

1 **Finger Print Records of the Decedent; Handwritten Notes of Fresno Police**
2 **Department Employees; Internal Department Emails; and MDS records.**

3 The above-named documents which are maintained by the Fresno City Police Department
4 and requested by plaintiff through discovery, may be disclosed to counsel for the parties pursuant
5 to the protective order detailed below. The documents requested by plaintiff contain information
6 which is deemed confidential. The release of these documents pursuant to this Stipulation and
7 Protective Order does not waive the confidentiality privilege protecting the above-named document
8 from general disclosure.

9 Based on the foregoing, IT IS HEREBY STIPULATED:

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

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

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

1 g) the finder of fact at the time of trial subject to the court’s rulings on in limine
2 motions and objections of counsel;

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

18 4. For testimony given in deposition or in other pretrial or trial proceedings, the party
19 or counsel for the party providing the testimony may identify on the record, all protected testimony,
20 and further specify any portions of the testimony that qualify as “Confidential.” When it is
21 impractical to identify separately each portion of testimony that is entitled to protection, and when
22 it appears that substantial portions of the testimony may qualify for protection, the party or counsel
23 for the party who gives the testimony may invoke a right to have up to 20 days to identify the
24 specific portions of the testimony as to which protection is sought. Only those portions of the
25 testimony that are appropriately designated for protection within the 20 days shall be covered by
26 the provisions of this Stipulated Protective Order. Transcript pages containing Protected Material
27 must be separately bound by the court reporter, who must affix to the top of each such page the
28 legend “CONFIDENTIAL” or as instructed by the Party or nonparty offering or sponsoring the

1 witness or presenting the testimony.

2 5. Confidential information and/or documents that a party intends to use in support of
3 or in opposition to a pre-trial filing with the Court must be filed in accordance with the Eastern
4 District of California Local Rule 141 relating to under seal filings. Any document filed with the
5 Court that includes confidential information shall be submitted under sealed label with a cover sheet
6 as follows: "This document is subject to a protective order issued by the Court and may not be
7 copied or examined except in compliance with that order." Such document shall be kept by the
8 Court under seal and made available only to the Court or counsel.

9 6. Should any document designated confidential be disclosed, through inadvertence or
10 otherwise, to any person not authorized to receive it under this Protective Order, the disclosing
11 person(s) shall promptly (a) inform the City of Fresno of the recipient(s) and the circumstances of
12 the unauthorized disclosure to the relevant producing person(s) and (b) use best efforts to bind the
13 recipient(s) to the terms of this Protective Order. No information shall lose its confidential status
14 because it was disclosed to a person not authorized to receive it under this Protective Order.

15 7. After the conclusion of this litigation, the documents, in whatever form stored or
16 reproduced, containing "confidential" information will remain confidential, and if filed with the
17 Court, shall remain under seal. All parties also ensure that all persons to whom "confidential"
18 documents were disclosed shall return the documents to counsel for the producing party. The
19 conclusion of this litigation means termination of the case following applicable post-trial motions,
20 appeal and/or retrial. After the conclusion of this litigation, all confidential documents received
21 under the provisions of this Protective Order, including all copies made, shall be tendered back to
22 the attorneys for the defendants in a manner in which the City of Fresno will be able to reasonably
23 identify that all documents were returned.

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IT IS SO STIPULATED:

DATED: May 23, 2011

WEAKLEY & ARENDT, LLP

By: /s/ Roy C. Santos
James D. Weakley
Roy C. Santos
Attorneys for Defendants

DATED: May 23, 2011

WALTER, HAMILTON & KOENIG, LLP

By: /s/ Rana Ansari
Peter J. Koenig
Walter Walker
Rana Ansari
Attorneys for Plaintiff

IT IS SO ORDERED.

Dated: May 24, 2011

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE