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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

12 JOSEPH CIAMPI,

13 Plaintiff,

14 v.

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

23 Defendants.

) NO. C09-02655 JF (PVT)

)
) **DEFENDANT DENNIS BURNS**
) **RESPONSE TO PLAINTIFF'S**
) **REQUEST FOR PRODUCTION**
) **OF DOCUMENTS, SET FIVE**

24 PROPOUNDING PARTY: Plaintiff, Joseph Ciampi, Pro Per

25 RESPONDING PARTY: Defendant, Dennis Burns

26 SET NUMBER: Five

27 TO PLAINTIFF:

28 Defendant City of Palo Alto responds to Plaintiff's Request for Production of
Documents and Inspection of Tangible Things, Set Five:

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1 camera into the video log regarding your RESPONSE TO REQUEST FOR PRODUCTION
2 NO. 2 SET TWO.

3 **RESPONSE TO REQUEST FOR PRODUCTION NO 1:**

4 Objection. This discovery request is argumentative, lacks foundation, and requires
5 assumptions to ascertain its meaning. Further, the request is vague and ambiguous as to the
6 phrases “wrong,” “video log,” and “your RESPONSE TO REQUEST FOR PRODUCTION
7 NO. 2 SET TWO” which are undefined and require speculation as to their meaning and
8 interpretation. Further, as phrased, the request violates the attorney client privilege, attorney
9 work product doctrine, and the official information privilege relating to personnel file
10 information. Further, the request is overbroad to the extent it seeks information within the
11 possession, custody and control of third parties which is equally available to the requesting
12 party. Further, to the extent the request seeks the desired information solely in the form of a
13 written response from this Defendant, the Request is in effect an interrogatory and should be
14 asked pursuant to Rule 36 of the Federal Rules of Civil Procedure.

15 Lastly, Defendant is responding to what essentially constitutes Interrogatory No. 22
16 in a spirit of cooperation. However, Plaintiff is now on notice that Defendant will object,
17 from this point forward, to any interrogatory that is cloaked as an admission or production
18 request. Defendant considers that this request constitutes one of Plaintiff’s interrogatories
19 under FRCP and will not respond once the statutory limit is exceeded

20 However and without waiving said objections, Defendant states that Natasha Powers
21 believes that she entered the information incorrectly in the log. If by some chance it was
22 another individual, Sgt. Powers, as a supervisor, will take responsibility for any incorrect
23 entry into the Excel sheet/file.

24 **REQUEST FOR PRODUCTION NO 2:**

25 Please produce and provide the date and time when the person who entered the
26 wrong serial number into Defendant Burger's taser video log regarding your RESPONSE
27 TO REQUEST FOR PRODUCTION NO.2 SET TWO.

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1 **RESPONSE TO REQUEST FOR PRODUCTION NO 2:**

2 Objection. This discovery request is argumentative, lacks foundation, and requires
3 assumptions to ascertain its meaning. Further, the request is vague and ambiguous as to the
4 phrases “wrong,” “video log,” and “your RESPONSE TO REQUEST FOR PRODUCTION
5 NO. 2 SET TWO” which are undefined and require speculation as to their meaning and
6 interpretation. Further, as phrased, the request violates the attorney client privilege, attorney
7 work product doctrine, and the official information privilege relating to personnel file
8 information. Further, the request is overbroad to the extent it seeks information within the
9 possession, custody and control of third parties which is equally available to the requesting
10 party. Further, to the extent the request seeks the desired information solely in the form of a
11 written response from this Defendant, the Request is in effect an interrogatory and should be
12 asked pursuant to Rule 36 of the Federal Rules of Civil Procedure.

13 Lastly, Defendant is responding to what essentially constitutes Interrogatory No. 23
14 in a spirit of cooperation. However, Plaintiff is now on notice that Defendant will object,
15 from this point forward, to any interrogatory that is cloaked as an admission or production
16 request. Defendant considers that this request constitutes one of Plaintiff’s interrogatories
17 under FRCP and will not respond once the statutory limit is exceeded

18 However and without waiving said objection, Defendant states that he is unaware on
19 what date and/or time the incorrect entry was logged.

20 **REQUEST FOR PRODUCTION NO 3:**

21 Please produce and provide the documents and or evidence which verifies that an
22 individual can physically input/enter the wrong serial number into the video log on the taser
23 camera's recording in regarding your RESPONSE TO REQUEST FOR PRODUCTION
24 NO.2 SET TWO.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO 3:**

26 Objection. This discovery request is argumentative, lacks foundation, and requires
27 assumptions to ascertain its meaning. Further, the request is vague and ambiguous as to the
28 phrases “wrong,” “video log,” and “your RESPONSE TO REQUEST FOR PRODUCTION
 NO. 2 SET TWO” which are undefined and require speculation as to their meaning and

1 interpretation. Further, as phrased, the request calls for an expert opinion and violates the
2 attorney client privilege, attorney work product doctrine, and the official information
3 privilege relating to personnel file information. Further, the request is overbroad to the
4 extent it seeks information within the possession, custody and control of third parties which
5 is equally available to the requesting party. Further, to the extent the request seeks the
6 desired information solely in the form of a written response from this Defendant, the
7 Request is in effect an interrogatory and should be asked pursuant to Rule 36 of the Federal
8 Rules of Civil Procedure.

9 However and without waiving said objection, Defendant states that the log is an
10 Excel spreadsheet file and it is manually prepared. As such, it is open to human error.

11 **REQUEST FOR PRODUCTION NO 4:**

12 Please produce and provide the documents and evidence that the Santa Clara
13 County Crime Lab Documented Taser Camera V07-065373 as the actual taser camera
14 received from you as you stated that the Crime Lab received and documented as such
15 according to your RESPONSE TO REQUEST FOR PRODUCTION Numbers 2 and 3 SET
16 TWO.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO 4:**

18 Objection. This discovery request is argumentative, lacks foundation, and requires
19 assumptions to ascertain its meaning. Further, the request is vague and ambiguous to such a
20 degree as to render it unintelligible. Further, as phrased, the request violates the attorney
21 client privilege, attorney work product doctrine, and the official information privilege
22 relating to personnel file information. Further, the request is overbroad to the extent it seeks
23 information within the possession, custody and control of third parties which is equally
24 available to the requesting party.

25 However and without waiving said objection, Defendant states that the Crime Lab
26 did not receive taser camera V07-065373. All responses provided previously stating
27 information contrary to this response will be amended as further investigation has borne out
28 the facts represented herein. As such, there are no documents responsive to this request.

1 **REQUEST FOR PRODUCTION NO 5:**

2 Please produce and provide the evidence of your limited resources and budgetary
3 restrains which you claim as a justification for not being able to provide Defendants
4 Burger's and Temores' taser guns' activation reports in a timely fashion yet you do have the
5 resources available to produce multiple copies of Defendants Burger's and Temores' MAV
6 and taser camera videos regarding your RESPONSE TO REQUEST FOR PRODUCTION
7 NO. 1 through No. 10 SET TWO.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO 5:**

9 Objection. This discovery request is argumentative, lacks foundation, and requires
10 assumptions to ascertain its meaning. Further, the request is vague and ambiguous to such a
11 degree as to render it unintelligible. Further, as phrased, the request violates the attorney
12 client privilege, attorney work product doctrine, and the official information privilege
13 relating to personnel file information. Further, the request is overbroad to the extent it seeks
14 information within the possession, custody and control of third parties which is equally
15 available to the requesting party, and it is not reasonably calculated to lead to admissible
16 evidence.

