

FILED
PLACER COUNTY
SUPERIOR COURT OF CALIFORNIA

APR 03 2006

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF PLACER

COLEEN HARRINGTON,)
Plaintiff)
)
V)
)
DAVID HOVANEK,)
Defendant)
_____)

CASE NO: SCV 14342
ORDER RE: IN LIMINE MOTIONS

This cause came on regularly for trial on April 3, 2006. Plaintiff appeared in person and with counsels, Corey Evans and Geneva Page. The Defendant appeared in person and with counsel, Gary Gallawa. Each party submitted to the court certain Motions In Limine. The court now finds and orders as follows:

PLAINTIFF'S IN LIMINE NUMBER ONE: Plaintiff requests an order instructing defendant and his counsel not to refer to, question any witness, or comment on Defendant's alleged ownership of pheasants at the time of the alleged incidents nor to suggest to the jury in any way the fact that the defendant's ownership of pheasants constitutes a defense to the alleged shooting

1 incident. The motion is denied. The court finds that a homeowner, who raises pheasants on his
2 property, whether such pheasants are raised for consumption or other purposes such as breeding or
3 enjoyment, may properly claim the privilege accorded an owner of "poultry" or livestock pursuant
4 to Food and Agricultural Code section 31103. Whether the Defendant owned pheasants and/or
5 other poultry and livestock on or before May 12, 2004 is a question of fact for the jury. Whether
6 the pheasants on the property on or before May 12, 2004, if any, were domesticated and owned by
7 the defendant as opposed to wild pheasants is also a question of fact for the jury.

8 **PLAINTIFF'S IN LIMINE NUMBER TWO:** Plaintiff seeks to restrict defendant from
9 introducing any documentary evidence that was not produced in response to Plaintiff's Demand for
10 Production. The Motion is denied. This matter was first set for trial on January 17, 2006. The
11 Plaintiff's demand was not issued and served until January 21, 2006. Defendant responded in a
12 fashion unsatisfactory to the Plaintiff, however, the Plaintiff did not timely file a motion to compel.
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14 **PLAINTIFF'S IN LIMINE NUMBER THREE:** Plaintiff seeks to restrict defendant from
15 referring to encounters between the defendant and the Plaintiff's dog prior to May 12, 2004. The
16 motion is denied.

17 **DEFENDANT'S IN LIMINE RESTRICTING PLAINTIFF'S COUNSEL FROM MAKING**
18 **ANY INQUIRY, COMMENT OR ARGUMENT BEFORE THE JURY REGARDING THE**
19 **HUNTING PRACTICES OF DEFENDANT DAVID HOVANEK.** The Motion is granted.

20 **DEFENDANT'S IN LIMINE RESTRICTING PLAINTIFF'S COUNSEL FROM MAKING**
21 **ANY INQUIRY COMMENT OR ARGUMENT BEFORE THE JURY REFERENCING**
22 **THE NUMBER OF GUNS OR TYPE OF GUNS OWNED BY DEFENDANT, EXCEPT**
23 **FOR THOSE GUNS THAT WERE DIRECTLY INVOLVING IN THE INCIDENT:** The
24 motion is granted.
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DEFENDANT'S IN LIMINE RESTRICTING ALL NON-PARTY WITNESSES FROM THE COURTROOM UNTIL CALLED TO TESTIFY: The motion is granted.

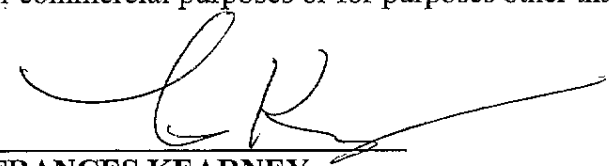
DEFENDANT'S IN LIMINE EXCLUDING ANY REFERENCE TO LIABILITY INSURANCE COVERAGE: The motion is granted

DEFENDANT'S MOTION IN LIMINE EXCLUDING REFERENCE TO PRIOR SETTLEMENT DISCUSSIONS: The motion is granted

DEFENDANT'S MOTION IN LIMINE RESTRICTING REFERENCE TO THE "GOLDEN RULE" ARGUMENT: The motion is granted.

DEFENDANT MOTION IN LIMINE RESTRICTING PLAINTIFF'S COUNSEL FROM MAKING ANY INQUIRY, COMMENT OR ARGUMENT THAT REFERS TO THE PURPOSE OR PURPOSES FOR WHICH DEFENDANT WAS KEEPING PHEASANTS ON HIS PROPERTY: Motion is granted in part. The court finds that whether or not the defendant owned pheasants on or before May 12, 2004 is question of fact for the jury. The court further finds that whether the pheasants were domesticated or wild and /or not confined on the property is a question of fact for the jury. The court finds that whether or not domesticated pheasants are confined on the property for non-commercial purposes or for purposes other than for consumption is not relevant.

DATED: 4-3-06


FRANCES KEARNEY
JUDGE OF THE SUPERIOR COURT