

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior District Judge Richard P. Matsch**

Date: February 9, 2011
Courtroom Deputy: J. Chris Smith
FTR Technician: Kathy Terasaki

Civil Action No. 08-cv-00039-RPM

SALVADOR RIVERA,

Plaintiff,

John K. Pineau
Ingrid J. DeFranco

v.

SCHOOL DISTRICT NO. 1, DENVER COLORADO,

Defendant.

Michael B. Case
Holly E. Ortiz

COURTROOM MINUTES

Trial Preparation Conference

11:00 a.m. Court in session.

Counsel agree to change caption.

ORDERED: Caption changed as reflected above.

Court identifies four trial issues:

1. Whether conduct of Shaun Ellis towards Salvador Rivera on date identified violated the Constitution.
2. Was Baca Sandoval deliberately indifferent to a foreseeable risk.
3. Was Ms. Sandoval a policymaker for school district.
4. Damages.

Discussion regarding defendant's motion in limine [73].

Court states with respect to Baca Sandoval and foreseeable risk the test will be actual knowledge not constructive knowledge.

Ms. DeFranco answers questions asked by the Court regarding anticipated testimony of Dr. Friedman PHD.

ORDERED: Defendant's Motion in Limine to Exclude Evidence, filed February 2, 2011 [73], is granted with respect to the affidavit and denied with respect to the reference of suicide.

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Court states it will issue a limiting instruction regarding suicide.

Discussion regarding evidence and anticipated testimony of identified witnesses.

Court states it will not permit the Fifth Amendment to be selectively invoked.

Court instructs plaintiff's counsel to determine whether Mr. Ellis will be called as a witness.

Counsel state all witnesses will testify in person at trial.

ORDERED: Final witness lists filed by February 14, 2011.

Counsel agree that the scope of direct examination may be exceeded for witnesses scheduled to appear for both sides.

Advisory witness is Ms. Baca Sandoval for defendant.
Ms. Arras may be seated at counsel table as plaintiff's legal assistant.

Mr. Pineau states plaintiff will call Patrick Aubin.

Court identifies its concerns with proposed jury instructions.
Court states it will exclude the word legal in front of the term "policymaker".
Court further states spoliation will depend upon a showing of intentional destruction of evidence.

Discussion regarding identifying the weapon as a taser or stun pen.
Court states the weapon will be called a Raptor Stun Pen.

Discussion regarding discovery stipulations and admissions.
Court states only agreed relevant stipulations and relevant admissions are permitted and will be read at the appropriate time during trial (counsel may offer written stipulations during trial).

Court states its trial practices and procedures.

11:35 a.m. Court in recess.

Hearing concluded. Total time: 35 min.