

1 James J. Arendt, Esq. Bar No. 142937
Michelle E. Sassano, Esq. Bar No. 232368

2 **Weakley & Arendt, LLP**

1630 East Shaw Ave., Suite 176

3 Fresno, California 93710

Telephone: (559) 221-5256

4 Facsimile: (559) 221-5262

E-Mail: James@walaw-fresno.com

5 Michelle@walaw-fresno.com

6 *Attorneys for Defendants County of Kings,
Marius Barsteceanu, Taylor Lopes, and
7 Thomas Olsen*

8 **UNITED STATES DISTRICT COURT**

9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

10 STACEY BERBEREIA, individually and on)
11 behalf of the ESTATE OF ALBERT)
12 HANSON, JR., DANIEL HANSON, and)
13 KIMBERLY NIZ,)

14 Plaintiffs,)

15 vs.)

16 COUNTY OF KINGS; DEPUTY TAYLOR)
17 LOPES; DETECTIVE MARIUS)
18 BARSTECEANU; DEPUTY THOMAS)
19 OLSON; UNKNOWN LAW)
20 ENFORCEMENT OFFICERS)

Defendants.)

CASE NO. 1:16-cv-00363-LJO-SKO

**STIPULATION AND PROTECTIVE
ORDER AUTHORIZING LIMITED
DISCLOSURE OF CONFIDENTIAL
RECORDS**

21 IT IS HEREBY STIPULATED between the parties, through their respective counsel,
22 and ordered by this Court, that the following documents will be disclosed pursuant to this
23 stipulation and protective order:

- 24 **1. November 19, 2012, Memorandum from Commander Steve Fry to Assistant**
25 **Sheriff David Putnam regarding Internal Affairs Investigation Report No.**
26 **2012-014**
27 **2. January 23, 2013, Memorandum from Assistant Sheriff David Putnam to**
28 **Sheriff David Robinson regarding Administrative Report No. 2012-014**

- 1 **3. January 2, 2013, Memorandum from Commander Steve Fry to Assistant**
- 2 **Sheriff David Putnam regarding KCSO Internal Affairs Report No. 2012-**
- 3 **015**
- 4 **4. January 23, 2013, Memorandum from Assistant Sheriff David Putnam to**
- 5 **Sheriff David Robison regarding Administrative Report No. 2012-015**
- 6 **5. January 4, 2016, Memorandum from Commander Rick Bradford to**
- 7 **Assistant Sheriff David Putnam regarding KCSO Internal Affairs Report**
- 8 **No. 2015-001**
- 9 **6. January 14, 2016, Memorandum from Assistant Sheriff David Putnam to**
- 10 **Sheriff David Robinson regarding KCSO Internal Affairs Report No. 2015-**
- 11 **001**
- 12 **7. January 20, 2016, Memorandum from Commander Rick Bradford to**
- 13 **Assistant Sheriff David Putnam regarding KCSO Internal Affairs**
- 14 **Investigation Report No. 2015-002**
- 15 **8. January 26, 2016, Memorandum from Assistant Sheriff David Putnam to**
- 16 **Sheriff David Robinson regarding KCSO Internal Affairs Report No. 2015-**
- 17 **002**

18 The above-named documents which are maintained by the Kings County Sheriff's
19 Office and requested by Plaintiffs through discovery, may be disclosed to counsel for the parties
20 pursuant to the protective order detailed below. The documents requested contain information
21 which is deemed confidential. The release of these documents pursuant to this Stipulation and
22 Protective Order does not waive the confidentiality privilege protecting the above-named
23 documents from general disclosure.

24 Based on the foregoing, IT IS HEREBY STIPULATED:

25 1. The "Confidential" documents, and the information contained therein, shall be
26 used solely in connection with this litigation in the preparation and trial of this case, or any
27 related proceeding, and not for any other purpose or in any other litigation. The party producing
28 the documents described above may designate them by affixing a mark labeling the documents

1 as “Confidential Material - Subject to Protective Order” (with the exception of photographs)
2 provided that such marking does not obscure or obliterate the content of any document. In the
3 event an issue arises regarding a document’s designation, the parties will attempt to resolve it
4 informally before seeking the Court’s intervention.

