

1 Rosemary T. McGuire, Esq. Bar No. 172549  
James D. Weakley, Esq. Bar No. 082853

2 WEAKLEY, ARENDT, MCGUIRE, LLP  
3 1630 East Shaw Avenue, Suite 176  
4 Fresno, California 93710  
5 Telephone: (559) 221-5256  
6 Facsimile: (559) 221-5262

7 Attorneys for Defendants, CITY OF FRESNO, CITY OF FRESNO POLICE  
8 DEPARTMENT and OFFICER CARR

9 **IN THE UNITED STATES DISTRICT COURT**  
10 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

11	LAWRENCE AZEVEDO,	)	CASE NO. 1:09-CV-00375 AWI DLB
12	Plaintiff	)	
13	vs.	)	<b>STIPULATION AND PROTECTIVE</b>
14	CITY OF FRESNO, CITY OF FRESNO	)	<b>ORDER AUTHORIZING LIMITED</b>
15	POLICE DEPARTMENT and OFFICER	)	<b>DISCLOSURE CONFIDENTIAL FRESNO</b>
16	KARR, and DOES 1 to 10, Inclusive,	)	<b>POLICE DEPARTMENT RECORDS</b>
	Defendants.	)	Complaint Filed: 12/30/08

17 IT IS HEREBY STIPULATED between the parties, through their respective counsel, and  
18 ordered by this Court, that the following documents will be disclosed pursuant to this stipulation  
19 and protective order:

- 20 **1. Fresno Police Department Standing Orders 2.5.2 (Use of Force), 2.5.8 (Electro-**
- 21 **Muscular Disruption Devices), 2.5.9 (Field Contacts), 2.5.10 (Force Options and**
- 22 **Training) and 3.6.6 (Towing and Impounding Vehicles).**
- 23 **2. Fresno Police Department Training Materials and Course Outlines regarding**
- 24 **Use of Force, including use of Electronic Weapons/Tasers; and Warrantless**
- 25 **Entry/Legal Update.**
- 26 **3. Fresno Police Department Internal Affairs investigation file No. 2007-0149.**

27 The above-named documents which are maintained by the Fresno City Police Department  
28 and requested by plaintiff through discovery, may be disclosed to counsel for the parties pursuant

1 to the protective order detailed below. The documents requested by plaintiff contain information  
2 which the City of Fresno deems confidential. The release of these documents pursuant to this  
3 Stipulation and Protective Order does not waive the confidentiality privilege protecting the above-  
4 named document from general disclosure.

5 Based on the foregoing, IT IS HEREBY STIPULATED:

6 1. The “Confidential” documents shall be used solely in connection with this litigation  
7 in the preparation and trial of this case, or any related proceeding, and not for any other purpose or  
8 in any other litigation. The party producing the documents described above may designate them  
9 by affixing a mark labeling the documents as “Confidential - Subject to Protective Order” provided  
10 that such marking does not obscure or obliterate the content of any document. In the event an issue  
11 arises regarding a document’s designation, the parties will attempt to resolve it informally before  
12 seeking the Court’s intervention.

13 2. The documents identified in this protective order may be disclosed only to the  
14 following persons:

- 15 a) the counsel for any party to this action;
- 16 b) paralegal, stenographic, clerical, and secretarial personnel regularly employed  
17 by counsel referred to in (a);
- 18 c) court personnel including stenographic reporters engaged in proceedings as are  
19 necessarily incidental to preparation for the trial of this action;
- 20 d) any outside expert or consultant retained in connection with this action and not  
21 otherwise employed by either party;
- 22 e) any in-house expert designated by defendants to testify at trial in this matter;
- 23 f) witnesses may have the information disclosed to them during deposition  
24 proceedings; the witnesses shall be bound by the provisions of paragraph 3;
- 25 g) the finder of fact at the time of trial subject to the court’s rulings on in limine  
26 motions and objections of counsel;

27 3. Each person to whom the “confidential” documents or any portion thereof is  
28 provided, with the exception of counsel who are presumed to know of the contents of this protective

1 order shall, prior to the time of disclosure, be provided by the person furnishing him/her such  
2 information, a copy of this order, and shall agree on the record or in writing that he/she has read the  
3 protective order and that he/she understands the provisions of the protective order. Such person  
4 must also consent to be subject to the jurisdiction of the United States District Court for the Eastern  
5 District of California with respect to any proceeding related to enforcement of this order, including  
6 without limitation, any proceeding for contempt. Plaintiff's counsel shall be responsible for  
7 internally tracking the identities of those individuals to whom copies of documents marked  
8 "Confidential" are given. The defendants may not request the identities of said individuals,  
9 however, until the final termination of the litigation or if defendants, in good faith, are able to  
10 demonstrate that Plaintiff, or an agent thereof, has breached the Stipulated Protective Order.  
11 Provisions of this order insofar as they restrict disclosure and use of the material shall be in effect  
12 until further order of this Court. Should the case proceed to trial, the designation and treatment of  
13 the confidential information will be revisited.

14 4. Confidential information and/or documents that a party intends to use in support of  
15 or in opposition to a pre-trial filing with the Court must be filed in accordance with the Eastern  
16 District of California Local Rules relating to under seal filings. Any document filed with the Court  
17 that includes confidential information shall be submitted under sealed label with a cover sheet as  
18 follows: "This document is subject to a protective order issued by the Court and may not be copied  
19 or examined except in compliance with that order." If the Court Orders that the document be seal  
20 filed under seal then such document shall be kept by the Court under seal and made available only  
21 to the Court or counsel.

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

28 6. After the conclusion of this litigation, the documents, in whatever form stored or

1 reproduced, containing “confidential” information will remain confidential, and if filed with the  
2 Court, shall remain under seal. All parties also ensure that all persons to whom “confidential”  
3 documents were disclosed shall return the documents to counsel for the producing party. The  
4 conclusion of this litigation means termination of the case following applicable post-trial motions,  
5 appeal and/or retrial. After the conclusion of this litigation, all confidential documents received  
6 under the provisions of this Protective Order, including all copies made, shall be tendered back to  
7 the attorneys for the defendants in a manner in which the City of Fresno will be able to reasonably  
8 identify that all documents were returned.

9  
10 **IT IS SO STIPULATED:**

11  
12 DATED: September 2, 2009

WEAKLEY, ARENDT & McGUIRE, LLP

13  
14  
15 By: /s/ Rosemary T. McGuire  
Rosemary T. McGuire  
Attorney for Defendants

16  
17 DATED: September 2, 2009

LAW OFFICES OF DALE K. GALIPO

18  
19 By: /s/ Dale K. Galipo  
Dale K. Galipo  
Attorneys for Plaintiff

20  
21 IT IS SO ORDERED.

22 **Dated: September 8, 2009**

/s/ Dennis L. Beck  
UNITED STATES MAGISTRATE JUDGE