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10
11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 JOSEPH CIAMPI,

14 Plaintiff,

15 v.

16 CITY OF PALO ALTO, a government
17 entity; LYNNE JOHNSON, an individual;
18 CHIEF DENNIS BURNS, an individual;
19 OFFICER KELLY BURGER, an individual;
20 OFFICER MANUEL TEMORES, an
21 individual; OFFICER APRIL WAGNER, an
22 individual; AGENT DAN RYAN;
23 SERGEANT NATASHA POWERS,
24 individual,

25 Defendants.

NO. C09-02655 LHK (PVT)

**DEFENDANT DENNIS BURNS'
RESPONSE TO PLAINTIFF'S
REQUESTS FOR ADMISSION,
SET NINE**

26 PROPOUNDING PARTY: Plaintiff Joseph Ciampi

27 RESPONDING PARTY: Defendant Dennis Burns

28 SET NUMBER: Nine (9)

TO PLAINTIFF IN PRO PER:

Defendant Dennis Burns responds as follows to your Requests for Admission,
Set Nine (9):

1 **REQUEST NO. 1:**

2 Admit that you provided Plaintiff Ciampi Defendant Burger's taser gun's,
3 (X00-292463) Weapon Summary and Firing data, (activation data), as a part of your
4 Response to Production of Documents and other Evidence Set 2.

5 **RESPONSE TO REQUEST NO. 1:**

6 Objection. This discovery request is argumentative, lacks foundation, and
7 requires assumptions to ascertain its meaning. Further, the request is vague and
8 ambiguous to such a degree as to render it unintelligible.

9 However and without waiving said objections, Defendant admits said request.
10 Please see Defendant's Response to Plaintiff's Production Demand, Set 2, Exhibit 6.

11 **REQUEST NO. 2:**

12 Admit Defendant Burger's report attached with this Discovery Request as
13 Exhibit 178 documents that Defendant Burger fired his taser gun 141 times.

14 **RESPONSE TO REQUEST NO. 2:**

15 Objection. This discovery request is argumentative, lacks foundation, and
16 requires assumptions to ascertain its meaning. Further, the request is vague and
17 ambiguous to such a degree as to render it unintelligible. Additionally, the request is
18 vague as to the term "fired" so as to call for speculation to the true meaning of the
19 word.

20 However and without waving said objections, Defendant admits that Exhibit
21 178, which concerns taser gun X00-292463 shows a combined activation count of
22 141 for the period of 2007-2008. This taser was assigned to Officer Burger on
23 March 15, 2008. Defendant is unable to admit or deny that it was Officer Burger
24 who activated/fired the weapon 141 times.

25 **REQUEST NO. 3:**

26 Admit that Defendant Burger's taser gun's, (X00-292463) Weapon Summary
27 and Firing data, (activation data), provided to Plaintiff Ciampi during the December
28 17, 2010 inspection, attached to this Discovery Request as Exhibit 175 documents

1 that Defendant Burger fired his taser gun 91 times.

2 **RESPONSE TO REQUEST NO. 3:**

3 Objection. This discovery request is argumentative, lacks foundation, and
4 requires assumptions to ascertain its meaning. Further, the request is vague and
5 ambiguous to such a degree as to render it unintelligible.

6 However and without waving said objections, Defendant admits that Exhibit
7 175, which concerns taser gun X00-292463 shows an activation count of 91 for the
8 time period of 2008. This taser was assigned to Officer Burger on March 15, 2008.
9 Defendant is unable to admit or deny that it was Officer Burger who activated/fired
10 the weapon 91 times.

11 **REQUEST NO. 4:**

12 Admit that Defendant Burger's Weapon Summary and Firing data, Exhibit
13 178, that you provided to Plaintiff is contradicted by the report of Defendant Burger's
14 Weapon Summary and Firing data, Exhibit 175, obtained on December 17, 2010.

15 **RESPONSE TO REQUEST NO. 4:**

16 Objection. This discovery request is argumentative, lacks foundation, and
17 requires assumptions to ascertain its meaning. Further, the request is vague and
18 ambiguous to such a degree as to render it unintelligible.

