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9 Attorneys for Defendants  
 10 CITY OF SANTA MONICA, ERIC PILLOR, MATTHEW RICE,  
 11 SCOTT McGEE, LOUIS MARIONI, LOWELL WATSON,  
 12 SCOTT McGOWAN, SGT. RUDY CAMERENA, and,  
 13 TITTUS MENDEZ

14 **UNITED STATES DISTRICT COURT**  
 15 **CENTRAL DISTRICT OF CALIFORNIA**

16 DOLAN CORTES,  
 17 Plaintiff,  
 18 v.  
 19 CITY OF SANTA MONICA, Scott  
 20 McGowan, #3582, Sgt. Rudy Camarena  
 21 #2914, Lowell Watson #3514, Louis  
 22 Marioni #3468, Scott McGee #3567 #3567,  
 23 Mathew Rice #3366 and Downtown Service  
 24 Officers (DSO) Eric Pillory #3617 and  
 25 Tittus Mendez #3724, individually and as a  
 26 peace officers, DOES 1-10,  
 27 Defendants.

28 CASE NO.: CV12-09408-GAF(PJWx)  
  
 Honorable Gary A. Feess,  
 Roybal Bldg. Ctrm. 740

**STIPULATED PROTECTIVE ORDER;**  
~~**[PROPOSED] ORDER THEREON FILED CONCURRENTLY.**~~

*This protective does not authorize the parties to file documents under seal. The parties shall comply w/ Rule 79-5 if they wish to file documents under seal.* PJW

I. INTRODUCTION

Plaintiff DOLAN CORTES, and defendants CITY OF SANTA MONICA, OFFICERS SCOTT McGOWAN, LOWELL WATSON, LOUIS MARIONI, SCOTT MCGEE, MATTHEW RICE, SGT. RUDY CAMARENA, DSO'S ERIC PILLORY and TITTUS MENDEZ hereby stipulate and agree as follows:

The defendants and/or plaintiff will disclose documents and/or discovery requests have or will be served that require Defendants and/or plaintiff to disclose confidential information. The following procedures shall be employed and the terms, conditions, and restrictions shall govern with respect to all applicable documents

1 disclosed under Fed.R.Civ.P. 26(a)(1) and discovery propounded by any party to this  
2 case, including all summaries, copies, abstracts, extracts and/or other documents  
3 pertaining to this case and the information contained therein which shall be designated  
4 as CONFIDENTIAL, as well as any summaries, copies, abstracts, extracts and/or  
5 other documents derived in whole or in part from the material designated as  
6 CONFIDENTIAL (hereinafter "Confidential Material"):

7 (a) Any party or other person producing information in this case may, in  
8 good faith, designate information as CONFIDENTIAL. Confidential Material is any  
9 information produced in connection with this litigation that the producing party  
10 reasonably believes is information that has not been, and should not be, made public,  
11 and includes, but not limited to, confidential, private, medical or proprietary  
12 information, the disclosure of which would constitute either (1) an invasion of the  
13 privacy of any party or non-party to this action; (2) a potential for harm to the Santa  
14 Monica Police Department's internal investigatory system; and/or (3) a potential for  
15 harm to significant governmental interests. At the time of production or other  
16 disclosure of such CONFIDENTIAL information, the producing party or other person  
17 shall designate such material by placing the word or words CONFIDENTIAL or  
18 "Confidential Material subject to Protective Order" on each such document or other  
19 material, or if it is not possible to do so label the material, by means of such other  
20 designation as will identify the CONFIDENTIAL information with sufficient  
21 specificity to permit counsel to adhere to the provisions of this Protective Order.

22 (b) The designation of information as CONFIDENTIAL shall not be  
23 considered conclusive or binding on any party, and such designation may be contested  
24 by noticed motion at any time. However, unless and until an order of this Court sets  
25 aside a designation of CONFIDENTIAL, all documents and information so designated  
26 shall be treated as CONFIDENTIAL, pursuant to the terms of this Protective Order. If  
27 any party who receives CONFIDENTIAL information is served with a subpoena or  
28 other request seeking documents containing CONFIDENTIAL information, he/she

1 shall immediately give written notice to counsel for the party that disclosed the  
2 CONFIDENTIAL information, identifying the CONFIDENTIAL information sought  
3 and the time in which production or other disclosure is required, and shall object to the  
4 request or subpoena on the grounds of this Order so as to afford the party that  
5 disclosed the CONFIDENTIAL information an opportunity to obtain an Order barring  
6 production or other disclosure, or to otherwise respond to the subpoena or other  
7 request for production or disclosure of documents containing CONFIDENTIAL  
8 information. In no event should production or disclosure be made without written  
9 approval by the party that disclosed the CONFIDENTIAL information unless required  
10 by Court order, of which the party disclosing the CONFIDENTIAL information has  
11 been given prior notice, arising from a motion to compel production or disclosure of  
12 documents containing CONFIDENTIAL information.

13 (c) Any CONFIDENTIAL information that is produced pursuant to this  
14 Stipulation may be produced only to counsel of record for the parties in this litigation.  
15 Counsel for any party who obtains any CONFIDENTIAL information from any other  
16 party shall protect it and its contents from all disclosure to anyone save the persons  
17 designated in this paragraph. CONFIDENTIAL material and information derived  
18 from CONFIDENTIAL material shall be used only as reasonably necessary for  
19 preparation of mediation briefs, arbitration briefs and/or trial of this action, including  
20 use at depositions and in support of motions as further set forth in this Stipulation,  
21 and, including any appeal or retrial, and shall not be used for any other purpose,  
22 including, without limitation, any other litigation or proceeding, or any business, or  
23 governmental purpose or function. Counsel of record may disclose CONFIDENTIAL  
24 information where necessary to the proper preparation for, and trial of, this case to:

25 (i) their employees, including paralegal, clerical and secretarial staff, as well  
26 as contract staff;

27 (ii) experts and consultants retained only for the purpose of aiding counsel of  
28 record in connection with counsel's preparation for trial, including the use at

1 depositions, and in support of motions and Rule 26 Declarations;

2 (iii) individuals testifying under oath at deposition in this action<sup>1</sup>;

3 (iv) a party, or officer, director or employee of a party to this action, deemed  
4 necessary by counsel to aid in the prosecution, defense or settlement of this action;

5 (v) the Court and members of its staff, including stenographic and other  
6 reporters; or

7 (vi) court reporters employed by counsel in this action.

8  
9 (d) Each person identified in subparagraphs (i) through (vi) above, excluding  
10 the Court and its staff, shall, before s/he receives CONFIDENTIAL information, be  
11 provided by the person furnishing him with such information a copy of this order and  
12 agree in writing to be bound by its terms, and shall certify that s/he has carefully read  
13 the order and fully understands its terms. Such person also must consent in writing to  
14 be subject to the jurisdiction of this court with respect to any proceeding relating to  
15 enforcement of this order. An agreement incorporating these terms shall be prepared  
16 and agreed to by the parties and executed by the person before receiving the  
17 CONFIDENTIAL information. The executed agreement shall be made a part of the  
18 deposition transcript when it is executed by a deponent.

19 (e) Whenever any CONFIDENTIAL information is introduced or used at a  
20 deposition, those portions of the deposition that concern CONFIDENTIAL  
21 information (i) shall be conducted in such a way that only persons authorized by the  
22 Protective Order to have access to such matters are present; and (ii) shall be separately

23  
24  
25 <sup>1</sup> In the event a party intends to question a deponent at deposition about  
26 CONFIDENTIAL Material, the party noticing the Deposition shall include a statement of such intent  
27 in the Notice of Deposition and shall describe the CONFIDENTIAL Material to be disclosed to the  
28 deponent at the deposition in sufficient time for the opposing party to seek a protective order. If the  
non-noticing party desires to question a deponent at deposition about CONFIDENTIAL Material,  
that party must advise the noticing party of such intent, and shall describe the CONFIDENTIAL  
Material to be disclosed to the deponent at the deposition in sufficient time for the noticing party to  
seek a protective order. The parties shall meet and confer in good faith in an effort to resolve all  
disputes regarding CONFIDENTIAL Material in an effort to avoid the necessity for Court  
intervention.

1 bound after transcription and marked as CONFIDENTIAL, and then shall be deemed  
2 to be subject to the terms of the Protective Order. For convenience, if a deposition  
3 transcript contains repeated references to CONFIDENTIAL material that cannot  
4 conveniently be segregated from non-CONFIDENTIAL material, any party may  
5 request that the entire transcript or exhibits be maintained by the reporter as  
6 CONFIDENTIAL.

7 (f) If a party wishes to file with the court documents which contain  
8 information designated as CONFIDENTIAL, that party shall notify the party  
9 disclosing the CONFIDENTIAL information, in writing, via personal delivery and/or  
10 fax, at least 10 court days prior to filing any pleadings, motions, briefs, declarations,  
11 stipulations, exhibits or other written submissions (collectively "papers") with this  
12 Court, which contain, reflect, incorporate or refer to CONFIDENTIAL  
13 INFORMATION, in order to allow the party disclosing the CONFIDENTIAL  
14 information, to make a written application to seal the subject material. Pending a  
15 ruling on the application, the "papers" are to be filed consistent with Local Rule 79-  
16 5.1. The parties agree to cooperate to the extent possible to expedite the ruling on any  
17 such application.

18 (g) Failure of counsel to designate testimony or exhibits as  
19 CONFIDENTIAL at deposition shall not constitute a waiver of the confidentiality of  
20 the testimony or exhibits. Upon receipt of the transcript of the deposition, counsel  
21 shall be entitled to designate specific pages and lines of the transcript or exhibits as  
22 CONFIDENTIAL; however, any other party shall be entitled to treat the transcript or  
23 exhibits as non-CONFIDENTIAL material until such time as the CONFIDENTIAL  
24 designation is made.

25 (h) Discovering counsel may show CONFIDENTIAL material to a deponent  
26 at a deposition and examine that deponent concerning same, subject to the provisions  
27 of paragraph(c)(iii). Examining counsel will, at the outset of the deposition, inquire as  
28 to whether the deponent agrees to be bound by the terms of this Protective Order. If

1 the deponent does not agree, the CONFIDENTIAL material shall not be disclosed to  
2 the deponent. If the deponent agrees to be bound by the terms of the Protective Order  
3 and executes the agreement referred to in I (d) above, the reporter shall be instructed  
4 to give the deponent written notice when the transcript has been prepared, stating that  
5 the deponent may inspect the transcript and its exhibits, including the  
6 CONFIDENTIAL material, in the reporter's office. If the original deposition  
7 transcript is not signed within thirty (30) days after the date of the notice, it will be  
8 used as if it is signed. The deponent shall not be furnished with a copy of the portions  
9 of the deposition transcript or exhibits that have been designated as CONFIDENTIAL.  
10 Alternatively, counsel for the parties who have executed this Protective Order, or their  
11 authorized representatives, may make other arrangements for the review and signing  
12 of a deposition in this matter that uphold the stipulations herein and protect the  
13 confidentiality of the CONFIDENTIAL MATERIAL provided pursuant to this  
14 Protective Order. Furthermore, any audiotape and/or videotape of any such deposition  
15 shall be subject to this Order.

16 (i) If any CONFIDENTIAL material is provided to a discovering party  
17 without being marked as CONFIDENTIAL, the failure to mark the material shall not  
18 be deemed a waiver of its confidentiality. Until the material is designated as  
19 CONFIDENTIAL by the producing party, however, the discovering party shall be  
20 entitled to treat the material as non-CONFIDENTIAL. Upon designation, such  
21 material shall be treated as CONFIDENTIAL in accordance with the provisions of this  
22 Protective Order.

