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11 UNITED STATES DISTRICT COURT  
12 EASTERN DISTRICT OF CALIFORNIA  
13

14 ISIAH MURRIETTA-GOLDING, )  
15 Deceased, THROUGH HIS SUCCESSOR )  
16 IN INTEREST CHRISTINA PAULINE )  
17 LOPEZ; and CHRISTINE PAULINE )  
18 LOPEZ, Individually, )

17 Plaintiffs, )

18 vs. )

19 CITY OF FRESNO, a public entity, CITY )  
20 OF FRESNO POLICE CHIEF JERRY )  
21 DYER, SERGEANT RAY VILLALVAZO, )  
22 individually, and DOES 3 through 10, )  
23 Jointly and Severally, )

21 Defendants. )

22 ISIAH MURRIETTA-GOLDING, )  
23 Deceased, THROUGH HIS SUCCESSOR )  
24 IN INTEREST ANTHONY GOLDING; and )  
25 ANTHONY GOLDING, Individually, )

25 Plaintiffs, )

26 vs. )

27 CITY OF FRESNO, et al. )

28 Defendants )

No: 1:18-cv-00314-AWI-SKO

**STIPULATED PROTECTIVE ORDER  
FOR CONFIDENTIAL INFORMATION**

(Doc. 28)

**Consolidated Case**

No: 1:18-cv-00332-AWI-SKO

1           The parties, by and through their respective attorneys of record, hereby stipulate to the  
2 following protective order being issued in this matter:

3       1.       PURPOSES AND LIMITATIONS

4           Disclosure and discovery activity in this action are likely to involve production of  
5 confidential, proprietary, or private information for which special protection from public disclosure  
6 and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly,  
7 the parties hereby stipulate to and petition the court to enter the following Stipulated Protective  
8 Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures  
9 or responses to discovery and that the protection it affords from public disclosure and use extends  
10 only to the limited information or items that are entitled to confidential treatment under the  
11 applicable legal principles. The parties further acknowledge, as set forth in Section 12.3, below, that  
12 this Stipulated Protective Order does not entitle them to file confidential information under seal;  
13 Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards that will be  
14 applied when a party seeks permission from the court to file material under seal.

15       2.       DEFINITIONS

16           2.1       Challenging Party: a Party or Non-Party that challenges the designation of  
17 information or items under this Order.

18           2.2       “CONFIDENTIAL” Information or Items: information (regardless of how it is  
19 generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of  
20 Civil Procedure 26(c), and for which public disclosure is likely to result in particularized harm and  
21 violate privacy interests recognized by law. This information may include:

22                   a.       personnel file records of any peace officer, including misconduct  
23 complaints/histories, performance evaluations, hiring and background investigation materials, and  
24 fitness for duty materials;

25                   b.       medical records;

26                   c.       social security numbers and similar sensitive identifying information  
27 (unless redacted by order or by agreement of all parties).

28           Except by stipulation or order based on good cause, this information may not include

1 records and information the investigation of the subject incident(s), specifically the incident  
2 involving Decedent Isiah Murrietta-Golding on or about April 14-15, 2017, including but not  
3 limited to the OIS and homicide investigations, any District Attorney's investigation, all coroner's  
4 documents and items, all video/audio recordings of the shootings, all interviews of any officer or  
5 witness in connection with the investigation in any format, documents produced by Defendants as  
6 bates 1-1329, policies, procedures, training materials of the Fresno Police Department, any officer  
7 involved shooting review committee documents, and any criminal, civil liability, administrative,  
8 or auditor's investigation of the incident(s). The parties further agree that the fact that Isiah and  
9 Israel Murrietta-Golding were minors at the time of the incident(s) does not in and of itself render  
10 any materials or documents confidential in this case, and Plaintiffs specifically waive any right to  
11 privacy based on Isiah and Israel's minority. This order does not affect any proper and lawful  
12 objection to the production of any item.

13       2.3     Counsel (without qualifier): Outside Counsel of Record and House Counsel (as well  
14 as their support staff).

15       2.4     Designating Party: a Party or Non-Party that designates information or items that it  
16 produces in disclosures or in responses to discovery as "CONFIDENTIAL."

17       2.5     Disclosure or Discovery Material: all items or information, regardless of the medium  
18 or manner in which it is generated, stored, or maintained (including, among other things, testimony,  
19 transcripts, and tangible things), that are produced or generated in disclosures or responses to  
20 discovery in this matter.

