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

MONIQUE MORGAN, individually  
and as successor in interest to Carnell  
Snell, Jr., deceased,

Plaintiff,

vs.

CITY OF LOS ANGELES;  
LEOVARDO GUILLEN; and DOES 1-  
10, inclusive,

Defendants.

**CASE NO. CV17-06693 VAP (JEMx)**

*Hon. Judge Virginia A. Phillips – Ctrm. 8A, 8<sup>th</sup> Fl.  
Hon. Mag. John E. McDermott, Ctrm 640, 6<sup>th</sup> Fl.*

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

**ORDER ON STIPULATION**

The Court, finding good cause, Orders as follows:

**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

1 protection it affords from public disclosure and use extends only to the limited  
2 information or items that are entitled to confidential treatment under the applicable  
3 legal principles.

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5 **B. GOOD CAUSE STATEMENT**

6 This action involves the City of Los Angeles and members of the Los Angeles  
7 Police Department. Plaintiff is seeking materials and information that Defendants the  
8 City of Los Angeles et al. (“City”) maintains as confidential, such as personnel files of  
9 the police officers involved in this incident, Internal Affairs materials and information,  
10 video recordings, audio recordings, Force Investigation Division materials and  
11 information and other administrative materials and information currently in the  
12 possession of the City and which the City believes need special protection from public  
13 disclosure and from use for any purpose other than prosecuting this litigation. Plaintiff  
14 is also seeking official information contained in the personnel files of the police  
15 officers involved in the subject incident, which the City maintains as strictly  
16 confidential and which the City believes need special protection from public disclosure  
17 and from use for any purpose other than prosecuting this litigation.

18 The City asserts that the confidentiality of the materials and information sought  
19 by Plaintiff is recognized by California and federal law, as evidenced inter alia by  
20 California *Penal Code* section 832.7 and *Kerr v. United States Dist. Ct. for N.D. Cal.*,  
21 511 F.2d 192, 198 (9th Cir. 1975), aff'd, 426 U.S. 394 (1976). The City has not  
22 publicly released the materials and information referenced above except under  
23 protective order or pursuant to a court order, if at all. These materials and information  
24 are of the type that has been used to initiate disciplinary action against Los Angeles  
25 Police Department (“LAPD”) officers, and has been used as evidence in disciplinary  
26 proceedings, where the officers’ conduct was considered to be contrary to LAPD  
27 policy.

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

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

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

21  
22 **C. ACKNOWLEDGMENT OF PROCEDURE FOR FILING UNDER**  
23 **SEAL**

24 The parties agree that any pleadings, motions, briefs, declarations, stipulations,  
25 exhibits or other written submissions to the Court in this litigation which contain or  
26 incorporate Confidential Material shall be lodged with an application and/or joint  
27 stipulation to file the papers or the portion thereof containing the Confidential  
28 Material, under seal.

1 The parties agree that they will meet and confer regarding the necessity of  
2 seeking an order from the Court filing under seal any pleadings, motions, briefs,  
3 declarations, stipulations, exhibits or other documents and/or materials at least five (5)  
4 days prior to filing any application and/or joint stipulation to file under seal.

5 The parties further acknowledge, as set forth in Section 12.3, below, that this  
6 Stipulated Protective Order does not automatically entitle them to file confidential  
7 information under seal and that Local Civil Rule 79-5 sets forth the procedures that  
8 must be followed and the standards that will be applied when a party seeks permission  
9 from the Court to file material under seal.

10  
11 **2. DEFINITIONS**

12 **2.1 Action:** *Monique Morgan v. City of Los Angeles, et al.* CV17-06693  
13 VAP (JEMx).

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

16 **2.3 “CONFIDENTIAL” Information or Items:** information (regardless of  
17 how it is generated, stored or maintained) or tangible things that qualify for protection  
18 under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause  
19 Statement. This also includes (1) any information copied or extracted from the  
20 Confidential information; (2) all copies, excerpts, summaries, abstracts or compilations  
21 of Confidential information; and (3) any testimony, conversations, or presentations that  
22 might reveal Confidential information.

23 **2.4 Counsel:** Counsel of record for the parties to this civil litigation and their  
24 support staff.

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

1           **2.6 Disclosure or Discovery Material**: all items or information, regardless  
2 of the medium or manner in which it is generated, stored, or maintained (including,  
3 among other things, testimony, transcripts, and tangible things), that are produced or  
4 generated in disclosures or responses to discovery in this matter

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

8           **2.8 Final Disposition**: when this Action has been fully and completely  
9 terminated by way of settlement, dismissal, trial and/or appeal.

10           **2.9 House Counsel**: attorneys other than Counsel (as defined in paragraph  
11 2.4) and who are employees of a party to this Action.

