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25 **IN THE UNITED STATES DISTRICT COURT**  
26 **EASTERN DISTRICT OF CALIFORNIA**

27 MACARIO BELEN DAGDAGAN, Case No.: CIV. 2:08-CV-0922-GEB GGH

28 Plaintiffs, **STIPULATED PROTECTIVE ORDER**

29 vs.

30 CITY OF VALLEJO; VALLEJO OFFICER  
31 J. WENTZ (ID#524); VALLEJO OFFICER  
32 JOHN BOYD (ID # 589); and DOES 1-30,

33 Defendant.

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1 Plaintiff MACARIO BELEN DAGDAGAN and Defendants CITY OF VALLEJO,  
2 WENTZ, BOYD, and MELVILLE by and through their undersigned counsel, and subject to  
3 the approval of the court, stipulate to the following Protective Order, as set forth below:

4 1. This is an action pursuant to Title 42 U.S.C. Section 1983, arising from the  
5 arrest of Plaintiff and subsequent search of his residence pursuant to search warrant.

6 2. Plaintiff has propounded Requests for Production of Documents, whereby  
7 Plaintiff seeks information and documents, including sensitive and private personnel file  
8 information involving the parties, which are confidential. Additionally, Plaintiff seeks  
9 information and documents, including sensitive and confidential policies and procedures  
10 which are not for public consumption.

11 3. Confidential information is information which has not been made public and  
12 is privileged and confidential and protected from public disclosure under applicable law.  
13 Material designated as “confidential” under this order include the information contained  
14 therein, and any summaries, copies, abstracts, or documents derived in whole or in part from  
15 materials designated as confidential (herein after “confidential material”).

16 4. Confidential material will be produced in conjunction with further responses  
17 to Requests for Production of Documents, clearly marked as Confidential, and redacted as  
18 necessary to protect the rights and privacy of third-parties.

19 5. Confidential material produced pursuant to this order shall be used only for the  
20 purpose of the prosecution, defense, or settlement of this action and for no other purpose,  
21 confidential material may be disclosed or made available only to the court, to court reporters  
22 retained in this action, to counsel for a party (including the paralegal, clerical, and secretarial  
23 staff employed by such counsel), and to the “qualified persons” designated below:

- 24 a. Experts or consultants (together with their clerical staff) retained by  
25 such counsel to assist in the prosecution, defense or settlement of this action;  
26 b. A witness at any deposition or proceedings in this action; and  
27 c. Any other person as to whom the parties inviting agree in writing.

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1 Prior to receiving any confidential material, each "qualified person" shall be provided  
2 with a copy of this Order and shall execute a non-disclosure agreement in the form of  
3 Attachment A, the original copy of which shall be maintained by the counsel who is  
4 providing these materials.

5 6. Any party that files or intends to file with the Court, for purposes of  
6 adjudication or to use at trial, documents or materials, including the existence of such  
7 material in any pleading, motion, exhibit or other paper, designated as Confidential pursuant  
8 to this Stipulated Protective Order, should, prior to filing such Confidential documents or  
9 materials, move the Court for an order sealing such documents upon a showing of good cause  
10 in compliance with the requirements of California Eastern District Court Local Rules 39-140  
11 and 39-141, which are heretofore fully incorporated by reference.

12 7. Upon the issuance of an order of the Court sealing such documents, all  
13 documents or materials designated as Confidential pursuant to this Stipulated Protective  
14 Order, and all papers or documents containing information or materials designated as  
15 "Confidential" that are filed with the Court for any purpose shall be filed and served under  
16 seal, with the following statement affixed to the document or information:

17 "This envelope is sealed pursuant to the order of the Court and contains Confidential  
18 information filed in this case by [name of party] and is not to be opened nor the contents  
19 thereof displayed or revealed except by order of the Court."

20 8. The portion of any deposition in which confidential materials are discussed  
21 shall be taken only in the presence of qualified persons, as defined above.

22 9. Nothing herein shall impose any restrictions on the use or disclosure by a  
23 party of material obtained by such party independent of discovery in this action, whether or  
24 not such material is also obtained through discovery in this action, or from disclosing its own  
25 confidential material as it deems appropriate. Receipt by any party of any confidential  
26 information shall not be either an admission or claim that the information is private,  
27 confidential, proprietary, and/or trade secret, as asserted by the propounding party, nor an  
28 admission with respect to the authenticity, competency, relevance or materiality thereof.

1           10. All documents designated as “Confidential” shall be treated as such and shall  
2 be subject to the provisions hereof unless and until one of the following occurs:

3           a. The party who claims that the material is Confidential Information  
4 withdraws such designation in writing; or

5           b. The Court rules the material is not Confidential Information. If a party  
6 contends that any material is not entitled to confidential treatment, such party may at any time  
7 apply to the Court for an order removing the confidential designation from any material.

8           11. This Order shall be without prejudice to present a motion to the court under  
9 Federal Rule of Civil Procedure 26 (c) for a separate Protective Order as to any particular  
10 document or information, including restrictions different from those as specified herein. This  
11 shall not be deemed to prejudice the parties in any way in any future application for  
12 modification of this Stipulation and Order.

13           12. Nothing in this Order nor the production of any information or document under  
14 the terms of this Order nor any proceedings pursuant to this Order, shall be deemed to have  
15 the affect of an admission or waiver of objections or privileges by either party or of altering  
16 the confidentiality or non-confidentiality of any such document or information or altering any  
17 existing right or obligation of any party or the absence thereof.

18           13. At the conclusion of this litigation, counsel for Plaintiff shall return all  
19 confidential and derivative materials within 60 calendar days, or shall certify to the  
20 Defendants that all such materials have been destroyed.

21           14. This Order shall survive the final termination of this action, and the court shall  
22 retain jurisdiction to resolve any dispute concerning the use of information disclosed  
23 hereunder.

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IT IS SO STIPULATED.

Dated July 7, 2009

HINTON, ALFERT & SUMNER  
A Professional Corporation

By /s/ Peter W. Alfert  
Peter W. Alfert  
Attorneys for Plaintiff

Dated July 7, 2009

Todd Boley  
Attorney at Law

By: /s/ Todd Boley  
Todd Boley  
Attorney for Plaintiff

Dated July 7, 2009

PORTER SCOTT  
A Professional Corporation

By /s/ John R. Whitefleet  
Terence J. Cassidy  
John R. Whitefleet  
Attorneys for Defendants

**ORDER**

Having reviewed the above Stipulation, and good cause appearing,  
IT IS SO ORDERED.

July 22, 2009

/s/ Gregory G. Hollows

Magistrate Judge of the United States District  
Court Eastern District of California

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