

EXHIBIT C

MCADAM VS OFFICER WARMUSKERKEN, ET AL

DEPOSITION OF BOB BROWN

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<p>1 UNITED STATES DISTRICT COURT 2 WESTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION 3 JOSEPH M. McADAM, 4 Plaintiff, 5 v File No. 1:11-cv-00170 6 HON. JANET T. NEFF 7 OFFICER MATTHEW WARMUSKERKEN; 8 DEPUTY DEREK WILSON; DEPUTY OSCAR 9 DAVILA; CITY OF LUDINGTON; and 10 COUNTY OF MASON, 11 Defendants. 12 / 13 DEPOSITION OF BOB BROWN 14 Taken by the Plaintiff on the 7th day of October, 2011, at 15 302 North Delia Street, Ludington, Michigan, at 3:00 p.m. 16 APPEARANCES: 17 For the Plaintiff: MR. STEVEN J. VANDER ARK (P32471) 18 29 Pearl Street NW, Suite 145 19 Grand Rapids, Michigan 49503 20 (616) 454-6500 21 and 22 MR. JOSHUA P. FAHLSING (P72737) 23 Fahlsing Law PLLC 24 29 Pearl Street NW, Suite 145 25 Grand Rapids, Michigan 49503 (616) 558-2592 For Defendants Wilson, MR. JASON D. KOLKEMA (P55936) Davila & Mason County: Johnson Rosati LaBarge Aseltyn & Field PC 303 South Waverly Road, Suite 5 Lansing, Michigan 48917 (517) 886-3800</p>	<p>1 TABLE OF CONTENTS 2 PAGE 3 4 Examination by Mr. Vander Ark 5, 33 5 Examination by Mr. Kolkema 30 6 7 EXHIBIT INDEX 8 PAGE 9 Deposition Exhibit 1 marked 4 10 (employee training policy/procedures) 11 Deposition Exhibit 2 marked 4 12 (nonlethal force policy/procedures) 13 Deposition Exhibit 3 marked 4 14 (use-of-force continuum) 15 Deposition Exhibit 4 marked 4 16 (Davila's police report) 17 Deposition Exhibit 5 marked 4 18 (Gibson FOIA request) 19 Deposition Exhibit 6 marked 4 20 (FOIA response) 21 Deposition Exhibit 7 marked 4 22 (Taser download information) 23 Deposition Exhibit 8 marked 4 24 (Taser International document) 25 Deposition Exhibit 9 marked 11 (SERT nonlethal force policy)</p>
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<p>1 For Defendants MR. ALLAN C. VANDER LAAN (P33893) 2 City of Ludington Cummings McClorey Davis & ACHO PLC 3 & Warmuskerken 2851 Charlevoix Drive SE, Suite 327 4 Grand Rapids, Michigan 49546 5 (616) 975-7470 6 RECORDED BY: Ann M. Holmes, CER 2629 7 Certified Electronic Recorder 8 Network Reporting Corporation 9 Firm Registration Number 8151 10 1-800-632-2720 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 Ludington, Michigan 2 Friday, October 7, 2011 - 2:57 p.m. 3 (Deposition Exhibits 1 through 8 marked) 4 MR. VANDER ARK: This is the date, time and place 5 scheduled for the deposition of Chief Deputy Bob Brown 6 pursuant to notice and for all purposes under the Federal 7 Rules of Civil Procedure. 8 Deputy Brown, have you ever given a deposition 9 before? 10 MR. BROWN: Yes. 11 MR. VANDER ARK: And so you're aware that because 12 we're recording, you have to give verbal answers to 13 questions as opposed to shakes of the head, nods of the 14 head, which can't be recorded. Also, if I ask you a 15 question and you don't understand my question, I'd 16 appreciate it if you would tell me you don't understand my 17 question so that if you answer a question, I will assume 18 that you did understand the question. Is that fair? 19 MR. BROWN: Yes. 20 MR. VANDER ARK: All right. 21 REPORTER: Do you solemnly swear or affirm that 22 the testimony you're about to give will be the whole truth? 23 MR. BROWN: I do. 24 BOB BROWN 25 having been called by the Plaintiff and sworn:</p>

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<p>1 EXAMINATION</p> <p>2 BY MR. VANDER ARK:</p> <p>3 Q What documents if any did you review in preparation for your</p> <p>4 deposition today?</p> <p>5 A The original police report concerning this incident and the</p> <p>6 office policy on nonlethal use of force.</p> <p>7 Q When you say "the original incident report," was that the</p> <p>8 Mason County Sheriff by Deputy Davila?</p> <p>9 A Yes, sir.</p> <p>10 Q Did you review any Ludington Police Department reports?</p> <p>11 A No, sir.</p> <p>12 Q Have you ever reviewed Officer York's in-car tape of this</p> <p>13 incident?</p> <p>14 A Yes, sir.</p> <p>15 Q When did you do that?