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 6 *Attorney for Plaintiff*

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 8 UNITED STATES DISTRICT COURT
 9 CENTRAL DISTRICT OF CALIFORNIA

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 11 ART TOBIAS,
 12
 Plaintiff,
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 v.
 14
 15 CITY OF LOS ANGELES et al,
 16
 Defendants.

Case No. 17-cv-01076-DSF (ASx)

**STIPULATED PROTECTIVE
 ORDER**

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 19 1. A. PURPOSE AND LIMITATIONS

20 Discovery in this action is likely to involve production of confidential,
 21 proprietary, or private information for which special protection from public
 22 disclosure and from use for any purpose other than prosecuting or defending
 23 this litigation may be warranted. Accordingly, the parties hereby stipulate to
 24 and petition the Court to enter the following Stipulated Protective Order. The
 25 parties acknowledge that this Order does not confer blanket protections on all
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1 disclosures or responses to discovery and that the protection it affords from
2 public disclosure and use extends only to the limited information or items
3 that are entitled to confidential treatment under the applicable legal
4 principles. The parties further acknowledge, as set forth in Section 12.3,
5 below, that this Stipulated Protective Order does not entitle them to file
6 confidential information under seal; Civil Local Rule 79-5 sets forth the
7 procedures that must be followed and the standards that will be applied
8 when a party seeks permission from the court to file material under seal.
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12 B. GOOD CAUSE STATEMENT
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14 The Parties agree that there is good cause for this Stipulated Protective
15 Order because the failure to protect such Confidential Information from
16 disclosure may cause irreparable harm to one or both parties and, further,
17 could constitute a violation of California law. As for Defendants, they may
18 produce, among other things, official records and information, personnel
19 information and internal affairs documents marked as “Confidential”.
20 Plaintiff may be producing confidential medical records and information
21 regarding the Plaintiff’s personal history that is otherwise private. This
22 order will allow the parties to designate materials as “Confidential
23 Information” when they are disclosing information.
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1 Accordingly, to expedite the flow of information, to facilitate the prompt
2 resolution of disputes over confidentiality of discovery materials, to
3 adequately protect information the parties are entitled to keep confidential,
4 to ensure that the parties are permitted reasonable necessary uses of such
5 material in preparation for and in the conduct of trial, to address their
6 handling at the end of the litigation, and serve the ends of justice, a
7 protective order for such information is justified in this matter. It is the
8 intent of the parties that information will not be designated as confidential
9 for tactical reasons and that nothing be so designated without a good faith
10 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.

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16 2. Definitions

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18 2.1 Action: This pending federal lawsuit, *Tobias v. City of Los Angeles*,
19 et al., 17-cv-1076.

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21 2.2 Challenging Party: a Party or Non-Party that challenges the
22 designation of information or items under this Order.

23
24 2.3 “CONFIDENTIAL” Information or Items: information
25 (regardless of how it is generated, stored or maintained) or tangible things
26 that qualify for protection under Federal Rule of Civil Procedure 26(c), and as
27 specified above in the Good Cause Statement.
28

1 2.4 Counsel: Outside Counsel of Record and House Counsel (as well
2 as their support staff).

3
4 2.5 Designating Party: a Party or Non-Party that designates
5 information or items that it produces in disclosures or in responses to
6 discovery as “CONFIDENTIAL.”
7

8 2.6 Disclosure or Discovery Material: all items or information,
9 regardless of the medium or manner in which it is generated, stored, or
10 maintained (including, among other things, testimony, transcripts, and
11 tangible things), that are produced or generated in disclosures or responses to
12 discovery in this matter.
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15 2.7 Expert: a person with specialized knowledge or experience in a
16 matter pertinent to the litigation who has been retained by a Party or its
17 counsel to serve as an expert witness or as a consultant in this Action.
18

19 2.8 House Counsel: attorneys who are employees of a party to this
20 Action. House Counsel does not include Outside Counsel of Record or any
21 other outside counsel.
22

23 2.9 Non-Party: any natural person, partnership, corporation,
24 association, or other legal entity not named as a Party to this action.
25

26 2.10 Outside Counsel of Record: attorneys who are not employees of a
27 party to this Action but are retained to represent or advise a party to this
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1 Action and have appeared in this Action on behalf of that party or are
2 affiliated with a law firm which has appeared on behalf of that party, and
3 includes support staff.
4

5 2.11 Party: any party to this Action, including all of its officers,
6 directors, employees, consultants, retained experts, and Outside Counsel of
7 Record (and their support staffs).
8

9 2.12 Producing Party: a Party or Non-Party that produces Disclosure
10 or Discovery Material in this Action.
11

12 2.13 Professional Vendors: persons or entities that provide litigation
13 support services (e.g., photocopying, videotaping, translating, preparing
14 exhibits or demonstrations, and organizing, storing, or retrieving data in any
15 form or medium) and their employees and subcontractors.
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18 2.14 Protected Material: any Disclosure or Discovery Material that is
19 designated as “CONFIDENTIAL.”
20

21 2.15 Receiving Party: a Party that receives Disclosure or Discovery
22 Material from a Producing Party.
23

24 3. SCOPE

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

5 Any use of Protected Material at trial shall be governed by the orders of
6 the trial judge. This Order does not govern the use of Protected Material at
7
8 trial.

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10 4. Duration

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

23 5.1 Exercise of Restraint and Care in Designating Material for
24 Protection.
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26 Each Party or Non-Party that designates information or items for
27 protection under this Order must take care to limit any such designation to
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1 specific material that qualifies under the appropriate standards. The
2 Designating Party must designate for protection only those parts of material,
3 documents, items, or oral or written communications that qualify so that
4 other portions of the material, documents, items, or communications for
5 which protection is not warranted are not swept unjustifiably within the
6 ambit of this Order.
7

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9 Mass, indiscriminate, or routinized designations are prohibited.

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11 Designations that are shown to be clearly unjustified or that have been made
12 for an improper purpose (e.g., to unnecessarily encumber the case
13 development process or to impose unnecessary expenses and burdens on
14 other parties) may expose the Designating Party to sanctions.
15

16 If it comes to a Designating Party's attention that information or items
17 that it designated for protection do not qualify for protection, that
18 Designating Party must promptly notify all other Parties that it is
19 withdrawing the inapplicable designation.
20
21

22 5.2 Manner and Timing of Designations.

23 Except as otherwise provided in this Order (see, e.g., second paragraph
24 of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or
25 Discovery Material that qualifies for protection under this Order must be
26 clearly so designated before the material is disclosed or produced.
27
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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
4 pretrial or trial proceedings), that the Producing Party affix at
5 a minimum, the legend “CONFIDENTIAL” (hereinafter
6 “CONFIDENTIAL legend”), to each page that contains
7 protected material. If only a portion or portions of the material
8 on a page qualifies for protection, the Producing Party also
9 must clearly identify the protected portion(s) (e.g., by making
10 appropriate markings in the margins). A Party or Non-Party
11 that makes original documents available for inspection need
12 not designate them for protection until after the inspecting
13 Party has indicated which documents it would like copied and
14 produced. During the inspection and before the designation, all
15 of the material made available for inspection shall be deemed
16 “CONFIDENTIAL.” After the inspecting Party has identified
17 the documents it wants copied and produced, the Producing
18 Party must determine which documents, or portions thereof,
19 qualify for protection under this Order. Then, before producing
20 the specified documents, the Producing Party must affix the
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1 “CONFIDENTIAL legend” to each page that contains Protected
2 Material. If only a portion or portions of the material on a page
3 qualifies for protection, the Producing Party also must clearly
4 identify the protected portion(s) (e.g., by making appropriate
5 markings in the margins).
6

7
8 (b)for testimony given in depositions that the Designating Party
9 identify the Disclosure or Discovery Material on the record,
10 before the close of the deposition all protected testimony.
11

12 (c) for information produced in some form other than documentary
13 and for any other tangible items, that the Producing Party affix
14 in a prominent place on the exterior of the container or
15 containers in which the information is stored the legend
16 “CONFIDENTIAL.” If only a portion or portions of the
17 information warrants protection, the Producing Party, to the
18 extent practicable, shall identify the protected portion(s). 5.3
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22 Inadvertent Failures to Designate.

