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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA - FRESNO DIVISION

KIMBERLY BARSAMIAN,

Plaintiff,

v.

CITY OF KINGSBURG, MARTIN
SOLIS, individually and in his official
capacity as a Police Officer for the City of
Kingsburg Police Department, and DOES
1 through 100, inclusive,

Defendants.

CASE NO. 1:07-CV-00316-OWW

**ORDER ALLOWING DEFENDANT
CITY OF KINGSBURG TO FILE
MOTION TO ADMIT EVIDENCE OF
PLAINTIFF'S PRIOR AND POST-
INCIDENT SEXUAL ACTS UNDER
SEAL**

Date: February 20, 2009
Time: 12:15 p.m.
Courtroom: 3

Hon. Oliver W. Wanger
Trial: March 3, 2009

TO ALL PARTIES AND TO THEIR RESPECTIVE COUNSEL OF RECORD.

On July 23, 2007, the Court entered a protective order related to certain documents based on a stipulation between the parties. (Document 16) In the Stipulation, Defendant City of Kingsburg indicated its belief that documents requested by Plaintiff Kimberly Barsamian contain information that is:

- 1. Confidential, sensitive, or potentially invasive of an individual's privacy interest as protected by Article I, § 1 to the California Constitution;
- 2. Protected from disclosure pursuant to the provisions of California Penal Code §§ 832.5 and 832.7, as well as Evidence Code § 1045;

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- 3. Substantially and sufficiently dissimilar in nature so as to be irrelevant and not subject to production;
- 4. Not generally known or available to the general public; and/or
- 5. Not normally revealed to the public or third parties or, if disclosed to third parties would require such third parties to maintain the information in confidence.

Pursuant to the stipulation and order, and Federal Rules of Evidence, Rule 412(c)(2), on January 9, 2009, Defendant, City of Kingsburg, filed its Motion to Admit Evidence of Prior and Post-Incident Sexual Acts (Fed Rule Evid., Rule 412(b)(2)).

With regard to the Motion to Admit Evidence of Prior and Post-Incident Sexual Acts, Federal Rules of Evidence, Rule 412(c)(2) states as follows:

Before admitting evidence under this rule the court must conduct a hearing in camera and afford the victim and parties a right to attend and be heard. The motion, related papers, and the record of the hearing must be sealed and remain under seal unless the court orders otherwise.

Defendant City of Kingsburg’s Motion to Admit Evidence of Plaintiff’s Pre- and Post-Incident Sexual Acts refers to and includes specific references to the sexual conduct of Plaintiff, as obtained from discovery and from her psychiatrist’s expert witness report. Defendant City of Kingsburg hereby requests that this Court seal the above-entitled documents due to the sensitivity and nature of said documents, to avoid undue embarrassment to Plaintiff and to protect the privacy rights of the Plaintiff.

ORDER

Based on the foregoing, and good cause appearing, it is hereby ordered that the above-mentioned documents shall be filed under seal as they are subject to the provisions of Federal Rules of Evidence, Rule 412(c), are sensitive in nature and are privileged under Article I, § 1 to the California Constitution.

IT IS SO ORDERED.

Dated: February 13, 2009

/s/ OLIVER W. WANGER
Hon. Oliver W. Wanger
United States District Court Judge
Eastern District of California