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12 Chief Phillip Sanchez, a public employee

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

<p>15 SHAINIE LINDSEY, as Guardian ad 16 Litem for minors: “PT”, “BT”, “RT1” 17 “RT2”, & “X”, SHENIA ELDRIDGE 18 as Guardian ad Litem for “RT3” & 19 “RT4”, DOMINIQUE KEATON as Guardian ad Litem for “DT”, and ANNIE HARRIS for the Estate of Reginald THOMAS,</p> <p>20 Plaintiffs,</p> <p>21 vs.</p> <p>22 CITY OF PASADENA, PASADENA POLICE CHIEF PHILLIP SANCHEZ, 23 OFFICERS: MATHEW GRIFFIN, 24 JEFFREY NEWLEN, THOMAS BUTLER, ROBERT GRIFFITH, 25 MICHAEL OROSCO, PHILLIP POIRIER, RAFAEL SANTIAGO, 26 AARON VILLACANA, SGT. AGUILAR & CORPORAL SUSAN</p>	<p>Case No.: 2:16-cv-08602-SJO-RAOx</p> <p>STIPULATED PROTECTIVE ORDER¹</p>
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27 _____
28 ¹ This Stipulated Protective Order is based on the model protective order provided
under Magistrate Judge Rozella A. Oliver’s Procedures.

1 GOMEZ individually and in their)
2 official capacity and DOES 1-10)
3 inclusive,)
4 Defendants.)
5

6 1. A. PURPOSES AND LIMITATIONS

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

16 B. GOOD CAUSE STATEMENT

17 The parties submit that GOOD CAUSE exists to enter the proposed
18 protective order to balance the defendants' concerns that the documents consist of
19 confidential, private, and privileged information concerning the parties to this
20 litigation as well as third parties who are not parties to this litigation. Furthermore,
21 this proposed protective order was created for the purpose of protecting certain
22 information that may be subject to the official information privilege, law
23 enforcement privilege and the right to privacy, as protected by the California and
24 United States Constitution, as well as to prevent against the broadcast or
25 dissemination of videotaped deposition testimony by any party, balanced with
26 plaintiffs' right to discovery in this litigation. The parties agree that all documents,
27 tangible things, and videos marked confidential and produced pursuant to this
28 protective order are subject to the terms of this protective unless otherwise ordered

1 by the Court.

2 Accordingly, to expedite the flow of information, to facilitate the prompt
3 resolution of disputes over confidentiality of discovery materials, to adequately
4 protect information the parties are entitled to keep confidential, to ensure that the
5 parties are permitted reasonable necessary uses of such material in preparation for
6 and in the conduct of trial, to address their handling at the end of the litigation, and
7 serve the ends of justice, a protective order for such information is justified in this
8 matter. It is the intent of the parties that information will not be designated as
9 confidential for tactical reasons and that nothing be so designated without a good
10 faith belief that it has been maintained in a confidential, non-public manner, and
11 there is good cause why it should not be part of the public record of this case.

12 C. ACKNOWLEDGEMENT OF PROCEDURE FOR FILING UNDER
13 SEAL

14 The parties further acknowledge, as set forth in Section 12.3, below, that this
15 Stipulated Protective Order does not entitle them to file confidential information
16 under seal; Local Civil Rule 79-5 sets forth the procedures that must be followed
17 and the standards that will be applied when a party seeks permission from the court
18 to file material under seal.

19 There is a strong presumption that the public has a right of access to judicial
20 proceedings and records in civil cases. In connection with non-dispositive
21 motions, good cause must be shown to support a filing under seal. See Kamakana
22 v. City and County of Honolulu, 447 F.3d 1172, 1176 (9th Cir. 2006), Phillips v.
23 Gen. Motors Corp., 307 F.3d 1206, 1210-11 (9th Cir. 2002), Makar-Welbon v.
24 Sony Electronics, Inc., 187 F.R.D. 576, 577 (E.D. Wis. 1999) (even stipulated
25 protective orders require good cause showing), and a specific showing of good
26 cause or compelling reasons with proper evidentiary support and legal justification,
27 must be made with respect to Protected Material that a party seeks to file under
28 seal. The parties' mere designation of Disclosure or Discovery Material as

