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8 **UNITED STATES DISTRICT COURT**
 9 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

11 TESHAWN GATHIER,
 12 Plaintiff,
 13 v.
 14 COUNTY OF LOS ANGELES; JAY
 15 BROWN; and DOES 1-10, inclusive,
 16 Defendants.

CASE NO. CV15-9264 CBM (MRWx)

[Assigned to
 Magistrate Judge Michael R. Wilner
 Courtroom " 580"]

DISCOVERY MATTER
PROTECTIVE ORDER
GOVERNING DISCLOSURE OF
CONFIDENTIAL INFORMATION
PRODUCED DURING DISCOVERY

Trial Date: April 11, 2017

21 TO THE HONORABLE COURT, ALL PARTIES AND THEIR ATTORNEYS OF
 22 RECORD:

23 Plaintiff TESHAWN GATHIER, by and through his attorneys of record, Dale
 24 K. Galipo, Esq. and Eric Valenzuela, Esq. of the Law Offices of Dale K. Galipo, and
 25 defendants COUNTY OF LOS ANGELES and JAY BROWN, by and through their
 26 attorneys of record, Thomas C. Hurrell, Esq., Lisa Y. An, Esq., and John McNulty,
 27 Esq. of Hurrell Cantrall, LLP, hereby stipulate to the following Protective Order
 28 Governing Disclosure of Confidential Information Produced During Discovery:

HURRELL CANTRALL LLP
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 LOS ANGELES, CALIFORNIA 90017-4121
 TELEPHONE (213) 426-2000

1 1. INTRODUCTION

2 1.1 PURPOSES AND LIMITATIONS

3 Discovery in this action is likely to involve production of confidential,
4 proprietary, or private information for which special protection from public
5 disclosure and from use for any purpose other than prosecuting this litigation may
6 be warranted. Accordingly, the parties hereby stipulate to and petition the Court to
7 enter the following Stipulated Protective Order. The parties acknowledge that this
8 Order does not confer blanket protections on all disclosures or responses to
9 discovery and that the protection it affords from public disclosure and use extends
10 only to the limited information or items that are entitled to confidential treatment
11 under the applicable legal principles. The parties further acknowledge, as set forth
12 in Section 12.3, below, that this Stipulated Protective Order does not entitle them to
13 file confidential information under seal; Civil Local Rule 79-5 sets forth the
14 procedures that must be followed and the standards that will be applied when a party
15 seeks permission from the Court to file material under seal.

16 1.2 GOOD CAUSE STATEMENT

17 Good cause exists for entry of this Order. The information and documents the
18 parties may disclose and produce pursuant to *Federal Rules of Civil Procedure*
19 ("*FRCP*") Rule 26 and during the course of discovery contains private and
20 confidential information, including materials entitled to privileges and/or protections
21 under United States Constitution, First Amendment; the California Constitution,
22 Article I, Section 1; California *Penal Code* Sections 832.5, 832.7 and 832.8;
23 California *Evidence Code* Sections 1040 and 1043 *et. seq.*; the Official Information
24 Privilege; the Privacy Act of 1974, 5 U.S.C. § 552a; the right to privacy; and
25 decisional law relating to such provisions.

26 Defendants may produce, among other things, materials that contain Los
27 Angeles County Sheriff's Department ("LASD") internal policies and procedures,
28 personnel information of LASD employees, materials involving other incidents,

1 investigative documents of a sensitive nature, and police training documents that are
2 kept from the public in the ordinary course of business. It is defendants' position
3 that disclosure of this private and confidential information by defendants, employees
4 of defendant COUNTY OF LOS ANGELES ("COLA"), LASD, and third parties
5 would be invasive of the privacy of such individuals, may pose a serious risk to their
6 personal safety and well-being, and may disrupt the furtherance of important law
7 enforcement objectives and interests. Therefore, in order to address defendants'
8 concerns, the parties enter into this stipulated Protective Order to limit the disclosure
9 of these documents to the context of this litigation as provided herein.

10 2. DEFINITIONS

11 2.1 Action: this pending federal law suit herein, *Teshawn Gathier v. County*
12 *of Los Angeles, et al.*, Case No. CV15-9264 CBM (MRWx), or any related appellate
13 proceeding and not for any other purpose, including any other litigation.

14 2.2 Challenging Party: a Party or Non-Party that challenges the designation
15 of information or items under this Order.

