose of Case No. CV08-2625.

IT IS SO ORDERED.

July 25, 2012.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge
(sitting by designation)