19 However and without waving said objections, Defendant denies said request.

20 **REQUEST NO. 5:**

21 Admit that the earlier report, Exhibit 178, of Defendant Burger's taser gun
22 firings doubles the number of firings from Sequence 3 through Sequence 54.

23 **RESPONSE TO REQUEST NO. 5:**

24 Objection. This discovery request is argumentative, lacks foundation, and
25 requires assumptions to ascertain its meaning. Further, the request is vague and
26 ambiguous to such a degree as to render it unintelligible.

27 However and without waving said objections, Defendant denies said request
28 as they are for different time periods.

1 **REQUEST NO. 6:**

2 Admit that a taser gun's Data Port retains approximately the last 1,500 firings
3 in its memory log.

4 **RESPONSE TO REQUEST NO. 6:**

5 Objection. This discovery request is argumentative, lacks foundation, and
6 requires assumptions to ascertain its meaning. Further, the request is vague and
7 ambiguous to such a degree as to render it unintelligible.

8 Furthermore, the phrases "taser gun" "data port" "retains" "firings" and
9 "memory log" are undefined and require speculation as to their meaning and
10 interpretation.

11 However and without waiving said objections, while such may be true as there
12 are several different types of tasers, Defendant lacks sufficient information to admit
13 or deny this request.

14 **REQUEST NO. 7:**

15 Admit that you provided Plaintiff Ciampi a falsified report, Exhibit 178, in
16 order to conceal that the Data Port from taser gun X00-292463 is missing numerous
17 firings from September 8, 2007 through December 28, 2008.

18 **RESPONSE TO REQUEST NO. 7:**

19 Objection. This discovery request is argumentative, lacks foundation, and
20 requires assumptions to ascertain its meaning. Further, the request is vague and
21 ambiguous to such a degree as to render it unintelligible.

22 Furthermore, the phrases "falsified report" and "numerous firings" are
23 undefined and require speculation as to their meaning and interpretation.

24 However and without waiving said objections, Defendant denies said request.

25 **REQUEST NO. 8:**

26 Admit that the Data Port retained in taser gun X00-292463 is not the Data
27 Port that recorded the March 15, 2008 incident.

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1 **RESPONSE TO REQUEST NO. 8:**

2 Objection. This discovery request is argumentative, lacks foundation, and
3 requires assumptions to ascertain its meaning. Further, the request is vague and
4 ambiguous to such a degree as to render it unintelligible.

5 Furthermore, the phrases “retained” and “recorded” are undefined and require
6 speculation as to their meaning and interpretation.

7 However and without waiving said objections, Defendant denies said request.

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9 **REQUEST NO. 9:**

10 Admit that you authorized the destruction of the actual activation data retained
11 on the taser gun used by Defendant Burger during the March 15, 2008 incident.

12 **RESPONSE TO REQUEST NO. 9:**

13 Objection. This discovery request is argumentative, lacks foundation, and
14 requires assumptions to ascertain its meaning. Further, the request is vague and
15 ambiguous to such a degree as to render it unintelligible.

16 Furthermore, the phrases “authorized”, “destruction” and “retained” are
17 undefined and require speculation as to their meaning and interpretation.

18 However and without waiving said objections, Defendant denies said request.

19 **REQUEST NO. 10:**

20 Admit that taser gun X00-292463 is not the taser gun that Defendant Burger
21 used during the March 15, 2008 incident.

22 **RESPONSE TO REQUEST NO. 10:**

23 Objection. This discovery request is argumentative, lacks foundation, and
24 requires assumptions to ascertain its meaning. Further, the request is vague and
25 ambiguous to such a degree as to render it unintelligible.

26 However and without waiving said objections, Defendant denies said request.

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1 **REQUEST NO. 11:**

2 Admit that you provided Plaintiff Ciampi Defendant Temores' taser gun's,
3 (X00-292417) Weapon Summary and Firing data, (activation data), as a part of your
4 Response to Production of Documents and other Evidence Set 2.

5 **RESPONSE TO REQUEST NO. 11:**

6 Objection. This discovery request is argumentative, lacks foundation, and
7 requires assumptions to ascertain its meaning. Further, the request is vague and
8 ambiguous to such a degree as to render it unintelligible.

