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10
11 UNITED STATES DISTRICT COURT
12 EASTERN DISTRICT OF CALIFORNIA
13

14 BERNARDINA GOMEZ,
15 individually and as successor-in-
16 interest to Esteven Andrade Gomez,
17 deceased,

18 Plaintiff,

19 vs.

20 CITY OF FARMERSVILLE,
21 FARMERSVILLE POLICE
22 DEPARTMENT, and DOES 1-50,
23 inclusive.
24 Defendants.

Case No. 1:16-CV-01252 AWI SKO

**STIPULATED PROTECTIVE
ORDER**

To expedite the flow of discovery materials, to facilitate the prompt resolution of disputes over confidentiality of discovery materials, to adequately protect information the parties are entitled to keep confidential, to ensure that

STIPULATED PROTECTIVE ORDER

1 only materials that the parties and third-parties are entitled to keep confidential
2 are subject to such treatment, and to ensure that the parties are permitted
3 reasonably necessary uses of such materials in preparation for and in the conduct
4 of trial, pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, it is

5
6 **HEREBY ORDERED THAT:**

7 1. Documents designated as “Confidential” (hereinafter collectively
8 “Protected Information”), and produced by parties to this action, are subject to
9 this Protective Order.

10 2. “Confidential” documents are those identified in “APPENDIX 1” to
11 this Protective Order. “APPENDIX 1” may be amended by written agreement of
12 the parties, with the updated document then being filed with the court.

13 3. “Confidential” documents are those for which the designating party
14 would be entitled to have protected from public disclosure by Court order under
15 Rule 26(c) of the Federal Rules of Civil Procedure and the relevant case law.

16 4. Protected Information shall be used solely in connection with the
17 civil case of *Gomez, et al. v. City of Farmersville, et al, Case No. 1:16-cv-01252*
18 *AWI SKO*, and in the preparation of trial of this case, or any related proceeding.
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20 5. A party producing the documents and materials described above may
21 designate those materials by affixing a mark labeling them as “Confidential.” If
22 any Protected Information cannot be labeled with the aforementioned marking,
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1 those materials shall be placed in a sealed envelope or other container that is in
2 turn marked with the appropriate designation in a manner agreed upon by the
3 disclosing and requesting parties.

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

- 7 a) Counsel for the parties;
- 8 b) Paralegal, clerical, and secretarial personnel regularly
9 employed by counsel referred to in subpart (a) directly above,
10 including stenographic deposition reporters or videographers
11 retained in connection with this action;
- 12 c) Court personnel including stenographic reporters or
13 videographers engaged in proceedings as are necessarily
14 incidental to the preparation for the trial of the civil action;
- 15 d) Any expert or consultant retained in connection with this
16 action;
- 17 e) The finder of fact at the time of trial, subject to the court’s
18 rulings on *in limine* motions and objections of counsel; and
19 f) The parties, to the extent reasonably necessary to assist their
20 counsel in this litigation or for their counsel to advise them
21 with respect to the litigation.
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1 7. All Protected Information filed with the Court for any purpose shall
2 be filed and served under seal in accordance with Local Rule 141.

3 8. The designation of information as Protected Information, and the
4 subsequent production thereof, is without prejudice to the right of any party to
5 oppose the admissibility of the designated information.
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7 9. A nonparty producing information or material voluntarily or
8 pursuant to a subpoena or a court order may, by agreement of the parties or by
9 court order, designate such material or information as Protected Information
10 pursuant to the terms of this Protective Order. The signatories to this Protective
11 Order will treat such information as Protected Information to the same extent as if
12 it had been produced by a party.
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14 10. A party may apply to the Court for an order that information
15 designated as Protected Information pursuant to this Protective Order is not, in
16 fact, “confidential.” Prior to so applying, the party seeking to reclassify Protected
17 Information shall meet and confer with the producing party. Until the matter is
18 resolved by the parties or the Court, the Protected Information in question shall
19 continue to be treated according to its designation under the terms of this
20 Protective Order. The producing party shall have the burden of establishing the
21 propriety of the “Confidential” designation. A party shall not be obligated to
22 challenge the propriety of a confidentiality designation at the time made, and a
23

1 failure to do so shall not preclude a subsequent challenge thereto.

