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CALAVERAS, CALAVERAS COUNTY
SHERIFF RICK DIBASILIO; DEPUTY
8 GEOFFREY RAMOS; DEPUTY TALYA-ANN
MATTOS; AND DEPUTY KEVIN STEVENS
9

10 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
11

12 MICHAEL SCOTT TAYLOR, LORI
13 MELVILLE ,

14 Plaintiffs,

15 v.

16 COUNTY OF CALAVERAS, a municipal
corporation; CALAVERAS COUNTY
17 SHERIFF RICK DIBASILIO, individually
and in his official capacity; Calaveras County
18 Sheriff's Department deputies GEOFFREY
RAMOS (Badge No. #0368), TALYAANN
19 MATTOS (Badge No. #0370), KEVIN
STEVENS (Badge No. 0242), individually and
20 in their official capacities; BRIAN DAVID
LOPEZ, RHONDA LEE LOPEZ, and DOES 1
21 through 50, jointly and severally,

22 Defendants.
23

Case No. 1:18-CV-00760-BAM

**STIPULATION AND PROTECTIVE
ORDER REGARDING DEFENDANTS'
PRODUCTION OF MATERIALS IN
RESPONSE TO PLAINTIFFS' REQUEST
FOR PRODUCTION OF DOCUMENTS**

The Hon. Barbara A. McAuliffe

Action Filed: June 4, 2018

Trial Date: March 30, 2021

24 **IT IS HEREBY STIPULATED BY AND BETWEEN** Defendants COUNTY OF
25 CALAVERAS, CALAVERAS COUNTY SHERIFF RICK DIBASILIO, DEPUTY GEOFFREY
26 RAMOS, DEPUTY TALYA-ANN MATTOS and DEPUTY KEVIN STEVENS (collectively
27 referred to herein as "County"), and Plaintiffs MICHAEL SCOTT TAYLOR and LORI
28 MELVILLE (collectively referred to herein as "Plaintiffs") and Defendants BRIAN DAVID

1 LOPEZ and RHONDA LEE LOPEZ (collectively referred to herein as “Lopez Defendants”),
2 through their respective counsel:

3 County, Plaintiffs and the Lopez Defendants, collectively referred to herein as the “Parties,”
4 hereby stipulate and consent to the Court entering a Protective Order to protect confidential and
5 privileged personnel information which is maintained in the files of Defendants Geoffrey Ramos,
6 TalyaAnn Mattos and Kevin Stevens. Defendants contend that Plaintiffs’ request for production of
7 documents seeks disclosure of confidential personnel information protected by the official
8 information privilege, the federal law enforcement investigative privilege and the federal and
9 California constitutional rights to privacy (as underscored by the California statutory peace officer
10 personnel records *Pitchess* privileges pursuant to California Penal Code §§832.5-832.8, as well as
11 California Evidence Code §§ 1040-1048 and associated case law). Defendants contend the
12 information sought by Plaintiffs would create a substantial risk of harm to significant privacy
13 interests if disclosure were made. More specifically, the records sought will disclose personal
14 information regarding peace officers’ home addresses, telephone numbers, tax information, medical
15 information, insurance information, and personal information re third parties, including the names
16 of relatives, references and co-workers. Defendants are concerned because of a belief that Plaintiffs
17 are antagonistic toward law enforcement in general and County in particular. Disclosure could
18 present a risk of harm to the individual Defendants and their associates if personal matters are
19 disclosed.

20 Defendant County has been asked to produce materials and/or otherwise disclose
21 information that is: (a) confidential, sensitive and invasive of County’s official information
22 privilege, and the privacy and security interests of the County and third parties; (b) not generally
23 known; and (c) not normally revealed to the public or third parties or, if disclosed to third parties,
24 would require such third parties to maintain the information in confidence. Without a protective
25 order in place, production of such information may run afoul of the public interest in maintaining
26 the security and confidentiality of law enforcement agencies and its personnel and intrude upon third
27 party privacy rights guaranteed under the United States Constitution and the California Constitution.