12           **2.10 Non-Party**: any natural person, partnership, corporation, association or  
13 other legal entity not named as a Party to this action.

14           **2.11 Outside Counsel of Record**: attorneys who are not employees of a party  
15 to this Action but are retained to represent or advise a party to this Action and have  
16 appeared in this Action on behalf of that party or are affiliated with a law firm that has  
17 appeared on behalf of that party, and includes support staff.

18           **2.12 Party**: any party to this Action, including all of its officers, directors,  
19 boards, departments, divisions, employees, consultants, retained experts, and Outside  
20 Counsel of Record (and their support staffs).

21           **2.13 Producing Party**: a Party or Non-Party that produces Disclosure or  
22 Discovery Material in this Action.

23           **2.14 Professional Vendors**: persons or entities that provide litigation support  
24 services (e.g., photocopying, videotaping, translating, preparing exhibits or  
25 demonstrations, and organizing, storing, or retrieving data in any form or medium) and  
26 their employees and subcontractors.

27           **2.15 Protected Material**: any Disclosure or Discovery Material that is  
28 designated as “CONFIDENTIAL.”

1           **2.16 Receiving Party**: a Party that receives Disclosure or Discovery Material  
2 from a Producing Party.

3  
4           **3. SCOPE**

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

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

12  
13           **4. DURATION**

14           Once a trial commences in this Action, information that was designated as  
15 CONFIDENTIAL or maintained pursuant to this protective order and that is  
16 introduced or admitted as an exhibit at trial becomes public and will be presumptively  
17 available to all members of the public, including the press, unless compelling reasons  
18 supported by specific factual findings to proceed otherwise are made to the trial judge  
19 in advance of the trial. *See Kamakana v. City and County of Honolulu*, 447 F.3d 1172,  
20 1180-81 (9th Cir. 2006) (distinguishing “good cause” showing for sealing documents  
21 produced in discovery from “compelling reasons” standard when merits-related  
22 documents are part of court record). Accordingly, the terms of this protective order do  
23 not extend beyond the commencement of the trial as to the CONFIDENTIAL  
24 information and materials introduced or admitted as an exhibit at trial.

25  
26           **5. DESIGNATING PROTECTED MATERIAL**

27           **5.1 Exercise of Restraint and Care in Designating Material for**  
28           **Protection.**

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

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

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

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

22 Designation in conformity with this Order requires:

23 (a) for information in documentary form (e.g., paper or electronic documents,  
24 but excluding transcripts of depositions or other pretrial or trial proceedings), that the  
25 Producing Party affix at a minimum, the legend "CONFIDENTIAL" or words of a  
26 similar effect, and that includes the case name and case number (hereinafter  
27 "CONFIDENTIAL legend"), to each page that contains protected material. If only a  
28 portion of the material on a page qualifies for protection, the Producing Party also must

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

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

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

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

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



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2 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

3 **6.1 Timing of Challenges.** Any Party or Non-Party may challenge a  
4 designation of confidentiality at any time that is consistent with the Court’s Scheduling  
5 Order.

6 **6.2 Meet and Confer.** The Challenging Party shall initiate the dispute  
7 resolution process under Local Rule 37.1 et seq.

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

15  
16 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

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

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

26 **7.2 Disclosure of “CONFIDENTIAL” Information or Items.** Unless  
27 otherwise ordered by the court or permitted in writing by the Designating Party, a  
28

1 Receiving Party may disclose any information or item designated “CONFIDENTIAL”  
2 only to:

3 (a) the Receiving Party’s Counsel of Record in this Action, as well as  
4 employees of said Counsel of Record to whom it is reasonably necessary to disclose  
5 the information for this Action;

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

9 (c) the court and its personnel;

10 (e) court reporters and their staff;

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

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

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

25 (h) any mediator or settlement officer, and their supporting personnel, mutually  
26 agreed upon by any of the parties engaged in settlement discussions and who have  
27 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A).

28

1           **7.3.** Counsel making the disclosure to any qualified person described herein  
2 shall retain the original executed copy of the Nondisclosure Agreement until sixty (60)  
3 days after this litigation has become final, including any appellate review, and  
4 monitoring of an injunction. Counsel for the Receiving Party shall maintain all signed  
5 Nondisclosure Agreements and shall produce the original signature page upon  
6 reasonable written notice from opposing counsel. If an issue arises regarding a  
7 purported unauthorized disclosure of Confidential Information, upon noticed motion of  
8 contempt filed by the Designating Party, counsel for the Receiving Party may be  
9 required to file the signed Nondisclosure Agreements, as well as a list of the disclosed  
10 materials, in camera with the Court having jurisdiction of the Stipulation.  
11

12 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED**  
13 **IN OTHER LITIGATION**

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

- 17           (a) promptly notify in writing the Designating Party. Such notification shall  
18 include a copy of the subpoena or court order;
- 19           (b) promptly notify in writing the party who caused the subpoena or order to  
20 issue in the other litigation that some or all of the material covered by the  
21 subpoena or order is subject to this Protective Order. Such notification shall  
22 include a copy of this Stipulated Protective Order; and
- 23           (c) cooperate with respect to all reasonable procedures sought to be pursued by  
24 the Designating Party whose Protected Material may be affected.  
25

26           The Party served with the subpoena or court order shall not produce any  
27 information designated in this action as “CONFIDENTIAL”, unless the Party has  
28 obtained the Designating Party’s permission or an order from the court from which the

1 subpoena or order issued. Nothing in these provisions should be construed as  
2 authorizing or encouraging a Receiving Party in this Action to disobey a lawful  
3 directive from another court.

4  
5 **9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**  
6 **PRODUCED IN THIS LITIGATION**

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

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

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

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

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

24 (c) If the Non-Party fails to seek a protective order from this court within 14  
25 days of receiving the notice and accompanying information, the Receiving Party may  
26 produce the Non-Party’s confidential information responsive to the discovery request.  
27 If the Non-Party timely seeks a protective order, the Receiving Party shall not produce  
28 any information in its possession or control that is subject to the confidentiality

1 agreement with the Non-Party before a determination by the court. Absent a court  
2 order to the contrary, the Non-Party shall bear the burden and expense of seeking  
3 protection in this court of its Protected Material.  
4

5 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

6 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
7 Protected Material to any person or in any circumstance not authorized under this  
8 Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing  
9 the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve  
10 all unauthorized copies of the Protected Material, (c) inform the person or persons to  
11 whom unauthorized disclosures were made of all the terms of this Order, and (d)  
12 request such person or persons to execute the “Acknowledgment and Agreement to Be  
13 Bound” that is attached hereto as Exhibit A.  
14

15 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**  
16 **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 protection,  
19 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil  
20 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure  
21 may be established in an e-discovery order that provides for production without prior  
22 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the  
23 parties reach an agreement on the effect of disclosure of a communication or  
24 information covered by the attorney-client privilege or work product protection, the  
25 parties may incorporate their agreement in the stipulated protective order submitted to  
26 the court.  
27

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1 **12. MISCELLANEOUS**

2 **12.1 Right to Further Relief.** Nothing in this Order abridges the right of any  
3 person to seek its modification by the Court in the future.

4 **12.2 Right to Assert Other Objections.** By stipulating to the entry of this  
5 Protective Order, no Party waives any right it otherwise would have to object to  
6 disclosing or producing any information or item on any ground not addressed in this  
7 Stipulated Protective Order. Similarly, no Party waives any right to object on any  
8 ground to use in evidence of any of the material covered by this Protective Order.

9 **12.3 Filing Protected Material.** A Party that seeks to file under seal any  
10 Protected Material must comply with Local Civil Rule 79-5. Protected Material may  
11 only be filed under seal pursuant to a court order authorizing the sealing of the specific  
12 Protected Material at issue. If a Party's request to file Protected Material under seal is  
13 denied by the court, then the Receiving Party may file the information in the public  
14 record unless otherwise instructed by the court.

15  
16 **13. FINAL DISPOSITION**


17 After the FINAL DISPOSITION of this Action, as defined in paragraph 2.8,  
18 within 30 days of a written request by the Designating Party, each Receiving Party  
19 must return all Protected Material to the Producing Party. As used in this subdivision,  
20 "all Protected Material" includes all copies, abstracts, compilations, summaries, and  
21 any other format reproducing or capturing any of the Protected Material. The  
22 Receiving Party must submit a written certification to the Producing Party (and, if not  
23 the same person or entity, to the Designating Party) by the 30 day deadline that (1)  
24 identifies (by category, where appropriate) all the Protected Material that was returned  
25 and (2) affirms that the Receiving Party has not retained any copies, abstracts,  
26 compilations, summaries or any other format reproducing or capturing any of the  
27 Protected Material.

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1 **14. VIOLATION**

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

4  
5 ***IT IS SO ORDERED.***

6  
7 Dated: March 13, 2018 By:  \_\_\_\_\_  
8 **HONORABLE JOHN A. McDERMOTT**  
9 **UNITED STATES MAGISTRATE JUDGE**

**ATTACHMENT "A"**  
**NONDISCLOSURE AGREEMENT**

I, \_\_\_\_\_ do solemnly swear that I am fully familiar with the terms of the Protective Order entered in *Monique Morgan v. City of Los Angeles, et al.*, United States District Court for the Central District of California, Central Division, Case No. CV17-06693 VAP (JEMx), 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: \_\_\_\_\_