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FILED
Clerk of the Superior Court

DEC - 6 2019

By: R. Cersosimo, Clerk

5 Attorneys for Defendant DAVID ARAMBULA

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN DIEGO - HALL OF JUSTICE

11 CHRISTOPHER WILLIAMS,

12 Plaintiff,

13 v.

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

17 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
INTRODUCING WITNESSES,
DOCUMENTS, AND OTHER
INFORMATION NOT DISCLOSED IN HIS
RESPONSES TO WRITTEN DISCOVERY**

[MIL No. 17 of 22]

Trial Date: December 13, 2019

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

22 PLEASE TAKE NOTICE that Defendant David Arambula hereby moves the Court, on
23 behalf of the defense, for an order precluding Plaintiff Christopher Williams and his counsel of
24 record from introducing witnesses, documents, and other information not disclosed in plaintiff's
25 responses to written discovery.

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

DEFENDANTS' MOTION IN LIMINE TO PRECLUDE PLAINTIFF FROM INTRODUCING WITNESSES,
DOCUMENTS, AND OTHER INFORMATION NOT DISCLOSED DURING WRITTEN DISCOVERY

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1 **I. INTRODUCTION**

2 It is anticipated plaintiff will attempt to introduce witnesses, documents, and other
3 information he did not disclose, but should have disclosed, during written discovery. Such tactic
4 violates the laws governing discovery, and would otherwise subject Mr. Arambula and the City of
5 Lemon Grove to unfair surprise and undue prejudice. Plaintiff should therefore be precluded from
6 presenting undisclosed witnesses, documents, and information at trial.

7 **II. AUTHORITY FOR MOTION**

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

13 **III. THE COURT SHOULD EXCLUDE INFORMATION AND DOCUMENTS NOT**
14 **DISCLOSED DURING DISCOVERY AS A MATTER OF LAW**

15 One of the central and most important purposes of discovery is to eliminate unfair surprise
16 at trial. (*Davies v. Superior Court* (1984) 36 Cal.3d 291, 299; *Greyhound Corp. v. Superior Court*
17 (1961) 56 Cal.2d 355, 376.) As such, the Court has broad authority to exclude, and should exclude,
18 (a) evidence wrongfully withheld from disclosure during the discovery process, and (b) witness
19 testimony where the opposing party wrongfully withholds a witness’ identity from responses to
20 written discovery. (*Deeter v. Angus* (1986) 179 Cal.App.3d 241, 254-255; *Thoren v. Johnston* (1972)
21 29 Cal.App.3d 270, 273-274.)

22 During the course of discovery in this case, Mr. Arambula and the City of Lemon Grove
23 propounded various interrogatories, documents requests, supplemental interrogatories, and
24 supplemental document requests to plaintiff. This discovery seeks information and documentary
25 evidence bearing on plaintiff’s claims of liability and damages, as well as the identities of witnesses
26 with knowledge relevant to such claims. If plaintiff (1) had responsive documents and other evidence
27 and/or knew the identities of responsive witnesses, and (2) withheld such evidence and information
28 from his discovery responses and document productions, he should necessarily be precluded from

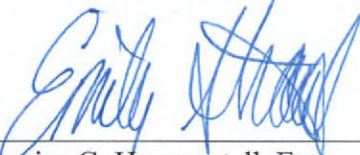
1 using the evidence and witnesses at the time of trial. To allow otherwise would be in contravention
2 of established law, and it would improperly subject the defendants to unfair surprise and undue
3 prejudice. The motion should be granted on these bases.

4 **IV. CONCLUSION**

5 For all of the foregoing reasons, Mr. Arambula respectfully requests the Court grant this
6 motion and issue and order precluding plaintiff and his counsel from introducing (1) documents and
7 other evidence not produced during discovery, and (2) witnesses not identified during discovery.

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9 Dated: December 5, 2019

TYSON & MENDES

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11 By: 
12 _____
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14 Emily M. Straub, Esq.
15 Attorneys for Defendant DAVID ARAMBULA

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