23 (j) This Stipulation for Protective Order shall survive the final termination of  
24 this action, to the extent that the information contained in CONFIDENTIAL Material  
25 is not or does not become known to the public, and the Court shall retain jurisdiction  
26 to resolve any dispute concerning the use of information disclosed hereunder. Within  
27 thirty (30) days after the final settlement or conclusion of this action, discovering  
28 counsel shall return to producing counsel all CONFIDENTIAL documents including,

1 without limitation, depositions and trial, hearing, or other transcripts containing  
2 information designated as CONFIDENTIAL, as well as all copies, and shall return or  
3 destroy any extracts, summaries, or material derived from the information. In  
4 addition, the parties agree to cooperate in obtaining from the Clerk of this Court all  
5 documents, transcripts, exhibits and any other materials containing information  
6 designated as CONFIDENTIAL that have been filed with this Court and securing their  
7 return to producing party or destroying them as set forth above.

8 (k) This Stipulation for Protective Order is entered solely for the purpose of  
9 facilitating the exchange of documents and information between the parties to this  
10 action without involving the Court unnecessarily in the process. Nothing in this Order  
11 nor the production of any information or document under the terms of this Order nor  
12 any proceedings pursuant to this Order shall be deemed to have the effect of an  
13 admission or waiver by either party or of altering the confidentiality or non-  
14 confidentiality of any such document or information or altering any existing  
15 obligation of any party of the absence thereof. Further, nothing in this Order shall  
16 constitute a waiver by any party of any applicable privilege or other protection, nor  
17 shall this Order or the production of the documents in question be construed so as to  
18 make any document or other material described herein admissible in any proceeding  
19 before this or any other court. Nothing in this Order shall prejudice any parties' rights  
20 to object to the introduction of any CONFIDENTIAL information into evidence, on  
21 grounds, including, but not limited to, relevance and privilege.

22 (l) Counsel for the parties hereto agree to request that any motions, applications  
23 or other pre-trial proceedings in this Court which could entail the discussion or  
24 disclosure of CONFIDENTIAL documents, be heard by the Court outside the  
25 presence of all individuals, including the jury, except for those individuals indicated in  
26 paragraph I (c)(i) through (vi) above.

27 II. STATEMENT OF GOOD CAUSE

28 (m) Pursuant to the [proposed] protective order herein, defendant, the City of

1 Santa Monica, ("DISCLOSING PARTY" ) contends that the below listed confidential  
2 material related to underlying incident of September 30, 2011, involving the arrest of  
3 plaintiff, which plaintiff seeks, is subject to various protections, including, but not  
4 limited to, Governmental Privilege, the Official Information Privilege, and also the  
5 privilege of critical self-examination/analysis and/or the deliberative process privilege,  
6 Evidence Code § § 1040, et seq., Penal Code § § 146e, 832.5, 832.7, 832.8, and  
7 Government Code § § 3300, et seq. and 6254. Further, such material also contains  
8 private and confidential information including private and confidential third-party  
9 information.

10 (n) Such CONFIDENTIAL material kept by DISCLOSING PARTY are  
11 governmental documents that contain official information. Such CONFIDENTIAL  
12 material has been maintained by the DISCLOSING PARTY in confidence and  
13 contains sensitive and private information.

14 (o) The DISCLOSING PARTY is extremely concerned that dissemination of  
15 subject information, documents, and materials related to the incident, relevant  
16 personnel, and other confidential internal investigations could compromise the  
17 efficacy of such undertakings in the future and act to discourage cooperation from the  
18 public. Further, disclosure of which without a protective order may compromise the  
19 safety of the subject peace officers and their families and third parties.

