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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

THOMAS CORREA,  
Plaintiff,

v.

THE CITY OF SAN JOSE; THE SAN JOSE  
POLICE DEPARTMENT (“SJPD”);  
MICHAEL SULLIVAN, individually and in  
his official capacity as Lieutenant, SJPD;  
KIMBERLY HUDSON, individually and in  
her official capacity as Sergeant, SJPD,  
Defendants.

Case No. 5:12-cv-05436-HRL

**ORDER RE DEFENDANT’S MOTIONS  
IN LIMINE**

Re: Dkt. No. 95

As discussed at the December 10, 2015 final pretrial conference,<sup>1</sup> the rulings of the court made on the record at the conference shall constitute the court’s pretrial order. Additionally, for the reasons discussed at that conference, the court rules on defendant’s motions in limine as follows:

Motion in Limine No. 1 to “preclude plaintiff from presenting evidence regarding his abandoned claim for retaliation based on claims of or opposition to racial discrimination” is GRANTED as unopposed.

Motion in Limine No. 2 to “preclude plaintiff from presenting evidence or argument

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<sup>1</sup> Pursuant to the parties’ stipulation at the pretrial conference, defendants Michael Sullivan and Kimberly Hudson are dismissed.

1 regarding a claim for assault or battery” is GRANTED IN PART AND DENIED IN PART as  
2 follows: Plaintiff will not be precluded from presenting evidence as to the events underlying his  
3 abandoned claim for battery. However, plaintiff shall not reference, mention, or argue his  
4 abandoned battery claim in any way. Fed. R. Evid. 401, 402, 403.

5 Motion in Limine No. 3 to “preclude plaintiff from presenting evidence regarding his  
6 claim for retaliation based on the October 25 meeting with Sullivan and Cavallaro” is DENIED.  
7 Fed. R. Evid. 401, 402, 403.

8 Motion in Limine No. 4 to “preclude plaintiff from presenting evidence he was retaliated  
9 against based on his October 24 speech” is GRANTED. Fed. R. Evid. 401, 402, 403.

10 Motion in Limine No. 5 to “preclude plaintiff from presenting evidence regarding his  
11 proposed claim for violation of the Public Safety Officers’ Procedural Bill of Rights [POBOR]” is  
12 GRANTED IN PART AND DENIED IN PART as follows: Plaintiff may present evidence  
13 underlying his contention that his POBOR rights were violated. However, plaintiff shall not assert  
14 or argue that defendant violated POBOR.

15 Motion in Limine No. 6 to “exclude testimony regarding unrelated allegations” is  
16 DEFERRED.

17 Motion in Limine No. 7 to “limit the testimony of plaintiff’s proposed expert Stephen  
18 D’Arcy” is GRANTED IN PART AND DENIED IN PART as follows: The motion is granted as  
19 to the Rampart Report. D’Arcy may mention POBOR, but he may not state that POBOR was  
20 violated. D’Arcy may not offer legal conclusions, speculative or argumentative opinions, or make  
21 fact determinations that properly belong to the jury. Fed. R. Evid. 403, 702, 703.

22 Motion in Limine No. 8 to “exclude written expert reports” is GRANTED. Fed. R. Evid.  
23 403, 802.

24 Motion in Limine No. 9 to “exclude any evidence or witnesses not produced or revealed in  
25 response to discovery requests” is GRANTED. Fed. R. Civ. P. 37(c).

26 Motion in Limine No. 10 to “exclude the audio recordings and transcripts of internal  
27 affairs interviews” is GRANTED. Fed. R. Evid. 403, 802.

28 Motion in Limine No. 11 to “preclude plaintiff from introducing internal affairs reports” is

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DEFERRED.

Motion in Limine No. 12 to “preclude testimony of Lou Hernandez and Bobby Lopez” is

DEFERRED.

SO ORDERED.

Dated: December 11, 2015



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HOWARD R. LLOYD  
United States Magistrate Judge

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5:12-cv-05436-HRL Notice has been electronically mailed to:

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