

**P O R T E R | S C O T T**

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Attorneys for Defendants COUNTY OF STANISLAUS, DEPUTY FRANK ALVES,  
DEPUTY J. WALSH, SHERIFF DEPUTY JOSHUA HOUTCHENS, PUBLIC WORKS  
EMPLOYEE STEVE GREEN, MATTHEW ERIKSON PUBLIC WORKS DIRECTOR  
FOR THE CITY OF WATERFORD, SHERIFF ADAM CHRISTIANSON

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

JAMES ALBERT WELLS and JUDY C.  
WELLS,

Case No. 1:08-CV-01146-OWW-GSA

Plaintiffs,

**STIPULATED PROTECTIVE ORDER**

vs.

COUNTY OF STANISLAUS; DEPUTY  
FRANK ALVES; DEPUTY J. WALSH;  
CITY OF WATERFORD; SHERIFF  
DEPUTY JOSHUA HOUTCHENS;  
PUBLIC WORKS EMPLOYEE STEVE  
GREEN; MATTHEW ERICKSON  
PUBLIC WORKS DIRECTOR FOR THE  
CITY OF WATERFORD; SHERIFF  
ADAM CHRISTIANSON TASER  
INTERNATIONAL; ROB JACKSON  
CHIEF OF POLICE SERVICES; and  
Does 1 through 25, inclusive.

Defendants.

Defendants COUNTY OF STANISLAUS, DEPUTY FRANK ALVES, DEPUTY J.  
WALSH, SHERIFF DEPUTY JOSHUA HOUTCHENS, PUBLIC WORKS EMPLOYEE  
STEVE GREEN, MATTHEW ERIKSON PUBLIC WORKS DIRECTOR FOR THE CITY  
OF WATERFORD and SHERIFF ADAM CHRISTIANSON (collectively hereafter  
“Defendants”) in good faith believe that the following documents requested by Plaintiffs  
JAMES ALBERT WELLS and JUDY C. WELLS contain information that is (a)

1 confidential, sensitive, or potentially invasive of an individual’s privacy interests; (b) not  
2 generally known; and, ( c) not normally revealed to the public or third parties or, if disclosed  
3 to third parties, would require such third parties to maintain the information in confidence:

- 4 1. Personnel records of Defendants Houtchens, Alves and Walsh;
- 5 2. Disciplinary history of Defendants Houtchens, Alves and Walsh;
- 6 3. Training records of Defendants Houtchens, Alves and Walsh;
- 7 4. Prior internal affairs investigations pertaining to and any history of citizens  
8 complaints asserted against Defendants Houtchens, Alves and Walsh;
- 9 5. The internal affairs and investigative file into the incident in this case.

10 IT IS HEREBY STIPULATED by, among and between the parties through their  
11 counsels of record that the documents described herein may be designated as “Confidential”  
12 by the COUNTY and produced subject to the following Protective Order:

13 1. The disclosed documents shall be used solely in connection with the civil cases  
14 of *Wells v. County of Stanislaus, et al.*, Case No. 1:08-CV-01146-OWW-GSA (USDC  
15 EDCA) and in the preparation and trial of the cases, or any related proceeding. Defendants  
16 do not waive any objections to the admissibility of the documents or portions thereof in  
17 future proceedings in this case, including trial. Any documents submitted in any related  
18 litigation that were under seal remain under seal in this action.

19 2. A party producing the documents and materials described herein may designate  
20 those materials as confidential by affixing a mark labeling them “Confidential,” provided that  
21 such marking does not obscure or obliterate the content of any record. If any confidential  
22 materials cannot be labeled with this marking, those materials shall be placed in a sealed  
23 envelope or other container that is in turn marked “Confidential” in a manner agree upon by  
24 the disclosing and requesting parties.

25 3. Documents or materials designated under this Protective Order as  
26 “Confidential” may only be disclosed to the following persons:

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1 (a) John Burton and Peter M. Williamson, and associate attorneys in the  
2 offices of each, as counsel for Plaintiffs JAMES ALBERT WELLS and JUDY C. WELLS  
3 in the case enumerated above.

