

1 George E. Peterson, Esq., Bar No.: 054310
Avi Burkwitz, Esq., Bar No.: 217225
2 Natalie U. Luongo, Esq., Bar No.: 285288
Kyle Maland, Esq., Bar No.: 292210
3 **PETERSON · BRADFORD · BURKWITZ**
100 North First Street, Suite 300
4 Burbank, California 91502
818.562.5800
5

*Exempt From Filing Fee
Government Code Section 6103*

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

JUN 04 2014

John A. [Signature], Executive Officer/Clerk
BY [Signature] Deputy
Glorious Robinson

6 Attorneys for Defendant
COUNTY OF LOS ANGELES
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES**

11 PATRICK E. MAXWELL

12 Plaintiff,

13 vs.

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

15 Defendants.
16

Case No.: BC497305

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

**DEFENDANT COUNTY OF LOS ANGELES'
MOTION IN LIMINE NO. 7 PRECLUDING
EVIDENCE, TESTIMONY, OR REFERENCE TO AN
ALLEGED COMMENT BY PAUL TANAKA THAT
"45 IA INVESTIGATORS ARE 44 TOO FUCKING
MANY"; MEMORANDUM OF POINTS AND
AUTHORITIES, DECLARATION OF KYLE R.
MALAND, ESQ.,**

[Filed Concurrently with [Proposed] Order]

Date: July 1, 2014
Time: 8:30 a.m.
Dept: 40

Trial Date: July 14, 2014
Complaint Filed: December 12, 2012

23 TO THE COURT, PLAINTIFF AND HIS ATTORNEYS OF RECORD:

24 PLEASE TAKE NOTICE that on July 1, 2014 at 8:30 a.m., or as soon thereafter as counsel may be
25 heard in Department 40 of the above entitled Court, located at 111 North Hill St., Los Angeles, CA 90012
26 before trial and the selection of a jury in the above-entitled case, will move the Court for an Order to preclude
27 Plaintiff, Patrick Maxwelll, and his counsel from introducing, or attempting to introduce any evidence,
28

1
**DEFENDANT COUNTY OF LOS ANGELES MOTION IN LIMINE NO. 7 PRECLUDING EVIDENCE, TESTIMONY,
OR REFERENCE TO AN ALLEGED COMMENT BY PAUL TANAKA THAT "44 IA INVESTIGATORS ARE 44 TOO
FLICKING MANY"**

PETERSON · BRADFORD · BURKWITZ
100 North First Street, Suite 300
Burbank, California 91502
818.562.5800

06/05/2014

1 testimony, or reference to an alleged comment by Paul Tanaka that "45 IA investigators are 44 too fucking
2 many."

3 This motion is made pursuant to Cal. Evid. Code §§ 350, 352, and 1101(a) on the grounds that such
4 evidence is irrelevant, lacks probative value, would confuse the issues, mislead the jury, and unfairly
5 prejudice the Defendants. Further, the evidence constitutes impermissible character evidence.

6 This Motion in Limine is based on the attached Memorandum of Points and Authorities, the
7 Declaration of Kyle R. Maland Esq., the complete files and records in this action, and any further argument
8 and evidence that may be presented at or before the hearing on this Motion.

9
10
11 DATED: June 4, 2014

PETERSON · BRADFORD · BURKWITZ

12
13
14 By: 

15 George E. Peterson, Esq.
16 Avi Burkwitz, Esq.
17 Natalie U. Luongo, Esq.
18 Kyle Maland, Esq.
19 Attorneys for Defendant,
20 COUNTY OF LOS ANGELES

PETERSON · BRADFORD · BURKWITZ
100 North First Street, Suite 300
Burbank, California 91502
818.562.5800

21
22
23
24
25
26
27
28
06 / 05 / 2014

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 The County anticipates that at trial Plaintiff or his counsel may attempt to introduce any evidence,
4 testimony, or reference to an alleged comment by former Undersheriff Paul Tanaka that "45 IA investigators
5 are 44 too fucking many." Any such evidence or reference pertaining to this alleged comment must be
6 excluded because it is completely irrelevant to Plaintiff's claims, lacks probative value, would confuse the
7 issues, mislead the jury, and unfairly prejudice the Defendant. Further, the evidence constitutes
8 impermissible character evidence.

