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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

KELLY SOO PARK,

Plaintiff,

vs.

DETECTIVE KAREN THOMPSON;
AND DOES 1-10, INCLUSIVE,

Defendants.

CASE NO. 2:14-cv-00330-SJO(PWx)

**STIPULATED PROTECTIVE
ORDER**

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under applicable legal principles. The parties further acknowledge, as set forth in Section 13.3, below, that this Stipulated Protective Order does not entitle them to

2:14-cv-00330-SJO(PWx)

[PROPOSED] PROTECTIVE ORDER

1 file confidential information under seal; Civil Local Rule 79-5 sets forth the
2 procedures that must be followed and the standards that will be applied when a party
3 seeks permission from the court to file material under seal.

4 **2. GOOD CAUSE STATEMENT**

5 This action will involve law enforcement tactics, procedures, training,
6 regulations, personnel, investigations and rules for which special protection from
7 public disclosure and from use for any purpose other than prosecution of this action
8 is warranted. Such confidential and proprietary materials and information consist of,
9 among other things, documents maintained by the City of Santa Monica Police
10 Department (“COSMPD”) and/or the Los Angeles District Attorney’s Offices
11 (“LADA”), and/or the City of Santa Monica, including but not limited to the City of
12 Santa Monica Police Department and/or the criminal division of the Santa Monica
13 City Attorney’s offices, including internal policies and procedures, internal affairs
14 investigation files, criminal investigation files, personnel files of current and/or
15 former COSMPD officers, and other documents and information which implicate
16 the privacy rights of parties and non-parties, which information is generally
17 unavailable to the public and which is privileged or otherwise protected from
18 disclosure under state and federal statutes, court rules, case decisions, or common
19 law. Accordingly, to expedite the flow of information, to facilitate the prompt
20 resolution of disputes over confidentiality of discovery materials, to adequately
21 protect information the parties are entitled to keep confidential, to ensure that the
22 parties are permitted reasonable necessary uses of such material in preparation for
23 and in the conduct of trial, to address their handling at the end of the litigation, and
24 serve the ends of justice, a protective order for such information is justified in this
25 matter. It is the intent of the parties that information will not be designated as
26 confidential for tactical reasons and that nothing be so designated without a good
27 faith belief that it has been maintained in a confidential, non-public manner, and
28 there is good cause why it should not be part of the public record in this case.

1 **3. DEFINITIONS**

2 3.1 Action: this pending lawsuit filed by *Kelly Soo Park v. Karen*
3 *Thompson* and Does 1-10 inclusive, USDC Case No. CV 14-00330-SJO (PWx).

4 3.2 Challenging Party: a Party or Non-Party that challenges the
5 designation of information or items under this Order.

6 3.3 “CONFIDENTIAL” Information or Items: information
7 (regardless of how it is generated, stored or maintained) or tangible things that
8 qualify for protection under Federal Rule of Civil Procedure 26(c), and as specified
9 above in the Good Cause Statement.

10 3.4 Counsel: Outside Counsel of Record and Santa Monica City
11 Attorneys Offices (as well as their support staff).

12 3.5 Designating Party: a Party or Non-Party that designates
13 information or items that it produces in disclosures or in responses to discovery as
14 “CONFIDENTIAL.”

15 3.6 Disclosure or Discovery Material: all items or information,
16 regardless of the medium or manner in which it is generated, stored, or maintained
17 (including, among other things, testimony, transcripts, and tangible things), that are
18 produced or generated in disclosures or responses to discovery in this Action.

19 3.7 Expert: a person with specialized knowledge or experience in a
20 matter pertinent to the litigation who has been retained by a Party or its counsel to
21 serve as an expert witness or as a consultant in this Action.

22 3.8 Santa Monica City Attorney’s Offices: attorneys who are
23 employees or an employer of a Party to this Action. Santa Monica City Attorney’s
24 Office does not include Outside Counsel of Record or any other outside counsel.

25 3.9 Non-Party: any natural person, partnership, corporation,
26 association, or other legal entity not named as a Party to this action.

27 3.10 Outside Counsel of Record: attorneys who are not employees of
28 a Party to this Action but are retained to represent or advise a Party to this Action

1 and have appeared in this Action on behalf of that Party or are affiliated with a law
2 firm which has appeared on behalf of that Party.

3 3.11 Party: any party to this Action, including all of its officers,
4 directors, employees, consultants, retained experts, and Outside Counsel of Record
5 (and their support staffs).