28 Subject to and without waiving any statutory or constitutional privileges or objections to the

1 admissibility or discoverability of any information or documents produced, the Parties stipulate that
2 access to and use of such information or evidence shall be governed by the provisions of this
3 Stipulated Protective Order and that the terms set forth herein may be entered by the Court. This
4 Stipulated Protective Order shall apply to all copies of designated matters.

5 **I.**
6 **DESIGNATION OF CONFIDENTIAL MATERIALS**

7 A. “Confidential” materials shall be any and all contents of personnel files maintained
8 in confidence in the names of law enforcement personnel by County of Calaveras and all documents
9 referring to the actions and conduct of law enforcement personnel while in the course of official
10 duties;

11 B. Defendants will redact confidential personal information regarding the individual
12 Defendants, including, but not limited to, home addresses and phone numbers, medical information,
13 tax information, salary information, the names of family members and associates, and any other
14 information that would permit a person to locate the private residences of law enforcement personnel
15 and their families or to interfere with personal matters involving County personnel;

16 C. The Parties agree to make a good faith effort to immediately retrieve any
17 information disclosed to persons not authorized by this Protective Order to review such
18 information, and obtain an agreement from the persons to whom the disclosure was made to be
19 bound by this Protective Order.

20 **II.**
21 **RESTRICTION REGARDING CONFIDENTIAL MATTERS**

22 A. No Confidential materials produced by County shall be used for any purpose other
23 than the litigation, preparation for, and trial of this case.

24 B. There shall be no disclosure of documents designated as “Confidential” to anyone
25 other than the following:

26 1. Plaintiffs, Plaintiffs’ counsel and Plaintiffs’ counsel’s staff and agents,
27 including, but not limited to, outside copy service personnel;

28 2. Lopez Defendants’ counsel, counsel’s staff and agents, including, but not

1 limited to, outside copy service personnel;

2 3. Experts and consultants retained by Plaintiff’s counsel and counsel for Lopez
3 Defendants in the preparation or presentation of the case;

4 4. The finder of fact at the time of trial, subject to the Court's rulings on pre-trial
5 motions and objections of counsel; and

6 5. Court personnel, including stenographic reporters or videographers engaged
7 in proceedings as are necessarily incidental to the preparation for trial.

8 C. Confidential materials may be shown to the persons listed in paragraphs B(3) and
9 B(5) only after such persons have been shown a copy of this Order and advised of its terms. Any
10 person receiving Confidential materials shall not reveal the information therein to, or discuss the
11 contents of the materials with, any person who is not entitled to receive such information as set forth
12 herein.

13 D. Confidential materials disclosed at a deposition shall be designated as “Confidential”
14 by so indicating on the record at the deposition. Copies of Confidential materials attached to
15 deposition exhibits shall maintain their confidential status as set forth in this Protective Order and
16 be sealed. If any document or information designated as “Confidential” pursuant to this Protective
17 Order is used or disclosed during the course of a deposition, that portion of the deposition record
18 reflecting such material shall be stamped with the appropriate designation. The court reporter for
19 the deposition shall mark the deposition transcript cover page and all appropriate pages or exhibits
20 and each copy thereof, in accordance with this Protective Order. Only individuals who are
21 authorized by this Protective Order to see or receive such material may be present during the
22 discussion or disclosure of such material.

23 E. If filed with the Court, such materials shall be labeled as "Confidential Subject to
24 Court Order" and filed under seal. In the event that any entity seeks to have any document unsealed,
25 County shall first have an opportunity to seek the Court's finding that: (1) there exists an overriding
26 interest that overcomes the right of public access to the materials; (2) the overriding interests support
27 sealing the records; (3) a substantial probability exists that the overriding interest will be prejudiced
28 if the record is not sealed; (4) the proposed sealing is narrowly tailored; and (5) no less restrictive

1 means exist to achieve the overriding interest.

2 F. If Plaintiffs or Lopez Defendants wish to disclose "Confidential" materials to any
3 person not identified in paragraphs B(1)-B(5) above, they must proceed in the following manner:
4 the names of the persons to whom "Confidential" material is to be disclosed shall be provided in
5 writing to counsel for County, along with the bases for the need to disclose the information and/or
6 materials and a description with reasonable specificity of the "Confidential" materials to be
7 disclosed. Counsel for County shall have seven days to object to such disclosure in writing. If no
8 objection is made in that time, the request is deemed granted. If an objection to the disclosure is
9 asserted by counsel for County, Plaintiffs and/or Defendants must apply for relief from the Court.
10 Such materials shall not be disclosed pending a decision by the Court on such motion.

11 **III.**
12 **GENERAL**

13 A. The terms of this Stipulated Protective Order shall be binding on Plaintiffs, County
14 and Lopez Defendants from the time that counsel sign the Stipulation, even if the Court has not
15 signed the Order.

16 B. This Stipulated Protective Order may be modified or terminated by this Court for
17 good cause shown or by signed stipulation of counsel for the Parties.

18 C. Counsel may apply to the Court to challenge a designation made by Defendants after
19 an attempt has been made to meet and confer over the issue. Upon such a request to the Court to
20 challenge the designation made, the Court shall review the materials in an in-camera hearing and
21 determine whether the designation is appropriate. Plaintiff and Defendants shall comply with the
22 Stipulated Protective Order unless the Court orders otherwise.

23 **IV.**
24 **TERMINATION OF THE LITIGATION**

25 A. Within sixty (60) days after a final judgment or settlement, all original "Confidential"
26 materials and copies or portions thereof containing or reflecting information of "Confidential"
27 materials shall be destroyed or returned to counsel for County.

28 B. This Stipulated Protective Order shall survive and remain in full force and effect after

1 the termination of this case and may be enforced as a contract between the Parties, or by application
2 to the Court for a finding of contempt.

3 This Joint Stipulation may be executed in counterparts. When County, Lopez Defendants
4 and Plaintiffs have signed and delivered at least one such counterpart, each counterpart shall be
5 deemed an original, and each counterpart taken together shall constitute one and the same Joint
6 Stipulation.

7 **IT IS SO STIPULATED.**

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9 Dated: May 21, 2019

McCORMICK, BARSTOW, SHEPPARD,
WAYTE & CARRUTH LLP

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12 By: /s/ Deborah A. Byron
 Deborah A. Byron
 Mart B. Oller IV
 Attorneys for Defendants COUNTY OF
14 CALAVERAS; CALAVERAS COUNTY
15 SHERIFF RICK DIBASILIO; DEPUTY
16 GEOFFREY RAMOS; DEPUTY TALYA-ANN
 MATTOS; AND DEPUTY KEVIN STEVENS

17 Dated: May 21, 2019

LAW OFFICES OF PANOS LAGOS

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20 By: /s/ Panos Lagos
 Panos Lagos
 Attorneys for Plaintiffs, MICHAEL SCOTT
21 TAYLOR, LORI MELVILLE

22 Dated: May 21, 2019

DONAHUE DAVIES LLP

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25 By: /s/ Stephen J. Mackey
 James R. Donahue
 Stephen J. Mackey
26 Attorneys for Defendants, BRIAN DAVID LOPEZ
27 and RHONDA LEE LOPEZ

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ORDER

The Court adopts the stipulated protective order submitted by the parties. The parties are advised that pursuant to the Local Rules of the United States District Court, Eastern District of California, any documents subject to this protective order to be filed under seal must be accompanied by a written request which complies with Local Rule 141 prior to sealing. The party making a request to file documents under seal shall be required to show good cause for documents attached to a non-dispositive motion or compelling reasons for documents attached to a dispositive motion. Pintos v. Pacific Creditors Ass'n, 605 F.3d 665, 677-78 (9th Cir. 2009). Within five (5) days of any approved document filed under seal, the party shall file a redacted copy of the sealed document. The redactions shall be narrowly tailored to protect only the information that is confidential or was deemed confidential. Also, the parties shall consider resolving any dispute arising under this protective order according to the Court's informal discovery dispute procedures.

IT IS SO ORDERED.

Dated: May 24, 2019

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE