## UNITED STATES DISTRICT COURT DISTRICT OF MINNESOTA

Joseph A. Porter,

Plaintiff,

Civ. No. 09-2536 (RHK/SRN)

**ORDER** 

v.

Officer Mark McDonough and City of Coon Rapids,

Defendants.

Having considered the parties' arguments on their Motions in Limine, for the reasons set forth below and for the reasons stated on the record at the January 5, 2011, hearing on these Motions, **IT IS ORDERED** as follows:

- 1. Defendants' Motion in Limine to Exclude the Expert Testimony of Vanness H. Bogardus (Doc. No. 36) is **GRANTED IN PART**, and Mr. Bogardus's testimony, if any, shall be limited to the topics set forth on the record. In light of the Court's ruling, it is unclear whether Plaintiff will continue to proffer Bogardus's testimony. If he intends to do so, any objections Defendants may have to the remaining portions of his testimony (if offered) will be considered by the Court at trial;
- 2. The Court **RESERVES** ruling on Defendant's Motion in Limine to Exclude Evidence of Other Incidents (Doc. No. 41). Counsel for Plaintiff is **ORDERED** to submit to the Court (a) a copy of the portions of McDonough's deposition in which he

was questioned about prior incidents, and (b) a list of which exhibits he intends to use at

trial and a brief explanation of the purpose(s) for which such evidence will be proffered;

3. Plaintiff's Motion in Limine (Doc. No. 39) is **GRANTED IN PART** and

**DEFERRED IN PART** as follows:

a. The Court **RESERVES** ruling on Paragraph 1 of Plaintiff's Motion

(to exclude or limit evidence of Plaintiffs criminal history) at this time. Counsel for

Defendants is **ORDERED** to submit to the Court a list of which, if any, of Plaintiff's

prior criminal convictions they intend to introduce at trial;

b. Paragraph 2 of Plaintiff's Motion (to exclude the expert testimony of

Mike Ficcadenti) is **GRANTED**, and Mr. Ficcadenti shall be excluded from proffering

the opinions outlined in Plaintiff's Motion. Mr. Ficcadenti's testimony at trial shall be

limited to those topics set forth on the record;

4. The Court **RESERVES** ruling on the parties' remaining objections to

exhibits until they are offered at trial; and

5. Pursuant to Plaintiff's agreement at the January 5 hearing, Count II of the

Complaint (Doc. No. 1, Attachment 1) is hereby **DISMISSED WITH PREJUDICE**.

Dated: January 6, 2011

s/Richard H. Kyle

RICHARD H. KYLE

United States District Judge

2