

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
DISTRICT OF NEVADA

* * *

WILLIAM FLEMING,

Plaintiff,

v.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, et al.,

Defendants.

Case No. 2:11-cv-00131-MMD-VCF

ORDER

(Def.'s Motion for Summary Judgment –
dkt. no. 40;
Def.'s Motion for Leave to File Document
Under Seal – dkt. nos. 44 and 46)

Before the Court is Defendant Las Vegas Metropolitan Police Department's ("LVMPD") Motion for Summary Judgment (dkt. no. 40), as well as LVMPD's Motions for Leave to File Document Under Seal (dkt. nos. 44 and 46.)

Plaintiff William Fleming filed his Response to LVMPD's Motion for Summary Judgment opposing summary judgment on the grounds that he lacks the evidence necessary to raise a triable issue of fact as to LVMPD's *Monell* liability. This discovery dispute arose when Plaintiff requested documents in Officer Salvatore's personnel file relating to hiring, training, supervision, discipline, and ultimate firing of Salvatore. On June 15, 2012, Magistrate Judge Ferenbach ruled that the confidential information should be produced for Fleming's attorney's eyes only. (See dkt. no. 38.) If Fleming wishes to use that information as evidence, or wishes to provide it to a retained expert, Judge Ferenbach ordered that he notify LVMPD and provide LVMPD an opportunity to make necessary redactions of sensitive information within those documents. If

1 redactions are made, but the parties object to the scope of the redactions, Judge
2 Ferenbach instructed them to file a joint statement concerning the dispute.

3 Fleming now claims that while LVMPD produced all of the relevant documents for
4 his attorney's eyes only, LVMPD failed to respond to Fleming's request for redactions.
5 As a result, Fleming says that he cannot properly oppose the summary judgment motion.
6 LVMPD, in its Reply, states that upon providing all of the documents to Fleming's
7 attorney for his eyes only, Fleming's attorney sought full production of the entire file for
8 use as evidence. LVMPD opposed this request, arguing that they were highly
9 confidential and irrelevant to this case. Thereafter, no joint statement or additional
10 motion to the Magistrate Judge was made regarding this dispute.

11 As Magistrate Judge Ferenbach is best positioned to resolve this dispute, the
12 Court orders the parties to present a joint statement concerning this dispute to Judge
13 Ferenbach within seven (7) days from the entry of this Order. In the interim period, the
14 Court denies LVMPD's Motion for Summary Judgment.¹ Depending on the resolution of
15 this discovery dispute, LVMPD may bring a renewed motion for summary judgment, or
16 request that the Court reinstate the Motion already on file without further briefing.

17 IT IS THEREFORE ORDERED that Defendant LVMPD's Motion for Summary
18 Judgment (dkt. no. 40) is DENIED.

19 IT IS FURTHER ORDERED that LVMPD's Motions for Leave to File Document
20 Under Seal (dkt. nos. 44 and 46) are GRANTED.

21 IT IS FURTHER ORDERED that the parties shall file a joint statement concerning
22 their discovery dispute to the presiding Magistrate Judge within seven (7) days from the
23 entry of this Order.

24 DATED THIS 28th day of February 2013.


25
26 MIRANDA M. DU
UNITED STATES DISTRICT JUDGE

27
28 ¹LVMPD's Motions for Leave to File Under Seal (dkt. nos. 44 and 46) are granted.
Good cause exists to seal the sensitive material attached in LVMPD's Reply.