1 CONFIDENTIAL does not—without the submission of competent evidence by
2 declaration, establishing that the material sought to be filed under seal qualifies as
3 confidential, privileged, or otherwise protectable—constitute good cause.
4 Further, if a party requests sealing related to a dispositive motion or trial, then
5 compelling reasons, not only good cause, for the sealing must be shown, and the
6 relief sought shall be narrowly tailored to serve the specific interest to be protected.
7 See Pintos v. Pacific Creditors Ass’n, 605 F.3d 665, 677-79 (9th Cir. 2010). For
8 each item or type of information, document, or thing sought to be filed or
9 introduced under seal in connection with a dispositive motion or trial, the party
10 seeking protection must articulate compelling reasons, supported by specific facts
11 and legal justification, for the requested sealing order. Again, competent evidence
12 supporting the application to file documents under seal must be provided by
13 declaration.

14 2. DEFINITIONS

15 2.1 “Action”: this pending federal law suit.

16 2.2 “Challenging Party”: a Party or Non-Party that challenges the
17 designation of information or items under this Order.

18 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
19 how it is generated, stored or maintained) or tangible things that qualify for
20 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
21 the Good Cause Statement.

22 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
23 their support staff).

24 2.5 Designating Party: a Party or Non-Party that designates information
25 or items that it produces in disclosures or in responses to discovery as
26 “CONFIDENTIAL.”

27 2.6 Disclosure or Discovery Material: all items or information, regardless
28 of the medium or manner in which it is generated, stored, or maintained (including,

1 among other things, testimony, transcripts, and tangible things), that are produced
2 or generated in disclosures or responses to discovery in this matter.

3 2.7 Expert: a person with specialized knowledge or experience in a matter
4 pertinent to the litigation who has been retained by a Party or its counsel to serve
5 as an expert witness or as a consultant in this Action.

6 2.8 House Counsel (i.e., Office of Pasadena City Attorney): attorneys
7 who are employees of a party to this Action. House Counsel does not include
8 Outside Counsel of Record or any other outside counsel.

9 2.9 Non-Party: any natural person, partnership, corporation, association or
10 other legal entity not named as a Party to this action.

11 2.10 Outside Counsel of Record: attorneys who are not employees of a
12 party to this Action but are retained to represent or advise a party to this Action
13 and have appeared in this Action on behalf of that party or are affiliated with a law
14 firm that has appeared on behalf of that party, and includes support staff.

15 2.11 Party: any party to this Action, including all of its officers, directors,
16 employees, consultants, retained experts, and Outside Counsel of Record (and their
17 support staffs).

18 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
19 Discovery Material in this Action.

20 2.13 Professional Vendors: persons or entities that provide litigation
21 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
22 demonstrations, and organizing, storing, or retrieving data in any form or medium)
23 and their employees and subcontractors.

24 2.14 Protected Material: any Disclosure or Discovery Material that is
25 designated as "CONFIDENTIAL."

26 2.15 Receiving Party: a Party that receives Disclosure or Discovery
27 Material from a Producing Party.

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1 3. SCOPE

2 The protections conferred by this Stipulation and Order cover not only
3 Protected Material (as defined above), but also (1) any information copied or
4 extracted from Protected Material; (2) all copies, excerpts, summaries, or
5 compilations of Protected Material; and (3) any testimony, conversations, or
6 presentations by Parties or their Counsel that might reveal Protected Material.
7 Any use of Protected Material at trial shall be governed by the orders of the trial
8 judge. This Order does not govern the use of Protected Material at trial. Pursuant
9 to the Court’s Standing Order at Paragraph 31, it is acknowledged that it is the
10 Court, not the parties, that determines whether a document can be filed under seal.
11 Thus, this proposed protective order cannot, and does not, attempt to pre-authorize
12 any party to file documents under seal. The parties acknowledge that they are to
13 strictly comply with Local Rule 79-5 and its subdivisions.