17 As such, Defendant will not respond to this request.

18 **REQUEST FOR PRODUCTION NO 6:**

19 Please produce and provide the procedure for making copies of Defendant Burger's
20 MAV video created on March 15, 2008.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO 6:**

22 Objection. This discovery request is argumentative, lacks foundation, and requires
23 assumptions to ascertain its meaning. Further, the request is vague and ambiguous as to the
24 phrase "procedure for making copies" which is undefined and requires speculation as to its
25 meaning and interpretation. Further, as phrased, the request calls for an expert opinion and
26 violates the attorney client privilege and attorney work product doctrine. Further, the
27 request is overbroad to the extent it seeks information within the possession, custody and
28 control of third parties which is equally available to the requesting party. Further, to the

1 extent the request seeks the desired information solely in the form of a written response
2 from this Defendant, the Request is in effect an interrogatory and should be asked pursuant
3 to Rule 36 of the Federal Rules of Civil Procedure.

4 Lastly, Defendant is responding to what essentially constitutes Interrogatory No. 24
5 in a spirit of cooperation. However, Plaintiff is now on notice that Defendant will object,
6 from this point forward, to any interrogatory that is cloaked as an admission or production
7 request. Defendant considers that this request constitutes one of Plaintiff's interrogatories
8 under FRCP and will not respond once the statutory limit is exceeded

9 However and without waiving said objection, Defendant states that copies of Officer
10 Burger's MAV video concerning the March 15, 2008, incident would have been made by
11 Brian Furtado. The copy process may be viewed and an additional copy of the recording
12 made at a time/date arranged between the parties/counsel.

13 **REQUEST FOR PRODUCTION NO 7:**

14 Please produce and provide the procedure for making copies of Defendant
15 Temores' MAV video created on March 15,2008.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO 7:**

17 Objection. This discovery request is argumentative, lacks foundation, and requires
18 assumptions to ascertain its meaning. Further, the request is vague and ambiguous as to the
19 phrase "procedure for making copies" which is undefined and requires speculation as to its
20 meaning and interpretation. Further, as phrased, the request calls for an expert opinion and
21 violates the attorney client privilege and attorney work product doctrine. Further, the
22 request is overbroad to the extent it seeks information within the possession, custody and
23 control of third parties which is equally available to the requesting party. Further, to the
24 extent the request seeks the desired information solely in the form of a written response
25 from this Defendant, the Request is in effect an interrogatory and should be asked pursuant
26 to Rule 36 of the Federal Rules of Civil Procedure.

27 Lastly, Defendant is responding to what essentially constitutes Interrogatory No. 25
28 in a spirit of cooperation. However, Plaintiff is now on notice that Defendant will object,

1 from this point forward, to any interrogatory that is cloaked as an admission or production
2 request. Defendant considers that this request constitutes one of Plaintiff's interrogatories
3 under FRCP and will not respond once the statutory limit is exceeded

4 However and without waiving said objection, Defendant states that copies of Officer
5 Temores' MAV video concerning the March 15, 2008, incident would have been made by
6 Brian Furtado. The copy process may be viewed and an additional copy of the recording
7 made at a time/date arranged between the parties/counsel.

8 **REQUEST FOR PRODUCTION NO 8:**

9 Please produce and provide the technical reason why the "dates of last modification"
10 of the copies of Defendant Burger's MAV recordings are different.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO 8:**

12 Objection. This discovery request is argumentative, lacks foundation, and requires
13 assumptions to ascertain its meaning. Further, the request is vague and ambiguous as to the
14 phrase "procedure for making copies" which is undefined and requires speculation as to its
15 meaning and interpretation. Further, as phrased, the request calls for an expert opinion and
16 violates the attorney client privilege and attorney work product doctrine. Further, the
17 request is overbroad to the extent it seeks information within the possession, custody and
18 control of third parties which is equally available to the requesting party. Further, to the
19 extent the request seeks the desired information solely in the form of a written response
20 from this Defendant, the Request is in effect an interrogatory and should be asked pursuant
21 to Rule 36 of the Federal Rules of Civil Procedure.

22 Lastly, Defendant is responding to what essentially constitutes Interrogatory No. 26
23 in a spirit of cooperation. However, Plaintiff is now on notice that Defendant will object,
24 from this point forward, to any interrogatory that is cloaked as an admission or production
25 request. Defendant considers that this request constitutes one of Plaintiff's interrogatories
26 under FRCP and will not respond once the statutory limit is exceeded

27 However and without waiving said objection, Defendant states he is unaware exactly
28 why this would happen and cannot speculate on such.

1 **REQUEST FOR PRODUCTION NO 9:**

2 Please produce and provide the technical reason why the "dates of last
3 modification" of the copies of Defendant Temores' MA V recordings are different.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO 9:**

5 Objection. This discovery request is argumentative, lacks foundation, and requires
6 assumptions to ascertain its meaning. Further, the request is vague and ambiguous as to the
7 phrase "procedure for making copies" which is undefined and requires speculation as to its
8 meaning and interpretation. Further, as phrased, the request calls for an expert opinion and
9 violates the attorney client privilege and attorney work product doctrine. Further, the
10 request is overbroad to the extent it seeks information within the possession, custody and
11 control of third parties which is equally available to the requesting party. Further, to the
12 extent the request seeks the desired information solely in the form of a written response
13 from this Defendant, the Request is in effect an interrogatory and should be asked pursuant
14 to Rule 36 of the Federal Rules of Civil Procedure.

15 Lastly, Defendant is responding to what essentially constitutes Interrogatory No. 27
16 in a spirit of cooperation. However, Plaintiff is now on notice that Defendant will object,
17 from this point forward, to any interrogatory that is cloaked as an admission or production
18 request. Defendant considers that this request constitutes one of Plaintiff's interrogatories
19 under FRCP and will not respond once the statutory limit is exceeded

20 However and without waiving said objection, Defendant states he is unaware exactly
21 why this would happen and cannot speculate on such.

22 **REQUEST FOR PRODUCTION NO 10:**

23 Please produce and provide the technical reason why the amount of memory
24 making up the different copies of Defendant Temores' MAV recording are different.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO 10:**

26 Objection. This discovery request is argumentative, lacks foundation, and requires
27 assumptions to ascertain its meaning. Further, the request is vague and ambiguous as to the
28 phrase "technical reason" which is undefined and requires speculation as to its meaning and
interpretation. Further, as phrased, the request calls for an expert opinion and violates the

1 attorney client privilege and attorney work product doctrine. Further, the request is
2 overbroad to the extent it seeks information within the possession, custody and control of
3 third parties which is equally available to the requesting party. Further, to the extent the
4 request seeks the desired information solely in the form of a written response from this
5 Defendant, the Request is in effect an interrogatory and should be asked pursuant to Rule 36
6 of the Federal Rules of Civil Procedure.

7 Lastly, Defendant is responding to what essentially constitutes Interrogatory No. 28
8 in a spirit of cooperation. However, Plaintiff is now on notice that Defendant will object,
9 from this point forward, to any interrogatory that is cloaked as an admission or production
10 request. Defendant considers that this request constitutes one of Plaintiff's interrogatories
11 under FRCP and will not respond once the statutory limit is exceeded

12 However and without waiving said objection, Defendant states that he personally is
13 unable to address this type of technical question. Defendant is willing, however, to run the
14 MAV recording through the Kustom Signals verification software while the process is
15 viewed by a mutually selected neutral third party. The time/date for this viewing is to be
16 arranged between the parties/counsel and should quell all suspicions of alteration and/or
17 missing footage.