5 2. The documents identified in this protective order may be disclosed only to the
6 following persons:

- 7 a) the counsel for any party to this action;
- 8 b) paralegal, stenographic, clerical, and secretarial personnel regularly employed
9 by counsel referred to in (a);
- 10 c) court personnel including stenographic reporters engaged in proceedings as
11 are necessarily incidental to preparation for the trial of this action;
- 12 d) any outside expert or consultant retained in connection with this action and
13 not otherwise employed by either party;
- 14 e) any in-house expert designated by defendants to testify at trial in this matter;
- 15 f) witnesses may have the information disclosed to them during deposition
16 proceedings; the witnesses shall agree to be bound by the provisions of paragraph 3;
- 17 g) the finder of fact at the time of trial subject to the court’s rulings on in limine
18 motions and objections of counsel;
- 19 h) the named parties in this action may review the confidential documents
20 identified in this protective order but may not receive or retain any copies thereof.

21 3. Each person to whom the “confidential” documents or any portion thereof is
22 provided, with the exception of counsel who are presumed to know of the contents of this
23 protective order shall, prior to the time of disclosure, be provided by the person furnishing
24 him/her such information, a copy of this order, and shall consent to be subject to the jurisdiction
25 of the United States District Court for the Eastern District of California with respect to any
26 proceeding related to enforcement of this order, including without limitation, any proceeding for
27 contempt. The parties’ attorneys shall be responsible for internally tracking the identities of
28 those individuals to whom copies of documents marked “Confidential” are given. Provisions of

1 this order insofar as they restrict disclosure and use of the material shall be in effect until further
2 order of this Court. Should the case proceed to trial, the designation and treatment of the
3 confidential information will be revisited. This stipulation and protective order shall not be
4 used as a basis for excluding any evidence at the trial of this matter.

5 4. Confidential information and/or documents that a party intends to use in support
6 of or in opposition to a pre-trial filing with the Court must be filed in accordance with the
7 Eastern District of California Local Rule 141 relating to under seal filings. Any document filed
8 with the Court that includes confidential information shall be submitted under sealed label with
9 a cover sheet as follows: "This document is subject to a protective order issued by the Court
10 and may not be copied or examined except in compliance with that order." Such document
11 shall be kept by the Court under seal and made available only to the Court or counsel.

12 5. Should any document designated confidential be disclosed, through inadvertence
13 or otherwise, to any person not authorized to receive it under this Protective Order, the
14 disclosing person(s) shall promptly (a) inform the County of Kings of the recipient(s) and the
15 circumstances of the unauthorized disclosure to the relevant producing person(s) and (b) use
16 best efforts to bind the recipient(s) to the terms of this Protective Order. No information shall
17 lose its confidential status because it was disclosed to a person not authorized to receive it under
18 this Protective Order.

19 6. After the conclusion of this litigation, the documents, in whatever form stored or
20 reproduced, containing "confidential" information will remain confidential, and if filed with the
21 Court, shall remain under seal. All parties also ensure that all persons to whom "confidential"

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 documents were disclosed shall destroy those documents. The conclusion of this litigation
2 means termination of the case following applicable post-trial motions, appeal and/or retrial.
3 After the conclusion of this litigation, all confidential documents received under the provisions
4 of this Protective Order, including all copies made, shall be destroyed.

5
6 Dated: September 22, 2017

WEAKLEY & ARENDT, LLP

7
8 By: /s/ James J. Arendt
James J. Arendt
9 Michelle E. Sassano
Attorneys for Defendants

10
11
12 Dated: September 22, 2017

LAW OFFICE OF KEVIN G. LITTLE

13
14 /s/ Kevin G. Little
Kevin G. Little
15 Attorneys for Plaintiffs

16
17 **ORDER**

18
19
20 IT IS SO ORDERED.

21
22 Dated: September 26, 2017

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE