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FILED

Superior Court of California
County of Los Angeles

MAY 23 2014

Attorneys for Defendant
COUNTY OF LOS ANGELES

Sherril R. Carter, Executive Officer/Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA *Raul Sanchez* Deputy

Raul Sanchez

COUNTY OF LOS ANGELES

11 PATRICK E. MAXWELL

12 Plaintiff,

13 vs.

14 COUNTY OF LOS ANGELES and DOES 1 - 100,
15 inclusive

16 Defendants.

Case No.: BC497305

Assigned to the Honorable: Michelle R. Rosenblatt
[Dept. 40]

**DEFENDANT COUNTY OF LOS ANGELES'
OBJECTIONS TO THE CITIZEN'S COMMISSION
ON JAIL VIOLENCE TESTIMONY ATTACHED AS
EXHIBITS TO THE DECLARATION OF MILAD
SADR, ESQ.**

*[Filed concurrently with Defendant County of Los
Angeles' Reply to Plaintiff's Opposition to Motion
for Summary Judgment; and Defendant's
Evidentiary Objections]*

Date: May 29, 2014

Time: 8:30 a.m.

Dept: 40

Trial Date: July 14, 2014

Complaint Filed: December 12, 2012

23 TO PLAINTIFF PATRICK E. MAXWELL AND HIS COUNSEL OF RECORD:

24 Defendant, COUNTY OF LOS ANGELES hereby submits the following evidentiary objections to the
25 Citizen's Commission on Jail Violence Testimony attached as the following exhibits to the Declaration of
26 Milad Sadr, Esq. in Support of Opposition to Defendant's Motion for Summary Judgment, or in the
27 Alternative, Summary Adjudication ("Sadr Dec."), as cited to in Plaintiff's Opposition to Defendant's Separate
28 Statement in Support of Defendant's Motion for Summary Judgment:

1. Sadr Dec. Exhibit 32, excerpts from Plaintiff Patrick Maxwell's Testimony Before the Citizen's Commission on Jail Violence, dated July 6, 2012; and

2. Sadr Dec., Exhibit 33, excerpts from excerpts from Plaintiff Patrick Maxwell's Testimony Before the Citizen's Commission on Jail Violence, dated July 27, 2012.

OBJECTION TO PLAINTIFF'S TESTIMONY FROM THE CITIZEN'S COMMISSION ON JAIL VIOLENCE,

SADR DEC. EXHIBIT 32

	<u>MATERIAL OBJECTED TO</u>		<u>GROUND(S) FOR OBJECTIONS</u>	<u>RULING ON OBJECTION</u>
1.	Defendant, County of Los Angeles objects generally to Plaintiff's use of the Plaintiff Patrick Maxwell's Testimony Before the Citizen's Commission on Jail Violence, attached to the Sadr Dec. as <u>Exhibit 32</u> in Opposition to Defendant's Motion for Summary Judgment/ Adjudication ("Maxwell CCJV Testimony, Sadr Dec. <u>Exhibit 32</u> ").	1.	Evidence must be properly authenticated, such that introduction is sufficient to sustain a finding that it is the writing that the proponent of the evidence claims it is. (<u>See Cal. Evid. Code § 1400.</u>) "Authentication of a writing is required before it may be received in evidence." (<u>Cal. Evid. Code § 1401.</u>) Plaintiff attaches to the Sadr Declaration pages of the transcript as "Exhibit 32" of what he claims is Plaintiff Patrick Maxwell's Testimony Before the Citizen's Commission on Jail Violence. The Exhibit lacks any authentication whatsoever; no signature of a court	Sustained _____ Overruled _____

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reporter is attached to authenticate it. Therefore, the unauthenticated evidence should not be admitted into evidence by the Court. (Id.) Additionally, Plaintiff's request that judicial notice be taken of the exhibits in support of his Opposition must not be granted. Permissive judicial notice may only be taken of facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy. Evid. Code § 452(h). Defendant disputes the authenticity of Plaintiff's exhibit's 31 and 32. Additionally, Plaintiff's exhibits are not readily capable of accurate determination. There is no source readily available and of indisputable accuracy to determine that the exhibits are what Plaintiff claims they are, and that the contents of the exhibits are accurate. See Schuhart v. Pinguelo (1991) 230 Cal. App. 3d

