

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ARNOLDO CASILLAS, ESQ., SBN 158519
DENISSE O. GASTÉLUM, SBN 282771
CASILLAS & ASSOCIATES
3777 Long Beach Boulevard, Third Floor
Long Beach, California 90807
Telephone: (562) 203-3030
Facsimile: (323) 725-0350
Email: acasillas@casillaslegal.com

Elizabeth T. Fitzgerald, Deputy City Attorney
Office of Los Angeles City Attorney
200 N. Main Street, 6th Floor, City Hall East
Los Angeles, California 90012
Tel: (213) 978-7560
Fax: (213) 978-8785
Email: elizabeth.fitzgerald@lacity.org

Attorneys for Plaintiff KOREY WYNNE

Attorneys for Defendants CITY OF LOS ANGELES & LOS ANGELES POLICE DEPARTMENT

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

KOREY WYNNE,

Plaintiff,

vs.

CITY OF LOS ANGELES, LOS ANGELES POLICE DEPARTMENT, DOES 1 through 10, inclusive,

Defendants.

) **CASE NO. 2:17 cv 04301 DMG (ASx)**
) *[Assigned to the Hon. Dolly M. Gee]*
) **STIPULATED PROTECTIVE ORDER**

1. A. PURPOSES AND LIMITATIONS

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

1 applicable legal principles. The parties further acknowledge, as set forth in Section
2 12.3, below, that this Stipulated Protective Order does not entitle them to file
3 confidential information under seal; Civil Local Rule 79-5 sets forth the procedures
4 that must be followed and the standards that will be applied when a party seeks
5 permission from the court to file material under seal

6 **B. GOOD CAUSE STATEMENT**

7 Good cause exists for entry of this order. As Plaintiff is seeking and
8 Defendants may produce, among other things, third party private and confidential
9 information; portions of the personnel files of the police and detention officers
10 involved in the subject incident, which contains confidential information, and
11 information the City regards as official information; performance evaluations, work
12 schedules/logs and rosters, and training records for the involved police/detention
13 officers; administrative investigation files - including but not limited to Detective and
14 Crime Scene Investigator(s) materials, Internal Affairs materials – which contain
15 incident reports, witness statements, and other sensitive materials which the City
16 believes need special protection from public disclosure; detention records pertaining
17 to Plaintiff including but not limited to visitor and communication logs and medical
18 and mental health records; the City’s protocol and procedure concerning detention
19 facilities, and any official information documents produced to Plaintiffs during the
20 course of discovery in this litigation and any subsequent reproduction thereof, as well
21 as private information of the Los Angeles Police Department employees.
22 Additionally, these documents include sensitive law enforcement information.
23 Limiting disclosure of these documents to the context of this litigation as provided
24 herein will, accordingly, further important law-enforcement objectives and interests,
25 including safety of personnel and the public.

26 The documents identified in this Protective Order, which Defendants believe in
27 good faith constitute or embody confidential information which the City maintains as
28

1 strictly confidential and are otherwise generally unavailable to the public, or which
2 may be privileged or otherwise protected from disclosure under state or federal
3 statutes, court rules, case decisions, or common law, are therefore entitled to
4 heightened protection from disclosure.

5 The City contends that absent a protective order delineating the responsibilities
6 of nondisclosure on the part of the parties hereto, there is a specific risk of
7 unnecessary and undue disclosure by one or more of the many attorneys, secretaries,
8 law clerks, paralegals and expert witnesses involved in this case, as well as the
9 corollary risk of embarrassment, harassment and professional and legal harm on the
10 part of the LAPD officers referenced in the materials and information.

11 The City also contends that the unfettered disclosure of the materials and
12 information, absent a protective order, would allow the media to share this
13 information with potential jurors in the area, impacting the rights of the City herein to
14 receive a fair trial.

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

25 ///

26 ///

27 ///

28

1 2. DEFINITIONS

2 2.1 Action: This pending federal law suit.

3 2.2 Challenging Party: a Party or Non-Party that challenges the designation
4 of information or items under this Order.

5 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
6 how it is generated, stored or maintained) or tangible things that qualify for
7 protection under Federal Rule of Civil Procedure 26(c), and as specified above in the
8 Good Cause Statement. This also includes (1) any information copied or extracted
9 from the Confidential information; (2) all copies, excerpts, summaries or
10 compilations of Confidential information; and (3) any testimony, conversations, or
11 presentations that might reveal Confidential information.

12 2.4 Counsel: Counsel of record for the parties to this civil litigation and their
13 support staff.

14 2.5 Designating Party: a Party or Non-Party that designates information or
15 items that it produces in disclosures or in responses to discovery as
16 “CONFIDENTIAL.”

17 2.6 Disclosure or Discovery Material: all items or information, regardless of
18 the medium or manner in which it is generated, stored, or maintained (including,
19 among other things, testimony, transcripts, and tangible things), that are produced or
20 generated in disclosures or responses to discovery in this matter.

21 2.7 Expert: a person with specialized knowledge or experience in a matter
22 pertinent to the litigation who has been retained by a Party or its counsel to serve as
23 an expert witness or as a consultant in this Action.

24 2.8 House Counsel: attorneys who are employees of a party to this Action.
25 House Counsel does not include Outside Counsel of Record or any other outside
26 counsel.

27 ///

28

1 2.9 Non-Party: any natural person, partnership, corporation, association, or
2 other legal entity not named as a Party to this action.

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

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

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

12 2.13 Professional Vendors: persons or entities that provide litigation support
13 services (e.g., photocopying, videotaping, translating, preparing exhibits or
14 demonstrations, and organizing, storing, or retrieving data in any form or medium)
15 and their employees and subcontractors.

16 2.14 Protected Material: any Disclosure or Discovery Material that is
17 designated as “CONFIDENTIAL.”

18 2.15 Receiving Party: A Party that receives Disclosure or Discovery Material
19 from a Producing Party.

20
21 3. SCOPE

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

27
28

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

3
4 4. DURATION

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

13
14 5. DESIGNATING PROTECTED MATERIAL

15 5.1 Exercise of Restraint and Care in Designating Material for Protection.

16 Each Party or Non-Party that designates information or items for protection
17 under this Order must take care to limit any such designation to specific material that
18 qualifies under the appropriate standards. The Designating Party must designate for
19 protection only those parts of material, documents, items, or oral or written
20 communications that qualify so that other portions of the material, documents, items,
21 or communications for which protection is not warranted are not swept unjustifiably
22 within the ambit of this Order.

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

28

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

4 ///

5 5.2 Manner and Timing of Designations.

6 Except as otherwise provided in this Order (see, e.g., second paragraph of
7 section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery
8 Material that qualifies for protection under this Order must be clearly so designated
9 before the material is disclosed or produced.

10 Designation in conformity with this Order requires:

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

18 A Party or Non-Party that makes original documents available for inspection
19 need not designate them for protection until after the inspecting Party has indicated
20 which documents it would like copied and produced. During the inspection and
21 before the designation, all of the material made available for inspection shall be
22 deemed “CONFIDENTIAL.” After the inspecting Party has identified the documents
23 it wants copied and produced, the Producing Party must determine which documents,
24 or portions thereof, qualify for protection under this Order. Then, before producing
25 the specified documents, the Producing Party must affix the “CONFIDENTIAL
26 legend” to each page that contains Protected Material. If only a portion or portions of
27 the material on a page qualifies for protection, the Producing Party also must clearly
28

1 identify the protected portion(s) (e.g., by making appropriate markings in the
2 margins).

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

6 (c) for information produced in some form other than documentary and for
7 any other tangible items, that, at a minimum, the Producing Party affix in a prominent
8 place on the exterior of the container or containers in which the information is stored
9 the legend "CONFIDENTIAL." If only a portion or portions of the information
10 warrants protection, the Producing Party, to the extent practicable, shall identify the
11 protected portion(s).

12 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
13 failure to designate qualified information or items does not, standing alone, waive the
14 Designating Party's right to secure protection under this Order for such material.
15 Upon timely correction of a designation, the Receiving Party must make reasonable
16 efforts to assure that the material is treated in accordance with the provisions of this
17 Order.

18 19 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

20 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
21 designation of confidentiality at any time that is consistent with the Court's
22 Scheduling Order.

23 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
24 resolution process under Local Rule 37.1 et seq.

25 6.3 The burden of persuasion in any such challenge proceeding shall be on
26 the Designating Party. Frivolous challenges, and those made for an improper purpose
27 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
28

1 expose the Challenging Party to sanctions. Unless the Designating Party has waived
2 or withdrawn the confidentiality designation, all parties shall continue to afford the
3 material in question the level of protection to which it is entitled under the Producing
4 Party's designation until the Court rules on the challenge.
5

6 7. ACCESS TO AND USE OF PROTECTED MATERIAL

7 7.1 Basic Principles. A Receiving Party may use Protected Material that is
8 disclosed or produced by another Party or by a Non-Party in connection with this
9 Action only for prosecuting, defending, or attempting to settle this Action. Such
10 Protected Material may be disclosed only to the categories of persons and under the
11 conditions described in this Order. When the Action has been terminated, a
12 Receiving Party must comply with the provisions of section 13 below (FINAL
13 DISPOSITION).

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

17 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
18 otherwise ordered by the court or permitted in writing by the Designating Party, a
19 Receiving Party may disclose any information or item designated
20 "CONFIDENTIAL" only to:

21 (a) the Receiving Party's Outside Counsel of Record in this Action, as well as
22 employees of said Outside Counsel of Record to whom it is reasonably necessary to
23 disclose the information for this Action;

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

26 (c) Experts (as defined in this Order) of the Receiving Party to whom
27
28

1 disclosure is reasonably necessary for this Action and who have signed the
2 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

3 (d) the court and its personnel;

4 (e) court reporters and their staff;

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

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

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

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

22
23 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
24 OTHER LITIGATION

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

28

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

3 (b) promptly notify in writing the party who caused the subpoena or order to
4 issues in the other litigation that some or all of the material covered by the subpoena
5 or order is subject to this Protective Order. Such notification shall include a copy of
6 this Stipulated Protective Order; and

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

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

17
18 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
19 PRODUCED IN THIS LITIGATION

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

25 (b) In the event that a Party is required, by a valid discovery request, to
26 produce a Non-Party’s confidential information in its possession, and the Party is
27 subject to an agreement with the Non-Party not to produce the Non-Party’s
28

1 confidential information, then the Party shall:

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

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

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

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

18
19 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL.

20 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
21 Protected Material to any person or in any circumstance not authorized under this
22 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
23 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
24 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or
25 persons to whom unauthorized disclosures were made of all the terms of this Order,
26 and (d) request such person or persons to execute the "Acknowledgment and
27 Agreement to Be Bound" that is attached hereto as Exhibit A.

28

1 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
2 PROTECTED MATERIAL.

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

13
14 12. MISCELLANEOUS

15 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
16 person to seek its modification by the Court in the future.

17 12.2 Right to Assert Other Objections. By stipulating to the entry of this
18 Protective Order no Party waives any right it otherwise would have to object to
19 disclosing or producing any information or item on any ground not addressed in this
20 Stipulated Protective Order. Similarly, no Party waives any right to object on any
21 ground to use in evidence of any of the material covered by this Protective Order.

22 12.3 Filing Protected Material. A Party that seeks to file under seal any
23 Protected Material must comply with Civil Local Rule 79-5. Protected Material may
24 only be filed under seal pursuant to a court order authorizing the sealing of the
25 specific Protected Material at issue. If a Party's request to file Protected Material
26 under seal is denied by the court, then the Receiving Party may file the information in
27 the public record unless otherwise instructed by the court.

28

1 13. FINAL DISPOSITION.

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

21

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

25 ///

26 ///

27 ///

28

1 **APPENDIX "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
5 of perjury that I have read in its entirety and understand the Stipulated Protective
6 Order that was issued by the United States District Court, Central District entered on
7 the ____ day of _____, 2018, in the case of *Estate of Korey Wynne, et al.*
8 *v. City of Los Angeles, et al*, United States District Court, Central District of
9 California Case No. 2:17-cv-04301-DMG(ASx). I agree to comply with and to be
10 bound by all the terms of this Stipulated Protective Order and I understand and
11 acknowledge that failure to so comply could expose me to sanctions and punishment
12 in the nature of contempt. I solemnly promise that I will not disclose in any manner
13 any information or item that is subject to this Stipulated Protective Order to any
14 person or entity except in strict compliance with the provisions of this Order.

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

19 I hereby appoint _____ [print or type full name] of
20 _____ [print or type full address and
21 telephone number] as my California agent for service of process in connection with
22 this action or any proceedings related to enforcement of this Stipulated Protective
23 Order.

24 Dated: _____

25 City and State where sworn and signed: _____

26 Printed Name: _____

27 Signature: _____

28