



THE VEEN FIRM, PC

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September 15, 2022

VIA ELECTRONIC MAIL ONLY

San Rafael City Attorney Rob Epstein
rob.epstein@cityofsanrafael.org

Re: [REDACTED] v. *City of San Rafael*

Dear Mr. Epstein:

Please allow this letter to confirm that [REDACTED] and [REDACTED] [REDACTED] have retained The Veen Firm, PC, in conjunction with Mr. Charles Dresow, to prosecute their respective claims arising from the July 27, 2022 incident involving Officer Brandon Nail's and Daisy Mazariegos' egregious use of excessive force, false arrest, and false subsequent reporting.

It is our understanding you suggested early mediation of these claims with the Honorable Maria-Elena James (Ret.). At the outset we note that any resolution of this matter will need to reflect the egregious and unwarranted actions of the officers involved in this case and the profound harm resulting to our clients and their family.

Though we are open to recommending early mediation to our clients, we would do so only if the City of San Rafael satisfies the following conditions:

1. Appoint an investigator of our choosing to conduct the investigation together with Mr. Paul Henry, the investigator unilaterally hired by the City of San Rafael.
2. Postpone the initiation of Mr. Paul Henry's investigation until the City of San Rafael retains a co-investigator of our choosing to investigate alongside Mr. Henry.
3. Provide us a copy of:
 - a. Mr. Paul Henry's current CV;
 - b. a full list of all Mr. Henry's clients for the past five years;
 - c. every report Mr. Henry has authored or co-authored in the past five years;
 - d. a complete list of all retentions by San Rafael and/or the SRPD of Mr. Henry, ICC, or any office with which Mr. Henry worked in the past; and



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- e. a complete accounting of all payments by San Rafael and/or the SRPD to Mr. Henry, ICC or any office with which Mr. Henry worked in the past.
4. Provide us a copy of all materials in Officer Brandon Nail's personnel file that would be produced in response to a successful *Pitchess* motion, including: (a) Officer Nail's complete personnel file; (b) all complaints received by the City of San Rafael or any representative of the City of San Rafael relating in any way to Officer Nail; (c) the name, address and phone number of all persons who complained to the City of San Rafael or any representative thereof regarding Officer Nail, the date of all complaints made by such persons, and the identity of any witnesses identified in any such complaint; and (d) all records relating to any warnings, reprimands, suspensions, ... of Officer Nail by San Rafael and/or the SRPD.
 5. Provide us a copy of all materials in Officer Daisy Mazariegos' personnel file that would be produced in response to a successful *Pitchess* motion, including: (a) Officer Nail's complete personnel file; (b) all complaints received by the City of San Rafael or any representative of the City of San Rafael relating in any way to Officer Nail; (c) the name, address and phone number of all persons who complained to the City of San Rafael or any representative thereof regarding Officer Nail, the date of all complaints made by such persons, and the identity of any witnesses identified in any such complaint; and (d) all records relating to any warnings, reprimands, suspensions, ... of Officer Mazariegos by San Rafael and/or the SRPD.
 6. Provide the additional following materials to us:
 - a. A full and complete copy of SRPD policies and procedures in effect on 7/27/22;
 - b. All photos taken on 7/27/22 by Officer Nail using his cell phone;
 - c. All text messages sent or received by Officer Nail in the 7/27/22 – 8/3/22 time period;
 - d. All emails sent or received by Officer Nail in the 7/27/22 – 8/3/22 time period;
 - e. Officer Nail's cell phone and password for IT inspection and complete imaging;
 - f. Records of all training (including training materials used) Officers Nail and/or Mazariegos have received relating to use of force, de-escalation, elimination of bias, report preparation, and/or evidence gathering;
 - g. All records of all GPS tracking of the unit(s) that transported [REDACTED] on 7/27/22 from the location of the incident to Marin General Hospital and from Marin



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General Hospital to the Marin County Jail, including the identification of the officers who drove him;

- h. All video and/or audio recordings made during transport of [REDACTED] on 7/27/22 from the location of the incident to Marin General Hospital and from Marin General Hospital to the Marin County Jail; and
- i. All dispatch recordings, 911 calls, service calls, CAD logs, and any other logs or recordings of police activity or communications related to the 7/27/22 incident, including a legend, key, or other information necessary to identify particular officers or units if identified by alpha-numeric or other codes in the logs.

7. Agree to mediate with the Honorable Wayne D. Brazil (Ret.) within the next 90 days. We are in the process of obtaining his available dates.

Though it goes without stating, we request that you take all necessary steps to immediately preserve, without alteration, modification, or deletion, all records and documents referenced above, as well as all other records, documents and information in any way related to the July 27, 2022 incident. Should you fail to preserve any of the records or documents referenced above, your failure would give rise to a negative inference in any future litigation.

We note specifically that immediate steps should be taken to take Officer Nail's cell phone into San Rafael's custody to ensure that no changes are made to that cell phone. Texts should not be deleted. Photos should not be deleted. Emails should not be deleted. In short, any information on that cell phone that relates in any way to the events of July 27, 2022, must be preserved in its entirety and that cannot be accomplished so long as the phone remains in Officer Nail's possession.

We appreciate your consideration of this matter and look forward to hearing from you and working with you towards a fair and just early resolution. Should we not receive your response by Friday, September 23, 2022, we will assume the City of San Rafael is not interested in early resolution and proceed accordingly.

Very truly yours,

THE VEEN FIRM, P.C.

Anthony Label

THE VEEN FIRM, P.C.

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Ragghianti | Freitas LLP

CDD

Charles D. Dresow