</p> <p>16 A I don't remember the exact date. It was shortly following</p> <p>17 this incident on the request of the prosecutor.</p> <p>18 Q Other than your attorney, did you talk to anyone in</p> <p>19 preparation for this deposition?</p> <p>20 A Yes, sir.</p> <p>21 Q Who did you talk to?</p> <p>22 A The undersheriff and the sheriff.</p> <p>23 Q During that discussion did you review any other documents in</p> <p>24 addition to those you've already mentioned?</p> <p>25 A I don't believe so. Just the use-of-force policy --</p>	<p>1 work as a -- as a project manager for technology-related</p> <p>2 issues for departments on the east side of the state. At</p> <p>3 the same time I kept my certification active by working part</p> <p>4 time for a small agency, the Huron Township Police</p> <p>5 Department, until the spring of 2006. April of 2006 I</p> <p>6 joined the Mason County Sheriff's Office as their chief</p> <p>7 deputy and continue in that employment today.</p> <p>8 Q So you do this in retirement?</p> <p>9 A Yes, sir. Besides that, since 2009 I've also been the jail</p> <p>10 administrator here.</p> <p>11 MR. KOLKEMA: Since when?</p> <p>12 THE WITNESS: Since 2009.</p> <p>13 Q Are you a member of any law-enforcement-related associations</p> <p>14 or organizations?</p> <p>15 A All of those have long-time lapsed.</p> <p>16 Q Are you Taser certified?</p> <p>17 A No, sir.</p> <p>18 Q Have you ever been?</p> <p>19 A No, sir.</p> <p>20 Q Can you tell me what if any your duties and responsibilities</p> <p>21 might be in the promulgation or revision of policies and</p> <p>22 procedures of the Mason County Sheriff's Department?</p> <p>23 A Up through and including 2009 I did not have any duties</p> <p>24 other than maybe making suggestions if I saw something</p> <p>25 lacking in one or a new one had to be written for a new law</p>
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<p>1 nonlethal use-of-force policy and the police report.</p> <p>2 Q Let me get some background information from you. Can you</p> <p>3 tell me any formal education after high school?</p> <p>4 A After high school in addition to the academies that I</p> <p>5 attended, I attended the Northwestern School of Police Staff</p> <p>6 and Command in 1987. I also attended Northwestern</p> <p>7 University Traffic Accident Investigation School sometime in</p> <p>8 the 70's, but I don't remember the exact date. And various</p> <p>9 other seminars and conferences associated with law</p> <p>10 enforcement.</p> <p>11 Q Can you tell me your law-enforcement-related employment?</p> <p>12 And if you want to start now and go backwards or start early</p> <p>13 and come up to the present day, if you'd tell me what</p> <p>14 employment you've had?</p> <p>15 A Started with the Michigan State Police in 1974 as a service</p> <p>16 trooper. It was a one-time program modeled after City's</p> <p>17 Cadet Programs. It was a one-time offer by the Michigan</p> <p>18 State Police. I attended their actual State Police Trooper</p> <p>19 Recruit School in 1976, graduated and served at the Flat</p> <p>20 Rock and the Detroit Freeway Post during my tenure. My</p> <p>21 tenure with the State Police ended in 1981, at which time</p> <p>22 that same year I joined the City of Romulus Police</p> <p>23 Department as a patrol officer. I was promoted to sergeant,</p> <p>24 to lieutenant and to the rank of commander through my tenure</p> <p>25 there. I put in 20 years, retired in 2001. And I went to</p>	<p>1 that came out, such as the Safe Delivery of Newborns Act,</p> <p>2 something like that. Currently we're undergoing a complete</p> <p>3 revision and review and I'm taking a lead role in doing that</p> <p>4 at this time.</p> <p>5 Q In doing revision and review, does that include obtaining or</p> <p>6 reviewing form or standard policies from any source?</p> <p>7 A That would be part of it.</p> <p>8 Q For example, Michigan Sheriff's Association, MMRMA?</p> <p>9 A IECF perhaps.</p> <p>10 Q Perhaps. Have you been looking at some of those policies?</p> <p>11 A Not yet.</p> <p>12 Q Not yet. Okay. Let me hand you what I've had marked as</p> <p>13 Deposition Exhibit Number 1. From previous testimony I</p> <p>14 believe this is an employee training policy under the</p> <p>15 general policies and procedures of the sheriff's department</p> <p>16 that would have been in place in 2009; is that correct?</p> <p>17 A This one is dated 11-21-07 by then Sheriff Laude Hartrum.</p> <p>18 don't think it's been replaced or amended in any way yet.</p> <p>19 Q What is your role in employee training?</p> <p>20 A To schedule the training for the purposes of maintaining</p> <p>21 minimum staffing on the street and to try to ensure that</p> <p>22 everybody gets that training as best we can.</p> <p>23 Q One thing I noticed in this particular policy is, there's no</p> <p>24 reference anywhere that I could find at least to Taser</p> <p>25 certification or training. Do you have any involvement in</p>

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<p style="text-align: right;">Page 17</p> <p>1 Q Okay. And that was done when it potentially hit your desk</p> <p>2 July 20 or shortly after that report was prepared?</p> <p>3 A The review?</p> <p>4 Q Yes.</p> <p>5 A Yes.</p> <p>6 Q And did you do -- were you part of that review, if you know?</p> <p>7 A Well, I would have read it that morning, yes, or the</p> <p>8 following morning. I'm not sure which day of the week the</p> <p>9 20th was on.</p> <p>10 Q Based on what you reviewed that morning, did you believe any</p> <p>11 further investigation was required regarding the use of</p> <p>12 force referenced in the report?</p> <p>13 A No, sir, I did not.</p> <p>14 Q Did you review anything else besides Deputy Davila's report</p> <p>15 in making that determination?</p> <p>16 A No, sir, I did not.</p> <p>17 Q Would you turn to the second page, please, of that report?</p> <p>18 Down at the bottom of the second page under "Continued</p> <p>19 Resistance" there's reference to something occurring at</p> <p>20 Memorial ER. Do you see that?</p> <p>21 A Yes, sir.</p> <p>22 Q Continuing on the second page, the last sentence, "See</p> <p>23 Officer Warmuskerken's report for further on that incident."</p> <p>24 Do you see that?</p> <p>25 A I do, sir.</p>	<p style="text-align: right;">Page 19</p> <p>1 reading Deposition Exhibit Number 4?</p> <p>2 A No, sir. It's not indicated in the report.</p> <p>3 Q It is not. Should it have been?</p> <p>4 A In hindsight, yes, sir.</p> <p>5 Q When was the first time you learned that Deputy Wilson had</p> <p>6 deployed his Taser in the Memorial Medical Center?</p> <p>7 MR. KOLKEMA: Do you want a specific date or --</p> <p>8 MR. VANDER ARK: As best as he can recall.</p> <p>9 MR. KOLKEMA: Do you know?</p> <p>10 A I wouldn't hazard a guess to that, sir. I don't know.</p> <p>11 Q So I guess it's safe to assume that there has not been a</p> <p>12 review of Deputy Wilson's -- internal review of Deputy</p> <p>13 Wilson's use of a Taser and the circumstances surrounding</p> <p>14 that use at Memorial Medical Center by the Mason County</p> <p>15 Sheriff's Department?</p> <p>16 MR. KOLKEMA: Is that safe to assume?</p> <p>17 A I don't like to assume anything. However, sitting here</p> <p>18 today I cannot tell you if there has been or has not been a</p> <p>19 review of that particular deployment. I do not believe</p> <p>20 there has been.</p> <p>21 Q Were you involved in any way in the purchase of any of the</p> <p>22 department's Tasers?</p> <p>23 A Yes, sir. I'm not sure it was these Tasers, though, that</p> <p>24 were in the possession of the department in 2009. I have</p> <p>25 done a couple of previous RAP grants through MMRMA for Taser</p>