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

3
4 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

5 6.1 Timing of Challenges.

6 Any Party or Non-Party may challenge a designation of confidentiality
7 at any time that is consistent with the Court's Scheduling Order.

8
9 6.2 Meet and Confer.

10 The Challenging Party shall initiate the dispute resolution process
11 under Local Rule 37.1 et seq.

12
13 6.3 The burden of persuasion in any such challenge proceeding shall
14 be on the Designating Party. Frivolous challenges, and those made for an
15 improper purpose (e.g., to harass or impose unnecessary expenses and
16 burdens on other parties) may expose the Challenging Party to sanctions.
17 Unless the Designating Party has waived or withdrawn the confidentiality
18 designation, all parties shall continue to afford the material in question the
19 level of protection to which it is entitled under the Producing Party's
20 designation until the Court rules on the challenge.
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25 7. ACCESS TO AND USE OF PROTECTED MATERIAL

26 7.1 Basic Principles.

1 A Receiving Party may use Protected Material that is disclosed or
2 produced by another Party or by a Non-Party in connection with this Action
3 only for prosecuting, defending, or attempting to settle this Action. Such
4 Protected Material may be disclosed only to the categories of persons and
5 under the conditions described in this Order. When the Action has been
6 terminated, a Receiving Party must comply with the provisions of section 13
7 below (FINAL DISPOSITION).

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

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15 7.2 Disclosure of “CONFIDENTIAL” Information or Items.

16 Unless otherwise ordered by the court or permitted in writing by the
17 Designating Party, a Receiving Party may disclose any information or item
18 designated “CONFIDENTIAL” only to:

- 19
20 (a) the Receiving Party’s Outside Counsel of Record in this
21 Action, as well as employees of said Outside Counsel of
22 Record to whom it is reasonably necessary to disclose the
23 information for this Action;
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- 1 (b) the officers, directors, and employees (including House
2 Counsel) of the Receiving Party to whom disclosure is
3 reasonably necessary for this Action;
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- 5 (c) Experts (as defined in this Order) of the Receiving Party to
6 whom disclosure is reasonably necessary for this Action and
7 who have signed the “Acknowledgment and Agreement to Be
8 Bound” (Exhibit A);
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- 10 (d) the court and its personnel;
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- 12 (e) court reporters and their staff;
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- 14 (f) professional jury or trial consultants, mock jurors, and
15 Professional Vendors to whom disclosure is reasonably
16 necessary for this Action and who have signed the
17 “Acknowledgment and Agreement to Be Bound” (Exhibit A);
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- 19 (g) the author or recipient of a document containing the
20 information or a custodian or other person who otherwise
21 possessed or knew the information;
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- 23 (h) during their depositions, witnesses, and attorneys for
24 witnesses, in the Action to whom disclosure is reasonably
25 necessary provided: (1) the deposing party requests that the
26 witness sign the form attached as Exhibit A hereto; and (2)
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1 they will not be permitted to keep any confidential
2 information unless they sign the “Acknowledgment and
3 Agreement to Be Bound” (Exhibit A), unless otherwise
4 agreed by the Designating Party or ordered by the court.
5 Pages of transcribed deposition testimony or exhibits to
6 depositions that reveal Protected Material may be separately
7 bound by the court reporter and may not be disclosed to
8 anyone except as permitted under this Stipulated Protective
9 Order;
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13 (i) any mediator or settlement officer, and their supporting
14 personnel, mutually agreed upon by any of the parties
15 engaged in settlement discussions or appointed by the Court;
16
17 and
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19 (j) any witness or other person who is specifically named,
20 quoted, or whose statements or summary of statements are
21 contained within a document, report, or communication , but
22 limited to the document, report, or communication that
23 includes their name, quotation, statement, or summary of
24 statement.
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1 8. 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
4 litigation that compels disclosure of any information or items designated in
5 this Action as “CONFIDENTIAL,” that Party must:
6

- 7 (a) promptly notify in writing the Designating Party. Such
8 notification shall include a copy of the subpoena or court
9 order;
10 (b) promptly notify in writing the party who caused the
11 subpoena or order to issue in the other litigation that some
12 or all of the material covered by the subpoena or order is
13 subject to this Protective Order. Such notification shall
14 include a copy of this Stipulated Protective Order; and
15 (c) cooperate with respect to all reasonable procedures sought to
16 be pursued by the Designating Party whose Protected
17 Material may be affected. If the Designating Party timely
18 seeks a protective order, the Party served with the subpoena
19 or court order shall not produce any information designated
20 in this action as “CONFIDENTIAL” before a determination
21 by the court from which the subpoena or order issued, unless
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1 the Party has obtained the Designating Party's permission.
2 The Designating Party shall bear the burden and expense of
3 seeking protection in that court of its confidential material
4 and nothing in these provisions should be construed as
5 authorizing or encouraging a Receiving Party in this Action
6 to disobey a lawful directive from another court.
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9 9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE
10 PRODUCED IN THIS LITIGATION

11 (a) The terms of this Order are applicable to information produced by
12 a Non-Party in this Action and designated as "CONFIDENTIAL." Such
13 information produced by Non-Parties in connection with this litigation is
14 protected by the remedies and relief provided by this Order. Nothing in these
15 provisions should be construed as prohibiting a Non-Party from seeking
16 additional protections.
17

18
19 (b) In the event that a Party is required, by a valid discovery request,
20 to produce a Non-Party's confidential information in its possession, and the
21 Party is subject to an agreement with the Non-Party not to produce the Non-
22 Party's confidential information, then the Party shall:
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- (1) promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;
- (2) promptly provide the Non-Party with a copy of the Stipulated Protective Order in this Action, the relevant discovery request(s), and a reasonably specific description of the information requested; and
- (3) make the information requested available for inspection by the Non-Party, if requested.

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

1 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

2 If a Receiving Party learns that, by inadvertence or otherwise, it has
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4 disclosed Protected Material to any person or in any circumstance not
5 authorized under this Stipulated Protective Order, the Receiving Party must
6 immediately (a) notify in writing the Designating Party of the unauthorized
7 disclosures, (b) use its best efforts to retrieve all unauthorized copies of the
8 Protected Material, (c) inform the person or persons to whom unauthorized
9 disclosures were made of all the terms of this Order, and (d) request such
10 person or persons to execute the “Acknowledgment and Agreement to Be
11 Bound” that is attached hereto as Exhibit A.
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15 11. INADVERTENT PRODUCTION OF PRIVILEGED OR
16 OTHERWISE PROTECTED MATERIAL

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

6 12.1 Right to Further Relief. Nothing in this Order abridges the right
7 of any person to seek its modification by the Court in the future.
8

9 12.2 Right to Assert Other Objections. By stipulating to the entry of
10 this Protective Order no Party waives any right it otherwise would have to
11 object to disclosing or producing any information or item on any ground not
12 addressed in this Stipulated Protective Order. Similarly, no Party waives any
13 right to object on any ground to use in evidence of any of the material covered
14 by this Protective Order.
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18 12.3 Filing Protected Material. A Party that seeks to file under seal
19 any Protected Material must comply with Civil Local Rule 79-5. Protected
20 Material may only be filed under seal pursuant to a court order authorizing
21 the sealing of the specific Protected Material at issue.
22

23 12.4 This Order is entered solely for the purpose of facilitating the
24 exchange of documents, material, and information between the parties to this
25 action without involving the Court unnecessarily in the process. Neither this
26 Order, nor the production of any document, material, or information, shall be
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1 deemed to have the effect of an admission or waiver by either party, or of
2 altering the confidentiality or non-confidentiality of any such document,
3 material, or information, or altering any existing obligation of any party or
4 the absence thereof.
5

6
7 **13. FINAL DISPOSITION**

8 After the final disposition of this Action, as defined in paragraph 4,
9 within 60 days of a written request by the Designating Party, each Receiving
10 Party must return all Protected Material to the Producing Party or destroy
11 such material. As used in this subdivision, “all Protected Material” includes
12 all copies, abstracts, compilations, summaries, and any other format
13 reproducing or capturing any of the Protected Material. Whether the
14 Protected Material is returned or destroyed, the Receiving Party must submit
15 a written certification to the Producing Party (and, if not the same person or
16 entity, to the Designating Party) by the 60 day deadline that (1) identifies (by
17 category, where appropriate) all the Protected Material that was returned or
18 destroyed and (2) affirms that the Receiving Party has not retained any
19 copies, abstracts, compilations, summaries or any other format reproducing
20 or capturing any of the Protected Material. Notwithstanding this provision,
21 Counsel are entitled to retain an archival copy of all pleadings, motion
22 papers, trial, deposition, and hearing transcripts, legal memoranda,
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1 correspondence, deposition and trial exhibits, expert reports, attorney work
2 product, and consultant and expert work product, even if such materials
3 contain Protected Material. Any such archival copies that contain or
4 constitute Protected Material remain subject to this Protective Order as set
5 forth in Section 4 (DURATION).
6
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8 14. Any violation of this Order may be punished by any and all
9 appropriate measures including, without limitation, contempt proceedings
10 and/or monetary sanctions.
11

12 **IT IS SO STIPULATED:**
13
14

15 Dated: July 31, 2017

LOEVY & LOEVY

By: /s/David B. Owens

David B. Owens

Attorney for Plaintiff ART TOBIAS

19 Dated: July 31, 2017

BURKE WILLIAMS & SORENSON LLP

By: /s/Susan E. Coleman

Susan E. Coleman

Attorney for Defendants CITY OF LOS
ANGELES, SERGEANT JOSEPH SANCHEZ,
OFFICERS DORA BORN and MARSHALL
COOLEY

1 Dated: July 31, 2017

**ORBACH HUFF SUAREZ & HENDERSON
LLP**

2
3 By: Kevin E. Gilbert
Kevin E. Gilbert

4
5 Attorney for Defendants DETECTIVES
6 MICHAEL ARTEAGA, JEFF CORTINA, JOHN
MOTTO and JULIAN PERE

7
8 Dated: July 31, 2017

GUTIERREZ, PRECIADO & HOUSE

9 By: Arthur C. Preciado
Arthur C. Preciado

10
11 Attorney for Defendant L.A. SCHOOL POLICE
12 OFFICER DANIEL EAST

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18 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

19 DATED: August 1, 2017

20
21 / s / Alka Sagar

22 Honorable Alka Sagar
23 United States Magistrate Judge

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
5 _____ [print or type full address], declare under penalty of
6 perjury that I have read in its entirety and understand the Stipulated
7 Protective Order that was issued by the United States District Court for the
8 Central District of California on [date] in the case of *Art Tobias v. City of Los*
9 *Angeles, et al.*, 17-cv-01076-DSF (ASx). I agree to comply with and to be
10 bound by all the terms of this Stipulated Protective Order and I understand
11 and acknowledge that failure to so comply could expose me to sanctions and
12 punishment in the nature of contempt. I solemnly promise that I will not
13 disclose in any manner any information or item that is subject to this
14 Stipulated Protective Order to any person or entity except in strict
15 compliance with the provisions of this Order.
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20 I further agree to submit to the jurisdiction of the United States District
21 Court for the Central District of California for the purpose of enforcing the
22 terms of this Stipulated Protective Order, even if such enforcement
23 proceedings occur after termination of this action. I hereby appoint
24

25 _____ [print or type full name] of

26 _____ [print or type full address and
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1 telephone number] as my California agent for service of process in connection
2 with this action or any proceedings related to enforcement of this Stipulated
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4 Protective Order.

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6 Date: _____

7 City and State where sworn and signed:
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9 _____

10 Printed name: _____

11 Signature: _____
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