9 However and without waiving said objections, Defendant admits. Please see
10 Defendant's Response to Plaintiff's Production Demand, Set 2, Exhibit 4.

11 **REQUEST NO. 12:**

12 Admit Defendant Temores' report attached with this Discovery Request as
13 Exhibit 179 documents that Defendant Temores fired his taser gun 144 times.

14 **RESPONSE TO REQUEST NO. 12:**

15 Objection. This discovery request is argumentative, lacks foundation, and
16 requires assumptions to ascertain its meaning. Further, the request is vague and
17 ambiguous to such a degree as to render it unintelligible.

18 However and without waving said objections, Defendant admits that Exhibit
19 179, which concerns taser gun X00-292417 shows a combined activation count of
20 144 for the period of 2007-2008. This taser was assigned to Officer Temores on
21 March 15, 2008. Defendant is unable to admit or deny that it was Officer Temores
22 who activated/fired the weapon 144 times.

23 **REQUEST NO. 13:**

24 Admit that Defendant Temores' taser gun's, (X00-292417) Weapon Summary
25 and Firing data, (activation data), provided to Plaintiff Ciampi during the December
26 17, 2010 inspection, attached to this Discovery Request as Exhibit 177 documents
27 that Defendant Temores fired his taser gun 107 times.

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1 **RESPONSE TO REQUEST NO. 13:**

2 Objection. This discovery request is argumentative, lacks foundation, and
3 requires assumptions to ascertain its meaning. Further, the request is vague and
4 ambiguous to such a degree as to render it unintelligible.

5 However and without waving said objections, Defendant admits that Exhibit
6 177, which concerns taser gun X00-292417 shows an activation count of 107 for the
7 time period of 2008. This taser was assigned to Officer Temores on March 15, 2008.
8 Defendant is unable to admit or deny that it was Officer Teores who activated/fired
9 the weapon 107 times.

10 **REQUEST NO. 14:**

11 Admit that Defendant Temores' Weapon Summary and Firing data, Exhibit
12 179, that you provided to Plaintiff is contradicted by the report of Defendant
13 Temores' Weapon Summary and Firing data, Exhibit 177, obtained on December 17,
14 2010.

15 **RESPONSE TO REQUEST NO. 14:**

16 Objection. This discovery request is argumentative, lacks foundation, and
17 requires assumptions to ascertain its meaning. Further, the request is vague and
18 ambiguous to such a degree as to render it unintelligible.

19 However and without waving said objections, Defendant denies said request.

20 **REQUEST NO. 15:**

21 Admit that the earlier report, Exhibit 179, of Defendant Temores taser gun
22 firings doubles the number of firings from Sequence 3 through Sequence 74.

23 **RESPONSE TO REQUEST NO. 15:**

24 Objection. This discovery request is argumentative, lacks foundation, and
25 requires assumptions to ascertain its meaning. Further, the request is vague and
26 ambiguous to such a degree as to render it unintelligible.

27 However and without waving said objections, Defendant denies said request.

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1 **REQUEST NO. 16:**

2 Admit that you provided Plaintiff Ciampi a falsified report, Exhibit 179, in
3 order to conceal that the Data Port from taser gun X00-292417 is missing numerous
4 firings from September 8, 2007 through December 26, 2008.

5 **RESPONSE TO REQUEST NO. 16:**

6 Objection. This discovery request is argumentative, lacks foundation, and
7 requires assumptions to ascertain its meaning. Further, the request is vague and
8 ambiguous to such a degree as to render it unintelligible.

9 Furthermore, the phrases “falsified report” and “numerous firings” are
10 undefined and require speculation as to their meaning and interpretation.

11 However and without waiving said objections, Defendant denies said request.

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13 **REQUEST NO. 17:**

14 Admit that firings documented in Defendants Temores' and Burger's Weapon
15 Summary reports, Exhibits 178 and 179 were doubled in order to conceal the missing
16 firings.

17 **RESPONSE TO REQUEST NO. 17:**

18 Objection. This discovery request is argumentative, lacks foundation, and
19 requires assumptions to ascertain its meaning. Further, the request is vague and
20 ambiguous to such a degree as to render it unintelligible.

