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FILED
Clerk of the Superior Court

DEC - 6 2019

By: R. Cersosimo, Clerk

Attorneys for Defendant DAVID ARAMBULA

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO – HALL OF JUSTICE

CHRISTOPHER WILLIAMS,

Plaintiff,

v.

DAVID ARAMBULA; CITY OF LEMON GROVE; and DOES 1 through 1,000,

Defendants.

Case No. 37-2018-00023369-CU-PO-CTL
[Complaint Filed: May 11, 2018]

Judge: Hon. Richard S. Whitney
Dept: C-68

DEFENDANTS' MOTION IN LIMINE TO PRECLUDE PLAINTIFF FROM PRESENTING CUMULATIVE PERCIPIENT WITNESS TESTIMONY

[MIL No. 10 of 22]

Trial Date: December 13, 2019

TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that Defendant David Arambula hereby moves the Court, on behalf of the defense, for an order precluding Plaintiff Christopher Williams and his counsel of record from presenting cumulative percipient witness testimony.

This motion is based on the supporting memorandum of points and authorities, the pleadings and papers on file in this action, and upon such argument and evidence as may be presented prior to or at the hearing of this matter.

FILED

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1 **I. INTRODUCTION**

2 It is anticipated plaintiff will attempt to list and call multiple percipient witnesses to testify
3 about how the subject physical altercation between plaintiff and Mr. Arambula changed plaintiff's
4 life and business plans. Allowing multiple witnesses to testify about the same subject matter would
5 be cumulative, duplicative, result in undue consumption of the Court's time. It would otherwise
6 unduly prejudice to the defense. Plaintiff and his counsel should therefore be precluded from
7 presenting such duplicative testimony at trial.

8 **II. AUTHORITY FOR MOTION**

9 A motion *in limine* is the appropriate method "to preclude the presentation of evidence
10 deemed inadmissible and prejudicial by the moving party." (*Blanks v. Seyfarth Shaw, LLP* (2009)
11 171 Cal.App.4th 336, 375.) The important purpose served by such motion is "to avoid the
12 obviously futile attempt to "unring the bell" in the event a motion to strike is granted in the
13 proceedings before the jury." (*Hyatt v. Sierra Boat Co.* (1978) 79 Cal.App.3d 325, 337.)

14 **III. THE COURT IS EMPOWERED TO, AND SHOULD, EXCLUDE CUMULATIVE**
15 **PERCIPIENT WITNESS TESTIMONY**

16 California Evidence Code Section 352 provides in pertinent part:

17
18 The court may in its discretion may exclude evidence if its probative
19 value is substantially outweighed by the probability that its
20 admission will (a) necessitate undue consumption of time or (b)
create substantial danger of undue prejudice, of confusing the issues
or of misleading the jury.

21 A court may exclude cumulative, although relevant, evidence to avoid confusing the jury
22 or wasting the time of the court. (*Fuentes v. Tucker* (1947) 31 Cal.2d 1.) "While a trial court must
23 be fair in affording litigants full opportunity to present their proofs, it is not obliged to permit a
24 repetition of testimony which has already fully presented the facts." (*Litt v. Litt* (1946) 75
25 Cal.App.2d 242.)

26 Plaintiff may testify as to how the incident has allegedly changed his life, but he should not
27 be permitted to parade in multiple percipient witnesses, including family members, acquaintances,
28 community members, consultants, and prospective investors, to testify as to their opinions about

1 how the incident affected plaintiff's health, socialization, independence, and business prospects.
2 Such duplicative and cumulative testimony would amount to an undue consumption of time and
3 would be prejudicial to the defense. Furthermore, cumulative and duplicative testimony from
4 percipient witnesses would mislead the jury and confuse the issues in this case. (*See, People ex rel.*
5 *Dept. Pub. Wks. V. Princess Park Estates, Inc.* (1969) 270 Cal.App.2d 876, 885 [cumulative
6 evidence will necessitate undue consumption of time, create undue prejudice, confuse the issues, or
7 mislead the jury.].) The Court must not allow this to occur.

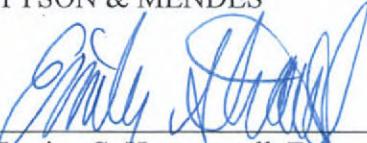
8 **IV. CONCLUSION**

9 For the foregoing reasons, Mr. Arambula respectfully requests the Court grant this motion
10 and issue an order precluding plaintiff and his counsel from presenting cumulative percipient witness
11 testimony.

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Dated: December 5, 2019

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