6 3.12 Producing Party: a Party or Non-Party that produces Disclosure
7 or Discovery Material in this Action.

8 3.13 Professional Vendors: persons or entities that provide litigation
9 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
10 demonstrations, and organizing, storing, or retrieving data in any form or medium)
11 and their employees and subcontractors.

12 3.14 Protected Material: any Disclosure or Discovery Material that is
13 designated as “CONFIDENTIAL.”

14 3.15 Receiving Party: a Party that receives Disclosure or Discovery
15 Material from a Producing Party.

16 **4. SCOPE**

17 The protections conferred by this Stipulation and Order cover not only
18 Protected Material (as defined above), but also (1) any information copied or
19 extracted from Protected Material; (2) all copies, excerpts, summaries, or
20 compilations of Protected Material; and (3) any testimony, conversations, or
21 presentations by Parties or their Counsel that might reveal Protected Material.
22 However, the protections conferred by this Stipulation and Order do not cover the
23 following information: (a) any information that is in the public domain at the time of
24 disclosure to a Receiving Party or becomes part of the public domain after its
25 disclosure to a Receiving Party as a result of publication not involving a violation of
26 this Order, including becoming part of the public record through trial or otherwise;
27 and (b) any information known to the Receiving Party prior to the disclosure or
28 obtained by the Receiving Party after the disclosure from a source who obtained the

1 information lawfully and under no obligation of confidentiality to the Designating
2 Party.

3 Any use of Protected Material at trial shall be governed by the orders of the
4 trial judge. This Order does not govern the use of Protected Material at trial.

5 **5. DURATION**

6 Even after final disposition of this litigation, the confidentiality obligations
7 imposed by this Order shall remain in effect until a Designating Party agrees
8 otherwise in writing or a court order otherwise directs. Final disposition shall be
9 deemed to be the later of (1) dismissal of all claims and defenses in this action, with
10 or without prejudice; and (2) final judgment herein after the completion and
11 exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,
12 including the time limits for filing any motions or applications for extension of time
13 pursuant to applicable law.

14 Once a case proceeds to trial, PROTECTED MATERIALS designated as
15 CONFIDENTIAL or maintained pursuant to this protective order published to the
16 trier of fact or admitted as an exhibit at trial will be presumptively available to all
17 members of the public, including the press, unless compelling reasons supported by
18 specific factual findings to proceed otherwise are made to the trial judge in advance
19 of or during the trial.

20 **6. DESIGNATING PROTECTED MATERIAL**

21 6.1 Exercise of Restraint and Care in Designating Material for
22 Protection. Each Party or Non-Party that designates information or items for
23 protection under this Order must take reasonable care to limit any such designation
24 to specific material that qualifies under the appropriate standards. The Designating
25 Party must designate for protection only those parts of material, documents, items,
26 or oral or written communications that qualify so that other portions of the material,
27 documents, items, or communications for which protection is not warranted are not
28 swept unjustifiably within the ambit of this Order.

1 Mass, indiscriminate, or routinized designations are prohibited. Designations
2 that are shown to be clearly unjustified or that have been made for an improper
3 purpose (e.g., to unnecessarily encumber the case development process or to impose
4 unnecessary expenses and burdens on other Parties) may expose the Designating
5 Party to sanctions.

6 If it comes to a Designating Party's attention that information or items that it
7 designated for protection do not qualify for protection, that Designating party must
8 promptly notify all other Parties that it is withdrawing the inapplicable designation.

9 6.2 Manner and Timing of Designations. Except as otherwise
10 provided in this Order (see, e.g., second paragraph of section 6.2(a) below), or as
11 otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies for
12 protection under this Order must be clearly so designated before the material is
13 disclosed or produced.

14 Designation in conformity with this Order requires:

15 (a) for information in documentary form (e.g., paper or
16 electronic documents, but excluding transcripts of depositions or other pretrial or
17 trial proceedings), that the Producing Party affix, at a minimum, the legend
18 "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend") to each page that
19 contains protected material. If only a portion or portions of the material on a page
20 qualifies for protection, the Producing Party also must clearly identify the protected
21 portion(s) (e.g., by making appropriate markings in the margins).

22 A Party or Non-Party that makes original documents or materials available for
23 inspection need not designate them for protection until after the inspecting Party has
24 indicated which documents or materials it would like copied and produced. During
25 the inspection and before the designation, all of the material made available for
26 inspection shall be deemed "CONFIDENTIAL." After the inspecting Party has
27 identified the documents or materials it wants copied and produced, the Producing
28 Party must determine which documents, or portions thereof, qualify for protection

1 under this Order. Then, before producing the specified documents, the Producing
2 Party must affix the “CONFIDENTIAL” legend to each page that contains Protected
3 Material. If only a portion or portions of the material on a page qualifies for
4 protection, the Producing party also must clearly identify the protected portion(s)
5 (e.g., by making appropriate markings in the margins).