21       2.6     Expert: a person with specialized knowledge or experience in a matter pertinent to  
22 the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a  
23 consultant in this action.

24       2.7     House Counsel: attorneys who are employees of a party to this action. House  
25 Counsel does not include Outside Counsel of Record or any other outside counsel.

26       2.8     Non-Party: any natural person, partnership, corporation, association, or other legal  
27 entity not named as a Party to this action.

28       2.9     Outside Counsel of Record: attorneys who are not employees of a party to this action

1 but are retained to represent or advise a party to this action and have appeared in this action on  
2 behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.

3 2.10 Party: any party to this action, including all of its officers, directors, employees,  
4 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

5 2.11 Producing Party: a Party or Non-Party that produces Disclosure or Discovery  
6 Material in this action.

7 2.12 Professional Vendors: persons or entities that provide litigation support services  
8 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing,  
9 storing, or retrieving data in any form or medium) and their employees and subcontractors.

10 2.13 Protected Material: any Disclosure or Discovery Material that is designated as  
11 “CONFIDENTIAL.”

12 2.14 Receiving Party: a Party that receives Disclosure or Discovery Material from a  
13 Producing Party.

14 3. SCOPE

15 The protections conferred by this Stipulation and Order cover not only Protected Material (as  
16 defined above), but also (1) any information copied from Protected Material; (2) all copies, excerpts,  
17 summaries, or compilations of Protected Material that reveal the source of the Protected Material or  
18 that reveal specific information entitled to confidentiality as a matter of law; and (3) any testimony,  
19 conversations, or presentations by Parties or their Counsel that might reveal Protected Material.

20 However, the protections conferred by this Stipulation and Order do not cover the following  
21 information: (a) any information that is in the public domain at the time of disclosure to a Receiving  
22 Party or becomes part of the public domain after its disclosure to a Receiving Party as a result of  
23 publication not involving a violation of this Order, including becoming part of the public record  
24 through trial or otherwise; and (b) any information known to the Receiving Party prior to the  
25 disclosure or obtained by the Receiving Party after the disclosure from a source who obtained the  
26 information lawfully and under no obligation of confidentiality to the Designating Party. Any use of  
27 Protected Material at trial shall be governed by a separate agreement or order.

28

1 4. DURATION

2 Even after final disposition of this litigation, the confidentiality obligations imposed by this  
3 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order  
4 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and  
5 defenses in this action, with or without prejudice; and (2) final judgment herein after the completion  
6 and exhaustion of all appeals, rehearings, remands, trials, or reviews of this action, including the  
7 time limits for filing any motions or applications for extension of time pursuant to applicable law.

8 5. DESIGNATING PROTECTED MATERIAL

9 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party or  
10 Non-Party that designates information or items for protection under this Order must take care to  
11 limit any such designation to specific material that qualifies under the appropriate standards. The  
12 Designating Party must designate for protection only those parts of material, documents, items, or  
13 oral or written communications that qualify – so that other portions of the material, documents,  
14 items, or communications for which protection is not warranted are not swept unjustifiably within  
15 the ambit of this Order.

16 Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown  
17 to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily  
18 encumber or retard the case development process or to impose unnecessary expenses and burdens on  
19 other parties) expose the Designating Party to sanctions.

20 If it comes to a Designating Party's attention that information or items that it designated for  
21 protection do not qualify for protection, that Designating Party must promptly notify all other Parties  
22 that it is withdrawing the mistaken designation.

23 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order  
24 (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered,  
25 Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so  
26 designated before the material is disclosed or produced.

27 Designation in conformity with this Order requires:

28 (a) for information in documentary form (e.g., paper or electronic documents, but

1 excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing Party  
2 affix the legend “CONFIDENTIAL” to each page that contains protected material. If only a portion  
3 or portions of the material on a page qualifies for protection, the Producing Party also must clearly  
4 identify the protected portion(s) (e.g., by making appropriate markings in the margins). A Party or  
5 Non-Party that makes original documents or materials available for inspection need not designate  
6 them for protection until after the inspecting Party has indicated which material it would like copied  
7 and produced. During the inspection and before the designation, all of the material made available  
8 for inspection shall be deemed “CONFIDENTIAL.” After the inspecting Party has identified the  
9 documents it wants copied and produced, the Producing Party must determine which documents, or  
10 portions thereof, qualify for protection under this Order. Then, before producing the specified  
11 documents, the Producing Party must affix the “CONFIDENTIAL” legend to each page that  
12 contains Protected Material. If only a portion or portions of the material on a page qualifies for  
13 protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making  
14 appropriate markings in the margins).

15 (b) for testimony given in deposition or in other pretrial or trial proceedings, that the  
16 Designating Party identify on the record, before the close of the deposition, hearing, or other  
17 proceeding, all protected testimony.

18 (c) for information produced in some form other than documentary and for any other  
19 tangible items, that the Producing Party affix in a prominent place on the exterior of the container or  
20 containers in which the information or item is stored the legend “CONFIDENTIAL.” If the  
21 information is produced electronically, then the term “CONFIDENTIAL” must appear in the name  
22 of each electronic file containing confidentially designated information. If only a portion or portions  
23 of the information or item warrant protection, the Producing Party, to the extent practicable, shall  
24 identify the protected portion(s).

25 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to  
26 designate qualified information or items does not, standing alone, waive the Designating Party’s  
27 right to secure protection under this Order for such material. Upon timely correction of a  
28 designation, the Receiving Party must make reasonable efforts to assure that the material is treated in

1 accordance with the provisions of this Order.

2 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

3 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of  
4 confidentiality at any time. Unless a prompt challenge to a Designating Party's confidentiality  
5 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens,  
6 or a significant disruption or delay of the litigation, a Party does not waive its right to challenge a  
7 confidentiality designation by electing not to mount a challenge promptly after the original  
8 designation is disclosed.

9 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process  
10 by providing written notice of each designation it is challenging and describing the basis for each  
11 challenge. To avoid ambiguity as to whether a challenge has been made, the written notice must  
12 recite that the challenge to confidentiality is being made in accordance with the Protective Order.  
13 The parties shall attempt to resolve each challenge in good faith and must begin the process by  
14 conferring directly (in voice to voice dialogue; other forms of communication are not sufficient)  
15 within 14 days of the date of service of notice. In conferring, the Challenging Party must explain the  
16 basis for its belief that the confidentiality designation was not proper and must give the Designating  
17 Party an opportunity to review the designated material, to reconsider the circumstances, and, if no  
18 change in designation is offered, to explain the basis for the chosen designation. A Challenging Party  
19 may proceed to the next stage of the challenge process only if it has engaged in this meet and confer  
20 process first or establishes that the Designating Party is unwilling to participate in the meet and  
21 confer process in a timely manner.

22 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court  
23 intervention, the Designating Party shall file and serve a motion to retain confidentiality under Civil  
24 Local Rule 7 (and in compliance with Civil Local Rule 79-5, if applicable) within 21 days of the  
25 initial notice of challenge or within 14 days of the parties agreeing that the meet and confer process  
26 will not resolve their dispute, whichever is earlier. Each such motion must be accompanied by a  
27 competent declaration affirming that the movant has complied with the meet and confer  
28 requirements imposed in the preceding paragraph. Failure by the Designating Party to make such a

1 motion including the required declaration within 21 days (or 14 days, if applicable) shall  
2 automatically waive the confidentiality designation for each challenged designation. In addition, the  
3 Challenging Party may file a motion challenging a confidentiality designation at any time if there is  
4 good cause for doing so, including a challenge to the designation of a deposition transcript or any  
5 portions thereof. Any motion brought pursuant to this provision must be accompanied by a  
6 competent declaration affirming that the movant has complied with the meet and confer  
7 requirements imposed by the preceding paragraph.

8         The burden of persuasion in any such challenge proceeding shall be on the Designating  
9 Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose  
10 unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions.  
11 Unless the Designating Party has waived the confidentiality designation by failing to file a motion to  
12 retain confidentiality as described above, all parties shall continue to afford the material in question  
13 the level of protection to which it is entitled under the Producing Party’s designation until the court  
14 rules on the challenge.

