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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ANTONIO OLIVARES, FERNANDO)
OLIVARES)

Plaintiffs,

v.

CITY OF MAYWOOD, BRUCE)
LEFLAR, Chief of Maywood Police)
Department, Maywood Police Officer,)
PATRICK NIJLAND (#331), Maywood)
Police Officer PAUL CUNNINGHAM)
(#379); Maywood Police Officer EMIL)
FLORES; Maywood Police Officer LT.)
PAUL PINE; Maywood Police Officer)
ADAM GARCIA (#412); Maywood)
Police Officer JOSE GOMEZ (#345);)
Maywood Police Officer JUAN)
GONZALEZ (#417) and DOES 1-10)

Defendants.

) Case No. CV07-08337 GW (RCx)
) *Assigned For All Purposes To:*
) *Honorable George H. Wu*
) *Courtroom 10*

) **[PROPOSED] PROTECTIVE**
) **ORDER**

NOTE CHANGES MADE BY THE COURT.

See para. 11

1 PURSUANT TO THE STIPULATION OF THE PARTIES, THE COURT
2 HEREBY ORDERS the following Protective Order to be in effect:

3 1. PURPOSES AND LIMITATIONS

4 The Plaintiff seeks to take the deposition of Defendants and other personnel of
5 the City of Maywood, which may result in testimony regarding information and
6 documents relating to an officer's private and confidential information, personnel
7 files, reports of prior misconduct, or other such information which Defendants deem
8 confidential under California Penal Code §§164e, 832.5, 832.7 and 1328.5, Vehicle
9 Code §1808.4 and Article I, Section I of the California Constitution (hereinafter
10 "Protected Material"). The parties acknowledge that this Stipulation does not confer
11 blanket protections on all testimony, disclosures or responses in discovery and that
12 the protection it affords extends to the information and related items indicated above.

13 2. SCOPE

14 The protections conferred by this Stipulation cover not only Protected Material
15 but also any information contained therein, as well as all copies, excerpts, summaries
16 or compilations thereof, plus testimony by parties, witnesses or presentation by
17 counsel in court or in other settings in which Protected Material may be disclosed.
18 Notwithstanding the existence of this Stipulation, Counsel, the parties, or third
19 persons shall not be required to produce the personal residential address, social
20 security number, financial account number or information contained in related
21 records, or other confidential information of any officer or former officer, including
22 the names or contact information of family members or personal acquaintances
23 contained in any documents which are produced.

24 3. DEPOSITION TESTIMONY

25 The testimony taken at a deposition or the deposition transcript as a whole may
26 be designated as "Confidential" by making a statement to that effect on the record at
27 the deposition/other proceeding, or by notifying the other parties and the Court
28 Reporter of such designation within twenty (20) calendar days of the conclusion of

1 the deposition of that witness. Arrangements shall be made with the court reporter
2 transcribing such proceeding to separately bind such portions of the transcript
3 containing Protected Material and to label that transcript "Confidential." Wherever
4 any documents, information or other Protected Material may be discussed or
5 disclosed in a deposition, any party claiming confidentiality may exclude from the
6 room any non-authorized person. The court reporter shall be required to execute a
7 copy of Exhibit A, which shall be bound with the transcript.

8 4. DISCLOSURE OF CONFIDENTIAL INFORMATION

9 "Confidential" matters may be disclosed to the following persons only:

- 10 (a) a party, or an officer, director or employee of a party deemed
11 necessary by counsel to aid in the prosecution, defense or settlement of this action;
- 12 (b) an expert or professional consultant to any party (along with
13 clerical or secretarial staff);
- 14 (c) the attorney(s) of record, including paralegals, clerks, legal
15 assistants and support personnel;
- 16 (d) the Court and its personnel;
- 17 (e) court reporters employed in this action;
- 18 (f) a witness at a deposition or other proceeding in this action and/or
19 counsel for such witness. Such a witness may only have access to the information if
20 he or she is testifying regarding the matter which is confidential and only if the
21 witness (and their counsel, if any) agree(s) to keep the matter confidential; and,
- 22 (g) any person of whom the parties stipulate in writing or on the
23 record.

24 Prior to receiving any Confidential Material, any such person as described
25 above [other than as described under (d), above] shall be provided with a copy of this
26 stipulation and the related court order, and shall execute a nondisclosure agreement in
27 the form of Attachment A, a copy of which shall be provided to counsel for each
28 party.

