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

EDMON WASHINGTON, an individual,
Plaintiff,

v.

CITY OF LOS ANGELES, a municipal
entity, LOS ANGELES POLICE
DEPARTMENT OFFICER OLIVE, an
individual, and DOES 1 through 10,
inclusive,
Defendants.

CASE NO. CV 17-02829-PA (FFMx)

**[PROPOSED] PROTECTIVE
ORDER RE: DISCLOSURE OF
CONFIDENTIAL INFORMATION**

WHEREAS, Plaintiff is seeking materials and information that Defendant City of Los Angeles (“City”) maintains as confidential, such as personnel files of the police officers involved in this incident, Force Investigation Division materials and information, Internal Affairs materials and information, video recordings, and other administrative materials and information currently in the possession of the City and which the City believes need special protection from public disclosure and from use for any purpose other than prosecuting this litigation;

1 WHEREAS, Plaintiff is also seeking official information contained in the
2 personnel files of the police officers involved in the subject incident, which the City
3 maintains as strictly confidential and which the City believes need special protection
4 from public disclosure and from use for any purpose other than prosecuting this
5 litigation;

6 WHEREAS, the City asserts that the confidentiality of the materials and
7 information sought by Plaintiff is recognized by California and federal law, as
8 evidenced *inter alia* by *California Penal Code* section 832.7 and *Kerr v. United*
9 *States Dist. Ct. for N.D. Cal.*, 511 F.2d 192, 198 (9th Cir. 1975), *aff'd*, 426 U.S. 394
10 (1976);

11 WHEREAS, the City has not publicly released the materials and information
12 referenced above except under protective order or pursuant to court order, if at all;

13 WHEREAS, the City contends that these materials and information are of the
14 type that has been used to initiate disciplinary action against Los Angeles Police
15 Department (“LAPD”) officers, and has been used as evidence in disciplinary
16 proceedings, where the officers’ conduct was considered to be contrary to LAPD
17 policy;

18 WHEREAS, the City contends that absent a protective order delineating the
19 responsibilities of nondisclosure on the part of the parties hereto, there is a specific
20 risk of unnecessary and undue disclosure by one or more of the many attorneys,
21 secretaries, law clerks, paralegals and expert witnesses involved in this case, as well
22 as the corollary risk of embarrassment, harassment and professional and legal harm
23 on the part of the LAPD officers referenced in the materials and information;

24 WHEREAS, the City contends that unfettered disclosure of the materials and
25 information, absent a protective order, would allow the media to share this
26 information with potential jurors in the area, impacting the rights of the City herein
27 to receive a fair trial.

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1 **ORDER ON STIPULATION**

2 Accordingly, the parties stipulate as follows:

3 1. Defendants (hereinafter “Disclosing Party(ies)”) may designate as
4 confidential any personnel files, videos, Force Investigation Division materials,
5 Internal Affairs materials or any other materials or writing that they, in good faith,
6 believe is protected from disclosure within the meaning of FRCivP 26(g), in that
7 they believe the material contains confidential or private information. Such
8 materials may be classified as subject to this protective order by marking the
9 material, each document or writing with a watermark that includes words such as
10 “Confidential,” “Confidential Documents,” “Confidential Material,” “Subject to
11 Protective Order,” or words of a similar effect, and that includes the case name and
12 case number. Materials and writings so designated, and all privileged information
13 derived therefrom [hereinafter collectively referred to as “Confidential Material”],
14 shall be treated in accordance with the terms of this Stipulation. In making this
15 designation, the Disclosing Parties are also representing that no portion of the
16 materials is segregable and, therefore, subject to production without restriction as
17 “Confidential.”

18 2. Confidential Material may be used by the persons receiving such
19 information [hereinafter “Receiving Party(ies)”] only for the purpose of litigation of
20 this case, and for such other purposes as permitted by law.

21 3. This Stipulation applies not only to the Confidential Material, but also
22 to (1) any information copied or extracted from the Confidential Material; (2) all
23 copies, excerpts, summaries or compilations of Confidential Material; and (3) any
24 testimony, conversations, or presentations by Receiving Parties that might reveal
25 Confidential Material.

26 4. Subject to the further conditions imposed by this Stipulation, the
27 Confidential Material may only be disclosed to the Court and to the following
28 “qualified” persons:

- 1 (a) Counsel of record for the parties to this civil litigation;
2 (b) Defendants City of Los Angeles and Los Angeles Police
3 Department;
4 (c) Attorneys, paralegals, law clerks, stenographic, clerical and
5 secretarial personnel who are employees in the offices of counsel referred to in
6 subparagraph (a);
7 (d) Parties to the litigation;
8 (e) Expert witnesses consulted and/or retained for this action; and
9 (f) The judge and court personnel, including stenographic reporters.

10 5. Prior to the disclosure of any Confidential Material to any person
11 described in paragraph 3(a), (c) or (d), counsel for the Receiving Party who seeks to
12 use or disclose such Confidential Material shall first provide a copy of this
13 Stipulation and have the individual to whom the Receiving Party intends to disclose
14 said Confidential Material sign the Nondisclosure Agreement set forth in
15 Attachment "A", stating that the person has received and read a copy of the
16 Stipulation and understands that s/he is bound by the terms of the Stipulation.

17 6. Unless made on the record in this litigation, counsel making the
18 disclosure to any qualified person described herein shall retain the original executed
19 copy of the Nondisclosure Agreements until thirty (30) days after this litigation has
20 become final, including any appellate review, and monitoring of an injunction.
21 Counsel for the Receiving Party shall maintain all signed Nondisclosure Agreements
22 and shall produce the original signature page upon reasonable written notice from
23 opposing counsel. If an issue arises regarding a purported unauthorized disclosure
24 of Confidential Material, upon noticed motion of contempt filed by the Disclosing
25 Parties, counsel for the Receiving Party may be required to file the signed
26 Nondisclosure Agreements, as well as a list of the disclosed materials, in camera
27 with the Court having jurisdiction of the Stipulation.

28

1 7. The court reporter, videographer, and audiographer, if any, who record
2 all or part of the depositions in this matter of Defendants City of Los Angeles and
3 Los Angeles Police Department, or any other current or former employee of the Los
4 Angeles Police Department shall be subject to this Order. In preparing the original
5 deposition videotape, audiotape, or portions thereof, any copies thereof, or portions
6 of copies thereof, all materials and testimony designated as “Confidential Material”
7 shall be segregated from the rest of the deposition. No copies of such segregated
8 “Confidential Material” portions of the materials described above shall be provided
9 to any persons other than those persons identified in paragraph 4. Nothing in this
10 agreement is intended to limit the rights of third parties to obtain such Confidential
11 Material through discovery and subpoena power in other proceedings, subject to a
12 motion for a protective order filed in those proceedings by the party seeking to
13 prevent disclosure of the Confidential Material.

14 8. If any “Confidential Material” or testimony derived from such
15 materials occurs at a deposition, those attending such portions of the depositions
16 shall be bound by this Order and, therefore, shall not disclose to any person or
17 entity, in any manner, including orally, any statements made by Defendants City of
18 Los Angeles and Los Angeles Police Department, or any other current or former
19 employee of the Los Angeles Police Department during the “Confidential” sections
20 of said depositions.

21 9. An inadvertent failure to designate qualified materials or items does
22 not, standing alone, waive the Disclosing Party’s right to secure protection under
23 this Order for such material. Upon being notified of the correction of a designation,
24 the Receiving Party must make reasonable efforts to assure that the material is
25 treated in accordance with this provisions of this Order.

26 10. Upon final termination of this litigation, including any appeal
27 pertaining thereto, all materials still classified as Confidential Material at that time,
28 and all copies thereof, including copies provided to any qualified person in

1 paragraph 3 herein above, shall be returned to the Disclosing Party within thirty (30)
2 days.

3 11. If any Receiving Party who receives Confidential Material is served
4 with a subpoena or other request seeking Confidential Material, s/he or it shall
5 immediately give written notice to counsel for the Disclosing Parties, identifying the
6 Confidential Material sought and the time in which production or other disclosure is
7 required. Such notice shall be given sufficiently in advance of the date for
8 production or other disclosure so that the Disclosing Parties have the opportunity to
9 obtain an order barring production or other disclosure, or to otherwise respond to the
10 subpoena or other request for production or disclosure of Confidential Material.
11 The Receiving Party also shall immediately give notice to the party who caused the
12 subpoena or other request to issue that the material is subject to this Order and
13 include a copy of this Order. In no event should production or disclosure be made
14 without prior written approval by the Disclosing Party's Counsel unless required by
15 court order arising from a motion to compel production or disclosure of Confidential
16 Material.

17 12. Any pleadings, motions, briefs, declarations, stipulations, exhibits or
18 other written submissions to the Court in this litigation which contain or incorporate
19 Confidential Material shall be filed and maintained in accordance with Local Rule
20 79-5, which governs the filing of materials under seal. Any other pleadings,
21 motions, briefs, declarations, stipulations, exhibits or other written submissions that
22 refer but do not contain or incorporate Confidential Material, shall designate the
23 particular aspects that are confidential so as to enable the Court, in drafting
24 presumptively public orders relating to these filings under seal, to determine
25 whether there is evidence which the Court should attempt not to disclose. If any
26 papers to be filed with the Court contain Confidential Material, the proposed filing
27 shall be accompanied by an application to file the papers or the portion thereof
28 containing the protected information, under seal and that the application shall be

1 directed to the judge to whom the papers are directed. Pending the ruling on the
2 application, the papers or portions thereof subject to the sealing application shall be
3 lodged under seal.

4 13. Counsel for the parties agree to request that any motions, applications
5 or other pre-trial proceedings which would entail the disclosure of Confidential
6 Material be heard by the Court in a manner that would preserve the confidential
7 nature of the information, unless having heard opposition from counsel to such a
8 process, the court orders otherwise.

9 14. This Order does not govern the use of Confidential Material at trial.
10 The use of Confidential Material at trial shall be governed by the order(s) of the trial
11 judge. Nothing herein shall prejudice any party's rights to object to the introduction
12 of any Confidential Material into evidence.

13 15. Any violation of this Order may be punished by any and all appropriate
14 measures including, without limitation, contempt proceedings and/or monetary
15 sanctions.

16 16. Any party bound by this Stipulation who contests the confidential
17 nature of materials produced pursuant to this Stipulation may move the Court for an
18 order to have the materials removed from the protective order and to have the
19 materials declared not confidential, or otherwise move to modify the Stipulation as
20 to some or all of the materials.

21 17. Any procedures specified above in this Protective Order are in addition
22 to, and not in lieu of, compliance with the local rules regarding discovery motions.

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24 ***IT IS SO ORDERED.***

25 DATED: October 4, 2017

26 /S/ Frederick F. Mumm
27 The Honorable Frederick F. Mumm
28 United States Magistrate Judge

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ATTACHMENT “A”
NONDISCLOSURE AGREEMENT

I, _____ do solemnly swear that I am fully familiar with the terms of the Protective Order entered in *Edmon Washington v. City of Los Angeles, et al.*, United States District Court for the Central District of California, Central Division, Case No. CV 17-02829-PA (FFMx), and hereby agree to comply with and be bound by the terms and conditions of said Order. I hereby consent to the jurisdiction of the United States District Court for the Central District of California for purposes of enforcing this Order.

Dated: _____ Signed: _____