18 **REQUEST FOR PRODUCTION NO 11:**

19 Please produce and provide the technical reason why the amount of memory
20 making up the different copies of Defendant Burger's MAV recording are different.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO 11:**

22 Objection. This discovery request is argumentative, lacks foundation, and requires
23 assumptions to ascertain its meaning. Further, the request is vague and ambiguous as to the
24 phrase "technical reason" which is undefined and requires speculation as to its meaning and
25 interpretation. Further, as phrased, the request calls for an expert opinion and violates the
26 attorney client privilege and attorney work product doctrine. Further, the request is
27 overbroad to the extent it seeks information within the possession, custody and control of
28 third parties which is equally available to the requesting party. Further, to the extent the

1 request seeks the desired information solely in the form of a written response from this
2 Defendant, the Request is in effect an interrogatory and should be asked pursuant to Rule 36
3 of the Federal Rules of Civil Procedure.

4 However and without waiving said objection, Defendant states that he personally is
5 unable to address this type of technical question. Defendant is willing, however, to run the
6 MAV recording through the Kustom Signals verification software while the process is
7 viewed by a mutually selected neutral third party. The time/date for this viewing is to be
8 arranged between the parties/counsel and should quell all suspicions of alteration and/or
9 missing footage.

10 **REQUEST FOR PRODUCTION NO 12:**

11 Please produce and provide by specifying the exact scenes from Defendant
12 Temores' MAV recording of Defendant Burger standing directly behind Defendant Temores
13 while Defendant Temores is on the ground drive stunning Plaintiff Ciampi by providing the
14 "still images" from Defendant Temores' MAV recording depicting Defendant Burger
15 standing directly behind Defendant Temores while Defendant Temores is on the ground
16 drive stunning Plaintiff Ciampi as documented at the 17:05:06 mark of Defendant Temores'
17 taser camera video and Image "A" of Exhibit 1-2.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO 12:**

19 Objection. This discovery request is argumentative, lacks foundation, and requires
20 assumptions to ascertain its meaning. Further, the request is vague and ambiguous to such a
21 degree as to render it unintelligible. Further, as phrased, the request calls for an expert
22 opinion and violates the attorney client privilege and attorney work product doctrine.
23 Further, the request is overbroad to the extent it seeks information within the possession,
24 custody and control of third parties which is equally available to the requesting party.
25 Further, to the extent the request seeks the desired information solely in the form of a
26 written response from this Defendant, the Request is in effect an interrogatory and should be
27 asked pursuant to Rule 36 of the Federal Rules of Civil Procedure.

28 However and without waiving said objection, Defendant states that the recording
speaks for itself.

1 **REQUEST FOR PRODUCTION NO 13:**

2 Please produce and provide the video footage from Defendant Temores' MAV
3 recording of Defendant Burger standing directly behind Defendant Temores while
4 Defendant Temores is on the ground drive stunning Plaintiff Ciampi by providing the video
5 footage from Defendant Temores' MA V recording depicting Defendant Burger standing
6 directly behind Defendant Temores while Defendant Temores is on the ground drive
7 stunning Plaintiff Ciampi as documented at the 17:05:06 mark of Defendant Temores' taser
8 camera video and Image "A" of Exhibit 1-2.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO 13:**

10 Objection. This discovery request is argumentative, lacks foundation, and requires
11 assumptions to ascertain its meaning. Further, the request is vague and ambiguous to such a
12 degree as to render it unintelligible. Further, as phrased, the request calls for an expert
13 opinion and violates the attorney client privilege and attorney work product doctrine.
14 Further, the request is overbroad to the extent it seeks information within the possession,
15 custody and control of third parties which is equally available to the requesting party.
16 Further, to the extent the request seeks the desired information solely in the form of a
17 written response from this Defendant, the Request is in effect an interrogatory and should be
18 asked pursuant to Rule 36 of the Federal Rules of Civil Procedure.

19 However and without waiving said objection, Defendant states Plaintiff has a copy
20 of the video in question, and it speaks for itself.

21 **REQUEST FOR PRODUCTION NO 14:**

22 Please produce and provide by specifying the exact scenes from Defendant
23 Temores' MAV recording of Plaintiff Ciampi getting up off the ground after being down on
24 the ground and then going back down to the ground a second time by providing the "still
25 images" from Defendant Temores' MAV recording depicting Plaintiff Ciampi going down
26 to the ground and getting up off the ground and going back down to the ground a second
27 time as described and documented by Defendant Wagner on page 2 lines 9 to 25 of
28 Defendant Wagner's statement in the police report and Exhibit 2-2.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO 14:**

2 Objection. This discovery request is argumentative, lacks foundation, and requires
3 assumptions to ascertain its meaning. Further, the request is vague and ambiguous to such a
4 degree as to render it unintelligible. Further, as phrased, the request calls for an expert
5 opinion and violates the attorney client privilege and attorney work product doctrine.
6 Further, the request is overbroad to the extent it seeks information within the possession,
7 custody and control of third parties which is equally available to the requesting party.
8 Further, to the extent the request seeks the desired information solely in the form of a
9 written response from this Defendant, the Request is in effect an interrogatory and should be
10 asked pursuant to Rule 36 of the Federal Rules of Civil Procedure.

11 However and without waiving said objection, Defendant states that Plaintiff has a
12 copy of the recording and **the video speaks for itself.**

13 **REQUEST FOR PRODUCTION NO 15:**

14 Please produce and provide the video footage from Defendant Temores' MAV
15 recording of Plaintiff Ciampi getting up off the ground after being down on the ground and
16 then going back down to the ground a second time by providing the video footage from
17 Defendant Temores' MAV recording depicting Plaintiff Ciampi going down to the ground
18 and getting up off the ground and going back down to the ground a second time as described
19 and documented by Defendant Wagner on page 2 lines 9 to 25 of Defendant Wagner's
20 statement in the police report and Exhibit 2-2.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO 15:**

22 Objection. This discovery request is argumentative, lacks foundation, and requires
23 assumptions to ascertain its meaning. Further, the request is vague and ambiguous to such a
24 degree as to render it unintelligible. Further, as phrased, the request calls for an expert
25 opinion and violates the attorney client privilege and attorney work product doctrine.
26 Further, the request is overbroad to the extent it seeks information within the possession,
27 custody and control of third parties which is equally available to the requesting party.
28 Further, to the extent the request seeks the desired information solely in the form of a

1 written response from this Defendant, the Request is in effect an interrogatory and should be
2 asked pursuant to Rule 36 of the Federal Rules of Civil Procedure.

3 However and without waiving said objection, Defendant states that Plaintiff has a
4 copy of the recording, and the video speaks for itself.

5 **REQUEST FOR PRODUCTION NO 16:**

6 Please produce and provide by specifying the exact scenes from Defendant
7 Temores' MA V recording of Defendant Burger firing his taser gun while all three officers
8 and Plaintiff Ciampi are on the ground simultaneously by providing the "still images" from
9 Defendant Temores' MA V recording depicting Defendant Burger firing his taser gun while
10 all three officers and Plaintiff Ciampi are on the ground simultaneously as described and
11 documented by Defendant Wagner on page 2 lines 9 to 25 of Defendant Wagner's statement
12 in the police report and Exhibit 2-2.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO 16:**

14 Objection. This discovery request is argumentative, lacks foundation, and requires
15 assumptions to ascertain its meaning. Further, the request is vague and ambiguous to such a
16 degree as to render it unintelligible. Further, as phrased, the request calls for an expert
17 opinion and violates the attorney client privilege and attorney work product doctrine.
18 Further, the request is overbroad to the extent it seeks information within the possession,
19 custody and control of third parties which is equally available to the requesting party.
20 Further, to the extent the request seeks the desired information solely in the form of a
21 written response from this Defendant, the Request is in effect an interrogatory and should be
22 asked pursuant to Rule 36 of the Federal Rules of Civil Procedure.