16 2.3 "CONFIDENTIAL" Information or Items: information (regardless of
17 how it is generated, stored or maintained) or tangible things that qualify for
18 protection under *FRCP* Rule 26(c), and as specified above in the Good Cause
19 Statement.

20 2.4 Counsel: attorneys of record herein as well as their support staff.

21 2.5 Designating Party: a Party or Non-Party that designates information or
22 items that it produces in disclosures or in responses to discovery as
23 "CONFIDENTIAL."

24 2.6 Disclosure or Discovery Material: all items or information, regardless of
25 the medium or manner in which it is generated, stored, or maintained (including,
26 among other things, testimony, transcripts, and tangible things), that are produced or
27 generated in disclosures or responses to discovery in this matter.

28 2.7 Expert: a person with specialized knowledge or experience in a matter

1 pertinent to the litigation who has been retained by a Party or its counsel to serve as
2 an expert witness or as a consultant in this Action.

3 2.8 Non-Party: any natural person, partnership, corporation, association, or
4 other legal entity not named as a Party to this action.

5 2.9 Party: any party to this Action, including all of its representatives,
6 support staff, employees, consultants, and retained experts.

7 2.10 Producing Party: a Party or Non-Party that produces Disclosure or
8 Discovery Material in this Action.

9 2.11 Professional Vendors: persons or entities that provide litigation support
10 services (e.g., photocopying, videotaping, translating, preparing exhibits or
11 demonstrations, and organizing, storing, or retrieving data in any form or medium)
12 and their employees and subcontractors.

13 2.12 Protected Material: any Disclosure or Discovery Material that is
14 designated as “CONFIDENTIAL.”

15 2.13 Receiving Party: a Party that receives Disclosure or Discovery Material
16 from a Producing Party.

17 3. SCOPE

18 The protections conferred by this Protective Order cover not only Protected
19 Material (as defined above), but also (1) any information copied or extracted from
20 Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected
21 Material; and (3) any testimony, conversations, or presentations by Parties or their
22 Counsel that might reveal Protected Material.

23 Any use of Protected Material at trial shall be governed by the orders of the
24 trial judge. This Protective Order does not govern the use of Protected Material at
25 trial.

26 4. DURATION

27 Even after final disposition of this litigation, the confidentiality obligations
28 imposed by this Order shall remain in effect until a Designating Party agrees

1 otherwise in writing or a court order otherwise directs. Final disposition shall be
2 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with
3 or without prejudice; and (2) final judgment herein after the completion and
4 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
5 including the time limits for filing any motions or applications for extension of time
6 pursuant to applicable law.

7 5. DESIGNATING PROTECTED MATERIAL

8 5.1 Exercise of Restraint and Care in Designating Material for Protection.

9 Each Party or Non-Party that designates information or items for protection under
10 this Protective Order must take care to limit any such designation to specific
11 material that qualifies under the appropriate standards. The Designating Party must
12 designate for protection only those parts of material, documents, items, or oral or
13 written communications that qualify so that other portions of the material,
14 documents, items, or communications for which protection is not warranted are not
15 swept unjustifiably within the ambit of this Protective Order.

16 Mass, indiscriminate, or routinized designations are prohibited. Designations
17 that are shown to be clearly unjustified or that have been made for an improper
18 purpose (e.g., to unnecessarily encumber the case development process or to impose
19 unnecessary expenses and burdens on other parties) may expose the Designating
20 Party to sanctions.

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

24 5.2 Manner and Timing of Designations. Except as otherwise provided in this
25 Protective Order (see, e.g., second paragraph of section 5.2(a) below), or as
26 otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies for
27 protection under this Protective Order must be clearly so designated before the
28 material is disclosed or produced.

1 Designation in conformity with this Order requires:

2 (a) for information in documentary form (e.g., paper or electronic
3 documents, but excluding transcripts of depositions or other pretrial or trial
4 proceedings), that the Producing Party affix at a minimum, the legend
5 “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that
6 contains protected material. If only a portion or portions of the material on a page
7 qualifies for protection, the Producing Party also must clearly identify the protected
8 portion(s) (e.g., by making appropriate markings in the margins).