9 **II. STATEMENT OF FACTS**

10 This is an employment discrimination action by Commander Patrick E. Maxwell ("Plaintiff"), against
11 the County of Los Angeles (the "County"). Plaintiff's operative First Amended Complaint ("FAC") asserts
12 claims for: (1) Age-based discrimination in violation of the California Fair Housing and Employment Act, Cal.
13 Govt. Code §12940 et seq. ("FEHA"); (2) Whistleblower Retaliation in violation of Cal. Labor Code § 1102.5;
14 and (3) Failure to Take Corrective Action in violation of the FEHA.

15 At the deposition of Michael Claus, on April 24, 2014, Plaintiff's counsel questioned Mr. Claus about
16 the alleged comment by Paul Tanaka that "the LAPD has 200 some Internal Affairs, Investigators, we have
17 45, which is 44 too fucking many," which Mr. Claus stated he had heard Mr. Tanaka say in the gang
18 meetings. (A true and correct copy of an excerpt from the Deposition of Michael Claus is attached hereto as
19 Exhibit B, page 24, lines 3-10; Declaration of Kyle Maland, Esq., "Maland Dec.," ¶ 2.)

20 On April 24, 2014, Chief Thomas Laing was deposed in connection with this case. (Maland Dec. ¶
21 3.) During the deposition, Plaintiff's counsel asked Chief Laing if he had learned that Maxwell had reported
22 the alleged comment by Tanaka what "45 IA investigators were 44 too fucking many." (A true and correct
23 copy of an excerpt from the deposition of Thomas Laing is attached hereto as Exhibit C, page 153, lines 8-
24 22; Maland Dec. ¶3). Mr. Laing responded that he could not remember where he heard the comment from,
25 whether it was from Plaintiff or some other individual. (Id.)

26 On May 19, 2014, Commander Samuel Dacus was deposed in connection with this case. During the
27 deposition, Plaintiff's counsel asked Commander Dacus if Paul Tanaka and Sheriff Baca would have spoke
28

PETERSON · BRADFORD · BURKOWITZ
100 North First Street, Suite 300
Burbank, California 91502
818.562.5800

06 / 05 / 2014

PETERSON · BRADFORD · BURKOWITZ
100 North First Street, Suite 300
Burbank, California 91502
818.562.5800

06/05/2014

1 about Plaintiff's alleged testimony in front of the Jail Commission regarding the alleged comment that "45 IA
2 investigators are 44 too fucking many." (A true and correct copy of an excerpt from the deposition of Samuel
3 Dacus, is attached hereto as Exhibit D, page 140, lines 1-20; Maland Dec. ¶ 4.) Dacus' responded that a
4 discussion would have taken place between Sheriff Baca and Paul Tanaka regarding the alleged movement
5 of an inmate in the jails, but no mention was made that Sheriff Baca would have spoke to Tanaka about the
6 alleged comment that "45 IA investigators was 44 too fucking many." (Id.)

7 Due to Plaintiff's counsel's questioning of numerous deponents about this alleged comment, the
8 County reasonably anticipates that at trial Plaintiff or his counsel may attempt to introduce evidence,
9 testimony, or reference or reference to an alleged comment by Paul Tanaka that "45 IA investigators was 44
10 too fucking many." (Maland Dec. ¶ 5.)

11 Clearly, any evidence or testimony pertaining to this alleged comment is not only highly speculative
12 but is completely irrelevant as to whether Plaintiff was discriminated against based on age or whether he
13 suffered whistleblower retaliation. (Maland Dec. ¶ 6.) Even if Plaintiff were to prove that he testified in front
14 of the Jail Commission regarding the alleged comment, which Plaintiff has failed to do, such testimony is
15 irrelevant to a claim of whistleblower retaliation based on the fact that Plaintiff was not disclosing illegal
16 activity. (Maland Dec. ¶ 6.) Furthermore, Plaintiff's alleged testimony about the comment was neither
17 relevant to the Citizens Commission on Jail Violence investigation nor was it actually investigated. (Maland
18 Dec. ¶ 6.) Further, such testimony is impermissible character evidence and would only serve to harass and
19 embarrass LASD employees, and would unfairly prejudice the County. (Maland Dec. ¶ 6.) Therefore, any
20 such evidence or testimony must be excluded at trial. (Maland Dec. ¶ 6.)