20 (p) In light of the aforementioned facts, and given the strong public policies in  
21 favor of encouraging witnesses to cooperate in investigations, protecting those who  
22 assist in investigations, protecting society's interests in investigating such incidents, it  
23 is necessary and proper to enter into an order carefully limiting the use and  
24 dissemination of the information, documents, and materials that are the subject of this  
25 Stipulation. In order to informally resolve this matter, the Parties have agreed to this  
26 stipulated protective order.

### 27 III. THE CONFIDENTIAL MATERIALS

28 (q) This Order, based upon the assertions and stipulations herein, shall apply to



1 protect from unauthorized disclosure the following CONFIDENTIAL information,  
2 which will be provided to plaintiff as CONFIDENTIAL material after the parties have  
3 executed the instant Stipulated Protective Order and the Court has thereafter signed  
4 the [Proposed] Order thereon.

- 5 1. Recorded I.A interview and transcript of plaintiff, Dolan Cortes
- 6 2. Recorded I.A. interview and transcript of Sergeant Rudy Camarena
- 7 3. Recorded I.A. interview and transcript of Officer Scott McGee
- 8 4. Recorded I.A. interview and transcript of Officer Lowell Watson
- 9 5. Recorded I.A. interview and transcript of Officer Louis Marioni (1)
- 10 6. Recorded I.A. interview and transcript of Officer Louis Marioni (2)
- 11 7. Recorded I.A. interview and transcript of Officer Matt Rice
- 12 8. Recorded I.A. interview and transcript of DSO Tittus Mendez
- 13 9. Recorded I.A. interview and transcript of Mr. Van Allen (Silver)
- 14 10. Recorded I.A. interview and transcript of Daniel Moss (Gold)
- 15 11. Recorded I.A. interview and transcript of DSO Eric Pillor
- 16 12. Recorded I.A. interview and transcript of Officer Scott McGowan
- 17 13. Dispositions/Findings regarding the Cortes Administrative Investigation.
- 18 14. Use of force training records for the last 5 years as follows:

19 (a) Commission on Peace Officer Standards and Training Confidential  
20 Profile Reports for Officers McGowan, McGee, Marioni, Watson, Rice, and, Sgt.  
21 Camarena.

22 (b) Santa Monica Police Department – Confidential Employee Training  
23 Reports for Officers McGowan, McGee, Marioni, Watson, Rice, and, Sgt. Camarena.

- 24 15. Taser Deployment Training records for the last 5 years as follows:

25 (a) Commission on Peace Officer Standards and Training Confidential  
26 Profile Reports for Officer McGowan, and Sgt. Camarena.

27 (b) Santa Monica Police Department – Confidential Employee  
28 Training Reports for Officer McGowan, and Sgt. Camarena.



1 (u) This Stipulation shall survive the termination of this action, and the Court  
2 retains jurisdiction to resolve any dispute concerning the disclosure or use of the  
3 CONFIDENTIAL material disclosed pursuant to this Stipulation.

4 **IT IS SO STIPULATED:**

5  
6 DATED: December 5, 2013

THE BECK LAW FIRM

7 */s/Thomas E. Beck*

8 By: \_\_\_\_\_  
9 Thomas E. Beck, ESQ.  
10 Attorneys for Plaintiff  
11 DOLAN CORTES

12 DATED: December 5, 2013

MARSHA JONES MOUTRIE  
13 City Attorney

14 */s/Carol Ann Rohr*

15 By: \_\_\_\_\_  
16 CAROL ANN ROHR  
17 Deputy City Attorney

18 Attorneys for Defendants  
19 CITY OF SANTA MONICA, ERIC PILLOR,  
20 MATTHEW RICE, SCOTT MCGEE, LOUIS  
21 MARIONI, LOWELL WATSON,  
22 SCOTT MCGOWAN, SGT. RUDY  
23 CAMERENA, and TITTUS MENDEZ

24 *IT IS SO ORDERED.*

25 *Dated: December 10, 2013*

26 *Patrick J. Walsh*  
27 \_\_\_\_\_  
28 *U.S. MAGISTRATE JUDGE*