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12
13 UNITED STATES DISTRICT COURT
14 EASTERN DISTRICT OF CALIFORNIA

15 LYLE S. MCFARLAND, an individual,
16 Plaintiff,

17 vs.

18 CITY OF CLOVIS; CLOVIS POLICE
19 DEPARTMENT, a municipal law
20 enforcement agency; JACOB RIOS, an
21 Officer of Defendant CLOVIS POLICE
22 DEPARTMENT, and an individual; and
23 DOES 1-20,
24 Defendants.

Case No. 1:15-CV-01530 AWI-SMS

**[PROPOSED] ORDER re STIPULATED
PROTECTIVE ORDER**

25 To expedite the flow of discovery materials, to facilitate the prompt
26 resolution of disputes over confidentiality of discovery materials, to adequately
27 protect information the parties are entitled to keep confidential, to ensure that only
28 materials that the parties and third-parties are entitled to keep confidential are
subject to such treatment, and to ensure that the parties are permitted reasonably

1 necessary uses of such materials in preparation for and in the conduct of trial,
2 pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, it is HEREBY

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4 ORDERED THAT:

5 1. Documents designated as “Confidential” or “Confidential – Counsel
6 Only” (hereinafter collectively “Protected Information”), and produced by parties
7 to this action, are subject to this Protective Order.
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9 2. “Confidential” documents shall be defined as documents for which the
10 designating party would be entitled to have protected from public disclosure by
11 Court order under Rule 26(c) of the Federal Rules of Civil Procedure and the
12 relevant case law.
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14 3. “Confidential - Counsel Only” documents shall be defined as
15 “Confidential” documents, as defined in paragraph 2, that also contain sensitive
16 personal information, including, for example, personnel records and medical
17 records.
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19 4. Protected Information shall be used solely in connection with the
20 civil case of *Lyle S. McFarland v. City of Clovis, et al, Case No. 1:15-cv-01530*
21 *AWI-SMS*, and in the preparation of trial of this case, or any related proceeding.
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23 5. A party producing the documents and materials described above may
24 designate those materials by affixing a mark labeling them as “Confidential” or
25 “Confidential –Counsel Only.” If any Protected Information cannot be labeled
26 with the aforementioned marking, those materials shall be placed in a sealed
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1 envelope or other container that is in turn marked with the appropriate designation
2 in a manner agreed upon by the disclosing and requesting parties.

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4 6. Protected Information designated under this Protective Order as
5 “Confidential” may only be disclosed to the following persons:

- 6 a) Counsel for the parties;
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8 b) Paralegal, clerical, and secretarial personnel regularly employed
9 by counsel referred to in subpart (a) directly above, including
10 stenographic deposition reporters or videographers retained in
11 connection with this action;
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13 c) Court personnel including stenographic reporters or
14 videographers engaged in proceedings as are necessarily
15 incidental to the preparation for the trial of the civil action;
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17 d) Any expert or consultant retained in connection with this action;
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19 e) The finder of fact at the time of trial, subject to the court’s
20 rulings on in limine motions and objections of counsel; and
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22 f) The parties, to the extent reasonably necessary to assist their
23 counsel in this litigation or for their counsel to advise them with
24 respect to the litigation.

25 7. Protected Information designated under this Protective Order as
26 “Confidential – Counsel Only” may only be disclosed to the following persons:

- 27
28 a) Counsel for the parties;

- 1 b) Paralegal, clerical, and secretarial personnel regularly employed
2 by counsel referred to in subpart (a) directly above, including
3 stenographic deposition reporters or videographers retained in
4 connection with this action;
5
6 c) Court personnel including stenographic reporters or
7 videographers engaged in proceedings as are necessarily
8 incidental to the preparation for the trial of the civil action;
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10 d) Any expert or consultant retained in connection with this action;
11 and
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13 e) The finder of fact at the time of trial, subject to the court's
14 rulings on in limine motions and objections of counsel.
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16 8. All Protected Information filed with the Court for any purpose shall be
17 filed and served under seal in accordance with Local Rule 141.

18 9. The designation of information as Protected Information, and the
19 subsequent production thereof, is without prejudice to the right of any party to
20 oppose the admissibility of the designated information.
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22 10. A nonparty producing information or material voluntarily or pursuant
23 to a subpoena or a court order may designate such material or information as
24 Protected Information pursuant to the terms of this Protective Order. The
25 signatories to this Protective Order will treat such information as Protected
26 Information to the same extent as if it had been produced by a party.
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1 11. A party may apply to the Court for an order that information
2 designated as Protected Information pursuant to this Protective Order is not, in
3 fact, “Confidential,” or appropriately designated as “Confidential –Counsel
4 Only.” Prior to so applying, the party seeking to reclassify Protected Information
5 shall meet and confer with the producing party. Until the matter is resolved by
6 the parties or the Court, the Protected Information in question shall continue to be
7 treated according to its designation under the terms of this Protective Order. The
8 producing party shall have the burden of establishing the propriety of the
9 “Confidential” or “Confidential –Counsel Only” designation. A party shall not be
10 obligated to challenge the propriety of a confidentiality designation at the time
11 made, and a failure to do so shall not preclude a subsequent challenge thereto.
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16 12. Each person to whom disclosure is made, with the exception of
17 counsel, and its paralegal, clerical, and secretarial personnel, who are presumed to
18 know the contents of this Protective Order, shall, prior to the time of disclosure,
19 be provided by the person furnishing him or her such material, a copy of this
20 Protective Order. Each person to whom disclosure is made shall agree on the
21 understands the provisions of the Protective Order. Such person must also consent
22 to be subject to the jurisdiction of the United States District Court, Eastern
23 District of California, with respect to any proceeding related to enforcement of
24 this Protective Order, including without limitation, any proceeding for contempt.
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1 Provisions of this Protective Order, insofar as they restrict disclosure and use of
2 the material, shall be in effect until further order of this Court.

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4 13. After the conclusion of this litigation, all documents, in whatever
5 form stored or reproduced, containing Protected Information will remain
6 confidential and subject to this Protective Order. The conclusion of this litigation
7 means a termination of the case following applicable post-trial motions, appeal
8 and/or retrial. After the conclusion of this litigation, all Protected Information
9 received under the provisions of this Protective Order, including copies made,
10 shall be destroyed, or tendered back to the attorneys for the party or parties
11 producing the documents. The parties will also take all reasonable and necessary
12 steps to ensure that persons to whom they disclose another party's Protected
13 Information destroy or return the Protected Information to the producing party.
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18 IT IS SO ORDERED.

19 Dated: July 27, 2016

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE