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UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

**Arnulfo Hernandez,**  
  
Plaintiff,  
  
– v. –  
  
**One Unknown Agent of the  
Department of Alcohol, Tobacco,  
Firearms and Explosives, United  
States of America, and Does 1–10,**  
  
Defendants.

No. 16-cv-727 SVW (SPx)  
  
**Protective Order**  
  
Discovery Matter  
  
Honorable Sheri Pym  
United States Magistrate Judge  
  
[NOTE THAT COURT STRUCK A  
PROPOSED PARAGRAPH ON PAGE 3]

The Court, having read and considered the parties’ joint stipulation for protective order, and for the reasons stated in the joint stipulation and for good cause shown,

**It is hereby ordered** that the United States is permitted to produce: (1) audio recordings of interviews from the San Bernardino County Sheriff’s Department investigation of the shooting; (2) San Bernardino County Sheriff’s Department report on the shooting, including attachments; (3) Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) Shooting Review Board report on the shooting, including attachments; (4) ATF and Federal Law Enforcement Training Centers policies on use of force and search warrants; (5) use of force and fraud investigation reports involving the ATF agent;

1 (6) the training records of the ATF agent involved in the shooting (hereinafter referred to  
2 as Protected Material).

3 Protected Material will be designated by stamping “confidential” on the pages of  
4 the document.

5 Protected Material will be redacted before disclosure to remove personally  
6 identifiable information except for first and last names, any personally identifiable  
7 information of the plaintiff, and any addresses and phone numbers of witnesses other  
8 than law enforcement employees and confidential informants.

9 Plaintiff’s counsel will use Protected Material for purposes of this case only and  
10 will not use it for any other purpose.

11 Protected Material shall be disclosed only to:

- 12 a. Counsel of record for the parties in this case; and
- 13 b. Expert witnesses retained by the parties, provided that they execute  
14 the attached agreement to be bound by protective order in the form attached hereto as  
15 Exhibit A, the executed original of which shall be retained by counsel of record for the  
16 party who has retained the expert witness.

17 Protected Material may not be given to the plaintiff. Plaintiff’s counsel may  
18 discuss with the plaintiff the contents of the audio recordings of interviews from the San  
19 Bernardino County Sheriff’s Department investigation of the shooting and the San  
20 Bernardino County Sheriff’s Department report on the shooting, including attachments,  
21 provided that the plaintiff first executes the attached agreement to be bound by protective  
22 order and the executed agreement is filed on the docket. Plaintiff’s counsel may not  
23 discuss with the plaintiff the contents of the ATF Shooting Review Board report on the  
24 shooting, including attachments, the ATF and Federal Law Enforcement Training  
25 Centers policies on use of force and search warrants, use of force and fraud investigation  
26 reports involving the ATF agent, or training records of the ATF agent.

27 No party shall lodge or file documents, pleadings, transcripts, or other materials in  
28 this case containing or disclosing Protected Material without first seeking and obtaining

1 Court approval to lodge or file the Protected Material under seal under Local Rule 79-  
2 5.1.

3         Within 30 days of the termination of this case (including any appeals), plaintiff's  
4 counsel of record shall return to the United States' counsel of record all originals or  
5 duplicates (as defined by Federal Rule of Evidence 1001) of Protected Material, not  
6 including documents filed with the Court. Within that period, plaintiff's counsel of  
7 record shall also certify to the Court in writing that all Protected Material has been  
8 returned to the United States. If plaintiff's counsel of record fails to do so, the United  
9 States may file a notice of noncompliance to obtain from the Court an order to show  
10 cause why sanctions should not be imposed.

11         This order permits the United States to produce Protected Material, but does not  
12 require production.

13         This stipulated protective order is not intended to affect the rights of any party to  
14 object to discovery under the Federal Rules of Civil Procedure or any other authority;  
15 nor is it intended to alter any burden of proof regarding any assertion of privilege.

16         Nothing in this stipulated protective order shall prohibit a party from seeking  
17 further protection against disclosure of Protected Material.

18         Nothing in this stipulated protective order waives the United States' right to use,  
19 disclose, or disseminate the Protected Material in accordance with the Privacy Act or  
20 other statutes, regulations, or policies.

21         This stipulated protective order does not constitute a ruling on whether any  
22 particular document or category of information is properly discoverable or admissible  
23 and does not constitute a ruling on any potential objection. Other than the documents and  
24 information explicitly set forth herein, this stipulated protective order does not apply to  
25 any information or documents subject to a claim of privilege or other basis of exclusion,  
26 and this stipulated protective order shall not be precedent for adopting any procedure  
27 with respect to the disclosure of any other information.

28         Inadvertent production or disclosure of any information or documents that a party

1 asserts are protected by the attorney-client privilege, attorney work product doctrine, or  
2 any other applicable privilege or protection shall not constitute, or be a factor suggesting,  
3 waiver of such privilege or protection as to the information or documents inadvertently  
4 disclosed, or as to any other undisclosed privileged or protected information or  
5 documents concerning the same subject matter. Inadvertent production of any Protected  
6 Material not marked “confidential” shall not constitute a waiver of any claim of  
7 confidentiality as to that Protected Material. In the event of inadvertent production or  
8 disclosure, the United States may provide written notice to plaintiff’s counsel identifying  
9 the information or documents inadvertently disclosed. Within five business days of  
10 receipt of such notice, plaintiff’s counsel and any other individual who received such  
11 allegedly privileged or protected information or documents shall return to the United  
12 States all such information or documents, and all copies thereof, in his or her possession.

13  
14 Dated: May 3, 2017



Honorable Sheri Pym  
United States Magistrate Judge

15  
16 Presented by:  
17 GIRARDI | KEESE

18 /s/ Nicole DeVanon  
19 Thomas V. Girardi  
20 Nicole F. DeVanon

21 THE COCHRAN FIRM CALIFORNIA

22 /s/ Megan R. Gyongyos  
23 Brian T. Dunn  
24 Megan R. Gyongyos

25 Attorneys for Plaintiff Arnulfo Hernandez

26 SANDRA R. BROWN  
27 Acting United States Attorney  
28 DOROTHY A. SCHOUTEN  
AUSA, Chief, Civil Division

1 ROBYN-MARIE MONTELEONE  
2 AUSA, Chief, Gen. Civil Section

3       /s/ Garret Coyle      

4 GARRET COYLE  
5 Assistant United States Attorney

6 Attorneys for Defendant U.S.A.  
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1 UNITED STATES DISTRICT COURT  
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3 **Arnulfo Hernandez,**  
4 Plaintiff,  
5 - v. -  
6 **One Unknown Agent of the**  
7 **Department of Alcohol, Tobacco,**  
8 **Firearms and Explosives, United**  
9 **States of America, and Does 1-10,**  
10 Defendants.

No. 16-cv-727 SVW (SPx)  
**Agreement To Be Bound By**  
**Protective Order**  
Honorable Stephen V. Wilson  
United States District Judge

11 The undersigned, having read and fully understood the terms of the protective  
12 order entered by the Court in the above-captioned case, hereby agrees to be bound  
13 thereby. The undersigned agrees that Protected Material, as defined in the joint  
14 stipulation for protective order, may be used only in this case and not for any other  
15 purpose. The undersigned agrees not to disseminate or disclose Protected Material or the  
16 contents thereof.

17 Dated: \_\_\_\_\_, 2017

18 \_\_\_\_\_  
Name

19 \_\_\_\_\_  
Signature

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