4 (b) Paralegal, clerical and secretarial personnel regularly employed by  
5 counsel referred to in subpart (a) immediately above, including stenographic deposition  
6 reporters or videographers retained in connection with this action;

7 (c) Court personnel, including stenographic reporters or videographers  
8 engaged in proceedings as are necessarily incidental to the preparation for the trial of the civil  
9 action;

10 (d) Any expert, consultant or investigator retained in connection with this  
11 action;

12 (e) The finder of fact at the time of trial, subject to the court's ruling on *in*  
13 *limine* motions and objections of counsel; and,

14 (f) Witnesses during their depositions in this action.

15 4. Prior to the disclosure of any Confidential information to any person identified  
16 in paragraph 3 and its subparts, each such recipient of Confidential information shall be  
17 provided with a copy of this Stipulated Protective Order, which he or she shall read. Upon  
18 reading this Stipulated Protective Order, such person shall acknowledge that he or she has  
19 read this Stipulated Protective Order and agrees to abide by its terms. Such person also must  
20 consent to be subject to the jurisdiction of the United States District Court for the Eastern  
21 District of California, including without limitation any proceeding for contempt. Provisions  
22 of this Stipulated Protective Order, insofar as they restrict disclosure and use of the material,  
23 shall be in effect until further order of this Court. Plaintiffs shall be responsible for internally  
24 tracking the identities of those individuals to whom copies of documents marked  
25 Confidential are given. Defendants may request the identities of said individual(s) upon the  
26 final termination of the litigation or if it is able to demonstrate a good faith basis that  
27 Plaintiffs, or an agent thereof, has breached the terms of the Stipulated Protective Order.

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1           5.     All documents or materials designated as “Confidential” pursuant to this  
2 Stipulated Protective Order, and all papers or documents containing information or materials  
3 designated as “Confidential” that are filed with the Court for any purpose shall be filed and  
4 served under seal, with the following statement affixed to the document or information:

5           This envelope is sealed pursuant to the order of the Court and contains  
6 Confidential information filed in this case by [name of party] and is not to be  
7 opened nor the content thereof displayed or revealed except by order of the  
8 Court.

8           6.     The designation of documents or information as “Confidential” and the  
9 subsequent production thereof is without prejudice to the right of any party to oppose the  
10 admissibility of the designated document or information.

11           7.     A party may apply to the Court for an order that information or materials  
12 labeled “Confidential” are not, in fact, confidential. Prior to applying to the Court for such  
13 an order, the party seeking to reclassify Confidential information shall meet and confer with  
14 the producing party. Until the matter is resolved by the parties or the Court, the information  
15 in question shall continue to be treated according to its designation under the terms of this  
16 Stipulated Protective Order. The producing party shall have the burden of establishing the  
17 propriety of the “Confidential” designation. A party shall not be obligated to challenge the  
18 propriety of a confidentiality designation at the time made and a failure to do so shall not  
19 preclude a subsequent challenge thereto.

20           8.     Copies of Confidential Documents

21           The following procedures shall be utilized by the parties in production of documents  
22 and materials designated as “Confidential”:

23           (a)     Plaintiffs’ counsel shall receive one copy of the Confidential documents  
24 at no charge to Plaintiffs.

25           (b)     Plaintiffs’ counsel shall not copy, duplicate, furnish, disclose, or  
26 otherwise divulge any information contained in the confidential documents to any source,  
27 except those persons identified in Paragraph 3 herein, without further order of the Court or  
28 authorization from counsel for Defendants.

1 (c) If Plaintiffs in good faith require additional copies of documents marked  
2 “Confidential” in preparation of their case, they shall make a further request to counsel for  
3 Defendants. Upon agreement with counsel for Defendants, copies will be produced in a  
4 timely manner to Plaintiffs, pursuant to the procedures of this Stipulated Protective Order.  
5 Agreement shall not be unreasonably withheld by counsel for Defendants.

6 (d) Plaintiffs shall be billed for any additional copying of the Confidential  
7 documents beyond the first copy.

8 (e) Defendants shall produce documents and material marked  
9 “Confidential” to Plaintiffs.

10 (f) If any document or information designated as confidential pursuant to  
11 this Stipulated Protective Order is used or disclosed during the course of a deposition, that  
12 portion of the deposition record reflecting such material shall be stamped with the  
13 appropriate designation and access shall be limited pursuant to the terms of this Stipulated  
14 Protective Order. The court reporter for the deposition shall mark the deposition transcript  
15 cover page and all appropriate pages or exhibits and each copy thereof, in accordance with  
16 paragraph 5 of this Stipulated Protective Order. Only individuals who are authorized by this  
17 Protective Order to see or receive such material may be present during the discussion or  
18 disclosure of such material.

19 9. Notwithstanding the provisions of Paragraph 3, confidential information  
20 produced pursuant to this Protective Order may not be delivered, exhibited or otherwise  
21 disclosed to any reporter, writer or employee of any trade publication, newspaper, magazine  
22 or other media organization, including but not limited to radio and television media.

23 10. Should any information designated confidential be disclosed, through  
24 inadvertence or otherwise, to any person not authorized to receive it under this Protective  
25 Order, the disclosing person(s) shall promptly (a) inform counsel for Defendants of the  
26 recipient(s) and the circumstances of the unauthorized disclosure to the relevant producing  
27 person(s) and (b) use best efforts to bind the recipient(s) to the terms of this Protective Order.  
28 No information shall lose its confidential status because it was inadvertently or

1 unintentionally disclosed to a person not authorized to receive it under this Protective Order.

2 11. After the conclusion of this litigation, all documents and materials, in whatever  
3 form stored or reproduced containing confidential information will remain confidential, and  
4 if filed with the Court shall remain under seal. All documents and materials produced to  
5 Plaintiffs pursuant to this Stipulated Protective Order shall be returned to counsel for  
6 Defendants in a manner in which counsel will be able to reasonably verify that all documents  
7 were returned. All parties all agree to ensure that all persons to whom confidential  
8 documents or materials were disclosed shall be returned to counsel for Defendants.  
9 “Conclusion” of this litigation means a termination of the case following a trial or settlement.

10 12. No later than 30 days after settlement or of receiving notice of the entry of an  
11 order, judgment, or decree terminating this action, all persons having received the  
12 confidential documents shall return said documents to counsel for Defendants.

13 13. If any party appeals a jury verdict or order terminating the case, counsel for the  
14 County shall maintain control of all copies of confidential documents. If following an appeal  
15 the district court reopens the case for further proceedings, the documents shall be returned  
16 to counsel for Plaintiffs.

17 14. This Stipulated Protective Order shall remain in full force and effect and shall  
18 continue to be binding on all parties and affected persons after this litigation terminates,  
19 subject to any subsequent modifications of this Stipulated Protective Order for good cause  
20 shown by this Court or any Court having jurisdiction over an appeal of this action. After this  
21 action terminates, any party may seek to modify or dissolve this Stipulated Protective Order  
22 by Court order for good cause shown or by the stipulation of the parties.

23 15. The Court shall retain jurisdiction, even after this lawsuit terminates, (a) to  
24 make such amendments, modifications and additions to this Protective Order as it may from  
25 time to time deem appropriate upon good cause shown; and, (b) to adjudicate any dispute  
26 respecting the improper use or disclosure of confidential material.

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1 Dated: February 3, 2010

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By /s/ Peter M. Williamson (auth'd 2/2/2010)  
Peter M. Williamson  
John Burton  
Attorneys for Plaintiffs JAMES ALBERT  
WELLS and JUDY C. WELLS

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7 Dated: February 3, 2010

PORTER SCOTT  
A PROFESSIONAL CORPORATION

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By /s/ Terence J. Cassidy  
COUNTY OF STANISLAUS, DEPUTY  
FRANK ALVES, DEPUTY J. WALSH,  
SHERIFF DEPUTY JOSHUA  
HOUTCHENS, PUBLIC WORKS  
EMPLOYEE STEVE GREEN,  
MATTHEW ERIKSON PUBLIC  
WORKS DIRECTOR FOR THE CITY  
OF WATERFORD and SHERIFF ADAM  
CHRISTIANSON

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**ORDER**

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17 Upon review, the Court hereby adopts the stipulated protective order signed by the  
18 parties.

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20 IT IS SO ORDERED.

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21 Dated: February 4, 2010

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE

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