21 Furthermore, the phrases “falsified report” and “numerous firings” are
22 undefined and require speculation as to their meaning and interpretation.

23 However and without waiving said objections, Defendant denies said request.

24 **REQUEST NO. 18:**

25 Admit that the Data Port retained in taser gun X00-292417 is not the Data
26 Port that recorded the March 15, 2008 incident.

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1 **RESPONSE TO REQUEST NO. 18:**

2 Objection. This discovery request is argumentative, lacks foundation, and
3 requires assumptions to ascertain its meaning. Further, the request is vague and
4 ambiguous to such a degree as to render it unintelligible.

5 Furthermore, the phrases “retained” and “recorded” are undefined and require
6 speculation as to their meaning and interpretation.

7 However and without waiving said objections, Defendant denies said request.

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9 **REQUEST NO. 19:**

10 Admit that you authorized the destruction of the actual activation data retained
11 on the taser gun used by Defendant Temores during the March 15, 2008 incident.

12 **RESPONSE TO REQUEST NO. 19:**

13 Objection. This discovery request is argumentative, lacks foundation, and
14 requires assumptions to ascertain its meaning. Further, the request is vague and
15 ambiguous to such a degree as to render it unintelligible.

16 Furthermore, the phrases “authorized”, “destruction” and “retained” are
17 undefined and require speculation as to their meaning and interpretation.

18 However and without waiving said objections, Defendant denies said request.

19 **REQUEST NO. 20:**

20 Admit that you conspired with some of the other defendants listed in this
21 federal law suit to have the video evidence of the March 15, 2008 incident falsified
22 with in order to conceal Defendants Wagner's, Temores' and Burger's unlawful
23 actions and to wrongfully incriminate Plaintiff Ciampi with the falsified evidence.

24 **RESPONSE TO REQUEST NO. 20:**

25 Objection. This discovery request is argumentative, lacks foundation, and
26 requires assumptions to ascertain its meaning. Further, the request is vague and
27 ambiguous to such a degree as to render it unintelligible.

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Furthermore, the phrases “conspired”, “some of the other defendants”, “video evidence”, “falsified”, “conceal”, “unlawful actions” and “wrongfully incriminate” are undefined and require speculation as to their meaning and interpretation.

However and without waiving said objections, Defendant denies said request.

DATED: January 24, 2011

FERGUSON, PRAET & SHERMAN
A Professional Corporation

By: 
Steven A. Sherman
Attorneys for Defendants

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA, COUNTY OF ORANGE

3 I, Cathy Sherman, employed in the aforesaid County, State of California; I am
4 over the age of 18 years and not a party to the within action. My business address is
1631 East 18th Street, Santa Ana, California 92705-7101.

5 On January 24, 2011, I served the **DEFENDANT DENNIS BURNS'**
6 **RESPONSE TO PLAINTIFF'S REQUESTS FOR ADMISSION, SET NINE** on
7 the interested parties in this action by placing a true copy thereof, enclosed in a
8 sealed envelope, addressed as follows:

9 Joseph Ciampi
10 P.O. Box 1681
11 Palo Alto, CA 94302
12 650-468-3561
13 t.ciampi@hotmail.com

14 XXX (By Mail) I placed such envelope for deposit in accordance with office
15 practice, sealed, with postage thereon fully paid and the correspondence to be
16 deposited in the United States mail at Santa Ana, California on the same day.

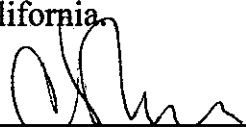
17 — (By e-filing) The above noted individuals are registered with the Court to
18 receive notice of electronically filed documents. Per ECF rules, hard copies
19 must be served only on parties who are not set up for electronic notification.

20 — (By Personal Service) I caused such envelope to be delivered by hand to the
21 office of the addressee.

22 — (State) I declare under penalty of perjury under the laws of the State of
23 California that the foregoing is true and correct.

24 XXX (Federal) I declare under penalty of perjury that the foregoing is true and
25 correct, and that I am employed in the office of a member of the bar of this
26 Court at whose direction the service was made.

27 Executed on January 24, 2011, at Santa Ana, California.

28 
Cathy Sherman