2 11. Each person to whom disclosure is made, with the exception of
3 counsel, and its paralegal, clerical, and secretarial personnel, who are presumed to
4 know the contents of this Protective Order, shall, prior to the time of disclosure,
5 be provided by the person furnishing him or her such material, a copy of this
6 Protective Order. Each person to whom disclosure is made shall agree on the
7 record or in writing that he/she has read the Protective Order and he/she
8 understands the provisions of the Protective Order. Such person must also consent
9 to be subject to the jurisdiction of the United States District Court, Eastern
10 District of California, with respect to any proceeding related to enforcement of
11 this Protective Order, including without limitation, any proceeding for contempt.
12 Provisions of this Protective Order, insofar as they restrict disclosure and use of
13 the material, shall be in effect until further order of this Court.

14 12. After the conclusion of this litigation, all documents, in whatever
15 form stored or reproduced, containing Protected Information will remain
16 confidential and subject to this Protective Order. The conclusion of this litigation
17 means a termination of the case following applicable post-trial motions, appeal
18 and/or retrial. After the conclusion of this litigation, all Protected Information
19 received under the provisions of this Protective Order, including copies made,
20 shall be destroyed, or tendered back to the attorneys for the party or parties
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1 producing the documents. The parties will also take all reasonable and necessary
2 steps to ensure that persons to whom they disclose another party's Protected
3 Information destroy or return the Protected Information to the producing party.
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5 13. An agreement between the parties will not suffice to protect the
6 privacy interests at stake with respect to the Protected Information identified in
7 Appendix 1. Those items concern particularly sensitive information that is
8 statutorily privileged under California law, and a court order is needed to ensure
9 such information is not disclosed except as authorized herein.

10 14. A court order will also ensure that these terms are enforceable
11 against non-parties in this action as well as future, unrelated matters in which the
12 current parties may not longer be involved.
13

14 Respectfully submitted,

15 DATED: Nov. 20, 2017

**WAGNER, JONES, KOPFMAN &
ARTENIAN, LLP**

/s/ Laura E. Brown

Laura E. Brown

Attorneys for Plaintiff

19 DATED: Nov. 20, 2017

**FERGUSON, PRAET & SHERMAN
A Professional Corporation**

/s/ Bruce D. Praet¹

Bruce D. Praet

Attorneys for Defendants

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¹ Signature authorized on November 20, 2017. See L.R. 131.

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ORDER

IT IS SO ORDERED.

Dated: November 21, 2017

/s/ Sheila H. Oberto
UNITED STATES MAGISTRATE JUDGE

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Case No. 1:16-CV-01252 AWI SKO

**APPENDIX ONE (1) TO
STIPULATED PROTECTIVE
ORDER**

The following documents are subject to the Stipulated Protective Order
filed on October 23, 2017:

APPENDIX 1 to Stipulated Protective Order

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1. Records of the Internal Affairs Investigation (criminal and administrative) into the death of ESTEVEN ANDRADE GOMEZ which occurred on July 18, 2015, while he was in custody at the Farmersville Police Department.

- These files contain peace officer administrative findings which are deemed confidential under state law as well as criminal history, medical records and other materials which would give rise to an unwarranted invasion of privacy.
- While such materials may be relevant to the litigants in this matter, it would be adverse to all parties if such materials were subject to public disclosure.

2. The personnel files of Officers JESSIE MCBRIDE and ASHLEY HETTICK compiled in the court of their employment with the Farmersville Police Department.

- These files contain personal information about the Defendant officers including, but not limited to prior discipline, evaluations, background and psychological records.
- These files are statutorily privileged under both state and federal law.

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The documents listed above are “Confidential” and will be so designated.

DATED: Nov. 20, 2017

**WAGNER, JONES, KOPFMAN &
ARTENIAN, LLP**

/s/ Laura E. Brown

Laura E. Brown
Attorneys for Plaintiff

DATED: Nov. 20, 2017

**FERGUSON, PRAET & SHERMAN
A Professional Corporation**

*/s/ Bruce D. Praet*²

Bruce D. Praet
Attorneys for Defendants

² Signature authorized on November 20, 2017. See L.R. 131.