

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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EVAN ZIMMERMAN,

Plaintiff,

v.

CITY OF EAU CLAIRE, ERIC LARSEN,  
DONN ADAMS, GARY FOSTER, TODD  
TRAPP and WILLIAM SHEMBERA,

Defendants.

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ORDER  
06-C-085-S

Plaintiff's motion to compel discovery came on to be heard by telephone in the above entitled matter on May 31, 2006, the plaintiff having appeared by Loevy & Loevy by Russell Ainsworth; defendants by Crivello, Carlson & Mentkowski by Raymond J. Pollen. Honorable John C. Shabaz, District Judge, presided.

Accordingly,

ORDER

IT IS ORDERED that plaintiff's motion to compel discovery is GRANTED as it relates to the following.

IT IS FURTHER ORDERED that defendants shall make available to plaintiff's litigation counsel those documents relating to the investigation into the Wall matter as it relates to those documents presently available as a result of the investigation to date.

IT IS FURTHER ORDERED that plaintiff's counsel may copy those documents which are believed to be appropriate as a result of said

examination and that all such documents as well as the result of plaintiff's examination are for "eyes only" of the specific attorneys who will be conducting said examination and copying.

IT IS FURTHER ORDERED that personnel files of defendant Eau Claire police officers and those others who may have investigated this matter shall be made available forthwith to plaintiff's designated attorney in this litigation for examination and copying all as aforesaid.

IT IS FURTHER ORDERED that those documents relating to request for production nos. 8 and 9 for purposes of *Monell* claims shall be made available to plaintiff's designated attorney for examination and copying all of which are also to be for "eyes only" of said counsel.

IT IS FURTHER ORDERED that request for production no. 26 will be deferred until the named polygraph operator has appeared by counsel in said matter at which time documents relating to that request shall be made available for examination and copying as well as "eyes only" to plaintiff's designated attorney.

IT IS FURTHER ORDERED that unless the parties resolve the payment of any punitive damages which may be awarded by the jury, the financial information relating to each individual defendant shall be provided to defendants' counsel for disclosure in the final pre-trial conference report.

IT IS FURTHER ORDERED that all evidence upon which the search warrant was based shall be itemized and made available to plaintiff and the officer in charge shall affirm under oath, if indeed such affirmation is possible, that all evidence so itemized has been provided to plaintiff for examination and copying pursuant to that protective order previously announced.

IT IS FURTHER ORDERED that costs and reasonable attorney's fees which may be awarded shall abide the outcome of that discovery referred to herein which shall be made available forthwith.

Although an order has not as yet been made, it is the intention of this Court to schedule trial in Eau Claire, Wisconsin with the jurors to be from the La Crosse, Wisconsin pool unless the Court hears a more compelling argument than it has to date relating to place of trial. The Clerk's Office will begin to make those arrangements commencing June 15, 2006.

Entered this 31st day of May, 2006.

BY THE COURT:

s/

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JOHN C. SHABAZ  
District Judge