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

8 E.S., a minor, by and through her  
9 Guardian ad Litem, VALINE  
10 GONZALEZ, J.F., a minor, by and  
11 through his Guardian ad Litem,  
12 BRIDGET FLORES; in each case  
individually and as successor in interest  
to ARMANDO SANTIBANEZ, deceased;  
and MARIA MORENO, individually,

13 Plaintiffs,

14 v.

15 CITY OF VISALIA, TIM HAENER and  
16 DOES 2-10, inclusive.

17 Defendants.

CASE NO.: 1:13-cv-01697-LJO-BAM

**STIPULATION AND ORDER RE *IN***  
**CAMERA REVIEW OF PEACE**  
**OFFICER'S PERSONNEL FILE**

18 **I.**

19 **RECITALS**

20 WHEREAS, on February 8, 2013, Plaintiffs' decedent, ARMANDO  
21 SANTIBANEZ, was shot and killed during a traffic stop initiated by members of the  
22 Visalia Police Department.

23 WHEREAS, on October 10, 2014, Plaintiffs filed a Third Amended  
24 Complaint against Defendants CITY OF VISALIA and Visalia Police Officer TIM  
25 HAENER seeking damages under theories of municipal liability for  
26 unconstitutional custom, practice or policy, constitutional violations of  
27 unreasonable search and seizure, detention and arrest, excessive force, denial of  
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1 medical care, substantive due process, false arrest/false imprisonment, battery,  
2 and negligence.

3 WHEREAS, while engaged in discovery Plaintiffs have demanded, among  
4 other documents, the production of Defendant TIM HAENER's complete personnel  
5 file.

6 WHEREAS, Defendant CITY OF VISALIA objected to this blanket request on  
7 the grounds that it was overly broad, irrelevant and on the further ground that  
8 disclosure would violate the privacy rights of Defendant TIM HAENER under the  
9 official information privilege.

10 WHEREAS, in order to resolve this discovery dispute, Defendant CITY OF  
11 VISALIA has offered to produce Defendant TIM HAENER's personnel file to the  
12 Court (Hon. Barbara A. McAuliffe) for an *in camera* inspection.

13 WHEREAS, the Court, after carefully weighing the rights of the respective  
14 parties, should determine whether certain materials may have any relevancy to  
15 Plaintiffs' claims, and then weigh the potential benefits of disclosure of this  
16 personnel information against the potential disadvantages that may flow as a  
17 result of the disclosure.

## 18 II.

### 19 STIPULATION

20 **IT IS HEREBY STIPULATED, BY AND BETWEEN THE PARTIES**  
21 **HERETO, THROUGH THEIR RESPECTIVE ATTORNEYS OF RECORD, AS**  
22 **FOLLOWS:**

23 1. In response to Plaintiffs' Request for Production of Documents,  
24 Defendant CITY OF VISALIA has:

25 a. Previously produced all of Defendant TIM HAENER's training records  
26 from his personnel files;

27 b. Acknowledged there have been no prior instances of deadly force  
28 used by Defendant TIM HAENER; and

1 c. Acknowledged there have been no instances of disciplinary action  
2 taken against Defendant TIM HAENER pertaining to his use of excessive force,  
3 unreasonable force, or deadly force as a result of the February 8, 2013 incident or  
4 at any time.

5 2. Defendant CITY OF VISALIA, at a mutually agreed upon date and time,  
6 shall produce Defendant TIM HAENER's complete personnel files to the Court for  
7 an *in camera* inspection in chambers, outside the presence of Plaintiffs' attorneys.

8 3. Leonard C. Herr, counsel for Defendant CITY OF VISALIA, shall be  
9 authorized to deliver true and correct copies of all of Defendant TIM HAENER's  
10 personnel files to Court for purposes of the *in camera* inspection.

11 4. The record of the *in camera* review shall be sealed by the Court.

12 5. As part of the *in camera* inspection, the Court shall review the following  
13 information:

14 a. Internal Affairs investigation conducted by the Visalia Police  
15 Department into the February 8, 2013 shooting incident.

16 b. Any documents memorializing the conclusion that Defendant TIM  
17 HAENER's use of deadly force on February 8, 2013 was justified.

18 c. Any documents evidencing ratification of Defendant TIM HAENER's  
19 use of deadly force on February 8, 2013.

20 d. Citizen's complaints made against Defendant TIM HAENER  
21 pertaining to his use of excessive, unreasonable or deadly force;

22 6. In the event that after carefully weighing the respective rights of the  
23 parties the Court orders disclosure of any documents from the personnel files of  
24 Defendant TIM HAENER, said documents shall be released to the Plaintiffs subject  
25 to a protective order.

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DATED: December 29, 2014      LAW OFFICES OF DALE K. GALIPO  
LAW OFFICES OF NIKOLAUS W. REED  
QUIRK LAW GROUP

By: /s/ Dale K. Galipo  
DALE K. GALIPO  
NIKOLAUS W. REED  
LOGAN QUIRK  
Attorneys for Plaintiffs

DATED: December 29, 2014      DOOLEY, HERR, PEDERSEN & BERGLUND  
BAILEY, LLP

By: /s/ Leonard C. Herr  
LEONARD C. HERR,  
Attorney for Defendants

**III.**

**ORDER**

**UPON GOOD CAUSE BEING SHOWN** as set forth in the stipulation of counsel,

IT IS HEREBY ORDERED that Defendant CITY OF VISALIA at a mutually convenient date and time, shall produce Defendant TIM HAENER's complete personnel files to the Court for an *in camera* inspection in chambers, outside the presence of Plaintiffs' attorneys.

IT IS FURTHER ORDERED that Leonard C. Herr, counsel for Defendant CITY OF VISALIA, shall be authorized to deliver true and correct copies of all of Defendant TIM HAENER's personnel files to Court for purposes of the *in camera* inspection.

IT IS FURTHER ORDERED that as part of the *in camera* inspection, the Court shall review the following information:

a. Internal Affairs investigation conducted by the Visalia Police Department into the February 8, 2013 shooting incident.

b. Any documents memorializing the conclusion that Defendant TIM

1 HAENER's use of deadly force on February 8, 2013 was justified.

2 c. Any documents evidencing ratification of Defendant TIM HAENER's  
3 use of deadly force on February 8, 2013.

4 d. Citizen's complaints made against Defendant TIM HAENER pertaining to  
5 his use of excessive, unreasonable or deadly force.

6 IT IS FURTHER ORDERED the record of the *in camera* review shall be  
7 sealed.

8 IT IS FURTHER ORDERED that any explanation or argument by defendants  
9 that the documents listed above are protected from disclosure shall be presented  
10 by way of declaration, filed under seal.

11 IT IS FURTHER ORDERED that in the event this Court should order  
12 disclosure of any documents from the personnel files of Defendant TIM HAENER,  
13 said documents shall be released to the Plaintiffs subject to a protective order.

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15 IT IS SO ORDERED.

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17 Dated: January 6, 2015

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE