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6  
7 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
8 COUNTY OF SAN DIEGO – HALL OF JUSTICE  
9

10 CHRISTOPHER WILLIAMS,

11 Plaintiff,

12 vs.

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

14 Defendants.  
15

CASE NO. 37-2018-00023369-CU-PO-CTL

**PLAINTIFF'S REPLY BRIEF IN  
SUPPORT OF MOTION TO COMPEL  
DEPOSITION ATTENDANCE OF MATT  
MENDOZA**

Action Filed: March 01, 2017  
Department: C-68 (Whitney)

Hearing Date: October 25, 2019  
Hearing Time: 10:30 a.m.

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17  
18 Plaintiff Christopher Williams ("Plaintiff") respectfully submits this reply brief in support of  
19 his motion to compel Defendant City of Lemon Grove ("City") to produce Matt Mendoza for an oral  
20 deposition and for monetary sanctions against City and its counsel of record in this lawsuit.  
21

22 **I. INTRODUCTION**

23 City clearly agrees with Plaintiff as to the standard to be used in determining whether Plaintiff  
24 may depose Matt Mendoza. Yet it still erroneously concludes that Mr. Mendoza may not be deposed  
25 in order to prevent Mr. Mendoza from testifying to what he knows about the night of the incident where  
26 Plaintiff was violently attacked by David Arambula ("Arambula"). The facts are clear: Mr. Mendoza  
27 has direct factual information pertaining to material issues in the action that are not available through  
28 any other source, and thus Plaintiff has the right to take the deposition of Mr. Mendoza.

1 **II. ARGUMENT & ANALYSIS**

2 **A. Plaintiff Has the Right to Depose Matt Mendoza**

3 City relies on the rule set forth in *Westly v. Superior Court* to argue that Mr. Mendoza cannot  
4 be subject to deposition. Unfortunately, City's analysis is full of holes. ***When a government official***  
5 ***has direct factual information pertaining to material issues in the action, not available through any***  
6 ***other source, the government official may be deposed.*** *Westly v. Superior Ct.*, 125 Cal. App. 4th 907,  
7 910 (2004) (citing *Nagle v. Superior Ct.*, 28 Cal. App. 4th 1465, 1468 (1994)) (emphasis added).

8 Mr. Mendoza has direct factual information pertaining to material issues in this action for two  
9 reasons. First, City employees and other sources have shared that Arambula had discussions with Mr.  
10 Mendoza regarding the night of the incident. ***City acknowledges this fact*** but insists that those aware  
11 of the subject matter of Mr. Mendoza's conversations with Arambula somehow have the same direct  
12 factual information shared between the two. City even suggests that the possibility that someone  
13 "overheard portions of the alleged conversation" is the same as having direct knowledge of what  
14 Arambula and Mr. Mendoza discussed when speaking with one another about the night of the incident.  
15 See City's Opp'n, p. 3, lines 14-22. Having knowledge of the ***subject matter*** of the conversations ***is not***  
16 the same as having ***direct knowledge*** of Mr. Mendoza and Arambula's non-privileged conversations;  
17 at best the other person's testimony would be hearsay. Second, Mr. Mendoza has direct factual  
18 information pertaining to his practices of conducting City-related business and whether he conducts  
19 official City business in locations other than City Hall. This information is directly relevant to material  
20 issues in the case. Plaintiff has the right to know whether holding meetings after business hours outside  
21 of City Hall on City-related matters (just as Arambula did the night of the incident) was standard  
22 operating procedure for City officials. This information goes directly towards City's liability in this  
23 lawsuit.

24 Next, the information Plaintiff seeks to gather from Mr. Mendoza's deposition testimony cannot  
25 be gathered from any other source. To reiterate, someone who is aware of the subject matter of  
26 discussions Mr. Mendoza had with Arambula cannot be said to have the same direct information as Mr.  
27 Mendoza, which Plaintiff is entitled to probe within the reasonable scope of discovery. The same goes  
28 for Mr. Mendoza's knowledge of how he chose to conduct City business. Only Mr. Mendoza can testify  
to his conversations, interactions, and observations with Arambula and to where he holds meetings.

1           **B. City Cannot Cherry-Pick Which Witnesses May Appear for Deposition**

2           *City Mayor Racquel Vasquez has already been deposed* because she had direct factual  
3 information concerning material issues in this lawsuit that could not have been obtained by another  
4 source. City contends that Mayor Vasquez appeared for deposition solely because she was present the  
5 night of the incident. Having direct factual information concerning the incident goes beyond  
6 attendance. City does not provide any legal authority supporting its notion that only individuals present  
7 at the exact time and place of an incident may be deposed in litigation. This also directly contradicts  
8 the fact that *City already deposed Plaintiff's life-partner, who was not present the night of the*  
9 *incident.*

10           City's attempt to cherry-pick who is deposed should not be entertained.

11           **C. City's Refusal to Allow a Percipient Witness to Testify Is a Misuse of the Discovery**  
12           **Process**

13           As shown in City's opposition to the motion, City is well aware of the standard for deposing  
14 government officials in legal proceedings. As such, City clearly understands that Plaintiff has the right  
15 to depose Mr. Mendoza in this case, within the reasonable scope of discovery. Refusing to produce Mr.  
16 Mendoza for testimony in order to prevent Plaintiff from obtaining information from this percipient  
17 witness is a gross misuse of the discovery process that cannot be substantially justified. As such, this  
18 court must impose monetary sanctions on City.

19   **III. CONCLUSION**

20           For all the foregoing reasons, and the reasons set forth in the initial moving papers, Plaintiff  
21 respectfully requests the Court to grant the motion.

22  
23           Date: October 18, 2019.

Respectfully submitted,

BRIGGS LAW CORPORATION

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25  
26           By: 

Cory J. Briggs

Attorneys for Plaintiff Christopher Williams

**PROOF OF SERVICE**

1. My name is Ashley Engelman. I am over the age of eighteen. I am employed in the State of California, County of San Diego.

2. My  business \_\_\_\_\_ residence address is Briggs Law Corporation, 4891 Pacific Highway, Suite 104, San Diego, CA 92110.

3. On October 18, 2019, I served \_\_\_\_\_ an original copy  a true and correct copy of the following documents: Plaintiff's Reply Brief in Support of Motion to Compel Deposition Attendance of Matt Mendoza

4. I served the documents on the person(s) identified on the attached mailing/service list as follows:

\_\_\_\_ *by personal service*. I personally delivered the documents to the person(s) at the address(es) indicated on the list.

\_\_\_\_ *by U.S. mail*. I sealed the documents in an envelope or package addressed to the person(s) at the address(es) indicated on the list, with first-class postage fully prepaid, and then I

\_\_\_\_ deposited the envelope/package with the U.S. Postal Service

\_\_\_\_ placed the envelope/package in a box for outgoing mail in accordance with my office's ordinary practices for collecting and processing outgoing mail, with which I am readily familiar. On the same day that mail is placed in the box for outgoing mail, it is deposited in the ordinary course of business with the U.S. Postal Service.

I am a resident of or employed in the county where the mailing occurred. The mailing occurred in the city of San Diego, California.

\_\_\_\_ *by overnight delivery*. I sealed the documents in an envelope/package provided by an overnight-delivery service and addressed to the person(s) at the address(es) indicated on the list, and then I placed the envelope/package for collection and overnight delivery in the service's box regularly utilized for receiving items for overnight delivery or at the service's office where such items are accepted for overnight delivery.

\_\_\_\_ *by facsimile transmission*. Based on an agreement of the parties or a court order, I sent the documents to the person(s) at the fax number(s) shown on the list. Afterward, the fax machine from which the documents were sent reported that they were sent successfully.

*by e-mail delivery*. Based on the parties' agreement or a court order or rule, I sent the documents to the person(s) at the e-mail address(es) shown on the list. I did not receive, within a reasonable period of time afterward, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws \_\_\_\_\_ of the United States  of the State of California that the foregoing is true and correct.

Date: October 18, 2019

Signature:  \_\_\_\_\_

**SERVICE LIST**

*Christopher Williams vs. Lemon Grove*

Superior Court of the State of California Case No. 37-2018-00023369-CU-PO-CTL

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