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**FILED**  
FEB 14 2011  
RICHARD J. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

10

11 ORIGINAL

12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA

14 JOSEPH CIAMPI,  
15 Plaintiff,

16 v.

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

25 Defendants.

26 NO. C09-02655 LHK (PSG)

27 **DECLARATION OF STEVEN A.  
28 SHERMAN IN SUPPORT OF  
DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT OR, IN  
THE ALTERNATIVE, SUMMARY  
ADJUDICATION OF ISSUES**

**DATE: March 17, 2011  
TIME: 1:30 p.m.  
CTRM: 5**

**DECLARATION OF STEVEN A. SHERMAN**

I, STEVEN A. SHERMAN, declare:

1. I am the attorney of record for the City of Palo Alto, the Palo Alto Police Department, Chief Dennis Burns, former Chief of Police Lynne Johnson, Sergeant Natasha Powers, Sergeant April Wagner, Officer Kelly Burger, Officer Manuel Temores, and former agent Dan Ryan in the above-entitled action.

2. I am a partner with the law firm of Ferguson, Praet & Sherman, and duly licensed to practice in the State of California in both state and federal venues.

1           3.     The facts stated herein are of my own personal knowledge unless otherwise  
2 stated.

3           4.     Attached hereto as Exhibit "1" is a true and correct copy of Plaintiff's  
4 Second Amended Complaint.

5           5.     Attached hereto as Exhibit "2" is a true and correct copy of Palo Alto Police  
6 Department Report 08-1777 concerning the March 15, 2008, incident.

7           6.     Attached hereto as Exhibit "3" is a true and correct copy of the CAD printout  
8 concerning the March 15, 2008, incident.

9           7.     Attached hereto as Exhibit "4" is a certified copy of People v. Ciampi, Case  
10 No. BB833050, Preliminary Examination Reporter's Transcript of Proceeding, December 1,  
11 2008, Volume 1.

12           8.     Attached hereto as Exhibit "5" is a certified copy of People v. Ciampi, Case  
13 No. BB833050, Preliminary Examination Reporter's Transcript of Proceeding, December 4,  
14 2008, Volume 2.

15           9.     Attached hereto as Exhibit "6" is a certified copy of People v. Ciampi, Case  
16 No. BB833050, Preliminary Examination Reporter's Transcript of Proceeding, December 5,  
17 2008, Volume 3.

18           10.    Attached hereto as Exhibit "7" is a certified copy of People v. Ciampi, Case  
19 No. BB833050, Preliminary Examination Reporter's Transcript of Proceeding, December  
20 17, 2008, Volume 4.

21           11.    Attached hereto as Exhibit "8" is a true and correct copy of Plaintiff's  
22 Response to Defendant City of Palo Alto's Request for Production of Documents and Other  
23 Evidence, Set Three, and Exhibits 322 - 335.

24           12.    Attached hereto as Exhibit "9" is a true and correct copy of the March 15,  
25 2008, Use of Force Report prepared by Sergeant Powers.

26           13.    Attached hereto as Exhibit "10" is a true and correct copy on the Weapon  
27 Summary concerning taser gun X00-292417 and taser camera V06-015530 utilized by  
28 Officer Temores which is inclusive of March 15, 2008.

1           14. Attached hereto as Exhibit "11" is a true and correct copy of the Weapon  
2 Summary concerning taser gun X00-292463 and taser camera V06-015542 utilized by  
3 Officer Burger which is inclusive of March 15, 2008.

4           15. Attached hereto as Exhibit "12" is a CD containing a true and correct copy of  
5 the taser camera recordings from V06-015530 (Officer Temores) and V06-015530 (Officer  
6 Burger) of the March 15, 2008, incident.

7           16. Attached hereto as Exhibit "13" is a true and correct copy of the Declaration  
8 of Andrew F. Hinz of Taser International.

9           17. Attached hereto as Exhibit "14" is a true and correct of the MAV in-unit  
10 recording from Officer Temores' police unit on March 15, 2008.

11           18. Attached hereto as Exhibit "15" is a true and correct copy of the MAV in-  
12 unit recording from Officer Burger's police unit on March 15, 2008

13           19. Attached hereto as Exhibit "16" is a true and correct copy of a screen shot  
14 showing the MAV recordings of both Officer Temores and Officer Burger after they were  
15 run through the verification software provided by Kustom Signals, Inc. Both recordings  
16 indicate they are complete and verified. Also attached are three (3) pages concerning the  
17 purpose of the software and how to read the results.

18           20. Attached hereto as Exhibit "17" is a true and correct copy of the declaration  
19 of Warren S. Page of Kustom Signals, Inc. addressing his testing of the MAV recordings.

20           21. Attached hereto as Exhibit "18" is a CD containing the original 911 call into  
21 Palo Alto police dispatch.

22           22. Attached hereto as Exhibit "19" is the Declaration of Chief Dennis Burns in  
23 support of Defendants' Motion for Summary Judgment or alternatively, Summary  
24 Adjudication.

25           23. Attached hereto as Exhibit "20" is the Declaration of Sergeant Natasha  
26 Powers in support of Defendants' Motion for Summary Judgment or alternatively, Summary  
27 Adjudication.

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24. Attached hereto as Exhibit "21" is the Declaration of Officer Kelly Burger in support of Defendants' Motion for Summary Judgment or alternatively, Summary Adjudication.

25. Attached hereto as Exhibit "22" is the Declaration of Officer Manuel Temores in support of Defendants' Motion for Summary Judgment or alternatively, Summary Adjudication.

26. Attached hereto as Exhibit "23" is the Declaration of Agent Dan Ryan in support of Defendants' Motion for Summary Judgment or alternatively, Summary Adjudication.

27. Attached hereto as Exhibit "24" is the Declaration of Sergeant April Wagner in support of Defendants' Motion for Summary Judgment or alternatively, Summary Adjudication.

DATED: February 10, 2011

FERGUSON, PRAET & SHERMAN  
A Professional Corporation  
  
By: /s/ Steven A. Sherman  
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 February 10, 2011, served the **DECLARATION OF STEVEN A. SHERMAN IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, SUMMARY ADJUDICATION OF ISSUES** 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@mail.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 February 10, 2011, at Santa Ana, California.

/s/ Cathy Sherman   
Cathy Sherman