21 **III. ANY EVIDENCE, TESTIMONY, OR REFERENCE TO AN ALLEGED COMMENT BY PAUL**
22 **TANAKA THAT "45 IA INVESTIGATORS IS TOO FUCKING MANY" MUST BE EXCLUDED BECAUSE IT**
23 **IS IRRELEVANT**

24 Cal. Evid. Code §350 provides that no evidence is admissible except relevant evidence. Further,
25 Cal. Evid. Code §351 states that all relevant evidence is admissible at the time of trial. "Relevant evidence
26 means evidence, including evidence relevant to the credibility of a witness or hearsay declarant, having any
27 tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the
28

1 action." Cal Evid. Code §210.

2 Here, any evidence pertaining to whether or not Paul Tanaka stated during a gang meeting that "45
3 IA investigators are 44 too fucking many," has zero relevance as to whether Plaintiff was discriminated
4 against based on age, or suffered whistleblower retaliation. Any evidence pertaining to this alleged comment
5 does not tend to prove or disprove whether Plaintiff's claims are true. Furthermore, evidence or reference to
6 such acts does not tend to prove or disprove any fact in dispute. Even if Plaintiff did testify in front of the Jail
7 Commission about Tanaka's alleged comment, the comment reported was neither a violation nor
8 noncompliance with a state or federal statute, but was at most an inappropriate comment in jest. See Grant
9 Joint Union High School Dist. (2005) 134 Cal.App.4th 1378. Furthermore, Plaintiff's alleged testimony about
10 the comment was neither relevant to the Citizens Commission on Jail Violence investigation nor was it
11 actually investigated. (Maland Dec. ¶ 6.) Even if Plaintiff could establish that testifying before the Jail
12 Commission was protected, this specific comment by Tanaka is still completely irrelevant to Plaintiff's claim
13 of whistleblower retaliation, because the comment testified too was not illegal activity. (Maland Dec. ¶ 6.)
14 Lastly, the alleged comment is completely unrelated to Plaintiff's claim of age discrimination. The only
15 purpose of this inflammatory allegation would only serve to unfairly prejudice the County, and embarrass and
16 harass LASD officials. (Maland Dec. ¶ 6.) Therefore, any evidence, testimony, reference or mentioning of
17 an alleged comment by Paul Tanaka that "45 IA investigators is 44 too fucking many" is irrelevant and must
18 be excluded.

19 **IV. THE PROBATIVE VALUE OF PAUL TANAKA'S ALLEGED COMMENT THAT " 45 IA**
20 **INVESTIGATORS ARE 44 TOO FUCKING MANY" IS VASTLY OUTWEIGHED BY ITS DANGER OF**
21 **UNDUE PREJUDICE TO THE COUNTY**

22 Cal. Evid. Code §352 provides the court with discretion to exclude evidence if its probative value is
23 substantially outweighed by the probability that its admission will create substantial danger of undue
24 prejudice, of confusing the issues, or of misleading the jury. The relevance of the evidence "is fact based
25 and depends on many factors, including how closely related the evidence is to the plaintiff's circumstances
26 and theory of the case," and that similar considerations are involved in balancing the probative value of the
27 evidence against its prejudicial effect. Johnson v. United Cerebral Palsy/Spastic Children's Foun., (2009)

PETERSON · BRADFORD · BURKOWITZ
100 North First Street, Suite 300
Burbank, California 91502
818.562.5800

06/05/2014

1 173 Cal. App. 4th 740, 767 quoting Sprint/United Management Company v. Mendelsohn (2008) 128 S. Ct.
2 1140, 1145-1146. Cal. Evid. Code §352 provides the court with discretion to exclude evidence if its probative
3 value is substantially outweighed by the probability that its admission will create substantial danger of undue
4 prejudice, of confusing the issues, of misleading the jury or undue consumption of time.

5 **A. Undue Prejudice**

6 Prejudice is that which uniquely tends to evoke an emotional bias against a party and has very little
7 effect on the issues. See Vorse v. Sarasy (1997) 53 Cal. App. 4th 998, 1008-09. There are several
8 counterbalancing factors which may move the court to exclude relevant evidence including the danger that
9 the facts offered may unduly arouse the jury's emotions of prejudice, hostility or sympathy. Love v. Wolf 226
10 Cal. App 2d 378, 404.

11 Here, irrespective of any probative value, the County will be unduly prejudiced if Plaintiff is allowed to
12 introduce any evidence, testimony or reference to an alleged comment by Paul Tanaka that "45 IA
13 investigators are 44 too fucking many." (Maland Dec. ¶ 6.) Statements and evidence about this alleged
14 comment, is not only highly speculative, but is highly inflammatory and likely to improperly arouse emotions
15 of sympathy for Plaintiff or hostility or bias against the County and its employees, all of which would create
16 undue prejudice to the County. Evidence or reference to this alleged comment will improperly suggest that
17 the County and its employees condone and/or engage in nefarious conduct, which would also be used as
18 propensity evidence to show that the County must have also acted illegally towards Plaintiff.

19 An allegation of such a comment is speculative and bears no probative value as to whether *Plaintiff*
20 was discriminated or retaliated against. (Maland Dec. ¶ 6). Indeed, as stated above evidence of this
21 comment has no probative value to Plaintiff's whistleblower claim as making such a comment is not illegal,
22 which makes any subsequent testimony regarding the comment irrelevant. In fact, allowing such evidence
23 would serve no other purpose than to impose undue prejudice upon Defendant by implying that the County
24 would wish to cover up improper or illegal conduct.

25 **B. Confusion of the Issues**

26 Evidence Code Section 352 states that the court has discretion to exclude evidence if the evidence
27 will "create substantial danger of confusion of the issues or of misleading the jury." Evid. Code §352.

PETERSON · BRADFORD · BURKOWITZ
100 North First Street, Suite 300
Burbank, California 91502
818.562.5800

06 / 05 / 2014

1 Here, the issue is whether the Defendant discriminated against based on age or suffered
2 whistleblower retaliation. As seen from Plaintiff's counsel's questioning of both Sheriff Baca and Former
3 Undersheriff Waldie, the County can anticipate that Plaintiff will attempt to offer evidence and testimony
4 alleging that Paul Tanaka made a comment about "45 IA investigators are 44 too fucking many." (Exhibit B,
5 C; Maland Dec. ¶ 6.) If testimony regarding the alleged comment is allowed, a substantial danger will be
6 created that such evidence will confuse the issues or mislead the jury. A "mini trial" regarding the underlying
7 facts surrounding whether or not Tanaka made the comment, where it took place, and what impact the
8 comment has on the case will then have to occur. The jury will become confused about what the effect this
9 information has on Plaintiff's age discrimination and retaliation claims. This would divert the jury's attention
10 from the main issues of this case, to whether LASD employees believe there should not be internal affairs to
11 investigate illegal activity, which is not what is at issue in this case.

12 Plaintiff is required to establish the elements of his own claims. This alleged remark has zero
13 probative value in establishing Plaintiff's age discrimination and retaliation claims. On the other hand, the
14 danger of confusing the issues and misleading the jury is substantial.

15 **C. Undue Consumption of Time**

16 The court in its discretion may exclude evidence if its probative value is outweighed by the
17 probability that its admission will necessitate an undue consumption of time. Evid. Code §352. As noted
18 above, any presentation of evidence relating to an alleged comment that "45 IA investigators are 44 too
19 fucking many" involves a "mini-trial" regarding the witnesses, circumstances, and impact of the remark. Such
20 evidence has absolutely no probative value as to Plaintiff's claims and it will necessitate an undue
21 consumption of time. As such it may be properly excluded under Evid. Code §352.

22 Allowing testimony regarding an alleged comment by Paul Tanaka that "45 IA investigators are 44
23 too fucking many" will be even more time consuming, as the background and circumstances of each these
24 allegations and the alleged participants would have to be explained to the jury, yet this evidence will have no
25 impact on this case. Whether Paul Tanaka made this comment will not prove whether Plaintiff was
26 discriminated or retaliated against.

27 ///

1 V. EVIDENCE OF FORMER UNDERSHERIFF PAUL TANAKA'S ALLEGED COMMENT THAT "45 IA
2 INVESTIGATORS ARE 44 TOO FUCKING MANY" SHOULD BE EXCLUDED AS IMPROPER

3 CHARACTER EVIDENCE

4 Cal. Evid. Code §1101(a) provides that "evidence of a person's character or a trait of his or her
5 character whether in the form of an opinion, evidence of reputation, or evidence of specific instances of his or
6 her conduct is inadmissible when offered to prove his or her conduct on a specified occasion." (Emphasis
7 added.) Under Cal. Evid. Code § 175 a person includes a "firm, association, organization,...or public entity"
8 such as Defendant.

