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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

11	JOSEPH CIAMPI,)	NO. C09-02655 LHK (PVT)
12	Plaintiff,	)	DEFENDANTS' RESPONSE TO
13	v.	)	PLAINTIFF'S MOTION FOR
14	CITY OF PALO ALTO, a government entity;	)	NEW JUDGE, TO STRIKE
15	LYNNE JOHNSON, an individual; CHIEF	)	DEFENDANTS' MOTION FOR
16	DENNIS BURNS, an individual; OFFICER	)	SUMMARY JUDGMENT, AND
17	KELLY BURGER, an individual; OFFICER	)	TO ORDER THE COURT'S
18	MANUEL TEMORES, an individual; OFFICER	)	ORDER GRANTING IN PART
19	APRIL WAGNER, an individual; AGENT DAN	)	AND DENYING IN PART
20	RYAN; SERGEANT NATASHA POWERS,	)	DEFENDANTS' MOTION FOR
21	individual,	)	SUMMARY JUDGMENT, AND
22	Defendants.	)	TO VACATE THE CURRENT
23		)	CASE SCHEDULE AND TO
24		)	SECURE ALL EXHIBITS WITH
25		)	THE COURT CLERK

26 At this time, Defendants are unsure whether a response is required to Plaintiff's
27 motion, however, they do offer the following comments:

28 Defendants tire of Plaintiff's continual false allegations against them, their legal
counsel and now the Court itself. Despite Plaintiff's beliefs, no one is lying and there is no
conspiracy against Plaintiff.

With respect to exhibits in support of their summary judgment motion, Defendants
believe Plaintiff's assertions are unfounded and improper. Defendants had sent via Federal
Express a Notice of Lodging Exhibits to the court. The exhibits consisted of reports,

1 declarations and recordings, all in support of the motion for summary judgment and which
2 were too voluminous to file through PACER. In addition to providing them to Plaintiff
3 with the motion, some of these same documents had/have been provided to Plaintiff on
4 numerous other occasions from various sources.

5 How these court filings are secured or handled by the Office of the Clerk is beyond
6 the knowledge and control of the Defendants. However, if it will help clarify things for the
7 Court, assuming that any clarification is needed, Defendants would be happy to lodge copies
8 of the individual MAV recordings of Officers Burger and Temores, as well as the combined
9 recording/overlay produced by the District Attorney's Office. These are three (3) separate
10 recordings.

11 Defendants will also again lodge copies of the taser recordings from the taser
12 cameras used during the March 15, 2008, incident and each taser gun's report(s). If
13 required, duplicates of these lodgings can also be mailed to Plaintiff and/or he may avail
14 himself to the copies lodged with the Clerk.

15 As Plaintiff is well aware, there are MAV videos from both Officer Temores'
16 vehicle (video only) and Officer Burger's vehicle (audio and video, but due to vehicle
17 positioning a visual of the incident involving Plaintiff was not captured). Then there is the
18 District Attorney's Office's "combined" video which it prepared apparently while
19 investigating Plaintiff's allegations of video tampering.

20 As far as viewing the actual incident itself, the D.A.'s video is the easiest video to
21 watch in that it matches/synchronizes Officer Burger's audio with Officer Temores' video.
22 The District Attorney's combined video uses both videos of Officers Temores and Burger,
23 and the focus appears to be on the incident itself. Since the Defendants had no involvement
24 in the creation of the D.A.'s video (clearly marked as such) how long the video plays is
25 nothing the Defendants had anything to do with. The Defendants have been using the
26 D.A.'s video as a matter of convenience since it allows the viewing of the entire incident on
27 one/single video and it confirmed the "no tampering" position of the Defendants.

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1 Despite Plaintiff’s beliefs to the contrary, all the MAV videos depict the same
2 incident. While the original videos depict what they depict, as they relate to the actual
3 incident between the Plaintiff and Defendants (the contact and altercation) all the videos
4 (Temores, Burgers and the D.A. version) all show the same thing. Once again, Plaintiff is
5 trying to make something out of nothing.

6 As to the vast majority of Plaintiff’s other unfounded accusations, no one is lying;
7 no rules have been intentionally violated and no false statements have intentionally been
8 made. Plaintiff appears to again be interfering and interpreting events and actions as he sees
9 fit.

10 Defendants also believe Plaintiff’s renewed request to ‘reconsider’ the earlier ruling
11 on Defendants’ motion for summary judgment to be unwarranted and improper.

12 There is no conspiracy between the Defendants and the Court. From the
13 Defendants’ perspective, the Court granted and denied the Defendants’ motion based on the
14 facts and existing law. There is still nothing to reconsider and nothing is new or different as
15 is required under the code.

16 The Court has yet to rule on Plaintiff’s motion for sanctions. Plaintiff’s anticipation
17 of what the Court may or may not rule does not constitute grounds for accusing the
18 Defendants, its legal counsel and/or the Court of doing anything improper. Despite
19 Plaintiff’s accusations to the contrary, nothing has been done to warrant vacating the case
20 schedule, striking the Court’s ruling on the motion for summary judgment, and/or removing
21 Judge Koh from the case.

22 There is no conspiracy between the Defendants and the Court and/or Defendants
23 legal counsel and the Court.

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While there are a litany of other allegations contained in Plaintiff's moving papers, Defendants are at a loss as to which ones, if any, need to be addressed and accordingly, Defendants will address those other claims only at the direction of the Court.

DATED: July 19, 2011

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/s/ Steven A. Sherman
Steven A. Sherman
Attorneys for Defendants