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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

THOMAS CORREA,
Plaintiff,

v.

THE CITY OF SAN JOSE,
Defendant.

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

**FURTHER ORDER RE DEFENDANT'S
MOTIONS IN LIMINE**

Re: Dkt. Nos. 95, 112, 121, 122

In its prior order on defendant City of San Jose's motions in limine, this court deferred ruling on Motions 6, 11, and 12 pending submission of further court-ordered briefing and copies of plaintiff's exhibits. Since then, plaintiff advises that he now also plans to call Lt. Glen Harper at trial. And, defendant filed two additional motions in limine. Having reviewed those further submissions, as well as all moving and responding papers, the court now rules as follows:

Defendant's objection to the testimony of Glen Harper is SUSTAINED. Fed. R. Evid. 401, 402, 403.

Motion in Limine 6 to exclude the testimony of certain witnesses is GRANTED as to Officer Jamil Carter. Fed. R. Evid. 401, 402, 403. The motion is also GRANTED as to Sgt. Paul Francois, but only as to the proffered testimony re Sgt. Francois' own disciplinary proceeding.¹

¹ Defendant does not dispute plaintiff's ability to call Sgt. Francois to testify about his supervision of Correa or his involvement in plaintiff's disciplinary process.

1 Fed. R. Evid. 401, 402, 403. The motion is DENIED as to John Aitken.

2 Motion in Limine 11 to exclude Internal Affairs reports is GRANTED, Fed. R. Evid. 403,
3 802, except that the documents may be used for impeachment or to refresh recollection, assuming
4 a proper foundation is made.²

5 Insofar as the parties' supplemental submissions continue to dispute proposed exhibits
6 comprising audio recordings and transcripts of Internal Affairs interviews, the court previously
7 granted defendant's Motion in Limine 10 to exclude those materials, except for impeachment or to
8 refresh recollection, assuming a proper foundation is made. (Dkt. 106 at 2; Dkt. 108 at 50). That
9 ruling stands.

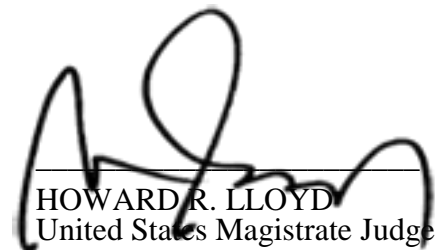
10 Motion in Limine 12 to Preclude Testimony of Lou Hernandez and Bobby Lopez is
11 DENIED as to Officer Luis Hernandez. Obrey v. Johnson, 400 F.3d 691 (9th Cir. 2005). Because
12 the supplemental filings indicate that plaintiff no longer plans to call Bobby Lopez at trial, this
13 motion is DENIED AS MOOT as to him.

14 Motion in Limine 13 to Preclude Evidence Regarding Half-Priced Establishments is
15 GRANTED. Fed. R. Evid. 401, 402, 403.

16 Motion in Limine 14 to Exclude Evidence Regarding Unrelated Officer Allegations is
17 DENIED.

18 SO ORDERED.

19 Dated: March 21, 2016


HOWARD R. LLOYD
United States Magistrate Judge

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26 ² Plaintiff's Proposed Exhibit 4 previously was identified as an Internal Affairs report. (Dkt. 92 at
27 18). However, that report apparently has been dropped, and the current exhibit list now identifies
28 proposed Exhibit 4 as an "Active Shooter Ticket." (Dkt. 111 at 58). Because Exhibit 4 is no
longer an Internal Affairs report, and because defendant has not separately challenged the "Active
Shooter Ticket," the court's ruling on Motion in Limine 11 does not apply to the current Exhibit 4.

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

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