6 (b) for testimony given in depositions or in other pretrial
7 proceedings, that the Designating Party identify the Disclosure or Discovery
8 Material on the record, before the close of the deposition, hearing, or other
9 proceeding.

10 (c) for information produced in some form other than
11 documentary and for any other tangible items, that the Producing Party affix in a
12 prominent place on the exterior of the container or containers in which the
13 information or item is stored the “CONFIDENTIAL” legend. If only a portion or
14 portions of the information warrants protection, the Producing Party, to the extent
15 practicable, shall identify the protected portion(s).

16 6.3 Inadvertent Failures to Designate. If timely corrected, an
17 inadvertent failure to designate qualified information or items does not, standing
18 alone, waive the Designating Party’s right to secure protection under this Order for
19 such material. Upon timely correction of a designation, the Receiving Party must
20 make reasonable efforts to assure that the material is treated in accordance with the
21 provisions of this Order.

22 7. CHALLENGING CONFIDENTIALITY DESIGNATIONS

23 7.1 Timing of Challenges. Any Party or Non-Party may challenge a
24 designation of confidentiality at any time. Unless a prompt challenge to a
25 Designating Party’s confidentiality designation is necessary to avoid foreseeable,
26 substantial unfairness, unnecessary economic burdens, or a significant disruption or
27 delay of the litigation, a Party does not waive its right to challenge a confidentiality
28 designation by electing not to mount a challenge promptly after the original

1 designation is disclosed.

2 7.2 Meet and Confer. The Challenging Party shall initiate the dispute
3 resolution process under Local Rule 37.1, et seq. Any discovery motion must strictly
4 comply with the procedures set forth in Local Rules 37-1, 37-2, and 37-3.

5 7.3 Burden. The burden of persuasion in any such challenge
6 proceeding shall be on the Designating Party. Frivolous challenges, and those made
7 for an improper purpose (e.g., to harass or impose unnecessary expenses and
8 burdens on other Parties) may expose the Challenging Party to sanctions. Unless the
9 Designating Party has waived or withdrawn the confidentiality designation, all
10 Parties shall continue to afford the material in question the level of protection to
11 which it is entitled under the Producing Party’s designation until the Court rules on
12 the challenge.

13 **8. ACCESS TO AND USE OF PROTECTED MATERIAL**

14 8.1 Basic Principles. A Receiving Party may use Protected Material
15 that is disclosed or produced by another Party or by a Non-Party in connection with
16 this Action only for prosecuting, defending, or attempting to settle this Action. Such
17 Protected Material may be disclosed only to the categories of persons and under the
18 conditions described in this Order. When the Action has been terminated, a
19 Receiving Party must comply with the provisions of section 14 below (FINAL
20 DISPOSITION).

21 Protected Material must be stored and maintained by a Receiving Party at a
22 location and in a secure manner that ensures that access is limited to the persons
23 authorized under this Order.

24 8.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
25 otherwise ordered by the Court or permitted in writing by the Designating Party, a
26 Receiving Party may disclose any information or item designated
27 “CONFIDENTIAL” only to:

- 28 (a) the Receiving Party’s Outside Counsel of Record in this Action, as well

1 as employees of said Outside Counsel of Record to whom it is reasonably necessary
2 to disclose the information for this Action;

3 (b) the officers, directors, and employees (including Santa Monica City
4 Attorneys Offices) of the Receiving Party to whom disclosure is reasonably
5 necessary for this Action;

6 (c) Experts (as defined in this Order) of the Receiving Party to whom
7 disclosure is reasonably necessary for this Action and who have signed the
8 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

9 (d) the Court and its personnel;

10 (e) court reporters and their staff;

11 (f) professional jury or trial consultants, mock jurors, and Professional
12 Vendors to whom disclosure is reasonably necessary for this Action and who have
13 signed the “Acknowledgement and Agreement to Be Bound” (Exhibit A);

14 (g) the author or recipient of a document containing the information or a
15 custodian or other person who otherwise possessed or knew the information;

16 (h) during their depositions, witnesses and attorneys for witnesses in the
17 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
18 requests that the witness sign the form attached as Exhibit A hereto; and (2) they
19 will not be permitted to keep any confidential information unless they sign the
20 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
21 agreed by the Designating Party or ordered by the Court. Pages of transcribed
22 deposition testimony or exhibits to depositions that reveal Protected Material must
23 be separately bound by the court reporter and may not be disclosed to anyone except
24 as permitted under this Stipulated Protective Order; and

25 (i) any mediator or settlement officer, and their supporting personnel,
26 mutually agreed upon by any of the Parties engaged in settlement discussions.