9 Plaintiff may seek to present evidence or testimony pertaining to an alleged comment by Paul
10 Tanaka that "45 IA investigators is 44 too fucking many," in the hopes that the jury will find that the County
11 and its employees engage in nefarious behavior that should not be investigated by Internal Affairs, and
12 therefore Plaintiff must have been discriminated against as well. Evidence or testimony relating to this
13 comment will be solely for the purpose of painting the County as a corrupt employer with employees who
14 engage in illegal conduct. Such a tactic is impermissible. In City of Los Angeles v. Superior Court
15 (Ferguson) (1973) 33 Cal. App. 3d 778, the Plaintiff accused a police officer of assault and battery and
16 sought discovery of prior complaints against the officer. The court of appeal prohibited such discovery,
17 holding that even if such evidence were relevant, information about the officer's past conduct was
18 inadmissible as an improper use of character evidence. "[E]vidence of other specific instances of misconduct
19 is not admissible to prove misconduct on the particular occasion." Id. at 784. See, also: Kelly Zurian v. Wohl
20 (1994) 22 Cal. App. 4th 397, 410-411 (holding that trial court properly excluded evidence that employees
21 other than plaintiff had accused the defendant supervisor of engaging in sexual harassment similar to that
22 claimed by plaintiff); O'Mary v. Mitsubishi Electronics America, Inc. (1997) 59 Cal. App. 4th 563, 578 (holding
23 that trial court properly excluded evidence of non-party employee's severance package in an age
24 discrimination case because the evidence had "very little effect" on the main issues in the case, which
25 related to the why the plaintiff was laid off."). Whether or not Paul Tanaka made a comment about IA
26 investigators in a Gang Meeting, has absolutely no effect on the issues in this case. Accordingly, Plaintiff
27 should be precluded from presenting "me too" evidence because it is improper character evidence.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IV. CONCLUSION

For the foregoing reasons, the County respectfully requests that this Court grant its motion in limine and preclude the Plaintiff from introducing, or attempting to introduce, any evidence, testimony, or reference to an alleged comment by Former Undersheriff Paul Tanaka that "45 IA investigators is 44 too fucking many" on the grounds that the comment is irrelevant, prejudicial, and improper character evidence.

DATED: June 4, 2014

PETERSON · BRADFORD · BURKWITZ

By: 

George E. Peterson, Esq.
Avi Burkwitz, Esq.
Sherry M. Gregorio, Esq.
Kyle Maland, Esq.
Natalie U. Luongo, Esq.
Attorneys for Defendant,
COUNTY OF LOS ANGELES

PETERSON · BRADFORD · BURKWITZ
100 North First Street, Suite 300
Burbank, California 91502
818.562.5800

06 / 05 / 2014

06 / 05 / 2014

DECLARATION OF KYLE R. MALAND, ESQ.

I, Kyle R. Maland, Esq., hereby declare as follows:

1. I am duly admitted to practice law in the State of California. I am an associate in the law firm of Peterson Bradford Burkwitz, attorneys of record for Defendant County of Los Angeles. The facts set forth in this declaration are of my own personal knowledge and, if called and sworn as a witness, could and would competently testify thereto.

2. At the deposition of Michael Claus, on April 24, 2014, Plaintiff's counsel questioned Mr. Claus about the alleged comment by Paul Tanaka that "the LAPD has 200 some Internal Affairs, Investigators, we have 45, which is 44 too fucking many," which Mr. Claus stated he had heard Mr. Tanaka say in the gang meetings. A true and correct copy of an excerpt from the Deposition of Michael Claus is attached hereto as Exhibit B, page 24, lines 3-10.

3. On April 24, 2014, Chief Thomas Laing was deposed in connection with this case. During the deposition, Plaintiff's counsel asked Chief Laing if he had learned that Maxwell had reported the alleged comment by Tanaka what "45 IA investigators are 44 too fucking many." A true and correct copy of an excerpt from the deposition of Thomas Laing is attached hereto as Exhibit C, page 153, lines 8-22. Mr. Laing responded that he could not remember where he heard the comment from, whether it was from Plaintiff or some other individual.

4. On May 19, 2014, Commander Samuel Dacus was deposed in connection with this case. During the deposition, Plaintiff's counsel asked Commander Dacus if Paul Tanaka and Sheriff Baca would have spoke about Plaintiff's alleged testimony in front of the Jail Commission regarding the alleged comment that "45 IA investigators are 44 too fucking many." A true and correct copy of an excerpt from the deposition of Samuel Dacus, is attached hereto as Exhibit D, page 140, lines 1-20. Dacus' responded that a discussion would have taken place between Sheriff Baca and Paul Tanaka regarding the alleged movement of an inmate in the jails, but no mention was made that Sheriff Baca would have spoke to Tanaka about the alleged comment that "45 IA investigators was 44 too fucking many."

