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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
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11 JESSIE W. JONES,

12 Plaintiff,

13 v.

14 F. GARDINER,

15 Defendant.

Case No.: 14cv2477-MMA (MDD)

**NOTICE AND ORDER PROVIDING  
TENTATIVE RULINGS RE:  
MOTIONS IN LIMINE**

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17 On October 11, 2017 at 3:00 p.m., the parties in this prisoner civil rights action will  
18 appear before the Court for a final pretrial conference and hearing on the parties' pending  
19 motions *in limine*. See Doc. Nos. 49, 50. In anticipation of the hearing, the Court issues  
20 the following tentative rulings on the motions:

21 **PLAINTIFF'S MOTIONS**

22 1. The Court tentatively **GRANTS in part** and **DENIES in part** Plaintiff's  
23 motion to exclude evidence of his 2014 felony conviction. The Court tentatively finds  
24 that Plaintiff's conviction is not relevant to the substantive issues at trial. However,  
25 evidence of a conviction for a crime punishable for more than one year is admissible,  
26 subject to Federal Rule of Evidence 403, to attack a witness's character for truthfulness.  
27 See Fed. R. Evid. 609(a)(1)(A). Therefore, the Court tentatively finds that Defendant  
28 should be allowed to impeach Plaintiff's testimony with the fact of his 2014 felony



1 Plaintiff's 1993 and 1996 convictions should be excluded as more prejudicial than  
2 probative. *See* Fed. R. Evid. 403.

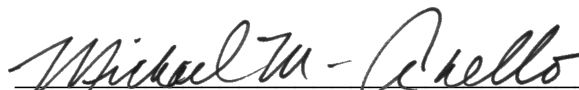
3 3. The Court tentatively **DENIES** Defendant's motion to exclude any  
4 testimony or argument that Plaintiff's alleged nerve injury will cause him future lost  
5 income because of the alleged limited use of his left hand, or that Plaintiff will incur costs  
6 for future medical care. Generally speaking, a plaintiff should be permitted to introduce  
7 evidence regarding damages, including the need for future medical care, as the evidence  
8 is relevant and probative of injury. Although it is unclear what evidence Plaintiff will  
9 offer regarding lost future income or future medical care, the Court tentatively finds it  
10 inappropriate to categorically exclude such evidence.

11 4. The Court tentatively **GRANTS** Defendant's motion to exclude any  
12 evidence of his involvement in past litigation or uses of force. The Court tentatively  
13 finds that prior inmate complaints against Defendant, or uses of force by Defendant, are  
14 not sufficiently probative of the issues in this case, particularly when balanced against the  
15 risk of causing juror confusion or prejudice. *See* Fed. R. Evid. 403. However, if  
16 Defendant testifies regarding his handcuffing habits, or for some reason testifies  
17 regarding his prior uses of force against inmates, then Plaintiff may cross-examine him  
18 regarding those issues.

19 As these rulings are tentative, the Court looks forward to the oral arguments of  
20 counsel.

21 **IT IS SO ORDERED.**

22 DATE: October 10, 2017

23   
24 HON. MICHAEL M. ANELLO  
25 United States District Judge  
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