

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

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

NICOLAS AQUINO,  
Plaintiff,  
v.  
COUNTY OF MONTEREY SHERIFF'S  
DEPARTMENT, et al.,  
Defendants.

Case No. [5:14-cv-03387-EJD](#)  
**ORDER RE: TRIAL BIFURCATION  
AND OUTSTANDING EVIDENTIARY  
DISPUTES**  
Re: Dkt. Nos. 205, 206, 210, 212

The Court appreciates the parties’ supplemental briefing regarding trial bifurcation (Dkt. Nos. 210, 212). After carefully considering the parties’ arguments, the Court will not bifurcate trial. The parties are cautioned that evidence and testimony should be offered only in a manner consistent with the Court’s motion *in limine* rulings, and the Court will provide limiting instructions to the jury as needed.

Based on the parties’ submissions regarding evidentiary disputes that remain in this case (Dkt. Nos. 205, 206), the Court rules as follows:

- Plaintiff’s Second and Fourth Motions *in Limine* Regarding Mr. Cameron:**  
Testimony from Mr. Cameron’s March 20, 2018 deposition at 17:22-18:8, 23:16-25, and 24:15-18 beginning with “through” will be excluded for the same reasons discussed in the Court’s order on Plaintiff’s Second and Fourth Motions *in Limine*.<sup>1</sup> The remaining disputed testimony from Mr. Cameron’s March 20, 2018 deposition will be allowed.

<sup>1</sup> If it is not possible to strike Mr. Cameron’s testimony mid-line, the entirety of his testimony at 24:12-18 will be excluded.

1           2.       **Plaintiff’s Eighth Motion *in Limine* Regarding Defense Exhibit 1032 (Dr.**  
2 **Roberts’s Report):** Upon further consideration, the Court finds that none of the proposed  
3 excerpts from Dr. Roberts’s report qualifies as “facts or data” whose “probative value in helping  
4 the jury evaluate the opinion substantially outweighs their prejudicial effect,” and would thus be  
5 admissible under Federal Rule of Evidence 703. Thus, the report will be excluded in its entirety.

6           3.       **Plaintiff’s Seventh Motion *in Limine* Regarding Dr. Herrick:** The phrase  
7 “when there was a missed court date” will be excluded from Mr. Herrick’s deposition testimony at  
8 27:18-19, as it is not relevant.<sup>2</sup> Fed. R. Evid. 401. The remaining disputed testimony from Mr.  
9 Herrick’s deposition testimony will be allowed.

10          4.       **Plaintiff’s Ninth Motion *in Limine* Regarding Defense Exhibit 1008 (Letter of**  
11 **Reprimand by Col. Sandlin):** In addition to the redactions proposed by Defendants, the Court  
12 will additionally exclude the following: “you obstructed” from ¶ 1; “and then resisted . . . home in  
13 question” from ¶ 1; “lawfully” from the first sentence of ¶ 2; and “lawfully” from the fourth to last  
14 sentence of ¶ 4. The remainder will be permitted. Defendants shall prepare a redacted version of  
15 Defense Exhibit 1008 that is consistent with this ruling.

16          5.       **Defendants’ First Motion *in Limine* Regarding Evidence that is Too Remote**  
17 **in Time or Space:** The Court will allow Exhibit Nos. 5, 7(f),(n),(p),(q)-(r), and 9. The Court will  
18 exclude the remainder of the exhibits challenged in Defendant’s motion.

19          6.       **Defendants’ Fifth Motion *in Limine* Regarding Promotional or Recruiting**  
20 **Videos:** The parties shall be prepared to play the disputed video to the Court on July 31, 2018,  
21 and the Court will rule on its admissibility thereafter.

22          7.       **Defendants’ Objections Regarding Mr. Glazier:** The Court will not preclude  
23 Mr. Glazier from testifying. To the extent Defendants request the Court reconsider its ruling on  
24 Defendants’ Ninth Motion *in Limine*, the Court declines this invitation.

25  
26  
27 \_\_\_\_\_  
28 <sup>2</sup> If it is not possible to strike Mr. Herrick’s testimony mid-line, the entirety of his testimony at  
27:16-20 will be excluded.

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

**IT IS SO ORDERED.**

Dated: July 30, 2018



EDWARD J. DAVILA  
United States District Judge