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

10 TINA MA, and individual and successor
11 in interest of JOSEPH MA,

NO. 1:15-CV-01426 WBS-MJS

12 Plaintiffs,

**STIPULATED PROTECTIVE
ORDER**

13 vs.

14 CITY OF FRESNO; CHIEF OF POLICE
15 JERRY DYER₂ in his individual and
16 official capacities' OFFICER COLIN
17 LEWIS, in his individual and official
18 capacities and DOES 2-50, inclusive,

18 Defendants.
19 _____/

20
21 To expedite the flow of discovery materials, to facilitate the prompt resolution
22 of disputes over confidentiality of discovery materials, to adequately protect
23 information the parties are entitled to keep confidential, to ensure that only materials
24 that the parties and third-parties are entitled to keep confidential are subject to such
25 treatment, and to ensure that the parties are permitted reasonably necessary uses of
26 such materials in preparation for and in the conduct of trial, pursuant to Rule 26(c) of
27 the Federal Rules of Civil Procedure, it is **HEREBY ORDERED THAT:**
28

1 1. Documents designated as "Confidential" or "Confidential - Counsel
2 Only" (hereinafter collectively "Protected Information"), and produced by parties to
3 this action, are subject to this Protective Order.

4 2. "Confidential" documents shall be defined as documents for which the
5 designating party would be entitled to have protected from public disclosure by Court
6 order under Rule 26(c) of the Federal Rules of Civil Procedure and the relevant case
7 law.

8 3. "Confidential - Counsel Only" documents shall be defined as
9 "Confidential" documents, as defined in paragraph 2, that also contain sensitive
10 personal information, including, for example, personnel records and medical records.

11 4. Protected Information shall be used solely in connection with the civil
12 case of *Ma, et al. v. City of Fresno, et al, Case No. J: 15-cv-01426WBS MJS*, and in
13 the preparation of trial of this case, or any related proceeding.

14 5. A party producing the documents and materials described above may
15 designate those materials by affixing a mark labeling them as "Confidential" or
16 "Confidential-Counsel Only." If any Protected Information cannot be labeled with
17 the aforementioned marking, those materials shall be placed in a sealed envelope or
18 other container that is in turn marked with the appropriate designation in a manner
19 agreed upon by the disclosing and requesting parties.

20 6. Protected Information designated under this Protective Order as
21 "Confidential" may only be disclosed to the following persons:

- 22 a) Counsel for the parties;
- 23 b) Paralegal, clerical, and secretarial personnel regularly employed
24 by counsel referred to in subpart (a) directly above, including
25 stenographic deposition reporters or videographers retained in
26 connection with this action;

- 1 c) Court personnel including stenographic reporters or
2 videographers engaged in proceedings as are necessarily
3 incidental to the preparation for the trial of the civil action;
4 d) Any expert or consultant retained in connection with this action;
5 e) The finder of fact at the time of trial, subject to the court's
6 rulings on *limine* motions and objections of counsel; and
7 f) The parties, to the extent reasonably necessary to assist their
8 counsel in this litigation or for their counsel to advise them with
9 respect to the litigation.

10 7. Protected Information designated under this Protective Order as
11 "Confidential- Counsel Only" may only be disclosed to the following persons:

- 12 a) Counsel for the parties;
13 b) Paralegal, clerical, and secretarial personnel regularly employed
14 by counsel referred to in subpart (a) directly above, including
15 stenographic deposition reporters or videographers retained in
16 connection with this action;
17 c) Court personnel including stenographic reporters or
18 videographers engaged in proceedings as are necessarily
19 incidental to the preparation for the trial of the civil action;
20 d) Any expert or consultant retained in connection with this action;
21 and
22 e) The finder of fact at the time of trial, subject to the court's
23 rulings on *limine* motions and objections of counsel.

24 8. All Protected Information filed with the Court for any purpose shall be
25 filed and served under seal in accordance with Local Rule 141.

26 9. The designation of information as Protected Information, and the
27 subsequent production thereof, is without prejudice to the right of any party to
28 oppose the admissibility of the designated information.

1 10. A nonparty producing information or material voluntarily or pursuant
2 to a subpoena or a court order may designate such material or information as
3 Protected Information pursuant to the terms of this Protective Order. The signatories
4 to this Protective Order will treat such information as Protected Information to the
5 same extent as if it had been produced by a party.

6 11. A party may apply to the Court for an order that information designated
7 as Protected Information pursuant to this Protective Order is not, in fact,
8 "Confidential," or appropriately designated as "Confidential-Counsel Only." Prior to
9 so applying, the party seeking to reclassify Protected Information shall meet and
10 confer with the producing party. Until the matter is resolved by the parties or the
11 Court, the Protected Information in question shall continue to be treated according to
12 its designation under the terms of this Protective Order. The
13 producing party shall have the burden of establishing the propriety of the
14 "Confidential" or "Confidential-Counsel Only" designation. A party shall not be
15 obligated to challenge the propriety of a confidentiality designation at the time made,
16 and a failure to do so shall not preclude a subsequent challenge thereto.

17 12. Each person to whom disclosure is made, with the exception of
18 counsel, and its paralegal, clerical, and secretarial personnel, who are presumed to
19 know the contents of this Protective Order, shall, prior to the time of disclosure, be
20 provided by the person furnishing him or her such material, a copy of this Protective
21 Order. Each person to whom disclosure is made shall agree on the record or in
22 writing that he/she has read the Protective Order and he/she understands and will
23 abide by the provisions of the Protective Order. Such person must also consent to be
24 subject to the jurisdiction of the United States District Court, Eastern District of
25 California, with respect to any proceeding related to enforcement of this Protective
26 Order, including without limitation, any proceeding for contempt. Provisions of this
27 Protective Order shall remain in effect until further order of this Court.

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1 13. After the conclusion of this litigation, all documents, in whatever form
2 stored or reproduced, containing Protected Information will remain confidential and
3 subject to this Protective Order. The conclusion of this litigation means a termination
4 of the case following applicable post-trial motions, appeal and/or retrial. After the
5 conclusion of this litigation, all Protected Information received under the provisions
6 of this Protective Order, including copies made, shall be destroyed. or tendered back
7 to the attorneys for the party or parties producing the documents. Unless Protected
8 information was admitted into evidence at trial or otherwise expressly deemed no
9 longer subject to the provisions of this Protective Order, such information and
10 materials may not be referenced or otherwise relied upon in any manner outside the
11 scope of this Protective Order. The parties will also take all reasonable and
12 necessary steps to ensure that persons to whom they disclose another party's
13 Protected Information destroy or return the Protected Information to the producing
14 party.

15 DATED: December 21, 2016

FERGUSON, PRAET & SHERMAN
A Professional Corporation

17 By: /s/ Bruce D. Praet
18 Bruce D. Praet
19 Attorneys for Defendants

20 DATED: December 21, 2016

LAW OFFICES OF STANLEY S. MA

22 By: /s/ Stanley S. Ma
23 Stanley S. Ma
24 Attorneys for Plaintiff

25 IT IS SO ORDERED.

26 Dated: December 21, 2016

/s/ Michael J. Seng
27 UNITED STATES MAGISTRATE

28 JUDGE

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