

1 **THE HONORABLE MARSHA J. PECHMAN**

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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

10 THAN ORN, individually, THALISA ORN,
11 individually, J.O. and C.O., by their
Guardian, CLARISSE ORN,

12 Plaintiffs,

13 vs.

14 CITY OF TACOMA, a municipal
corporation; and KRISTOPHER CLARK, in
15 his individual capacity,

16 Defendants.

CASE NO. 3:13-cv-05974-MJP

MOTION, STIPULATION, AND
ORDER TO TRANSFER EVIDENCE

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18 **COMES NOW** Plaintiffs, by and through their undersigned attorneys of record, hereby
19 move the Court for an order authorizing the transfer into their possession of all evidence—
20 including, but not limited to, physical evidence—retained by Pierce County Superior Court
21 from the proceedings in State of Washington v. Than Serthan Orn, No. 11-1-04711-5.

22 This action arises from the shooting of Than Orn. Following the shooting, charges were
23 filed against Orn relating to the shooting and a criminal trial was held in the Pierce County
24 Superior Court in Tacoma, WA, under cause number 11-1-04711-5. Pierce County Superior
25 Court retains the evidence, including physical evidence, presented during those trial
26 proceedings, evidence which Plaintiffs need to prepare for trial in the above captioned matter.

MOTION, STIPULATION, AND ORDER GRANTING
PLAINTIFF'S REQUEST TO TRANSFER
EVIDENCE

1 Under normal circumstances, Plaintiffs' attorneys would review and make copies where
2 possible of this evidence at the Pierce County Courthouse in Tacoma, but due to restrictions
3 enacted at the courthouse to limit the spread of the COVID-19 pandemic, this is no longer
4 possible. After discussions with the Pierce County Superior Court, it was agreed that it would
5 transfer the evidence, including physical evidence incapable of being copied, to Plaintiffs'
6 attorneys of record for use in the trial of the above captioned matter if authorized by court order.
7 Plaintiffs, after conferring with Defendants who agreed to stipulate to the transfer of evidence
8 of evidence in the custody of the Pierce County Superior Court only, therefore move the Court
9 for an order authorizing the transfer of this evidence, including physical evidence, for the
10 parties' possible use in the civil trial of this matter, following which the evidence will be
11 returned to the custody of the Pierce County Superior Court.

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13 Dated this 22nd day of September, 2020.

14
15 PFAU COCHRAN VERTETIS AMALA PLLC

16
17 By: /s/ Darrell L. Cochran

18 Darrell L. Cochran, WSBA No. 22851
19 darrell@pcvalaw.com
20 *Attorneys for Plaintiffs*

21 COCHRAN DOUGLAS, PLLC

22 By: /s/ Loren A. Cochran

23 Loren A. Cochran, WSBA No. 32773
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25 *Attorneys for Plaintiffs*

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MOTION, STIPULATION, AND ORDER GRANTING
PLAINTIFF'S REQUEST TO TRANSFER
EVIDENCE

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THE LAW OFFICE OF THOMAS A.
BALERUD

By: /s/ Thomas A. Balerud _____
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Attorney for Plaintiff

TACOMA CITY ATTORNEYS OFFICE

By: /s/ Jean P. Homan _____
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Attorney for Defendants

MOTION, STIPULATION, AND ORDER GRANTING
PLAINTIFF'S REQUEST TO TRANSFER
EVIDENCE

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STIPULATION

Plaintiffs and Defendants hereby stipulate, by and through their undersigned attorneys, that the Pierce County Superior Court may transfer all evidence, including physical evidence, presented during the trial proceedings of State of Washington v. Than Serthan Orn, No. 11-1-04711-5, into Plaintiffs' counsel's possession for use in the trial of the above captioned matter.

By accepting custody of these exhibits and evidence, Plaintiffs agree to provide color copies of any exhibits capable of being copied to the Defendants within five (5) days of receipt of such exhibits. Further, for any evidence not capable of being copied, Plaintiffs agree to maintain a chain of custody and to make all such evidence available for inspection by the Defendants (including defense experts) within five (5) days of any request for inspection. Finally, for any evidence not capable of being copied, Plaintiffs agree to make such evidence available to the Defendants for use at trial, on the date and at a time of Defendants' choosing, even if that means transferring physical custody of the evidence to the Defendants for such use a trial. Given that the civil trial in this matter will be conducted by Zoom or some other remote platform, the parties hereto agree to work cooperatively to ensure equal and adequate access to the exhibits which are the subject of the instant motion.

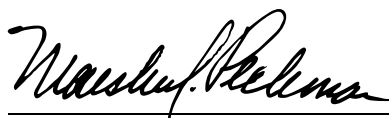
The parties hereto also stipulate and agree that nothing herein shall be construed as an agreement that any the exhibits which are the subject of this order are admissible or may be used in the civil trial pending in the United States District Court, Cause No. 13:3-dv-05974 MJP, and that all objections to admissibility are hereby expressly reserved.

1 **ORDER**

2 **THIS MATTER**, having come on the Motion, Stipulation, and Order to Transfer
3 Evidence, and the Court finding the motion to be in order; NOW THEREFORE,

4 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that Plaintiffs' motion is
5 GRANTED. Pierce County Superior Court shall transfer all evidence, including physical
6 evidence, in its possession from the trial proceedings in State of Washington v. Than Serthan
7 Orn, No. 11-1-04711-5 to Plaintiffs' attorneys of record, subject to the terms and conditions
8 set forth in the Stipulation above.

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10 Dated this 25th day of September, 2020.

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14 Marsha J. Pechman
15 United States Senior District Judge
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1 **CERTIFICATE OF SERVICE**

2 I, **Sarah Awes**, hereby declare under penalty of perjury under the laws of the State of
3 Washington that I am employed at Pfau Cochran Vertetis Amala PLLC and that on today's
4 date, I served the foregoing via the Court's Electronic Service System by directing delivery to
5 the following individuals:
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7 Jean P. Homan
8 Tacoma City Attorney's Office
9 747 Market Street, Suite 1120
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12 *Attorney for Defendants*

13 Loren A. Cochran
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15 4826 Tacoma Mall Blvd, Ste. C
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17 *Attorney for Plaintiffs*

18 Thomas A. Balerud
19 The Law Office of Thomas A. Balerud
20 417 S. G Street
21 Tacoma, Washington 98405
22 *Attorneys for Plaintiffs*

23 DATED this 22nd day of September, 2020.

24 /s/ Sarah Awes
25 Sarah Awes
26 Legal Assistant