5. Due to Plaintiff's counsel's questioning of numerous deponents about this alleged comment, the County reasonably anticipates that at trial Plaintiff or his counsel may attempt to introduce evidence,

PETERSON · BRADFORD · BURKWITZ
100 North First Street, Suite 300
Burbank, California 91502
818.562.5800

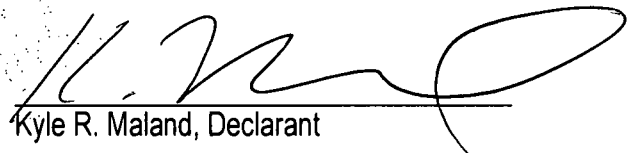
06 / 05 / 2014

1 testimony, or reference or reference to an alleged comment by Paul Tanaka that "45 IA investigators was 44
2 too fucking many."

3 6. Clearly, any evidence or testimony pertaining to this alleged comment is not only highly
4 speculative but is completely irrelevant as to whether Plaintiff was discriminated against based on age or
5 whether he suffered whistleblower retaliation. Even if Plaintiff were to prove that he testified in front of the
6 Jail Commission regarding the alleged comment, which Plaintiff has failed to do, such testimony is irrelevant
7 to a claim of whistleblower retaliation based on the fact that Plaintiff was not disclosing illegal activity.
8 Furthermore, Plaintiff's alleged testimony about the comment was neither relevant to the Citizens
9 Commission on Jail Violence investigation nor was it actually investigated. Further, such testimony is
10 impermissible character evidence and would only serve to harass and embarrass LASD employees, and
11 would unfairly prejudice the County. Therefore, any such evidence or testimony must be excluded at trial.

12 7. Pursuant to Los Angeles County Superior Court, Local Rule 3.57, on June 3, 2014, our
13 office sent a letter to Plaintiff's counsel in an effort to meet and confer regarding this motion in limine. A true
14 and correct copy of this letter is attached hereto as Exhibit A.

15 I declare under penalty of perjury under the laws of the State of California that the foregoing is true
16 and correct. Executed on June 4, 2014, in Burbank, California.

17
18 
19
20
21
22
23
24
25
26
27
28
Kyle R. Maland, Declarant

PETERSON · BRADFORD · BURKOWITZ
100 North First Street, Suite 300
Burbank, California 91502
818.562.5800

06 / 05 / 2014

08/05/2014

Peterson • Bradford • Burkwitz

ATTORNEYS AT LAW

100 North First Street, Suite 300 • Burbank, California 91502

Telephone: 818.562.5800 • Fax: 818.562.5810

File No: 1338-COLA
Email: kmaland@PBBLLP.com

June 3, 2014

VIA U.S. MAIL & EMAIL:

Bgage@goldbergandgage.com

msadr@goldbergandgage.com

Bradley C. Gage, Esq.
Law Offices of Goldberg & Gage
23002 Victory Blvd.
Woodland Hills, CA 91367

Re: **Maxwell, Patrick E. v County of Los Angeles**

Dear Counsel:

Please be advised that the County of Los Angeles intends to file the following motions *in limine* for the upcoming trial:

1. **Motion in Limine No. 1** to preclude defendant's counsel from improperly testifying, narrating, or arguing during witness examination.
2. **Motion in Limine No. 2** to preclude Samuel Dacus as an expert at trial.
3. **Motion in Limine No. 3** to exclude any testimony, evidence or reference to Plaintiff's alleged 2013 denial of promotion which is not contained in Plaintiff's DFEH complaint.
4. **Motion in Limine No. 4** to exclude testimony, evidence, or reference to an allegation that Carlos Vignali used the LASD, Former Sheriff Baca, and/or Maxwell to deliver \$200,000 to President Clinton as a bribe.
5. **Motion in Limine No. 5** to exclude evidence, testimony, or reference to whistleblowing conduct prior to 2012.