9 A Party or Non-Party that makes original documents available for inspection
10 need not designate them for protection until after the inspecting Party has indicated
11 which documents it would like copied and produced. During the inspection and
12 before the designation, all of the material made available for inspection shall be
13 deemed “CONFIDENTIAL”. After the inspecting Party has identified the
14 documents it wants copied and produced, the Producing Party must determine which
15 documents, or portions thereof, qualify for protection under this Protective Order.
16 Then, before producing the specified documents, the Producing Party must affix the
17 “CONFIDENTIAL legend” to each page that contains Protected Material. If only a
18 portion or portions of the material on a page qualifies for protection, the Producing
19 Party also must clearly identify the protected portion(s) (e.g., by making appropriate
20 markings in the margins).

21 (b) for testimony given in depositions that the Designating Party identify
22 the Disclosure or Discovery Material on the record, before the close of the
23 deposition all protected testimony.

24 (c) for information produced in some form other than documentary and for
25 any other tangible items, that the Producing Party affix in a prominent place on the
26 exterior of the container or containers in which the information is stored the legend
27 “CONFIDENTIAL”. If only a portion or portions of the information warrants
28 protection, the Producing Party, to the extent practicable, shall identify the protected

1 portion(s).

2 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
3 failure to designate qualified information or items does not, standing alone, waive
4 the Designating Party's right to secure protection under this Protective Order for
5 such material. Upon timely correction of a designation, the Receiving Party must
6 make reasonable efforts to assure that the material is treated in accordance with the
7 provisions of this Protective Order.

8 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

9 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
10 designation of confidentiality at any time that is consistent with the Court's
11 Scheduling Order.

12 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
13 resolution process (and, if necessary, file a discovery motion) under Local Rule 37.1
14 *et seq.*

15 6.3 The burden of persuasion in any such challenge proceeding shall be on
16 the Designating Party. Frivolous challenges, and those made for an improper
17 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
18 parties) may expose the Challenging Party to sanctions. Unless the Designating
19 Party has waived or withdrawn the confidentiality designation, all parties shall
20 continue to afford the material in question the level of protection to which it is
21 entitled under the Producing Party's designation until the Court rules on the
22 challenge.

23 7. ACCESS TO AND USE OF PROTECTED MATERIAL

24 7.1 Basic Principles. A Receiving Party may use Protected Material that is
25 disclosed or produced by another Party or by a Non-Party in connection with this
26 Action only for prosecuting, defending, or attempting to settle this Action. Such
27 Protected Material may be disclosed only to the categories of persons and under the
28 conditions described in this Protective Order. When the Action has been terminated,

1 a Receiving Party must comply with the provisions of section 13 below (FINAL
2 DISPOSITION).

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

6 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
7 otherwise ordered by the Court or permitted in writing by the Designating Party, a
8 Receiving Party may disclose any information or item designated
9 “CONFIDENTIAL” only to:

10 (a) counsel for any Party and any Party to this litigation, as well as
11 employees and support staff of said counsel to whom it is reasonably necessary to
12 disclose the information for this Action;

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

16 (c) the Court and its personnel;

17 (d) court reporters and their staff;

18 (e) professional jury or trial consultants, mock jurors, and Professional
19 Vendors to whom disclosure is reasonably necessary for this Action and who have
20 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

21 (f) the author or recipient of a document containing the information or a
22 custodian or other person who otherwise possessed or knew the information;

23 (g) during their depositions, witnesses ,and attorneys for witnesses, in the
24 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
25 requests that the witness sign the form attached as Exhibit A hereto; and (2) they
26 will not be permitted to keep any confidential information unless they sign the
27 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
28 agreed by the Designating Party or ordered by the Court. Pages of transcribed

1 deposition testimony or exhibits to depositions that reveal Protected Material may
2 be separately bound by the court reporter and may not be disclosed to anyone except
3 as permitted under this Stipulated Protective Order; and

4 (i) any mediator or settlement officer, and their supporting personnel,
5 mutually agreed upon by any of the parties engaged in settlement discussions.

6 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
7 IN OTHER LITIGATION

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

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

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

17 (c) cooperate with respect to all reasonable procedures sought to be
18 pursued by the Designating Party whose Protected Material may be affected. If the
19 Designating Party timely seeks a protective order, the Party served with the
20 subpoena or court order shall not produce any information designated in this action
21 as “CONFIDENTIAL” before a determination by the court from which the
22 subpoena or order issued, unless the Party has obtained the Designating Party’s
23 permission. The Designating Party shall bear the burden and expense of seeking
24 protection in that court of its confidential material and nothing in these provisions
25 should be construed as authorizing or encouraging a Receiving Party in this Action
26 to disobey a lawful directive from another court.

27 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
28 PRODUCED IN THIS LITIGATION

1 (a) The terms of this Protective Order are applicable to information produced
2 by a Non-Party in this Action and designated as “CONFIDENTIAL.” Such
3 information produced by Non-Parties in connection with this litigation is protected
4 by the remedies and relief provided by this Protective Order. Nothing in these
5 provisions should be construed as prohibiting a Non-Party from seeking additional
6 protections.

7 (b) In the event that a Party is required, by a valid discovery request, to
8 produce a Non-Party’s confidential information in its possession, and the Party is
9 subject to an agreement with the Non-Party not to produce the Non-Party’s
10 confidential information, then the Party shall:

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

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

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

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

27 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

28 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed

1 Protected Material to any person or in any circumstance not authorized under this
2 Protective Order, the Receiving Party must immediately (a) notify in writing the
3 Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve
4 all unauthorized copies of the Protected Material, (c) inform the person or persons to
5 whom unauthorized disclosures were made of all the terms of this Order, and (d)
6 request such person or persons to execute the “Acknowledgment and Agreement to
7 Be Bound” that is attached hereto as Exhibit A.

8 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
9 PROTECTED MATERIAL

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

20 12. MISCELLANEOUS

21 12.1 Right to Further Relief. Nothing in this Protective Order abridges the
22 right of any person to seek its modification by the Court in the future.

23 12.2 Right to Assert Other Objections. By stipulating to the entry of this
24 Protective Order, no Party waives any right it otherwise would have to object to
25 disclosing or producing any information or item on any ground not addressed in this
26 Protective Order. Similarly, no Party waives any right to object on any ground to
27 use in evidence of any of the material covered by this Protective Order.

28 12.3 Filing Protected Material. A Party that seeks to file under seal any

1 Protected Material must comply with Civil Local Rule 79-5. Protected Material
2 may only be filed under seal pursuant to a court order authorizing the sealing of the
3 specific Protected Material at issue. If a Party's request to file Protected Material
4 under seal is denied by the Court, then the Receiving Party may file the information
5 in the public record unless otherwise instructed by the Court.

6 12.4 Violation of Protective Order. Any willful violation of this Order may
7 be punished by civil or criminal contempt proceedings, financial or evidentiary
8 sanctions, reference to disciplinary authorities, or other appropriate action at the
9 discretion of the Court

10 13. FINAL DISPOSITION

11 After the final disposition of this Action, as defined in paragraph 4, within 60
12 days of a written request by the Designating Party, each Receiving Party must return
13 all Protected Material to the Producing Party or destroy such material. As used in
14 this subdivision, "all Protected Material" includes all copies, abstracts, compilations,
15 summaries, and any other format reproducing or capturing any of the Protected
16 Material. Whether the Protected Material is returned or destroyed, the Receiving
17 Party must submit a written certification to the Producing Party (and, if not the same
18 person or entity, to the Designating Party) by the 60 day deadline that (1) identifies
19 (by category, where appropriate) all the Protected Material that was returned or
20 destroyed and (2) affirms that the Receiving Party has not retained any copies,
21 abstracts, compilations, summaries or any other format reproducing or capturing any
22 of the Protected Material. Notwithstanding this provision, Counsel are entitled to
23 retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing
24 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert
25 reports, attorney work product, and consultant and expert work product, even if such
26 materials contain Protected Material. Any such archival copies that contain or
27 constitute Protected Material remain subject to this Protective Order as set forth in
28 Section 4 (DURATION).

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ declare under penalty of perjury that I have read in its entirety and understand the Protective Order that was issued by the United States District Court for the Central District of California on _____ in the case of *Teshawn Gathier v. County of Los Angeles, et al.*, Case No. CV15-9264 CBM (MRWx). A copy of the Stipulation for Protective Order and Protective Order has been delivered to me with my copy of this Acknowledgement and Agreement to Be Bound (hereinafter "Confidentiality Agreement'). I agree to be bound by all the terms of the Confidentiality Agreement.

I further agree to comply with and to be bound by all the terms of this Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Protective Order, even if such enforcement proceedings occur after termination of this action.

Dated:

Signature

Name (Printed)

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Street Address

City State Zip

Occupation or Business