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1 **9. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
2 **PRODUCED IN OTHER LITIGATION**

3 If a Party is served with a subpoena or a court order issued in other litigation
4 that compels disclosure of any information or items designated in this Action as
5 “CONFIDENTIAL,” that Party must:

6 (a) promptly notify in writing the Designating Party. Such notification
7 shall include a copy of the subpoena or court order;

8 (b) promptly notify in writing the party who caused the subpoena or order
9 to issue in the other litigation that some or all of the material covered by the
10 subpoena or order is subject to this Protective Order. Such notification shall include
11 a copy of this Stipulated Protective Order; and

12 (c) cooperate with respect to all reasonable procedures sought to be
13 pursued by the Designating Party whose Protected Material may be affected.

14 If the Designating Party timely seeks a protective order, the Party served with
15 the subpoena or court order shall not produce any information designated in this
16 action as “CONFIDENTIAL” before a determination by the court from which the
17 subpoena or order issued, unless the Party has obtained the Designating Party’s
18 permission. The Designating Party shall bear the burden and expense of seeking
19 protection in that court of its confidential material, and nothing in these provisions
20 should be construed as authorizing or encouraging a Receiving Party in this Action
21 to disobey a lawful directive from another court.

22 **10. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**
23 **PRODUCED IN THIS LITIGATION**

24 (a) The terms of this Order are applicable to information produced by a
25 Non-Party in this action and designated as “CONFIDENTIAL.” Such information
26 produced by Non-Parties in connection with this litigation is protected by the
27 remedies and relief provided by this Order. Nothing in these provisions should be
28 construed as prohibiting a Non-Party from seeking additional protections.

1 (b) In the event that a Party is required, by a valid discovery request, to
2 produce a Non-Party's confidential information in its possession, and the Party is
3 subject to an agreement with the Non-Party not to produce the Non-Party's
4 confidential information, then the Party shall:

5 (1) promptly notify in writing the Requesting Party and the Non-
6 Party that some or all of the information requested is subject to a confidentiality
7 agreement with a Non-Party;

8 (2) promptly provide the Non-Party with a copy of the Stipulated
9 Protective Order in this Action, the relevant discovery request(s), and a reasonably
10 specific description of the information requested; and

11 (3) make the information requested available for inspection by the
12 Non-Party, if requested.

13 (c) If the Non-Party fails to seek a protective order from this Court within
14 14 days of receiving the notice and accompanying information, the Receiving Party
15 may produce the Non-Party's confidential information responsive to the discovery
16 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
17 not produce any information in its possession or control that is subject to the
18 confidentiality agreement with the Non-Party before a determination by the Court.
19 Absent a court order to the contrary, the Non-Party shall bear the burden and
20 expense of seeking protection in this Court of its Protected Material.

21 **11. UNAUTHORIZED DISCLOSURE OF PROTECTED**
22 **MATERIAL**

23 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
24 Protected Material to any person or in any circumstance not authorized under this
25 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
26 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
27 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or
28 persons to whom unauthorized disclosures were made of all the terms of this Order,

1 and (d) request such person or persons to execute the “Acknowledgment and
2 Agreement to Be Bound” that is attached hereto as Exhibit A.

3 **12. INADVERTENT PRODUCTION OF PRIVILEGED OR**
4 **OTHERWISE PROTECTED MATERIAL**

5 When a Producing Party gives notice to Receiving Parties that certain
6 inadvertently produced material is subject to a claim of privilege or other protection,
7 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
8 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
9 may be established in an e-discovery order that provides for production without
10 prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar
11 as the parties reach an agreement on the effect of disclosure of a communication or
12 information covered by the attorney-client privilege or work product protection, the
13 parties may incorporate their agreement in the stipulated protective order submitted
14 to the Court.

15 **13. MISCELLANEOUS**

16 13.1 Right to Further Relief. Nothing in this Order abridges the right
17 of any Party to seek its modification by the Court in the future.

