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CITY OF MERCED; MERCED OFFICER PINNEGAR

8  
9 UNITED STATES DISTRICT COURT  
10 EASTERN DISTRICT OF CALIFORNIA (FRESNO)

11 GREGORY WILLIAMS, ) CASE NO. 1:10-cv-01999-MJS  
12 )  
Plaintiff )  
13 ) **STIPULATED PROTECTIVE**  
v. ) **ORDER**  
14 )  
CITY OF MERCED, a municipal corporation; )  
15 Merced Police Officer PINNEGAR (ID#215) )  
individually and in his official capacity as a police )  
16 officer for THE CITY OF MERCED; and DOES 1 )  
through 15, inclusive, )  
17 )  
Defendants. )  
18 )

19  
20 Subject to the approval of this Court, the parties hereby stipulate to the following protective  
21 order:

22 1. In connection with discovery proceedings in this action, the parties may designate any  
23 document, thing, material, testimony or other information derived therefrom, as “Confidential” under the  
24 terms of this Stipulated Protective Order (hereinafter “Order”). Confidential information is information  
25 which has not been made public and which concerns or relates to the processes, investigations, and other  
26 information as the parties agree, including but not limited to deposition testimony that has been taken  
but sealed by agreement of the parties pending its determination as relevant to this action.

27 By designating a document, thing, material, testimony or other information derived therefrom as  
28 “confidential,” under the terms of this Order, the party making the designation is certifying to the court

1 that there is a good faith basis both in law and in fact for the designation within the meaning of Federal  
2 Rule of Civil Procedure 26(g).

3 2. Confidential documents shall be so designated by stamping copies of the document  
4 produced to a party with the legend "CONFIDENTIAL." Stamping the legend "CONFIDENTIAL" on  
5 the cover of any multipage document shall designate all pages of the document as confidential, unless  
6 otherwise indicated by the producing party.

7 3. Testimony taken at a deposition, conference, hearing or trial may be designated as  
8 confidential by making a statement to that effect on the record at the deposition or other proceeding.  
9 Arrangements shall be made with the court reporter taking and transcribing such proceeding to  
10 separately bind such portions of the transcript containing information designated as confidential, and to  
11 label such portions appropriately.

12 4. Material designated as confidential under this Order, the information contained therein,  
13 and any summaries, copies, abstracts, or other documents derived in whole or in part from material  
14 designated as confidential (hereinafter "Confidential Material") shall be used only for the purpose of the  
15 prosecution, defense, or settlement of this action, and for no other purpose.

16 5. Confidential Material produced pursuant to this Order may be disclosed or made  
17 available only to the Court, to counsel for a party (including the paralegal, clerical, and secretarial staff  
18 employed by such counsel), and to the "qualified persons" designated below:

- 19 a. a party, or an officer, director, or employee of a party deemed necessary by  
20 counsel to aid in the prosecution, defense, or settlement of this action;
- 21 b. experts or consultants (together with their clerical staff) retained by such counsel  
22 to assist in the prosecution, defense, or settlement of this action;
- 23 c. court reporter(s) employed in this action;
- 24 d. a witness at any deposition or other proceeding in this action; and
- 25 e. any other person as to whom the parties in writing agree.

26 Prior to receiving any Confidential Material, each "qualified person" shall be provided with a  
27 copy of this Order and shall execute a nondisclosure agreement in the form of Attachment A, a copy of  
28 which shall be provided forthwith to counsel for each other party and for the parties.

6. Depositions shall be taken only in the presence of qualified persons.

7. The parties may further designate certain discovery material or testimony of a highly  
confidential and/or proprietary nature as "CONFIDENTIAL – ATTORNEY'S EYES ONLY"  
(hereinafter "Attorney's Eyes Only Material"), in the manner described in paragraphs 2 and 3 above.

1 Attorney's Eyes Only Material, and the information contained therein, shall be disclosed only to the  
2 Court, to counsel for the parties (including the paralegal, clerical, and secretarial staff employed by such  
3 counsel), and to the "qualified persons" listed in subparagraphs 5(b) through (e) above, but shall not be  
4 disclosed to a party, or to an officer, director or employee of a party, unless otherwise agreed or ordered.  
5 If disclosure of Attorney's Eyes Only Material is made pursuant to this paragraph, all other provisions in  
6 this Order with respect to confidentiality shall also apply.

7 8. Nothing herein shall impose any restrictions on the use or disclosure by a party of  
8 material obtained by such party independent of discovery in this action, whether or not such material is  
9 also obtained through discovery in this action, or from disclosing its own Confidential Material as it  
10 deems appropriate.

11 9. If Confidential Material, including any portion of a deposition transcript designated as  
12 Confidential or Attorney's Eyes Only, is included in any papers to be filed in Court, such papers shall be  
13 labeled "Confidential - Subject to Court Order" and filed under seal until further order of this Court.

14 10. In the event that any Confidential Material is used in any court proceeding in this action,  
15 it shall not lose its confidential status through such use, and the party using such shall take all reasonable  
16 steps to maintain its confidentiality during such use.

17 11. This Order shall be without prejudice to the right of the parties (i) to bring before the  
18 Court at any time the question of whether any particular document or information is confidential or  
19 whether its use should be restricted or (ii) to present a motion to the Court under FRCP 26(c) for a  
20 separate protective order as to any particular document or information, including restrictions differing  
21 from those as specified herein. This Order shall not be deemed to prejudice the parties in any way in  
22 any future application for modification of this Order.

23 12. This Order is entered solely for the purpose of facilitating the exchange of documents and  
24 information between the parties to this action without involving the Court unnecessarily in the process.  
25 Nothing in this Order nor the production of any information or document under the terms of this Order  
26 nor any proceedings pursuant to this Order shall be deemed to have the effect of an admission or waiver  
27 by either party or of altering the confidentiality or non-confidentiality of any such document or  
28 information or altering any existing obligation of any party or the absence thereof.

13. This Order shall survive the final termination of this action, to the extent that the  
information contained in Confidential Material is not or does not become known to the public, and the  
Court shall retain jurisdiction to resolve any dispute concerning the use of information disclosed  
hereunder. Upon termination of this case, counsel for the parties shall assemble and return to each other

1 all documents, material and deposition transcripts designated as confidential and all copies of same, or  
2 shall certify the destruction thereof.

3 IT IS SO STIPULATED.

4 Dated: 11/15/12

LOW, BALL & LYNCH

5  
6 By /s/ Dale L. Allen, Jr.  
7 DALE L. ALLEN, JR.  
8 DIRK D. LARSEN  
9 Attorneys for Defendants  
10 CITY OF MERCED; MERCED OFFICER  
11 PINNEGAR

12 Dated: 11/15/12

LAW OFFICES OF JOHN L. BURRIS

13 By /s/ Adante D. Pointer  
14 ADANTE D. POINTER  
15 Attorneys for Plaintiff  
16 GREGORY WILLIAMS

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21 **ORDER**

22 Good cause appearing, the above stipulation is accepted and adopted as the Order of this Court.

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28 IT IS SO ORDERED.

Dated: November 29, 2012

/s/ Michael J. Seng  
UNITED STATES MAGISTRATE JUDGE