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			1599, 1609.
2.	<p>CAPT. MAXWELL:</p> <p>"He said, "Do you believe they have 200 some internal investigators? IA investigators." He said, "We have 45." He goes, "in my opinion, that's 44 fucking too many."</p> <p>(Maxwell CCJV Testimony, Sadr Dec. <u>Exhibit 32</u>, page 129, lines 2-5).</p>	2.	<p>Objection: Lacks authentication. <u>Evid. Code § 1400</u>. Improper Judicial Notice. <u>Evid. Code § 452</u>. Irrelevant. <u>Evid. Code § 350, 352</u>. Lacks foundation and calls for speculation. <u>Evid. Code § 702</u>. Hearsay. <u>Evid. Code § 1200</u>.</p>

OBJECTION TO PLAINTIFF'S TESTIMONY FROM THE CITIZEN'S COMMISSION ON JAIL VIOLENCE,

SADR DEC. EXHIBIT 33

	<u>MATERIAL OBJECTED TO:</u>		<u> GROUNDS FOR OBJECTIONS</u>	<u>RULING ON OBJECTION</u>
1.	<p>Defendant, County of Los Angeles objects generally to Plaintiff's use of the Plaintiff Patrick Maxwell's Testimony Before the Citizen's Commission on Jail Violence, attached to the Sadr Dec. as <u>Exhibit 33</u> in Opposition to</p>	1.	<p>Evidence must be properly authenticated, such that introduction is sufficient to sustain a finding that it is the writing that the proponent of the evidence claims it is. (See <u>Cal. Evid. Code § 1400</u>.) "Authentication of a writing is required before it may be received</p>	<p>Sustained _____ Overruled _____</p>

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Defendant's Motion for
Summary Judgment/
Adjudication ("Maxwell CCJV
Testimony, Sadr Dec. Exhibit
33").

in evidence." (Cal. Evid. Code §
1401.) Plaintiff attaches to the
Sadr Declaration pages of the
transcript as "Exhibit 33" of what he
claims is Plaintiff Patrick Maxwell's
Testimony Before the Citizen's
Commission on Jail Violence. The
Exhibit lacks any authentication
whatsoever; no signature of a court
reporter is attached to authenticate
it. Therefore, the unauthenticated
evidence should not be admitted
into evidence by the Court. (Id.)
Additionally, Plaintiff's request that
judicial notice be taken of the
exhibits in support of his Opposition
must not be granted. Permissive
judicial notice may only be taken of
facts and propositions that are not
reasonably subject to dispute and
are capable of immediate and
accurate determination by resort to
sources of reasonably indisputable
accuracy. Evid. Code § 452(h).
Defendant disputes the authenticity
of Plaintiff's exhibit's 31 and 32.
Additionally, Plaintiff's exhibits are

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		<p>not readily capable of accurate determination. There is no source readily available and of indisputable accuracy to determine that the exhibits are what Plaintiff claims they are, and that the contents of the exhibits are accurate. <u>See Schuhart v. Pinguelo</u> (1991) 230 Cal. App. 3d 1599, 1609.</p>	
2.	<p>UNDERSHERIFF PAUL TANAKA: "I sent out a message to make clear what my message was and meant, since some of chosen to misinterpret it." (Maxwell CCJV Testimony, Sadr Dec. <u>Exhibit 33</u>, page 110, lines 21-23).</p>	2. Objection: Lacks authentication. <u>Evid. Code § 1400</u> . Improper Judicial Notice. <u>Evid. Code § 452</u> . Irrelevant. <u>Evid. Code § 350, 352</u> . Lacks foundation and calls for speculation. <u>Evid. Code. § 702</u> . Hearsay. <u>Evid. Code §1200</u> .	
	<p>"BERT DEIXLER: SO THIS CAME OUT IN JULY OF THIS YEAR. SHORTLY BEFORE JULY 17TH WHEN THIS DOCUMENT CAME OUT, IT FIRST CAME To YOUR ATTENTION THAT PEOPLE WERE</p>	<p>Objection: Lacks authentication. <u>Evid. Code § 1400</u>. Improper Judicial Notice. <u>Evid. Code § 452</u>. Irrelevant. <u>Evid. Code § 350, 352</u>. Lacks foundation and calls for speculation. <u>Evid. Code. § 702</u>. Hearsay. <u>Evid. Code §1200</u>.</p>	

