



CITY OF OCEANSIDE

OFFICE OF THE CITY ATTORNEY

JOHN P. MULLEN
City Attorney
(760) 435-3979

BARBARA L. HAMILTON
Assistant City Attorney
(760) 435-3986

November 15, 2011

TARQUIN PREZIOSI
Senior Deputy City Attorney
(760) 435-3977

ANNIE M. PERRIGO
Deputy City Attorney
(760) 435-3972

DEBORAH NASH
Deputy City Attorney
(760) 435-3991

CAROLYN M. KHOUZAM
Deputy City Attorney
(760) 435-3975

Mitchell Gilleon Law Firm
Daniel M. Gilleon
1320 Columbia Street, Suite 200
San Diego, CA 92101

VIA FACSIMILE (619) 702-6337
and U.S. MAIL

Re: Garcia v. City of Oceanside

Dear Mr. Gilleon:

I am in receipt of the letter that you faxed to my office yesterday following our telephone conversation. It is both highly inflammatory, inaccurate, and leaves out a number of key details. You called me yesterday at approximately 3 p.m. You advised that you were prepared to file a complaint against the City alleging that Garcia was wrongfully terminated in retaliation for refusing to destroy evidence. You stated that the statute of limitations to file your action ran "today" (November 14th). You wanted to know if we could enter into some sort of "tolling agreement". You stated that you had information that would be very damaging and embarrassing to the Department, namely, a tape recording that Garcia made while he was on-duty. You stated that Garcia, while he was with Sgt. Norton, made contact with Sgt. Larson at Sgt. Larson's house in response to a citizen's complaint. You stated that on that tape Sgt. Larson admitted to drinking and driving and that Sgt. Norton told Garcia to "destroy" the tape recording. You further alleged that subsequently the Department failed to discipline or take other action against Sgt. Larson. You stated that you were prepared to release this tape recording to the media and that the media was still very interested in receiving a copy of the tape. You claimed that the tape and the Department's alleged subsequent failure to take any action against Sgt. Larson would be very embarrassing to all concerned; you further stated that the Department could avoid all this by agreeing to toll the statute of limitations so that you and I could "work something out", thus avoiding alleged media scrutiny into the Larson incident.

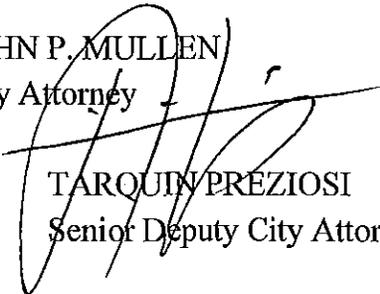
Daniel M. Gilleon
November 15, 2011
Page 2

You stated that if I did not agree to toll the statute of limitations, you would be forced to file a complaint in court and go to the media with the tape, as well as documents relating to Garcia's termination. I unequivocally refused to "toll" any statute of limitations. When I enquired as to what legal theory Garcia would be proceeding under given the procedural circumstances of this termination, you provided no answer.

Accordingly, the very clear implication of your call was that Garcia would be filing this complaint to harass and embarrass the Department (and by extension, Sgt. Larson and others involved). I reminded you that any tape recording made while Garcia was on duty while investigating a potential crime would be the property of the Department, as are Garcia's personnel records. Further, I informed you that Garcia's personnel documents are subject to a protective order issued by the Court in *Hirst v. Garcia*, and that you as an attorney are not free to disseminate them to the media in violation of that order. Finally, I will inform you now that any release of materials relating to Sgt. Larson's personnel file (i.e., the tape recording) is prohibited by Penal Code sections 832.7 & 832.8.

Sincerely,

JOHN P. MULLEN
City Attorney

By:  TARQUIN PREZIOSI
Senior Deputy City Attorney

TP/sh

cc: John Simpson, Esq. (facsimile (619) 515-1197)

G:\Word Documents\Litigation Files\GARCIA v. City\Letter.11-15-11_Gilleon.doc