06/05/2014

6. **Motion in Limine No. 6** to exclude evidence, testimony, or reference to unrelated lawsuits, i.e. Kathy Voyer and/or the Angel Jaimes lawsuit; Dacus Lawsuit; Web, Leyva Herran Lawsuit.
7. **Motion in Limine No. 7** to exclude any evidence, testimony, or reference to an alleged comment by Paul Tanaka that "44 IA investigators are too fucking many."
8. **Motion in Limine No. 8** to exclude evidence, testimony, or reference to Anthony Brown and any FBI investigation into the County Jails.
9. **Motion in Limine No. 9** to exclude evidence, testimony, or reference to LASD gangs/tattoos. (jump out boys," the "3000 boys," or the "regulators" including any reference to Tanaka being in Vikings and having a Tattoo.
10. **Motion in Limine No. 10** to exclude any evidence, testimony, or reference to an alleged employment "hit list" or death list."
11. **Motion in Limine No. 11** to Preclude "Me Too" Evidence (i.e., evidence of claims based on race - protected classes other than age only.)
12. **Motion in Limine No. 12** to preclude evidence of or reference to any remarks by Sheriff Baca/other LASD Officials regarding "Jew Money" or other racial comments.
13. **Motion in Limine No. 13** to preclude evidence, testimony, re reference to alleged FBI surveillance and investigation into LASD officers.
14. **Motion in Limine No. 14** to preclude Plaintiff's evidence, testimony, or reference to allegations that Undersheriff Waldie/LASD Officials engaged in illegal acts/engaged in gambling during golf games.
15. **Motion in Limine No. 15** to preclude Plaintiff, Plaintiff's attorneys and/or witnesses from mentioning, referencing, or alluding to the Jail Commission Investigation into inmate beatings and/or how the jails are run and operated.
16. **Motion in Limine No. 16** to preclude Plaintiff, Plaintiff's attorneys and/or witnesses from mentioning, referencing, or alluding to the work performance of Captain Steinbrenner.
17. **Motion in Limine No. 17** to preclude Plaintiff, Plaintiff's attorneys and/or witness questioning, referencing, or mentioning of any alleged "cigar smoking club."

06/05/2014

Bradley C. Gage, Esq.
Milad Sadr, Esq.
Re: Maxwell, Patrick E. v. County of Los Angeles
June 3, 2014
Page 3

18. **Motion in Limine No. 18** to preclude Plaintiff, Plaintiff's attorneys and/or witness questioning, referencing, or mentioning of prior settlements or verdicts against Los Angeles County or its employees.
19. **Motion in Limine No. 19** barring any evidence, testimony, or reference to any age discrimination claim or allegation prior to November 2011.
20. **Motion in Limine No. 20** to exclude evidence, testimony or reference to Tanaka Shooting an unarmed suspect (in FAC).
21. **Motion in Limine No. 21** to preclude Ralph Webb as an expert at trial.
22. **Motion in Limine No. 22** to preclude Ray Leyva as an expert at trial.

Please advise, as soon as possible, whether or not you will stipulate with respect to the above listed motions.

Sincerely,

PETERSON · BRADFORD · BURKWITZ


Kyle R. Maland Esq.

KM/mg

06/05/2014

06 / 05 / 2014

In the Matter Of:

MAXWELL vs. COUNTY OF LOS ANGELES

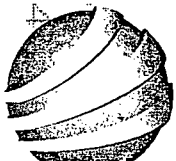
BC497305

MICHAEL CLAUS

April 24, 2014

- VOLUME I

05/05/2014



ESQUIRE

800.211.DEPO (3376)
EsquireSolutions.com

1 heard the man use a swear word when he was talking to
2 anybody on the department or anybody for that matter.

3 Q. During the gang meetings, did you hear Tanaka
4 make remarks that were negative towards Internal Affairs
5 Bureau?

6 A. Absolutely.

7 Q. Including, essentially, that LAPD has 200 some
8 Internal Affairs investigators, we have 45, which is 44
9 too fucking many?

10 A. Absolutely.

11 Q. And did that concern you that the Assistant
12 Sheriff or Undersheriff was making a comment critical of
13 Internal Affairs investigations?

14 A. Yes, it concerned me so much that that actually
15 was one of the topics that was brought up to the Sheriff
16 at my house as well as the incident with the chief about
17 us being dead.

18 Q. So you told Baca then at your house about Laing
19 telling you that Tanaka said you were fucking dead to
20 him and our fucking careers are over; is that correct?

21 A. That is correct.

22 Q. And you said that you were so concerned about
23 these remarks by Tanaka that the Sheriff's Department
24 has 45 Internal Affairs investigators of which 44 is too
25 fucking many. Why were you concerned about that

06/05/2014

DEPOSITION ERRATA SHEET

Our Assignment No. 127642B

Case Caption: Maxwell v. County of Los Angeles

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my Deposition taken in the above captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.