23 However and without waiving said objection, Defendant states that Plaintiff has a
24 copy of the recording, and the video speaks for itself.

25 **REQUEST FOR PRODUCTION NO 17:**

26 Please produce and provide the video footage from Defendant Temores' MAV
27 recording of Defendant Burger firing his taser gun while all three officers and Plaintiff
28 Ciampi are on the ground simultaneously by providing the video footage from Defendant

1 Temores' MAV recording depicting Defendant Burger firing his taser gun while all three
2 officers and Plaintiff Ciampi are on the ground simultaneously as described and documented
3 by Defendant Wagner on page 2 lines 9 to 25 of Defendant Wagner's statement in the police
4 report and Exhibit 2-2.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO 17:**

6 Objection. This discovery request is argumentative, lacks foundation, and requires
7 assumptions to ascertain its meaning. Further, the request is vague and ambiguous to such a
8 degree as to render it unintelligible. Further, as phrased, the request calls for an expert
9 opinion and violates the attorney client privilege and attorney work product doctrine.
10 Further, the request is overbroad to the extent it seeks information within the possession,
11 custody and control of third parties which is equally available to the requesting party.
12 Further, to the extent the request seeks the desired information solely in the form of a
13 written response from this Defendant, the Request is in effect an interrogatory and should be
14 asked pursuant to Rule 36 of the Federal Rules of Civil Procedure.

15 However and without waiving said objection, Defendant states that Plaintiff has a
16 copy of the recording, and the video speaks for itself.

17 **REQUEST FOR PRODUCTION NO 18:**

18 Please produce and provide by specifying the exact scenes from Defendant
19 Temores' MAV recording of Defendant Temores discharging electricity from his taser gun
20 while Plaintiff Ciampi is standing, by providing the "still images" from Temores' MAV
21 recording depicting Defendant Temores discharging electricity from his taser gun while
22 Plaintiff Ciampi standing as described and documented by Defendant Wagner on page 2
23 lines 9 to 25 of Defendant Wagner's statement in the police report and Exhibit 2-2.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO 18:**

25 Objection. This discovery request is argumentative, lacks foundation, and requires
26 assumptions to ascertain its meaning. Further, the request is vague and ambiguous to such a
27 degree as to render it unintelligible. Further, as phrased, the request calls for an expert
28 opinion and violates the attorney client privilege and attorney work product doctrine.

1 Further, the request is overbroad to the extent it seeks information within the possession,
2 custody and control of third parties which is equally available to the requesting party.
3 Further, to the extent the request seeks the desired information solely in the form of a
4 written response from this Defendant, the Request is in effect an interrogatory and should be
5 asked pursuant to Rule 36 of the Federal Rules of Civil Procedure.

6 However and without waiving said objection, Defendant states that Plaintiff has a
7 copy of the recording, and the video speaks for itself.

8 **REQUEST FOR PRODUCTION NO 19:**

9 Please produce and provide the video footage from Defendant Temores' MAV
10 recording of Defendant Temores discharging electricity from his taser gun while Plaintiff
11 Ciampi is standing by providing the video footage from Temores' MAV recording depicting
12 Defendant Temores discharging electricity from his taser gun while Plaintiff Ciampi is
13 standing as described and documented by Defendant Wagner on page 2 lines 9 to 25 of
14 Defendant Wagner's statement in the police report and Exhibit 2-2.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO 19:**

16 Objection. This discovery request is argumentative, lacks foundation, and requires
17 assumptions to ascertain its meaning. Further, the request is vague and ambiguous to such a
18 degree as to render it unintelligible. Further, as phrased, the request calls for an expert
19 opinion and violates the attorney client privilege and attorney work product doctrine.
20 Further, the request is overbroad to the extent it seeks information within the possession,
21 custody and control of third parties which is equally available to the requesting party.
22 Further, to the extent the request seeks the desired information solely in the form of a
23 written response from this Defendant, the Request is in effect an interrogatory and should be
24 asked pursuant to Rule 36 of the Federal Rules of Civil Procedure.

25 However and without waiving said objection, Defendant states that Plaintiff has a
26 copy of the recording, and the video speaks for itself.

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1 **REQUEST FOR PRODUCTION NO 20:**

2 Please produce and provide by specifying the exact scenes from Defendant
3 Burger's taser camera recording of Defendant Burger firing his taser gun while all three
4 officers and Plaintiff Ciampi are on the ground simultaneously, by providing the "still
5 images" from Defendant Burger's taser camera recording depicting Defendant Burger firing
6 his taser gun while all three officers and Plaintiff Ciampi are on the ground simultaneously
7 as described and 3 documented by Defendant Wagner on page 2 lines 9 to 25 of Defendant
8 Wagner's statement in 4 the police report and Exhibit 2-2.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO 20:**

10 Objection. This discovery request is argumentative, lacks foundation, and requires
11 assumptions to ascertain its meaning. Further, the request is vague and ambiguous to such a
12 degree as to render it unintelligible. Further, as phrased, the request calls for an expert
13 opinion and violates the attorney client privilege and attorney work product doctrine.
14 Further, the request is overbroad to the extent it seeks information within the possession,
15 custody and control of third parties which is equally available to the requesting party.
16 Further, to the extent the request seeks the desired information solely in the form of a
17 written response from this Defendant, the Request is in effect an interrogatory and should be
18 asked pursuant to Rule 36 of the Federal Rules of Civil Procedure.

19 However and without waiving said objection, Defendant states that Plaintiff has a
20 copy of the recording, and it speaks for itself.

21 **REQUEST FOR PRODUCTION NO 21:**

22 Please produce and provide the video footage from Defendant Burger's taser
23 camera recording of Defendant Burger firing his taser gun while all three officers and
24 Plaintiff Ciampi are on the ground simultaneously, by providing the video footage from
25 Defendant Burger's taser camera recording depicting Defendant Burger firing his taser gun
26 while all three officers and Plaintiff Ciampi are on the ground simultaneously as described
27 and on page 2 lines 9 to 25 of Defendant Wagner's statement in the police report and
28 Exhibit 2-2. documented by Defendant Wagner on page 2 lines 9 to 25 of Defendant
Wagner's statement in the police report and Exhibit 2-2.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO 21:**

2 Objection. This discovery request is argumentative, lacks foundation, and requires
3 assumptions to ascertain its meaning. Further, the request is vague and ambiguous to such a
4 degree as to render it unintelligible. Further, as phrased, the request calls for an expert
5 opinion and violates the attorney client privilege and attorney work product doctrine.
6 Further, the request is overbroad to the extent it seeks information within the possession,
7 custody and control of third parties which is equally available to the requesting party.
8 Further, to the extent the request seeks the desired information solely in the form of a
9 written response from this Defendant, the Request is in effect an interrogatory and should be
10 asked pursuant to Rule 36 of the Federal Rules of Civil Procedure.

11 However and without waiving said objection, Defendant states that Plaintiff has a
12 copy of the recording, and it speaks for itself.

13 **REQUEST FOR PRODUCTION NO 22:**

14 Please produce and provide by specifying the exact scenes from Defendant
15 Temores' taser camera recording of Defendant Temores discharging electricity from his
16 taser gun while Plaintiff Ciampi is standing, by providing the "still images" from Defendant
17 Temores' taser camera recording depicting Defendant Temores discharging electricity from
18 his taser gun while Plaintiff Ciampi is standing as described and documented by Defendant
19 Wagner.