1 5. RESTRICTED USE OF CONFIDENTIAL INFORMATION

2 All materials designated "Confidential" shall only be used for the prosecution,
3 defense or settlement of this lawsuit. Each party shall take all steps necessary to have
4 any authorized third person/entity acknowledge and agree to be bound by the terms of
5 this Order, prior to disclosure of any "Confidential" information to such third party.

6 Within thirty (30) days after entry of dismissal of this action, or termination of
7 this case by way of satisfied settlement, counsel for the parties shall assemble and
8 deliver to each other all documents containing or referencing "Confidential" material.
9 In the event of third party confidential information, such documents shall be delivered
10 to the counsel for the party asserting confidential designation. In the alternative, the
11 producing party and receiving party may further stipulate in writing that all or some
12 documents containing "Confidential" information may be destroyed so long as an
13 appropriate certification satisfactory to the party asserting confidential designation is
14 provided.

15 All copies of deposition transcripts, whether written or video, shall be delivered
16 to counsel for the party asserting confidential designation. All "rough" deposition
17 transcripts shall be destroyed or deleted, and the party asserting "Confidential"
18 designation may require certification to that effect from any participant of this Order.

19 6. DISCLOSURE OF CONFIDENTIAL INFORMATION

20 Absent subsequent agreement between the parties or an Order of this court to
21 the contrary, other than as set forth herein, any party or their counsel is precluded
22 from disclosing any information contained within the Protected Material to any other
23 individual, including but not limited to representatives of news gathering
24 organizations and any attorney not presently serving as counsel for the plaintiffs in
25 this action. Such prohibition does not include certified shorthand reporters in the
26 process of reporting a deposition in the present action, subject to the requirements set
27 forth in Section 4 below. Each party reserves its right to seek appropriate relief from
28 the Court if necessary to enforce full compliance with this Order.

1 8. COURT PROCEDURES

2 In the event that any Confidential Material or information derived therefrom is
3 included with, or the contents thereof are disclosed in, any materials that are
4 submitted to the Court, such documents shall be filed *under seal* pursuant to the
5 procedures set forth in Local Rule 79. If a motion to seal is not properly filed or
6 granted, the parties will continue to undertake all reasonable steps to maintain the
7 confidentiality of the Protected Material.

8 This Stipulation shall be without prejudice to the right of the parties to bring
9 before the Court at any time the question of whether any particular document or
10 information is entitled to confidentiality or whether its use should be restricted; or to
11 present a motion to the Court for a separate protective order as to any particular
12 documents or information, including restrictions differing from those as specified
13 herein. The party requesting confidentiality shall have the burden of showing that
14 such designation is appropriate. Counsel shall first undertake a good faith effort to
15 resolve any such issue prior to submission to judicial intervention. An appropriate
16 basis for seeking to have a document designated as "Confidential" by the Court shall
17 be that the document or materials, or portions thereof, are necessary as evidence in
18 the prosecution or defense of the action. Any such motion shall be subject to the
19 Court's rules governing discovery, including but not limited to as set forth under
20 Local Rule 37.

21 A party intending to utilize any Protected Material in any motion or other court
22 proceeding not covered under the terms of this stipulation and related court order
23 shall notify the other party, in writing, at least ten (10) days in advance of any filing
24 of the intent to utilize such information and to allow the designating party to seek
25 appropriate protection from the Court, if necessary.

26 9. NO ADMISSION OR WAIVER

27 This Stipulation is entered solely for the purpose of facilitating the exchange of
28 information and testimony of individuals without unnecessarily involving the Court.

1 Nothing in this Stipulation, or any proceeding pursuant to this Stipulation, shall be
2 deemed to have the effect of an admission or waiver by any party or of altering the
3 confidentiality or non-confidentiality of any such document or information or altering
4 any existing obligation of any party or the absence thereof. Nothing in this
5 Stipulation shall be deemed to impact in any way a party's right to object to any
6 discovery request on any grounds.

7 10. PARTIES' OWN INFORMATION

8 The restrictions on the use of Protected Material established by this Stipulation
9 are applicable only to the use of material received from another party to this action or
10 a third-party source.

11 11. JUDICIAL ENFORCEMENT

12 This Court shall retain jurisdiction of this matter for purposes of enforcing the
13 terms of this Order ^{for 60 days} after conclusion of the underlying action.

14
15 **IT IS SO ORDERED.**

16
17 Dated: 11/25/08

ROSALYN M. CHAPMAN

Hon. Rosalyn Chapman,
Magistrate Judge of the United States District Court