15 7.         ACCESS TO AND USE OF PROTECTED MATERIAL

16         7.1         Basic Principles. A Receiving Party may use Protected Material that is disclosed or  
17 produced by another Party or by a Non-Party in connection with this case only for prosecuting,  
18 defending, or attempting to settle this litigation. Such Protected Material may be disclosed by any  
19 party only to the categories of persons and under the conditions described in this Order. When the  
20 litigation has been terminated, a Receiving Party must comply with the provisions of section 13  
21 below (FINAL DISPOSITION).

22         Protected Material must be stored and maintained by all parties at a location and in a secure  
23 manner that ensures that access is limited to the persons authorized under this Order.

24         7.2         Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered by  
25 the court or permitted in writing by agreement of both the Designating Party and Receiving  
26 Party(ies), all parties may disclose any information or item designated “CONFIDENTIAL” only to:

27                 (a) the Party’s Outside Counsel of Record in this action, as well as employees of said  
28 Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this

1 litigation (counsel and law firms appearing in this action are deemed to have agreed to be bound by  
2 this Protective Order);

3 (b) the officers, directors, and employees (including House Counsel) of the Party to  
4 whom disclosure is reasonably necessary for this litigation, including employees and agents of the  
5 designating party(ies) in the normal course of their business with due regard for the confidential  
6 nature of the information under this protective order.;

7 (c) Experts (as defined in this Order) of any Party to whom disclosure is reasonably  
8 necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be  
9 Bound” (Exhibit A). It shall be the responsibility of any party disclosing confidential information to  
10 any expert to obtain the expert’s signature on the “Acknowledgment and Agreement to Be Bound”  
11 when releasing any such information to the expert;

12 (d) the court and its personnel;

13 (e) court reporters and their staff, professional jury or trial consultants, mock jurors, and  
14 Professional Vendors to whom disclosure is reasonably necessary for this litigation;

15 (f) during their depositions, witnesses in the action to whom disclosure is reasonably  
16 necessary and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A),  
17 unless otherwise agreed by the Designating Party and any other parties present at the deposition or  
18 ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal  
19 Protected Material must be separately bound by the court reporter and may not be disclosed to  
20 anyone except as permitted under this Stipulated Protective Order or as agreed by all parties.

21 (g) the author or recipient of a document containing the information or a custodian or  
22 other person who otherwise possessed or knew the information;

23 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER  
24 LITIGATION

25 If a Party is served with a subpoena or a court order issued in other litigation that compels  
26 disclosure of any information or items designated in this action as “CONFIDENTIAL,” that Party  
27 must:

28 (a) promptly notify in writing the Designating Party. Such notification shall include a

1 copy of the subpoena or court order;

2 (b) promptly notify in writing the party who caused the subpoena or order to issue in the  
3 other litigation that some or all of the material covered by the subpoena or order is subject to this  
4 Protective Order. Such notification shall include a copy of this Stipulated Protective Order; and

5 (c) cooperate with respect to all reasonable procedures sought to be pursued by the  
6 Designating Party whose Protected Material may be affected.

7 If the Designating Party timely seeks a protective order, the Party served with the subpoena  
8 or court order shall not produce any information designated in this action as “CONFIDENTIAL”  
9 before a determination by the court from which the subpoena or order issued, unless the Party has  
10 obtained the Designating Party’s permission. The Designating Party shall bear the burden and  
11 expense of seeking protection in that court of its confidential material – and nothing in these  
12 provisions should be construed as authorizing or encouraging a Receiving Party in this action to  
13 disobey a lawful directive from another court.

14 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS  
15 LITIGATION

16 (a) The terms of this Order are applicable to information produced by a Non-Party in this  
17 action and designated as “CONFIDENTIAL.” Such information produced by Non-Parties in  
18 connection with this litigation is protected by the remedies and relief provided by this Order.  
19 Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional  
20 protections.

21 (b) In the event that a Party is required, by a valid discovery request, to produce a Non-  
22 Party’s confidential information in its possession, and the Party is subject to an agreement with the  
23 Non-Party not to produce the Non-Party’s confidential information, then the Party shall:

24 (1) promptly notify in writing the Requesting Party and the Non-Party that some or  
25 all of the information requested is subject to a confidentiality agreement with a Non-Party;

26 (2) promptly provide the Non-Party with a copy of the Stipulated Protective Order in  
27 this litigation, the relevant discovery request(s), and a reasonably specific description of the  
28 information requested; and

1 (3) make the information requested available for inspection by the Non-Party.