<p style="text-align: right;">Page 18</p> <p>1 Q Have you ever seen Officer Warmuskerken's report regarding</p> <p>2 that incident?</p> <p>3 A No, sir.</p> <p>4 Q Is it the policy of Mason County that if a deputy uses force</p> <p>5 up to and including deployment of a Taser, that a report be</p> <p>6 made by that deputy to the department?</p> <p>7 MR. KOLKEMA: Let me just object. I think the</p> <p>8 term "report" is vague. Go ahead.</p> <p>9 A In cases where use of force is used or an arrest is made, a</p> <p>10 deputy is required to make a report of that incident.</p> <p>11 Q Is it fair that at least this report also references Deputy</p> <p>12 Wilson being involved in part of this incident on Ludington</p> <p>13 Avenue? Correct?</p> <p>14 A Yes, sir.</p> <p>15 Q Why wouldn't Deputy Wilson produce or supply a supplemental</p> <p>16 report as to his activities that night?</p> <p>17 A That's not uncommon for one deputy to do the original</p> <p>18 incident report concerning the given event.</p> <p>19 Q We have now learned -- in fact, it's referenced in Officer</p> <p>20 Warmuskerken's report that you haven't reviewed -- that</p> <p>21 Deputy Wilson in fact deployed and used his department Taser</p> <p>22 on Joe McAdam at the ER of Memorial Medical Center. Were</p> <p>23 you aware of that?</p> <p>24 A I have become aware of that, yes, sir.</p> <p>25 Q Would there be any way you would have known that from</p>	<p style="text-align: right;">Page 20</p> <p>1 purchase.</p> <p>2 Q Do you recall the year Tasers were first purchased by the</p> <p>3 sheriff's department?</p> <p>4 A It was before my tenure here in 2006.</p> <p>5 Q But during your tenure you've done some RAP applications?</p> <p>6 A Yes, sir.</p> <p>7 Q And were those successful to the extent additional Tasers</p> <p>8 were purchased through the RAP program?</p> <p>9 A Either additional or replacement, one or the other.</p> <p>10 Q Having done the applications, are you familiar with RAP</p> <p>11 program requirements with regard to participation in the RAP</p> <p>12 program as it relates to Tasers?</p> <p>13 A Well, I'm not sure I do or I don't.</p> <p>14 Q Well, I'm not going to mark this right now, but let me just</p> <p>15 show you something, and tell me if you've ever seen anything</p> <p>16 like this.</p> <p>17 MR. VANDER LAAN: For the record will you identify</p> <p>18 it?</p> <p>19 MR. KOLKEMA: It reads "Michigan Municipal Risk</p> <p>20 Management Authority Taser Risk Avoidance Program" and then</p> <p>21 paren RAP, R-A-P, end paren, on the first page. I presume</p> <p>22 it's from the Internet or something of that sort?</p> <p>23 MR. VANDER ARK: Yeah, from MMRMA.</p> <p>24 A I don't think I've ever seen this, sir.</p> <p>25 Q Okay. You're not familiar with a requirement of the Taser</p>

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<p>1 RAP program that would include "adopt our model policy</p> <p>2 procedure"?</p> <p>3 A No, sir.</p> <p>4 Q Have you ever seen MMRMA's model policy procedure with</p> <p>5 regard to EMD's or Tasers?</p> <p>6 A I may have in the past; not since my tenure here.</p> <p>7 Q In the past, not -- all right. Let me hand you what I've</p> <p>8 had marked as Deposition Exhibit Number 5. It appears to be</p> <p>9 a letter addressed to you from Attorney Fred Gibson</p> <p>10 regarding a Freedom of Information Act request of August 17</p> <p>11 2009. Have you seen this before?</p> <p>12 A Yes, sir, I believe I have.</p> <p>13 Q Can you tell me, after receiving this letter, what you did</p> <p>14 in response?</p> <p>15 A Not specifically, without looking through my file on this.</p> <p>16 However, I would have done as much as I possibly could to</p> <p>17 fulfill the request under the FOIA.</p> <p>18 Q When you received this did you provide a copy or notify</p> <p>19 either the undersheriff or the sheriff regarding this</p> <p>20 request?</p> <p>21 A I'm sure I would have talked to them about it, but I don't</p> <p>22 have any independent recollection of that.</p> <p>23 Q Do you recall at or about or around August 17, 2009, as a</p> <p>24 result of this request, some additional investigation or</p> <p>25 discussion occurring within the department regarding the</p>	<p>1 Q And whenever that was and whatever the purpose was, your</p> <p>2 recollection is you did then review the video?</p> <p>3 A Yes.</p> <p>4 Q Did you then respond to the prosecutor after reviewing the</p> <p>5 video in some way?</p> <p>6 A I responded to the sheriff. I do not remember if I</p> <p>7 responded directly to the prosecutor or not.</p> <p>8 Q Do you recall a time frame? Was this before the conclusion</p> <p>9 of Joseph McAdam's criminal case?</p> <p>10 A I don't know when his case concluded, so I couldn't answer</p> <p>11 that question.</p> <p>12 Q Okay. Did you actually see the written request from the</p> <p>13 prosecutor, the document?</p> <p>14 A Which request is that, sir?</p> <p>15 Q With regard to looking at the video.</p> <p>16 A I probably did. It may have even been an e-mail from him.</p> <p>17 I'm not sure.</p> <p>18 Q Okay. If it was an e-mail, it would still be in your file</p> <p>19 somewhere? You would retain something like that?</p> <p>20 A I believe I printed out a copy of it, but I'm not sure.</p> <p>21 Q Let me hand you what I've had marked as Deposition Exhibit</p> <p>22 Number 7 (sic). Again, other than the handwriting in the</p> <p>23 lower right-hand corner, is that the initial response to</p> <p>24 Exhibit Number 6?</p> <p>25 A Yes, sir, it does look like it is.</p>
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<p>1 McAdam incident?</p> <p>2 MR. KOLKEMA: Sometime around August of 2009?</p> <p>3 MR. VANDER ARK: Yes.</p> <p>4 A Nothing specific, sir.</p> <p>5 Q Would this perhaps have been about the time that you first</p> <p>6 reviewed that in-car video from Officer York's car?</p> <p>7 A I don't know. There is a memo from the undersheriff and I</p> <p>8 to the sheriff about the review that contains that date. I</p> <p>9 don't know if it's around this August 17th date or not.</p> <p>10 Q Well, early on you indicated you were aware of a request</p> <p>11 from the prosecutor to look into the McAdam incident; is</p> <p>12 that correct?</p> <p>13 A No, sir, it's not correct.</p> <p>14 Q Oh. I thought you said earlier the prosecutor had asked for</p> <p>15 some more information about this incident.</p> <p>16 A No, sir, that's not what I testified to.</p> <p>17 Q Okay. All right. Have you ever had any communication with</p> <p>18 the prosecutor -- Mason County Prosecutor regarding Joe</p> <p>19 McAdam?</p> <p>20 A Yes, sir. I did receive a request from the prosecutor to</p> <p>21 review the Ludington Police Department video of the event.</p> <p>22 Q Do you know when that occurred?</p> <p>23 A No, sir, not sitting here without my file.</p> <p>24 Q Do you know what the purpose was of the request?</p> <p>25 A No, sir.</p>	<p>1 Q It indicates -- and again, this is -- it indicates "There is</p> <p>2 no downloaded data from the Taser." Do you see that in your</p> <p>3 letter?</p> <p>4 A Yes.</p> <p>5 Q Did you investigate to see if there was downloaded data from</p> <p>6 either Deputy Wilson or Deputy Davila's Taser that was used</p> <p>7 that night?</p> <p>8 A In response to that, I would have gone to Deputy Davila and</p> <p>9 asked him for the download data. 'Cause I have no knowledge</p> <p>10 of how to do that. As far as I know, Deputy Davila is the</p> <p>11 only one in our organization that has that knowledge. My</p> <p>12 assumption would be at this time is that answer came from</p> <p>13 Deputy Davila.</p> <p>14 Q Let me hand you what I've had marked as Brown Deposition</p> <p>15 Exhibit Number 7.</p> <p>16 A This (indicating) is Number 7, sir. Oh, this is Trenner 7.</p> <p>17 MR. KOLKEMA: That's Trenner Exhibit 7.</p> <p>18 A I'm sorry.</p> <p>19 MR. KOLKEMA: And that one is Trenner Exhibit 8.</p> <p>20 MR. VANDER ARK: Wait a minute. Hang on; hang on.</p> <p>21 The record should reflect it should have been Brown</p> <p>22 Deposition 6 we were just discussing that I've now handed to</p> <p>23 the witness with regard to the response to the request --</p> <p>24 the FOIA request.</p> <p>25 MR. KOLKEMA: So that's Exhibit 6. What was</p>

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