18 13.2 Right to Assert Other Objections. By stipulating to the entry of
19 this Protective Order, no Party waives any right it otherwise would have to object to
20 disclosing or producing any information or item on any ground not addressed in this
21 Stipulated Protective Order. Similarly, no Party waives any right to object on any
22 ground to use in evidence of any of the material covered by this Protective Order.

23 13.3 Filing Protected Material. Without written permission from the
24 Designating Party or a court order secured after appropriate notice to all interested
25 persons, a Party may not file in the public record in this action any Protected
26 Material. A Party that seeks to file under seal any Protected Material must comply
27 with Civil Local Rule 79-5. Protected Material may only be filed under seal
28 pursuant to a court order authorizing the sealing of the specific Protected Material at

1 issue. Pursuant to Civil Local Rule 79-5, a sealing order will issue only upon a
2 request establishing that the Protected Material at issue is privileged, protectable as
3 a trade secret or otherwise entitled to protection under the law. If a Receiving
4 Party's request to file Protected Material under seal pursuant to Civil Local Rule 79-
5 5(d) is denied by the court, then the Receiving Party may file the information in the
6 public record pursuant to Civil Local Rule 79-5(e) unless otherwise instructed by the
7 court.

8 **14. FINAL DISPOSITION**

9 After the final disposition of this action, within 60 days of a written request
10 by the Designating Party, each Receiving Party must return all Protected Material to
11 the Producing Party or destroy such material. As used in this subdivision, "all
12 Protected Material" includes all copies, abstracts, compilations, summaries, and any
13 other format reproducing or capturing any of the Protected Material. Whether the
14 Protected Material is returned or destroyed, the Receiving Party must submit a
15 written certification to the Producing Party (and, if not the same person or entity, to
16 the Designating Party) by the 60 day deadline that (1) identifies (by category, where
17 appropriate) all the Protected Material that was returned or destroyed and (2) affirms
18 that the Receiving Party has not retained any copies, abstracts, compilations,
19 summaries or any other format reproducing or capturing any of the Protected
20 Material. Notwithstanding this provision, Counsel are entitled to retain an archival
21 copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal
22 memoranda, correspondence, deposition and trial exhibits, expert reports, attorney
23 work product, and consultant and expert work product, even if such materials
24 contain Protected Material.

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1 Any such archival copies that contain or constitute Protected Material remain
2 subject to this Protective Order as set forth in Section 5 (DURATION).

3 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

4 DATED: July 13, 2018

5 /s/ Becky S. James
6 Becky S. James
7 Jaya C. Gupta
8 Attorneys for Defendant, Karen Thompson

8 DATED: July 13, 2018

9 /s/ Carol Ann Rohr
10 Lane Dilg, City Attorney, City of Santa
11 Monica
12 Carol Ann Rohr, Deputy City Attorney
13 Attorney for Defendant, Karen Thompson

13 DATED: July 13, 2018

14 /s/ Dawn M. Flores-Oster
15 Dana Alden Fox
16 Dawn M. Flores-Oster
17 Lewis, Brisbois, Bisgaard & Smith
18 Attorney for Defendant, Karen Thompson

18 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

19

20 DATED: July 17, 2018

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23 Chief Magistrate Patrick Walsh

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1 **EXHIBIT A**

2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

3 I, _____ [print or type full name], of
4 _____ [print or type full address], declare under penalty of perjury
5 that I have read in its entirety and understand the Stipulated Protective Order that
6 was issued by the United States District Court for the Central District of California
7 on [date] in the case of *Kelly Soo Park vs. Detective Karen Thompson; and Does 1-*
8 *10, Inclusive*, USDC Case No. 2:14-cv-00330-SJO (PWx). I agree to comply with
9 and to be bound by all the terms of this Stipulated Protective Order and I understand
10 and acknowledge that failure to so comply could expose me to sanctions and
11 punishment in the nature of contempt. I solemnly promise that I will not disclose in
12 any manner any information or item that is subject to this Stipulated Protective
13 Order to any person or entity except in strict compliance with the provisions of this
14 Order.

15 I further agree to submit to the jurisdiction of the United States District Court
16 for the Central District of California for the purpose of enforcing the terms of this
17 Stipulated Protective Order, even if such enforcement proceedings occur after
18 termination of this action. I hereby appoint _____ [print or
19 type full name] of _____ [print or type
20 full address and telephone number] as my California agent for service of process in
21 connection with this action or any proceedings related to enforcement of this
22 Stipulated Protective Order.

23
24 Date: _____

25 City and State where sworn and signed: _____

26 Printed name: _____

27
28 Signature: _____