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<p>INTENTIONALLY MISINTERPRETING YOUR DEFINITION OF THE GRAY AREA, CORRECT? UNDERSHERIFF PAUL TANAKA: WELL THE SHERIFF BROUGHT IT TO MY ATTENTION. HE SAID THE TERM HAD BECOME SOMEWHAT CONTROVERSIAL. AND IT WOULD BE APPROPRIATE IF I ADDRESSED IT IN WRITING." (Maxwell CCJV Testimony, Sadr Dec. <u>Exhibit 33</u>, page 111, lines 7-14).</p>			
<p>UNDERSHERIFF PAUL TANAKA: "IT WASN'T UNTIL VERY RECENTLY, AND I BELIEVE IT WAS TESTIMONY IN FRONT OF THIS BODY, THAT A PERSON HAS CHOSEN TO CHARACTERIZE MY DESCRIPTION OF GRAY</p>		<p>Objection: Lacks authentication. <u>Evid. Code</u> § 1400. Improper Judicial Notice. <u>Evid. Code</u> § 452, 452. Irrelevant. <u>Evid. Code</u> § 350, 352. Lacks foundation and calls for speculation. <u>Evid. Code</u>. § 702. Hearsay. <u>Evid. Code</u> §1200.</p>	

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AREA AS SOMETHING NEFARIOUS." (Maxwell CCJV Testimony, Sadr Dec. <u>Exhibit 33</u> , page 112, lines 3-6).			
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DATED: May 23, 2014

PETERSON · BRADFORD · BURKWITZ

By: 
George E. Peterson, Esq.
Avi Burkwitz, Esq.
Natalie U. Luongo, Esq.
Kyle Maland, Esq.
Attorneys for Defendant,
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 100 North First Street, Suite 300, Burbank, California 91502.

On May 23, 2014, I served the foregoing document described as:

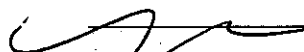
DEFENDANT COUNTY OF LOS ANGELES' OBJECTIONS TO THE CITIZEN'S COMMISSION ON JAIL VIOLENCE TESTIMONY ATTACHED AS EXHIBITS TO THE DECLARATION OF MILAD SADR, ESQ.

on interested parties in this action by placing a true and correct copy thereof enclosed in a sealed envelope addressed as follows:

SEE ATTACHED MAILING LIST

- BY MAIL:** I deposited such envelope in the mail at Burbank, California. The envelope was mailed with postage thereon fully prepaid. As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Burbank, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- BY FACSIMILE:** I served by facsimile a true copy of the above-described document. I am "readily familiar" with this firm's practice of processing correspondence by fax. Under that practice documents are placed in our fax machine and are processed and received simultaneously at their destination. The above-referenced document(s) was placed in the fax machine with all costs of faxing prepaid, directed to each party (using their fax number), listed on the attached Service List. Once the document has been transmitted, the fax machine provides a report indicating time of completion.
- BY OVERNIGHT EXPRESS MAIL:** As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence by Overnight Express mailing. Under that practice it was deposited with the Overnight Express service on that same day with proper postage thereon fully prepaid at Burbank, California in the ordinary course of business.
- BY PERSONAL SERVICE:** I delivered such envelope by hand to the addressee.
- STATE:** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on May 23, 2014, at Burbank, California.


Martha Gonzalez

DEFENDANT COUNTY OF LOS ANGELES' OBJECTIONS TO THE CITIZEN'S COMMISSION ON JAIL VIOLENCE TESTIMONY ATTACHED AS EXHIBITS TO THE DECLARATION OF MILAD SADR, ESQ.

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2025 RELEASE UNDER E.O. 14176

SERVICE LIST

RE: Maxwell, Patrick E. v. County Of Los Angeles

Case No.: BC497305

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