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Attorneys for Defendant and Cross-Complainant CITY OF BURBANK, including the POLICE DEPARTMENT OF THE CITY OF BURBANK (erroneously sued as an independent entity named "BURBANK POLICE DEPARTMENT")

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

OMAR RODRIGUEZ; CINDY GUILLEN-GOMEZ; STEVE KARAGIOSIAN; ELFEGO RODRIGUEZ; AND JAMAL CHILDS, Plaintiffs, v. BURBANK POLICE DEPARTMENT; CITY OF BURBANK; AND DOES 1 THROUGH 100, INCLUSIVE, Defendants.	Case No. BC 414602 Judge: The Honorable Joanne O'Donnell **DEFENDANT CITY OF BURBANK'S OPPOSITION TO PLAINTIFF KARAGIOSIAN'S MOTION *IN LIMINE* NO. 4 TO EXCLUDE "DOCUMENTS, TESTIMONY AND OTHER EVIDENCE REGARDING THE CHARACTER OF WITNESSES"**
BURBANK POLICE DEPARTMENT; CITY OF BURBANK, Cross-Complainants, v. OMAR RODRIGUEZ, an Individual; Cross-Defendant.	Final Status Conference: Date: June 8, 2011 Time: 9:00 a.m. Location: 37 File Date: May 28, 2009 Trial Date: June 8, 2011 (Plff. Karagiosian); Discovery Referee: The Hon. Diane Wayne, Ret.

5/25

Attached to Karagiosian's motion is a March 31, 2011 letter which Plaintiffs' counsel sent Defendant's counsel ***in regards to trial on the claims of plaintiff Cindy Guillen-Gomez*** which is attached to a declaration in which Plaintiffs' counsel falsely identifies the letter as pertaining to the instant motion *in limine* ***filed by Plaintiff Steve Karagiosian,*** in order to deceive the Court into thinking that Karagiosian properly complied with Local Rule 8.92[1] before filing this motion. (Cischke Decl. ¶ 4, Exh. A.) The Court can and should deny the motion of the basis of this fraudulent misrepresentation to the Court alone.

Moreover, on April 14, 2011, the Court properly denied a nearly identical Motion *In Limine* No. 4 filed by Plaintiff Karagiosian's co-plaintiff, Cindy Guillen Gomez, to exclude evidence regarding the character or witnesses. (Reznik Decl. ¶ 2, Exh. 1.) ***There is no reason for the Court to rule any differently in the case of Karagiosian's motion than it did on Guillen's motion.*** Further, this Motion is so vague in its description of the evidence Karagiosian is seeking to exclude that it is impossible for Burbank to know what evidence is subject to the motion. If the Court were to grant this Motion, Burbank would not know what evidence to avoid presenting at trial.

To the extent Karagiosian is trying to exclude evidence of specific acts, such evidence may be admissible on cross-examination and for impeachment purposes, and, depending on the testimony witnesses give at trial, Burbank may use it for those purposes. *See* Burbank's Opposition to Karagiosian's Motion *in Limine* No. 3; *see also People v. Hurd*, 5 Cal. App. 3d 865, 877-881 (1970) *superseded on other grounds, People v. Tobias,* 25 Cal. 4th 327 (2001) (permissible to ask a character witness whether he heard of the defendant's prior arrest for theft

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1 Los Angeles Superior Court Local Rule 8.92 states in relevant part:

(a) Motions made for the purpose of precluding the mention or display of inadmissible and prejudicial matter in the presence of the jury shall be accompanied by a declaration that includes the following: . . .

(2) A representation to the court that the subject of the motion has been discussed with opposing counsel, and that opposing counsel has either indicated that such matter will be mentioned or displayed in the presence of the jury before it is admitted in evidence or that counsel has refused to stipulate that such matter will not be mentioned or displayed in the presence of the jury unless and until it is admitted in evidence.

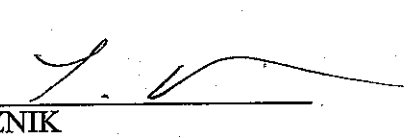
when the witness testified the defendant was "honest," "upright," and "fair"); Cal. Evid. Code § 780(f) (court and jury can consider "bias, interest, or other motive" in determining the credibility of a witness); *People v. Mickle*, 54 Cal. 3d 140, 168 (1991) ("[e]vidence tending to show a witness has some motive, bias, or interest that might induce false testimony has long been a permissible form of impeachment"); *People v. Watson*, 43 Cal. 4th 652, 685-686 (2008) (evidence may be offered for "impeachment of witness with existence or nonexistence of bias, interest or motive"); The Rutter Group, California Practice Guide, *Civil Trials and Evidence*, 8:2951-2 (2010).

Burbank respectfully submits that Karagiosian's Motion should be denied out of hand because it is not in compliance with Local Rule 8.92. Specifically, Guillen has not provided any declaration stating the specific prejudice that will be suffered by Guillen should this Motion not be granted (indeed, it is not clear from the Motion itself what prejudice Guillen claims she would suffer). *See* LASC Local Rule 8.92(a)(3).

For the foregoing reasons, Burbank respectfully requests that this Court deny Karagiosian's Motion *In Limine* No. 4.

Dated: May 25, 2011

BALLARD, ROSENBERG,
GOLPER & SAVITT LLP

By: 
PHILIP L. REZNIK
Attorneys for Defendant CITY OF BURBANK

DECLARATION OF PHILIP L. REZNIK

DECLARATION OF PHILIP L. REZNIK

I, PHILIP L. REZNIK, hereby declare:

1. I am an attorney at law, licensed to practice in all Courts of the State of California, and an associate in the law firm of Ballard, Rosenberg, Golper & Savitt, LLP, attorney of record for defendant CITY OF BURBANK herein. I have personally knowledge of the following facts and, if asked, could and would testify competently thereto.

2. Attached hereto as Exhibit 1 is a copy of the Court's April 14, 2011 Minute Order in regards to trial on the claims of plaintiff Cindy Guillen-Gomez herein.

I declare, under penalty of perjury, under the laws of the State of California, that the foregoing facts are true.

Signed this 25th day of May, 2011, at Glendale, California.

PHILIP L. REZNIK, declarant

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 04/14/11			DEPT. 37
HONORABLE JOANNE O'DONNELL	JUDGE	E.T. ESPINOZA	DEPUTY CLERK
HONORABLE #	JUDGE PRO TEM		ELECTRONIC RECORDING MONITOR
G.S. HIRONAKA, C/A	Deputy Sheriff	C. KWON-CHANG, # 12143	Reporter

10:00 am	BC414602	Plaintiff Counsel	SOLOMON GRESEN (X)
	OMAR RODRIGUEZ ET AL VS BURBANK POLICE DEPARTMENT ET AL	Defendant Counsel	LAWRENCE MICHAELS (X) LINDA SAVITT (X) VERONICA VON GRABOW (X)
	170.6 DAVID P. YAFFE R/F 7-27-09 Denied as to BC4179		

NATURE OF PROCEEDINGS:

PRE-TRIAL CONFERENCE RE MOTIONS IN LIMINE

Matters are called for hearing.

A mandatory settlement conference is set for April 21, 2011, 9 a.m., this department.

Motion of Defendants to quash Notice of Attendance of Burbank Police Department interim Police Chief Scott Lachasse at trial is argued and granted.

Court and counsel confer re motions in limine as follows:

Plaintiff's motions in limine to exclude:

1. Documents, testimony and other evidence regarding lawsuits filed by the other plaintiffs herein is denied.

2. Documents, testimony and other evidence regarding lawsuits filed by Christopher Dunn is withdrawn.

3. Documents, testimony and other evidence regarding any Porto's Bakery investigation is denied.

4. Documents, testimony and other evidence regarding the character of witnesses is denied.

5. Documents, testimony and other evidence requested

MINUTES ENTERED
04/14/11
COUNTY CLERK

04/18/11

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 04/14/11 | DEPT. 37

HONORABLE JOANNE O'DONNELL JUDGE | E.T. ESPINOZA DEPUTY CLERK

HONORABLE # JUDGE PRO TEM | ELECTRONIC RECORDING MONITOR

G.S. HIRONAKA, C/A Deputy Sheriff | C. KWON-CHANG, # 12143 Reporter

10:00 am BC414602

OMAR RODRIGUEZ ET AL
VS
BURBANK POLICE DEPARTMENT ET AL

170.6 DAVID P. YAFFE
R/F 7-27-09 Denied as to BC4179

Plaintiff Counsel: SOLOMON GRESEN (X)

Defendant Counsel: LAWRENCE MICHAELS (X)
LINDA SAVITT (X)
VERONICA VON GRABOW (X)

NATURE OF PROCEEDINGS:

but not disclosed during discovery is denied.

6. Documents, testimony and other evidence regarding Plaintiff's 2004 discipline for walking too close to a car is granted.

7. Documents, testimony and other evidence regarding Plaintiff's 2001 cervical cancer is denied.

Prevent all witnesses from wearing police uniforms in the presence of the jury is denied.

Defendant's motions in limine for an order to exclude:

1. Evidence of or argument about Guillen's failures to promote to detective is denied.

2. Evidence of or argument about Guillen's failure to be assigned to the special enforcement detail is denied.

3. Evidence or argument of comments for which Plaintiff Guillen has not laid a foundation is denied. Counsel will refile this motion in limine.

4. Evidence or argument of statements made by Juli Scott during her September 2009 sexual harrasment training is granted.

5. Evidence or argument of statements made to

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04/14/11
COUNTY CLERK

04/18/11

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

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HONORABLE JOANNE O'DONNELL	JUDGE	E.T. ESPINOZA	DEPUTY CLERK
HONORABLE #	JUDGE PRO TEM		ELECTRONIC RECORDING MONITOR
G.S. HIRONAKA, C/A	Deputy Sheriff	C. KWON-CHANG, # 12143	Reporter

10:00 am	BC414602 OMAR RODRIGUEZ ET AL VS BURBANK POLICE DEPARTMENT ET AL 170.6 DAVID P. YAFFE R/F 7-27-09 Denied as to BC4179	Plaintiff Counsel Defendant Counsel	SOLOMON GRESEN (X) LAWRENCE MICHAELS (X) LINDA SAVITT (X) VERONICA VON GRABOW (X)

NATURE OF PROCEEDINGS:

Guillen's Newport Beach Police Department background investigator is granted.

6. Order excluding the testimony of Oliver "Lee" Drummond will be ruled on at the time of trial.

7. Any testimony of R. William Mathis, Ph.D. is denied.

8. Evidence or argument relating to any protected class of which Guillen is not a member, including African-Americans and Armenians is granted.

9. Evidence or argument of comments supporting Guillen's claim that she was harrassed based on pregnancy is denied.

10. Evidence or argument relating to discipline imposed against Burbank Police Department members for anything other than harrasment of Guillen is granted.

11. Evidence of or argument about Guillen's reprimand for carelessness is granted.

12. Evidence or argument of any statistics relating to the numbers of Hispanic and/or female officers is granted.

13. Evidence or argument that the Burbank Police

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04/14/11
COUNTY CLERK

04/18/11

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 04/14/11			DEPT. 37
HONORABLE JOANNE O'DONNELL	JUDGE	E.T. ESPINOZA	DEPUTY CLERK
HONORABLE #	JUDGE PRO TEM		ELECTRONIC RECORDING MONITOR
G.S. HIRONAKA, C/A	Deputy Sheriff	C. KWON-CHANG, # 12143	Reporter

10:00 am	BC414602 OMAR RODRIGUEZ ET AL VS BURBANK POLICE DEPARTMENT ET AL 170.6 DAVID P. YAFFE R/F 7-27-09 Denied as to BC4179	Plaintiff Counsel Defendant Counsel	SOLOMON GRESEN (X) LAWRENCE MICHAELS (X) LINDA SAVITT (X) VERONICA VON GRABOW (X)

NATURE OF PROCEEDINGS:

Officers Association did not properly represent Cindy Guillen-Gomez is granted.

14. Any reference to the size of Burbank's law firms, the costs of Burbank's defense, and the number of attorneys retained by Burbank is granted.

Defense counsel are to file the 2 motions in limine by April 18, 2010, with opposition due April 22, 2011. Motions will be heard on April 25, 2011.

Court and counsel confer re trial procedures.

Plaintiff's counsel informs the Court that he will look into the issue of not having posted jury fees.

11/83/48

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COUNTY CLERK