14 4. DURATION

15 Once a case proceeds to trial, information that was designated as
16 CONFIDENTIAL or maintained pursuant to this protective order used or
17 introduced as an exhibit at trial becomes public and will be presumptively
18 available to all members of the public, including the press, unless compelling
19 reasons supported by specific factual findings to proceed otherwise are made to the
20 trial judge in advance of the trial. See Kamakana, 447 F.3d at 1180-81
21 (distinguishing “good cause” showing for sealing documents produced in
22 discovery from “compelling reasons” standard when merits-related documents are
23 part of court record). Accordingly, the terms of this protective order do not extend
24 beyond the commencement of the trial.

25 5. DESIGNATING PROTECTED MATERIAL

26 5.1 Exercise of Restraint and Care in Designating Material for Protection.
27 Each Party or Non-Party that designates information or items for protection under
28 this Order must take care to limit any such designation to specific material that

1 qualifies under the appropriate standards. The Designating Party must designate
2 for protection only those parts of material, documents, items or oral or written
3 communications that qualify so that other portions of the material, documents,
4 items or communications for which protection is not warranted are not swept
5 unjustifiably within the ambit of this Order.

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

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

14 5.2 Manner and Timing of Designations. Except as otherwise provided in
15 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
16 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
17 under this Order must be clearly so designated before the material is disclosed or
18 produced.

19 Designation in conformity with this Order requires:

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

27 A Party or Non-Party that makes original documents available for
28 inspection need not designate them for protection until after the inspecting Party

1 has indicated which documents it would like copied and produced. During the
2 inspection and before the designation, all of the material made available for
3 inspection shall be deemed “CONFIDENTIAL.” After the inspecting Party has
4 identified the documents it wants copied and produced, the Producing Party must
5 determine which documents, or portions thereof, qualify for protection under this
6 Order. Then, before producing the specified documents, the Producing Party must
7 affix the “CONFIDENTIAL legend” to each page that contains Protected Material.
8 If only a portion of the material on a page qualifies for protection, the Producing
9 Party also must clearly identify the protected portion(s) (e.g., by making
10 appropriate markings in the margins).

11 (b) for testimony given in depositions that the Designating Party
12 identifies the Disclosure or Discovery Material on the record, before the close of
13 the deposition all protected testimony.

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

20 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
21 failure to designate qualified information or items does not, standing alone, waive
22 the Designating Party’s right to secure protection under this Order for such
23 material. Upon timely correction of a designation, the Receiving Party must make
24 reasonable efforts to assure that the material is treated in accordance with the
25 provisions of this Order.

26 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

27 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
28 designation of confidentiality at any time that is consistent with the Court’s

1 Scheduling Order.

2 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
3 resolution process under Local Rule 37.1 et seq.

4 6.3 The burden of persuasion in any such challenge proceeding shall be
5 on the Designating Party. Frivolous challenges, and those made for an improper
6 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
7 parties) may expose the Challenging Party to sanctions. Unless the Designating
8 Party has waived or withdrawn the confidentiality designation, all parties shall
9 continue to afford the material in question the level of protection to which it is
10 entitled under the Producing Party’s designation until the Court rules on the
11 challenge.

12 7. ACCESS TO AND USE OF PROTECTED MATERIAL

13 7.1 Basic Principles. A Receiving Party may use Protected Material that
14 is disclosed or produced by another Party or by a Non-Party in connection with
15 this Action only for prosecuting, defending or attempting to settle this Action.
16 Such Protected Material may be disclosed only to the categories of persons and
17 under the conditions described in this Order. When the Action has been
18 terminated, a Receiving Party must comply with the provisions of section 13 below
19 (FINAL DISPOSITION).

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

23 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
24 otherwise ordered by the court or permitted in writing by the Designating Party, a
25 Receiving Party may disclose any information or item designated
26 “CONFIDENTIAL” only to:

27 (a) the Receiving Party’s Outside Counsel of Record in this Action,
28 as well as employees of said Outside Counsel of Record to whom it is reasonably

1 necessary to disclose the information for this Action;

2 (b) the officers, directors, and employees (including House
3 Counsel) of the Receiving Party to whom disclosure is reasonably necessary for
4 this Action;

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

8 (d) the court and its personnel;

9 (e) court reporters and their staff;

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

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

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

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

1 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
2 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
7 notification shall include a copy of the subpoena or court order;

8 (b) promptly notify in writing the party who caused the subpoena
9 or order to issue in the other litigation that some or all of the material covered by
10 the subpoena or order is subject to this Protective Order. Such notification shall
11 include 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 the
15 subpoena or court order shall not produce any information designated in this action
16 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 9. 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
25 by a Non-Party in this Action and designated as “CONFIDENTIAL.” Such
26 information produced by Non-Parties in connection with this litigation is protected
27 by the remedies and relief provided by this Order. Nothing in these provisions
28 should be construed as prohibiting a Non-Party from seeking additional

1 protections.

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

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

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

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

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

23 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

1 the person or persons to whom unauthorized disclosures were made of all the terms
2 of this Order, and (d) request such person or persons to execute the
3 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit
4 A.

5 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
6 PROTECTED MATERIAL

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

17 12. MISCELLANEOUS

18 12.1 Right to Further Relief. Nothing in this Order abridges the right of
19 any person to seek its modification by the Court in the future.

20 12.2 Right to Assert Other Objections. By stipulating to the entry of this
21 Protective Order, no Party waives any right it otherwise would have to object to
22 disclosing or producing any information or item on any ground not addressed in
23 this Stipulated Protective Order. Similarly, no Party waives any right to object on
24 any ground to use in evidence of any of the material covered by this Protective
25 Order.

26 12.3 Filing Protected Material. All Parties and their Counsel agree that if a
27 Party intends to file Protected Material with the Court, for any reason, that Party
28 and Counsel shall request permission from the Court to file the Protected Material

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

7 13. FINAL DISPOSITION

8 After the final disposition of this Action, as defined in paragraph 4, within
9 60 days of a written request by the Designating Party, each Receiving Party must
10 return all Protected Material to the Producing Party or destroy such material. As
11 used in this subdivision, "all Protected Material" includes all copies, abstracts,
12 compilations, summaries, and any other format reproducing or capturing any of the
13 Protected Material. Whether the Protected Material is returned or destroyed, the
14 Receiving Party must submit a written certification to the Producing Party (and, if
15 not the same person or entity, to the Designating Party) by the 60 day deadline that
16 (1) identifies (by category, where appropriate) all the Protected Material that was
17 returned or destroyed and (2) affirms that the Receiving Party has not retained any
18 copies, abstracts, compilations, summaries or any other format reproducing or
19 capturing any of the Protected Material. Notwithstanding this provision, Counsel
20 are entitled to retain an archival copy of all pleadings, motion papers, trial,
21 deposition, and hearing transcripts, legal memoranda, correspondence, deposition
22 and trial exhibits, expert reports, attorney work product, and consultant and expert
23 work product, even if such materials contain Protected Material. Any such
24 archival copies that contain or constitute Protected Material remain subject to this
25 Protective Order as set forth in Section 4 (DURATION).

26 14. VIOLATION

27 Any violation of this Order may be punished by appropriate measures
28 including, without limitation, contempt proceedings and/or monetary sanctions.

1 DATED: October 27, 2017

PASADENA CITY ATTORNEY'S
OFFICE

/s/ Hasmik Badalian Collins

2
3
4 By:

HASMIK BADALIAN COLLINS
Attorneys for Defendants,
City of Pasadena, a public entity

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6
7
8
9 Pursuant to Local Rule 5-4.3.4 (a)(2)(i), I, Justin Reade Sarno, do hereby
10 attest that all of the signatories listed on this Stipulation, and on whose behalf the
11 filing is submitted, concur in the filing's content and authorize the filing of this
12 Stipulation.

13
14 */s/ Justin Reade Sarno*

15
16
17 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

18 DATED:

19 *Rozella A. Oliver*

20 _____
21 HON. ROZELLA A. OLIVER
22 United States Magistrate Judge

