

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DIANE DEVINE,
Plaintiff,

v.

MIDDLETOWN TOWNSHIP, et al.,
Defendants.

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CIVIL ACTION

No.: 14-1072

ORDER

AND NOW, this 29th day of April, 2016, upon consideration of Defendants' Motion to Preclude the Opinions and Testimony of Plaintiff's Expert R. Paul McCauley (ECF No. 43) and the parties' responses thereto, (Pl's Resp., ECF No. 47; Defs.' Reply, ECF No. 48; Pl's Sur-Reply, ECF No. 54), and for the reasons set forth in the memorandum filed concurrently with this Order, **IT IS HEREBY ORDERED** that:

- 1) Defendants' Motion is **DENIED IN PART**. Dr. McCauley qualifies as an expert and his opinion is relevant to the Fourth Amendment use of force claim. (Compl., ECF No.1, Count I) He may testify with respect to prevailing use of force standards in the field of law enforcement and whether the Defendants' use of force was in accord with the standardized police procedures given the facts of this case.
- 2) Defendants' Motion is **GRANTED IN PART**. Dr. McCauley is precluded from opining that the Defendants' use of force was unreasonable or excessive. He may not opine on any ultimate legal question for the fact-finder.

BY THE COURT:

/s/ Lynne A. Sitarski

LYNNE A. SITARSKI
UNITED STATES MAGISTRATE JUDGE