20 **RESPONSE TO REQUEST FOR PRODUCTION NO 22:**

21 Objection. This discovery request is argumentative, lacks foundation, and requires
22 assumptions to ascertain its meaning. Further, the request is vague and ambiguous to such a
23 degree as to render it unintelligible. Further, as phrased, the request calls for an expert
24 opinion and violates the attorney client privilege and attorney work product doctrine.
25 Further, the request is overbroad to the extent it seeks information within the possession,
26 custody and control of third parties which is equally available to the requesting party.
27 Further, to the extent the request seeks the desired information solely in the form of a
28 written response from this Defendant, the Request is in effect an interrogatory and should be
 asked pursuant to Rule 36 of the Federal Rules of Civil Procedure.

1 The request also requires the Defendant to create documentation not in its
2 possession and Defendant is not obligated to create such "evidence."

3 However and without waiving said objection, Defendant states that Plaintiff has a
4 copy of the recording, and it speaks for itself.

5 **REQUEST FOR PRODUCTION NO 23:**

6 Please produce and provide the video footage from Defendant Temores' taser
7 camera recording of Defendant Temores discharging electricity from his taser gun while
8 Plaintiff Ciampi is standing, by providing the video footage from Defendant Temores' taser
9 camera recording depicting Defendant Temores discharging electricity from his taser gun
10 while Plaintiff Ciampi is standing as described and documented by Defendant Wagner on
11 page 2 lines 9 to 25 Defendant Wagner's statement in the police report and Exhibit 2-2.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO 23:**

13 Objection. This discovery request is argumentative, lacks foundation, and requires
14 assumptions to ascertain its meaning. Further, the request is vague and ambiguous to such a
15 degree as to render it unintelligible. Further, as phrased, the request calls for an expert
16 opinion and violates the attorney client privilege and attorney work product doctrine.
17 Further, the request is overbroad to the extent it seeks information within the possession,
18 custody and control of third parties which is equally available to the requesting party.
19 Further, to the extent the request seeks the desired information solely in the form of a
20 written response from this Defendant, the Request is in effect an interrogatory and should be
21 asked pursuant to Rule 36 of the Federal Rules of Civil Procedure.

22 However and without waiving said objection, Defendant states that Plaintiff has a
23 copy of the recording, and it speaks for itself.

24 **REQUEST FOR PRODUCTION NO 24:**

25 Please produce and provide by specifying the exact scenes from Defendant
26 Temores' taser camera recording of Defendant Temores discharging electricity one, two and
27 three separate times by identifying the exact scenes and time marks of when Defendant
28 Temores is discharging electricity by providing the "still images" from Defendant Temores'

1 taser camera video depicting Defendant Temores discharging electricity three separate times
2 as described and documented by Defendant Temores' testimony on page 53 lines 17 to 28
3 and page 54 lines 1 to 9 of Plaintiff Ciampi's pre-trial transcript and exhibit 2-3.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO 24:**

5 Objection. This discovery request is argumentative, lacks foundation, and requires
6 assumptions to ascertain its meaning. Further, the request is vague and ambiguous to such a
7 degree as to render it unintelligible. Further, as phrased, the request calls for an expert
8 opinion and violates the attorney client privilege and attorney work product doctrine.
9 Further, the request is overbroad to the extent it seeks information within the possession,
10 custody and control of third parties which is equally available to the requesting party.
11 Further, to the extent the request seeks the desired information solely in the form of a
12 written response from this Defendant, the Request is in effect an interrogatory and should be
13 asked pursuant to Rule 36 of the Federal Rules of Civil Procedure.

14 However and without waiving said objection, Defendant states that Plaintiff has a
15 copy of the recording, and it speaks for itself.

16 **REQUEST FOR PRODUCTION NO 25:**

17 Please produce and provide the video footage from Defendant Temores' Taser
18 camera recording of Defendant Temores discharging electricity one, two and three separate
19 times depicting the scenes as described by Defendant Temores in Defendant Temores'
20 testimony at Plaintiff Ciampi's pre-trial examination as documented on page 53 lines 17 to
21 28 and page 54 lines 1 to 9 of Plaintiff Ciampi's pre-trial transcript and exhibit 2-3.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO 25:**

23 Objection. This discovery request is argumentative, lacks foundation, and requires
24 assumptions to ascertain its meaning. Further, the request is vague and ambiguous to such a
25 degree as to render it unintelligible. Further, as phrased, the request calls for an expert
26 opinion and violates the attorney client privilege and attorney work product doctrine.
27 Further, the request is overbroad to the extent it seeks information within the possession,
28 custody and control of third parties which is equally available to the requesting party.

1 Further, to the extent the request seeks the desired information solely in the form of a
2 written response from this Defendant, the Request is in effect an interrogatory and should be
3 asked pursuant to Rule 36 of the Federal Rules of Civil Procedure.

4 However and without waiving said objection, Defendant states that although he is
5 not in possession of the pretrial transcripts, Plaintiff has a copy of the recording in question,
6 and it speaks for itself.

7 **REQUEST FOR PRODUCTION NO 26:**

8 Please produce and provide by specifying the exact scenes from Defendant
9 Temores' MAV recording of Plaintiff Ciampi getting up off the ground after being down on
10 the ground and then going back down to the ground a second time by providing the "still
11 images" from Defendant Temores' MAV recording depicting Plaintiff Ciampi going down
12 to the ground and getting up off the ground and going back down to the ground a second
13 time as described and documented by Defendant Temores' testimony on page 53 lines 17 to
14 28 and page 54 lines 1 to 9 of Plaintiff Ciampi's pre-trial transcript and exhibit 2-3.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO 26:**

16 Objection. This discovery request is argumentative, lacks foundation, and requires
17 assumptions to ascertain its meaning. Further, the request is vague and ambiguous to such a
18 degree as to render it unintelligible. Further, as phrased, the request calls for an expert
19 opinion and violates the attorney client privilege and attorney work product doctrine.
20 Further, the request is overbroad to the extent it seeks information within the possession,
21 custody and control of third parties which is equally available to the requesting party.
22 Further, to the extent the request seeks the desired information solely in the form of a
23 written response from this Defendant, the Request is in effect an interrogatory and should be
24 asked pursuant to Rule 36 of the Federal Rules of Civil Procedure.

25 However and without waiving said objection, Defendant states that Plaintiff has a
26 copy of the recording, and it speaks for itself.

27 ///

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1 **REQUEST FOR PRODUCTION NO 27:**

2 Please produce and provide the video footage from Defendant Temores' MAV
3 recording of Plaintiff Ciampi getting up off the ground after being down on the ground and
4 then going back down to the ground a second time by providing the video footage from
5 Defendant Temores' MAV recording depicting Plaintiff Ciampi going back down to the
6 ground and getting up off the ground and going back down to the ground a second time as
7 described and documented by Defendant Temores' testimony on page 53 lines 17 to 28 and
8 page 54 lines 1 to 9 of Plaintiff Ciampi's pre-trial transcript and exhibit 2-3.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO 27:**

10 Objection. This discovery request is argumentative, lacks foundation, and requires
11 assumptions to ascertain its meaning. Further, the request is vague and ambiguous to such a
12 degree as to render it unintelligible. Further, as phrased, the request calls for an expert
13 opinion and violates the attorney client privilege and attorney work product doctrine.
14 Further, the request is overbroad to the extent it seeks information within the possession,
15 custody and control of third parties which is equally available to the requesting party.
16 Further, to the extent the request seeks the desired information solely in the form of a
17 written response from this Defendant, the Request is in effect an interrogatory and should be
18 asked pursuant to Rule 36 of the Federal Rules of Civil Procedure.