2 (c) If the Non-Party fails to object or seek a protective order from this court within 14  
3 days of receiving the notice and accompanying information, the Receiving Party may produce the  
4 Non-Party's confidential information responsive to the discovery request. If the Non-Party timely  
5 seeks a protective order, the Receiving Party shall not produce any information in its possession or  
6 control that is subject to the confidentiality agreement with the Non-Party before a determination by  
7 the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of  
8 seeking protection in this court of its Protected Material.

9 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

10 If a Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any  
11 person or in any circumstance not authorized under this Stipulated Protective Order, the Party must  
12 immediately (a) notify in writing all Parties of the unauthorized disclosures, (b) use its best efforts to  
13 retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom  
14 unauthorized disclosures were made of all the terms of this Order, and (d) request such person or  
15 persons to execute the "Acknowledgment and Agreement to Be Bound" that is attached hereto as  
16 Exhibit A.

17 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED  
18 MATERIAL

19 When a Producing Party gives notice to Receiving Parties that certain inadvertently produced  
20 material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties  
21 are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to  
22 modify whatever procedure may be established in an e-discovery order that provides for production  
23 without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the  
24 parties reach an agreement on the effect of disclosure of a communication or information covered by  
25 the attorney-client privilege or work product protection, the parties may incorporate their agreement  
26 in the stipulated protective order submitted to the court.

27 12. MISCELLANEOUS

28 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek

1 its modification by the court in the future.

2           12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order  
3 no Party waives any right it otherwise would have to object to disclosing or producing any  
4 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no  
5 Party waives any right to object on any ground to use in evidence of any of the material covered by  
6 this Protective Order.

7           12.3 Filing Protected Material. Without written permission of all parties or a court order  
8 secured after appropriate notice to all interested persons, a Party may not file in the public record in  
9 this action any Protected Material. A Party that seeks to file under seal any Protected Material must  
10 comply with Civil Local Rule 79-5. Protected Material may only be filed under seal pursuant to a  
11 court order authorizing the sealing of the specific Protected Material at issue. Pursuant to Civil Local  
12 Rule 79-5, a sealing order will issue only upon a request establishing that the Protected Material at  
13 issue is privileged, protectable as a trade secret, or otherwise entitled to protection under the law. If a  
14 Party's request to file Protected Material under seal pursuant to Civil Local Rule 79-5(d) is denied by  
15 the court, then any Party may file the information in the public record pursuant to Civil Local Rule  
16 79-5(e) unless otherwise instructed by the court.

17 13. FINAL DISPOSITION

18           Within 60 days after the final disposition of this action, as defined in paragraph 4, upon  
19 written notification served by Producing or Designating Party, each Receiving Party must return all  
20 Protected Material to the Producing Party or destroy such material. As used in this subdivision, "all  
21 Protected Material" includes all copies, abstracts, compilations, summaries, and any other format  
22 reproducing or capturing any of the Protected Material. Whether the Protected Material is returned  
23 or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if  
24 not the same person or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by  
25 category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms  
26 that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other  
27 format reproducing or capturing any of the Protected Material. Notwithstanding this provision,  
28 Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and



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1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, \_\_\_\_\_ [print or type full name], of \_\_\_\_\_ [print or  
4 type full address], declare under penalty of perjury that I have read in its entirety and understand the  
5 Stipulated Protective Order that was issued by the United States District Court for the Northern  
6 District of California on [date] in the case of \_\_\_\_\_ **[insert formal name of the case and the  
7 number and initials assigned to it by the court]**. I agree to comply with and to be bound by all the  
8 terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply  
9 could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I  
10 will not disclose in any manner any information or item that is subject to this Stipulated Protective  
11 Order to any person or entity except in strict compliance with the provisions of this Order.

12 I further agree to submit to the jurisdiction of the United States District Court for the Northern  
13 District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even  
14 if such enforcement proceedings occur after termination of this action.

15 I hereby appoint \_\_\_\_\_ [print or type full name] of  
16 \_\_\_\_\_ [print or type full address and telephone number] as  
17 my California agent for service of process in connection with this action or any proceedings related  
18 to enforcement of this Stipulated Protective Order.

19  
20 Date: \_\_\_\_\_

21 City and State where sworn and signed: \_\_\_\_\_

22  
23 Printed name: \_\_\_\_\_

24  
25 Signature: \_\_\_\_\_