

1 DAVID M. OVERSTREET, IV, No. 103039
OVERSTREET & ASSOCIATES

2 Attorneys At Law
1530 E. Shaw Avenue, Suite 102
3 Fresno, CA 93710

4 Telephone (559) 221-2771
Facsimile (559) 221-2775

5 ATTORNEYS FOR Defendants, CITY OF SELMA, THOMAS H. WHITESIDE AND STEVE
6 BURGAMY

7
8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA - FRESNO DIVISION

10 KENYA DARRICK CALDEWELL, an
11 incompetent person by EVER JEAN
KELLEY, his conservator,

12 Plaintiff,

13 vs.

14 CITY OF SELMA, a government entity,
15 THOMAS H. WHITESIDE, in his official
capacity as Chief of Police for the City of
16 Selma. STEVE BURGAMY, individually,
and in his capacity as a police officer for the
17 City of Selma, and DOES 1 through 20,
inclusive,

18 Defendants.

CASE NO. 1:13-CV-00465-AWI-SAB

**STIPULATED PROTECTIVE
ORDER AND ORDER REGARDING
POLICE AND SHERIFF'S REPORTS**

19
20 **WHEREAS**, counsel for Conservatee and Plaintiff, KENYA DARRICK
21 CALDWELL, an incompetent person, by and through his conservator, EVER JEAN KELLEY
22 ("Plaintiff"), has requested that the CITY OF SELMA provide the following documents in the course
23 of an initial evaluation of the evidence relating to the incident for the purpose of determining whether
24 to reach a settlement by way of a court approved early dismissal with prejudice of this suit, in
25 exchange for the Defendants' waiver of costs and attorney's fees. The following documents are to
26 be provided for viewing by Counsel, Gregory Mullanax.

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- 1. Fresno County Sheriff’s Department Internal Affairs File, which includes letter from Fresno County’s Deputy District Attorney Lisa Gamoian re completion of Internal Affairs Investigation (COS 000005 - 000126);
- 2. City of Selma Police Department’s Officer Involved Shooting Administrative File (COS 000127 - 000171);
- 3. Fresno County Sheriff’s Department photos (COS 000172); and
- 4. City of Selma Police photos (COS 000173).

WHEREAS, the parties believe, in good faith, that the above-listed documents contain information that is:

- 1. Confidential, sensitive, or potentially invasive of an individual's privacy interests 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;
- 3. Not generally known or available to the general public; and/or
- 4. 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

WHEREAS, the parties, by and through their respective counsel of record, agree to the review of the above named documents subject to the provisions of this Stipulation. A viewing of the documents does not waive any rights of privacy or privileges associated with the documents; and, by allowing the viewing of the documents does not require early production of them without a stipulated protective order.

IT IS HEREBY STIPULATED, by, among and between the parties hereto through their counsel of record, that the contents of the documents viewed shall not be the subject of any communication to a person outside of the attorney work-product privilege, and shall not reveal the contents to third persons outside of that privilege.

1. Based on representation of Plaintiff’s counsel that the review of the identified documents will facilitate counsel’s consideration of an early dismissal with prejudice of this lawsuit, in exchange of the Defendants waiver of costs and attorney’s fees, subject to approval of Plaintiff’s Petition for Approval of the Compromise of his claims by the court, Defendant Steve Burgamy specifically agrees


1 and affirms that he consents to the disclosure and use of the documents and information to be produced
 2 pursuant to this Stipulation and that he shall not initiate a claim or an action of any type, against the City
 3 of Selma or the Plaintiff or their respective attorneys, agents, employees, investigators, consultants and
 4 experts as a result of the City of Selma's disclosure of **CONFIDENTIAL** documents, pursuant to this
 5 protective order or further order of the court.

6 2. The Court shall retain jurisdiction, even after this lawsuit terminates, (a) to make
 7 such amendments, modifications and additions to this Protective Order as it may from time to time deem
 8 appropriate upon good cause shown and (b) to adjudicate any dispute respecting improper use or
 9 disclosure of **CONFIDENTIAL** material.

LAW OFFICE OF M. GREG MULLANAX

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DATE: November 5, 2013

By: 
 M. GREG MULLANAX
 Attorneys for Plaintiff,
 KENYA DARRICK CALDWELL, an
 incompetent person, by EVER JEAN KELLEY,
 his conservator

OVERSTREET & ASSOCIATES

DATE: _____, 2013

By: _____
 DAVID M. OVERSTREET, IV
 Attorneys for Defendants,
 CITY OF SELMA, THOMAS H. WHITESIDE
 and STEVE BURGAMY

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ORDER

IT IS HEREBY ORDERED that by viewing the Selma Police Department Reports; Fresno County Sheriff's Department Reports, and letter from the District Attorney, that no privilege is waived, and that the documents remain confidential while counsel for Plaintiff considers an early settlement by way of a court approved petition for approval of the Plaintiff Conservatee's claims in exchange for the Defendants' waiver of costs and attorney's fees.

JUDGE OF THE FEDERAL COURT

DATE: November 22, 2013

By: 
STANLEY A. BOONE
United States Magistrate Judge