19 However and without waiving said objection, Defendant states that Plaintiff has a
20 copy of the recording, and it speaks for itself.

21 **REQUEST FOR PRODUCTION NO 28:**

22 Please produce and provide the still-images from Defendant Temores' MAV
23 video that correspond to the 17: 15:59 mark of Defendant Temores' taser camera recording
24 identified by Images "C" and "D" of Exhibit 3-2 where Plaintiff Ciampi is lying face down
25 on the sidewalk further away from Defendant Temores' MAV camera than Defendant
26 Burger.

27 ///

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1 **RESPONSE TO REQUEST FOR PRODUCTION NO 28:**

2 Objection. This discovery request is argumentative, lacks foundation, and requires
3 assumptions to ascertain its meaning. Further, the request is vague and ambiguous to such a
4 degree as to render it unintelligible. Further, as phrased, the request calls for an expert
5 opinion and violates the attorney client privilege and attorney work product doctrine.
6 Further, the request is overbroad to the extent it seeks information within the possession,
7 custody and control of third parties which is equally available to the requesting party.
8 Further, to the extent the request seeks the desired information solely in the form of a
9 written response from this Defendant, the Request is in effect an interrogatory and should be
10 asked pursuant to Rule 36 of the Federal Rules of Civil Procedure.

11 Furthermore, Defendant is not obligated to create documentation and/or material that
12 it does not possess.

13 However and without waiving said objection, Defendant states that Plaintiff has a
14 copy of the recording, and it speaks for itself.

15 **REQUEST FOR PRODUCTION NO 29:**

16 Please produce and provide the video footage from Defendant Temores' MAV
17 recording that corresponds to the 17: 15:59 mark of Defendant Temores' taser camera
18 recording identified by Images "C" and "0" of Exhibit 3-2 where Plaintiff Ciampi is lying
19 face down on the sidewalk further away from Defendant Temores' MAV camera than
20 Defendant Burger.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO 29:**

22 Objection. This discovery request is argumentative, lacks foundation, and requires
23 assumptions to ascertain its meaning. Further, the request is vague and ambiguous to such a
24 degree as to render it unintelligible. Further, as phrased, the request calls for an expert
25 opinion and violates the attorney client privilege and attorney work product doctrine.
26 Further, the request is overbroad to the extent it seeks information within the possession,
27 custody and control of third parties which is equally available to the requesting party.
28 Further, to the extent the request seeks the desired information solely in the form of a

1 written response from this Defendant, the Request is in effect an interrogatory and should be
2 asked pursuant to Rule 36 of the Federal Rules of Civil Procedure.

3
4 However and without waiving said objection, Defendant states that Plaintiff has a
5 copy of the recording, and it speaks for itself.

6 **REQUEST FOR PRODUCTION NO 30:**

7 Please produce and provide the taser probe that lodged into the fence documented as
8 taser probe #1 from Exhibit 4-2 for inspection and analysis at a mutually convenient date
9 and time.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO 30:**

11 Objection. This discovery request is argumentative, lacks foundation, and requires
12 assumptions to ascertain its meaning. Further, the request is vague and ambiguous as to the
13 phrases “taser probe #1” and “Exhibit 4-2” which are undefined and require speculation as
14 to their meaning and interpretation. Further, the request is overbroad to the extent it seeks
15 information within the possession, custody and control of third parties which is equally
16 available to the requesting party.

17 However and without waiving said objection, Defendant states that it will make the
18 taser probe noted above available for viewing, inspection and analysis by a mutually
19 selected neutral third party at a time/date arranged between the parties/counsel as the probe
20 remains in evidence.

21 **REQUEST FOR PRODUCTION NO 31:**

22 Please produce and provide the taser probe that was lying on the sidewalk
23 documented as taser probe #2 from Exhibit 4-2 for inspection and analysis at a mutually
24 convenient date and time.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO 31:**

26 Objection. This discovery request is argumentative, lacks foundation, and requires
27 assumptions to ascertain its meaning. Further, the request is vague and ambiguous as to the
28 phrases “taser probe #2” and “Exhibit 4-2” which are undefined and require speculation as
to their meaning and interpretation. Further, the request is overbroad to the extent it seeks

1 information within the possession, custody and control of third parties which is equally
2 available to the requesting party.

3
4 However and without waiving said objection, Defendant states that it will make the
5 taser probe noted above available for viewing, inspection and analysis by a mutually
6 selected neutral third party at a time/date arranged between the parties/counsel as the probe
7 remains in evidence.

8 **REQUEST FOR PRODUCTION NO 32:**

9 Please produce and provide the taser probe that Defendant Burger is holding in his
10 hand as documented as taser probe #3 from Exhibit 4-3 for inspection and analysis at a
11 mutually convenient date and time.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO 32:**

13 Objection. This discovery request is argumentative, lacks foundation, and requires
14 assumptions to ascertain its meaning. Further, the request is vague and ambiguous as to the
15 phrases "taser probe #3" and "Exhibit 4-3" which are undefined and require speculation as
16 to their meaning and interpretation. Further, the request is overbroad to the extent it seeks
17 information within the possession, custody and control of third parties which is equally
18 available to the requesting party.

19 However and without waiving said objection, Defendant states that there are two
20 taser probes in evidence, not three, and they are available for inspection as noted in
21 Response to No. 31, above.

22 **REQUEST FOR PRODUCTION NO 33:**

23 Please produce and provide the taser probe dangling at the end of the taser wire that
24 Defendant Powers' is holding in her hand as documented as taser probe #4 from Exhibit 4-4
25 for inspection and analysis at a mutually convenient date and time.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO 33:**

27 Objection. This discovery request is argumentative, lacks foundation, and requires
28 assumptions to ascertain its meaning. Further, the request is vague and ambiguous as to the
phrases "taser probe #4" and "Exhibit 4-4" which are undefined and require speculation as

1 to their meaning and interpretation. Further, the request is overbroad to the extent it seeks
2 information within the possession, custody and control of third parties which is equally
3 available to the requesting party.

4
5 However and without waiving said objection, Defendant states that there are two
6 taser probes in evidence, not three, and they are available for inspection as noted in
7 Response to No. 31, above.

8 **REQUEST FOR PRODUCTION NO 34:**

9 Please produce and provide the video footage from Defendant Temores' MAV
10 recording of the discharge of taser probes from a taser gun that resulted in a taser probe
11 lodging into the fence as depicted in Images "F" and "G" of Exhibit 5-3 since the taser probe
12 could not have come from Defendant Burger's taser gun.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO 34:**

14 Objection. This discovery request is argumentative, lacks foundation, and requires
15 assumptions to ascertain its meaning. Further, the request is vague and ambiguous as to the
16 phrases "Images 'F' and 'G','" and "Exhibit 5-3" which are undefined and require
17 speculation as to their meaning and interpretation. Further, the request is overbroad to the
18 extent it seeks information within the possession, custody and control of third parties which
19 is equally available to the requesting party, and as phrased, calls for an expert opinion and
20 violates the attorney client privilege and attorney work product doctrine.

21 However and without waiving said objection, Defendant states that Officer Temores
22 never fired any probes. Officer Temores drive stunned Plaintiff.

23 **REQUEST FOR PRODUCTION NO 35:**

24 Please produce and provide the taser cartridge lying on the sidewalk documented
25 4 as Image "1" from Exhibit 6-2 for inspection and analysis at a mutually convenient date
26 and 5 time.

27 **RESPONSE TO REQUEST FOR PRODUCTION NO 35:**

28 Objection. This discovery request is argumentative, lacks foundation, and requires
assumptions to ascertain its meaning. Further, the request is vague and ambiguous as to the

1 phrases "Image 1,"" and "Exhibit 6-2" which are undefined and require speculation as to
2 their meaning and interpretation. Further, the request is overbroad to the extent it seeks
3 information within the possession, custody and control of third parties which is equally
4 available to the requesting party.

5 However and without waiving said objection, Defendant is unsure as to what exhibit
6 Plaintiff is referring, however, if the cartridge is in evidence it can be inspected at a
7 mutually convenient time/date to be arranged between the parties.

8 **REQUEST FOR PRODUCTION NO 36:**

9 Please produce and provide the taser cartridge that Defendant Temores removes
10 from the scene of the March 15, 2008 incident documented as Image "K" from Exhibit 6-2
11 for inspection and analysis at a mutually convenient date and time.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO 36:**

13 Objection. This discovery request is argumentative, lacks foundation, and requires
14 assumptions to ascertain its meaning. Further, the request is vague and ambiguous as to the
15 phrases "Image K,"" and "Exhibit 6-2" which are undefined and require speculation as to
16 their meaning and interpretation. Further, the request is overbroad to the extent it seeks
17 information within the possession, custody and control of third parties which is equally
18 available to the requesting party.

19 However and without waiving said objection, Defendant states that this particular
20 taser cartridge was not booked into evidence.

21 **REQUEST FOR PRODUCTION NO 37:**

22 Please produce and provide Defendant Natasha Powers' taser cartridge, (serial
23 number, H07-628412 or H07-828412) as documented in the Download date column of the
24 2008, Taser Download Report for inspection and analysis at a mutually convenient date and
25 time.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO 37:**

27 Objection. This discovery request is argumentative, lacks foundation, and requires
28 assumptions to ascertain its meaning. Further, the request is vague and ambiguous as to the

1 phrases "serial number, H07-628412 or H07-828412" and "Download date column" which
2 are undefined and require speculation as to their meaning and interpretation. Further, the
3 request is overbroad to the extent it seeks information within the possession, custody and
4 control of third parties which is equally available to the requesting party.

5 Furthermore, the request is irrelevant and not likely to lead to the discovery of
6 admissible evidence. As such, no items will be produced.

7 **REQUEST FOR PRODUCTION NO 38:**

8 Please produce and provide by specifying the exact scenes from Defendant
9 Temores' taser camera recording of Defendant Temores discharging electricity from his
10 taser gun in the drive stun mode as documented in Defendants Temores' and Burger's MAV
11 recordings which correspond to the 10:10:38 mark through the 10: 10:43 mark of Defendant
12 Temores' MA V recording and Exhibits 7-2 and 7-3, by providing the "still images" from
13 Defendant Temores' taser camera recording depicting Defendant Temores discharging
14 electricity from his taser gun in the drive stun mode as documented in Defendants Temores'
15 and Burger's MAV recordings which correspond to the 10: 1 0:38 mark through the 10:
16 10:43 mark of Defendant Temores' MAV recording and Exhibits 7-2 and 7-3.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO 38:**

18 Objection. This discovery request is argumentative, lacks foundation, and requires
19 assumptions to ascertain its meaning. Further, the request is vague and ambiguous to such a
20 degree as to render it unintelligible. Further, as phrased, the request calls for an expert
21 opinion and violates the attorney client privilege and attorney work product doctrine.
22 Further, the request is overbroad to the extent it seeks information within the possession,
23 custody and control of third parties which is equally available to the requesting party.
24 Further, to the extent the request seeks the desired information solely in the form of a
25 written response from this Defendant, the Request is in effect an interrogatory and should be
26 asked pursuant to Rule 36 of the Federal Rules of Civil Procedure.

27 However and without waiving said objection, Defendant states that Plaintiff has a
28 copy of the recording, and it speaks for itself.

1 **REQUEST FOR PRODUCTION NO 39:**

2 Please produce and provide the video footage from Defendant Temores' taser
3 camera recording of Defendant Temores discharging electricity from his taser gun in the
4 drive stun mode as documented in Defendants Temores' and Burger's MA V recordings
5 which correspond to the 10:10:38 mark through the 10: 10:43 mark of Defendant Temores'
6 MAV recording and Exhibits 7-2 and 7-3, by providing by providing the video footage from
7 Defendant Temores' taser camera recording depicting Defendant Temores discharging
8 electricity from his taser gun in the drive stun mode as documented in Defendants Temores'
9 and Burger's MAV recordings which correspond to the 10: 10:38 mark through the 10: 1
10 0:43 mark of Defendant Temores' MAV recording and Exhibits 7-2 and 7-3.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO 39:**

12 Objection. This discovery request is argumentative, lacks foundation, and requires
13 assumptions to ascertain its meaning. Further, the request is vague and ambiguous to such a
14 degree as to render it unintelligible. Further, as phrased, the request calls for an expert
15 opinion and violates the attorney client privilege and attorney work product doctrine.
16 Further, the request is overbroad to the extent it seeks information within the possession,
17 custody and control of third parties which is equally available to the requesting party.
18 Further, to the extent the request seeks the desired information solely in the form of a
19 written response from this Defendant, the Request is in effect an interrogatory and should be
20 asked pursuant to Rule 36 of the Federal Rules of Civil Procedure

21 However and without waiving said objection, Defendant states that Plaintiff has a
22 copy of the recording, and it speaks for itself.

23 **REQUEST FOR PRODUCTION NO 40:**

24 Please produce and provide all complaints filed against and disciplinary actions
25 taken against Defendant Kelly Burger in regards to his official capacity as a Palo Alto
26 Police Officer.

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1 **RESPONSE TO REQUEST FOR PRODUCTION NO 40:**

2 Objection. This discovery request is compound, vague, overbroad and burdensome.
3 Further, the request seeks irrelevant information not calculated to lead to the discovery of
4 admissible evidence. Defendant further objects to this request in that personnel file
5 information is privileged pursuant to the official information privilege. [Penal Code § 832.5
6 et seq.; Evidence Code §§ 1040, 1043; Kelly v. San Jose; Sanchez v. City of Santa Ana (9th
7 Cir. 1991) 936 F.2d 1027, 1033]. Information in a peace officer's personnel file is
8 privileged pursuant to California Constitution Article I, § 1, Civil Code §§ 1798.24 and
9 1798.53, Penal Code §§ 832.5, 832.7 and 832.8, Penal Code § 146e, Penal Code § 1328.5,
10 and Vehicle Code § 1808.4. Further, as phrased, the request violates the attorney client
11 privilege and attorney work product doctrine. Further, the request is overbroad to the extent
12 it seeks information within the possession, custody and control of third parties which is
13 equally available to the requesting party.

14 As such, Defendant will not provide documents responsive to this request. Please
15 refer to Defendants' Privilege Log and supporting declaration.

16 **REQUEST FOR PRODUCTION NO 41:**

17 Please produce and provide all complaints filed against and disciplinary actions
18 taken against Defendant Natasha Powers in regards to her official capacity as a Palo Alto
19 Police Officer.

20 **RESPONSE TO REQUEST FOR PRODUCTION NO 41:**

21 Objection. This discovery request is compound, vague, overbroad and burdensome.
22 Further, the request seeks irrelevant information not calculated to lead to the discovery of
23 admissible evidence. Defendant further objects to this request in that personnel file
24 information is privileged pursuant to the official information privilege. [Penal Code § 832.5
25 et seq.; Evidence Code §§ 1040, 1043; Kelly v. San Jose; Sanchez v. City of Santa Ana (9th
26 Cir. 1991) 936 F.2d 1027, 1033]. Information in a peace officer's personnel file is
27 privileged pursuant to California Constitution Article I, § 1, Civil Code §§ 1798.24 and
28 1798.53, Penal Code §§ 832.5, 832.7 and 832.8, Penal Code § 146e, Penal Code § 1328.5,

1 and Vehicle Code § 1808.4. Further, as phrased, the request violates the attorney client
2 privilege and attorney work product doctrine. Further, the request is overbroad to the extent
3 it seeks information within the possession, custody and control of third parties which is
4 equally available to the requesting party.

5 As such, Defendant will not provide documents responsive to this request. Please
6 refer to Defendants' Privilege Log and supporting declaration.

7 **REQUEST FOR PRODUCTION NO 42:**

8 Please produce and provide all complaints filed against and disciplinary actions
9 taken against Defendant Manuel Temores in regards to his official capacity as a Palo Alto
10 Police Officer.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO 42:**

12 Objection. This discovery request is compound, vague, overbroad and burdensome.
13 Further, the request seeks irrelevant information not calculated to lead to the discovery of
14 admissible evidence. Defendant further objects to this request in that personnel file
15 information is privileged pursuant to the official information privilege. [Penal Code § 832.5
16 et seq.; Evidence Code §§ 1040, 1043; Kelly v. San Jose; Sanchez v. City of Santa Ana (9th
17 Cir. 1991) 936 F.2d 1027, 1033]. Information in a peace officer's personnel file is
18 privileged pursuant to California Constitution Article I, § 1, Civil Code §§ 1798.24 and
19 1798.53, Penal Code §§ 832.5, 832.7 and 832.8, Penal Code § 146e, Penal Code § 1328.5,
20 and Vehicle Code § 1808.4. Further, as phrased, the request violates the attorney client
21 privilege and attorney work product doctrine. Further, the request is overbroad to the extent
22 it seeks information within the possession, custody and control of third parties which is
23 equally available to the requesting party.

24 As such, Defendant will not provide documents responsive to this request. Please
25 refer to Defendants' Privilege Log and supporting declaration.

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1 **REQUEST FOR PRODUCTION NO 43:**

2 Please produce and provide all complaints filed against and disciplinary actions
3 taken against Defendant April Wagner in regards to her official capacity as a Palo Alto
4 Police Officer.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO 43:**

6 Objection. This discovery request is compound, vague, overbroad and burdensome.
7 Further, the request seeks irrelevant information not calculated to lead to the discovery of
8 admissible evidence. Defendant further objects to this request in that personnel file
9 information is privileged pursuant to the official information privilege. [Penal Code § 832.5
10 et seq.; Evidence Code §§ 1040, 1043; Kelly v. San Jose; Sanchez v. City of Santa Ana (9th
11 Cir. 1991) 936 F.2d 1027, 1033]. Information in a peace officer's personnel file is
12 privileged pursuant to California Constitution Article I, § 1, Civil Code §§ 1798.24 and
13 1798.53, Penal Code §§ 832.5, 832.7 and 832.8, Penal Code § 146e, Penal Code § 1328.5,
14 and Vehicle Code § 1808.4. Further, as phrased, the request violates the attorney client
15 privilege and attorney work product doctrine. Further, the request is overbroad to the extent
16 it seeks information within the possession, custody and control of third parties which is
17 equally available to the requesting party.

18 As such, Defendant will not provide documents responsive to this request. Please
19 refer to Defendants' Privilege Log and supporting declaration.

20 **REQUEST FOR PRODUCTION NO 44:**

21 Please produce and provide all complaints filed against and disciplinary actions
22 taken against Defendant Dan Ryan regards to his official capacity as a Palo Alto Police
23 Officer.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO 44:**

25 Objection. This discovery request is compound, vague, overbroad and burdensome.
26 Further, the request seeks irrelevant information not calculated to lead to the discovery of
27 admissible evidence. Defendant further objects to this request in that personnel file
28 information is privileged pursuant to the official information privilege. [Penal Code § 832.5

1 et seq.; Evidence Code §§ 1040, 1043; Kelly v. San Jose; Sanchez v. City of Santa Ana (9th
2 Cir. 1991) 936 F.2d 1027, 1033]. Information in a peace officer's personnel file is
3 privileged pursuant to California Constitution Article I, § 1, Civil Code §§ 1798.24 and
4 1798.53, Penal Code §§ 832.5, 832.7 and 832.8, Penal Code § 146e, Penal Code § 1328.5,
5 and Vehicle Code § 1808.4. Further, as phrased, the request violates the attorney client
6 privilege and attorney work product doctrine. Further, the request is overbroad to the extent
7 it seeks information within the possession, custody and control of third parties which is
8 equally available to the requesting party.

9 As such, Defendant will not provide documents responsive to this request. Please
10 refer to Defendants' Privilege Log and supporting declaration.

11 **REQUEST FOR PRODUCTION NO 45:**

12 (NOT IN THE ORIGINAL)

13 **REQUEST FOR PRODUCTION NO 46:**

14 Please produce and provide all complaints filed against and disciplinary actions
15 taken against Defendant Dennis Bums in regards to his official capacity as a Palo Alto
16 Police Officer.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO 46:**

18 Objection. This discovery request is compound, vague, overbroad and burdensome.
19 Further, the request seeks irrelevant information not calculated to lead to the discovery of
20 admissible evidence. Defendant further objects to this request in that personnel file
21 information is privileged pursuant to the official information privilege. [Penal Code § 832.5
22 et seq.; Evidence Code §§ 1040, 1043; Kelly v. San Jose; Sanchez v. City of Santa Ana (9th
23 Cir. 1991) 936 F.2d 1027, 1033]. Information in a peace officer's personnel file is
24 privileged pursuant to California Constitution Article I, § 1, Civil Code §§ 1798.24 and
25 1798.53, Penal Code §§ 832.5, 832.7 and 832.8, Penal Code § 146e, Penal Code § 1328.5,
26 and Vehicle Code § 1808.4. Further, as phrased, the request violates the attorney client
27 privilege and attorney work product doctrine. Further, the request is overbroad to the extent

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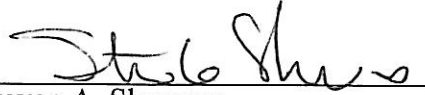
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it seeks information within the possession, custody and control of third parties which is equally available to the requesting party.

As such, Defendant will not provide documents responsive to this request. Please refer to Defendants' Privilege Log and supporting declaration.

DATED: September 3, 2010

FERGUSON, PRAET & SHERMAN
A Professional Corporation

By: 
Steven A. Sherman
Attorneys for Defendants

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I, Cathy Sherman, employed in the aforesaid County, State of California; I am 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.

On September 3, 2010, I served the **DEFENDANT DENNIS BURNS RESPONSE TO PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS, SET FIVE** on the interested parties in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

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

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

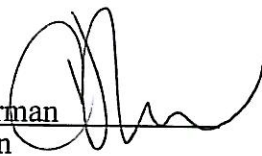
XXX (By e-filing) The above noted individuals are registered with the Court to receive notice of electronically filed documents. Per ECF rules, hard copies must be served only on parties who are not set up for electronic notification.

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

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

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

Executed on September 3, 2010, at Santa Ana, California.


/s/ Cathy Sherman
Cathy Sherman