Signed on the 12 day of MAY,

20 14,

Michael R. Claus

MICHAEL CLAUS

06/05/2014

06/05/2014

In the Matter Of:

MAXWELL vs. COUNTY OF LOS ANGELES

BC497305

THOMAS LAING

April 24, 2014



ESQUIRE

800.211.DEPO (3376)
EsquireSolutions.com

1 violation. I think maybe another matter or two. I
2 don't remember.

3 Q. Did you ever hear about Maxwell relaying the
4 statements by Tanaka basically that there were 45
5 Internal Affairs investigators and in my opinion there's
6 44 too many?

7 A. Please repeat the question.

8 Q. Did you ever learn that Maxwell reported that
9 Tanaka made a comment that there were 45 Internal
10 Affairs investigators and in my opinion that was fucking
11 44 too many?

12 A. As you've shared with we, I do remember hearing
13 those terms. I just don't recall if it came from
14 Mr. Maxwell or who. I remember someone saying that.

15 Q. Do you know who said that?

16 A. No, I just can't picture the person saying it
17 because no one ever told me. I think I read it in the
18 paper that that comment was referenced to Mr. Tanaka.

19 And who said that, either Pat Maxwell or
20 somebody else at a commission hearing, I just -- I do
21 remember, as you brought to my attention, seeing
22 something about that.

23 Q. And do you know if there was ever any
24 investigation about that?

25 A. Not to my knowledge, sir. I don't know.

06/05/2014

READ AND SIGN LETTER
WORD INDEX
THOMAS LAING

REPORTER'S CERTIFICATION

I, KELLY M. BATES, a Certified Shorthand Reporter in and for the State of California, do hereby certify:

That the foregoing witness was by me duly sworn; that the deposition was then taken before me at the time and place herein set forth; that the testimony and proceedings were reported stenographically by me and later transcribed into typewriting under my direction; that the foregoing is a true record of the testimony and proceedings taken at that time.

IN WITNESS WHEREOF, I have subscribed my name this 24th day of April, 2014.

Kelly M Bates

Kelly M. Bates, CSR No. 12935

05/05/2014

06/05/2014

1 Q And in this particular case the testimony of
2 Maxwell dealt with Tanaka's statements of working in the
3 gray and commenting about Internal Affairs investigators,
4 that there were 45 of them, which in his opinion were
5 "fucking 44 too many."

6 Does that have an impact on your opinion of
7 whether or not Tanaka would have recalled speaking to Baca
8 about that testimony? Does it involve Tanaka himself?

9 A Rephrase that.

10 Q Sure. Do you believe the fact that what
11 Maxwell testified to to the jail commission was
12 specifically about Tanaka working in the gray and comments
13 about Internal Affairs, that that would make it even more
14 likely that Tanaka should have recalled a conversation with
15 Baca about the testimony?

16 A Yes.

17 Q And why do you feel that way?

18 A I think that the incident involving the
19 particular situation was discussed at a very high level.
20 We're talking about the movement of Anthony.

21 Q Anthony Brown?

22 A Anthony Brown, that no person under the sheriff
23 would have made any decision of that magnitude without the
24 very highest level being involved. I mean, that's a very
25 significant incident. It's very, very important, and I

06/05/2014

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.

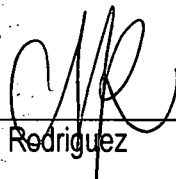
On June 4, 2014, I served the foregoing document described as:
DEFENDANT COUNTY OF LOS ANGELES' MOTION IN LIMINE NO. 7 PRECLUDING EVIDENCE, TESTIMONY, OR REFERENCE TO AN ALLEGED COMMENT BY PAUL TANAKA THAT "45 IA INVESTIGATORS ARE 44 TOO FUCKING MANY"

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 June 4, 2014, at Burbank, California.


Nadia Rodriguez

PETERSON · BRADFORD · BURKOWITZ
100 North First Street, Suite 300
Burbank, California 91502
818.562.5800

06 / 05 / 2014

SERVICE LIST

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

Case No.: BC497305

Bradley C. Gage, Esq.
Milad Sadr, Esq.
Law Offices of Goldberg & Gage
A Partnership of Professional Corporations
23002 Victory Blvd.
Woodland Hills, CA 91367
T: (818) 340-9252
F: (818) 340-9088

Attorney for Plaintiff, Patrick E. Maxwell

PETERSON · BRADFORD · BURKOWITZ
100 North First Street, Suite 300
Burbank, California 91502
818.562.5800

06 / 05 / 2014