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10 Attorneys for Defendants

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IN THE UNITED STATES DISTRICT COURT  
 EASTERN DISTRICT OF CALIFORNIA

11 TOBY WILSON,

12 Plaintiff,

13 vs.

14 CITY OF VALLEJO, M. THOMPSON, D.  
 15 JOSEPH, M. NICOL, B. CLARK, J. JAKSCH,,  
 16 ROBERT NICHELINI, and DOES 1-15, inclusive,

17 Defendants.

) NO. 2:12-CV-000547-JAM-CKD  
 )  
 ) **STIPULATION TO PROTECTIVE**  
 ) **ORDER AND ORDER**

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 19 IT IS HEREBY STIPULATED BY ALL PARTIES to this action by and through their  
 20 attorneys of record, that in order to protect the confidentiality of the records described below, any of  
 21 said records disclosed are subject to a protective order (and designated as “Confidential Material”) as  
 22 follows:

23 1. The documents identified in City of Vallejo’s Initial Disclosure Statement (FRCP  
 24 §26(a)), in paragraph B thereof, including the following:

- 25 a. City of Vallejo Computer Assisted Dispatch (CAD) Report Bates
- 26 stamped DEF 1-3.
- 27 b. Plaintiff Toby Wilson’s criminal history report Bates stamped DEF 4-
- 28 10.

**STIPULATION TO PROTECTIVE ORDER AND [proposed] ORDER**

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- c. All City of Vallejo Department’s policy and procedure manuals, training manuals, training and procedure memorandum and bulletins, and all other documents which set forth Department operational, training and tactical policy and procedure, including but not limited to, those documents Bates stamped DEF 11-47.
  - d. Vallejo Police Department digital recording system record of police communication and transcript thereof.
  - e. Any internal affairs investigative documents, internal memorandum, reports of witnesses or summaries thereof.
2. Confidential material may not be disclosed except as set forth in paragraphs 3- 5.
3. Confidential Material may be disclosed only to the following persons:
- a. Counsel for any party to this action.
  - b. Paralegal, stenographic, clerical and secretarial personnel regularly employed by counsel referred to in 4(a);
  - c. Court personnel including stenographic reporters engaged in such proceedings as are necessarily incidental to preparation for the trial of this action;
  - d. Any outside expert or consultant retained in connection with this action, and not otherwise employed by either party;
  - e. Any “in house” expert designated by defendant to testify at trial in this matter;
  - f. Witnesses, other than the plaintiff herein, who may have the documents disclosed to them during deposition proceedings; the witnesses may not leave the depositions with copies of the documents, and shall be bound by the provisions of paragraph 5;
  - g. Any Neutral Evaluator or other designated ADR provider; and
  - h. Parties to this action.
  - i. The jury, should this matter go to trial.

1           4.       Each person to whom disclosure is made, with the exception of counsel who are  
2 presumed to know of the contents of this protective order, shall, prior to disclosure: (1) be provided  
3 with a copy of this order by the person furnishing him/her such material, and (2) agree on the record  
4 or in writing that she/he has read the protective order and that she/he understand the provisions of the  
5 protective order. Such person must also consent to be subject to the jurisdiction of the United States  
6 District Court, Eastern District, with respect to any proceeding relating to the enforcement of this  
7 order. Defendants City of Vallejo, M. Thompson, D. Joseph, M. Nicol, B. Clark, J. Jaksch,, Robert  
8 Nichelini shall be entitled to retain possession of the original writings described above. Nothing in  
9 this paragraph 4 is intended to prevent officials or employees of the City of Vallejo or other  
10 authorized government officials or any other persons from having access to the documents if they  
11 would have had access in the normal course of their job duties or rights as a citizen. Further, nothing  
12 in this order prevents a witness from disclosing event or activities personal to them, i.e., a witness  
13 can disclose to others previous information given to the City of Vallejo with respect to what she/he  
14 saw, heard, or otherwise sensed.

15           5.       At the conclusion of the trial and of any appeal or upon other termination of this  
16 litigation, all Confidential Material received under the provision of this order (including any copies  
17 made) shall be delivered back to the City of Vallejo. Provisions of this order insofar as they restrict  
18 disclosure and use of the material shall be in effect until all Confidential Material (including all  
19 copies thereof) are returned to defendants.

20           6.       Any document filed with the Court that reveals Confidential Material shall be  
21 submitted to the court under the provisions of the Local Rules regarding the sealing of documents.

22           7.       Nothing in this order shall preclude a party from showing or disclosing any  
23 documents, e.g., deposition transcript, pleading or brief, which otherwise contain Confidential  
24 Material as defined in paragraph 1, as long as such document has been redacted so as to prevent  
25 disclosure of such Confidential Material.

26           8.       The foregoing is without prejudice to the right of any party (a) to apply to the Court  
27 for a further protective order relating to any Confidential Material or relating to discovery in this  
28 litigation; (b) to apply to the Court for an order removing the Confidential Material designation from

1 any document; and (c) to apply to the Court for an order compelling production of documents or  
2 modification of this order or for any order permitting disclosure of Confidential Materials beyond the  
3 terms of this order.

4 Dated: July 19, 2012

JONES & DYER

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7 By: /s/ Mark A. Jones  
8 MARK A. JONES  
9 Attorneys for Defendants City of Vallejo, M.  
Thompson, D. Joseph, M. Nicol, B. Clark, J.  
Jaksch,, Robert Nichelini

10 Dated: July 19, 2012

LAW OFFICES OF JOHN L. BURRIS

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12 By: /s/ John L. Burris  
13 JOHN L. BURRIS  
14 Attorney for Plaintiff, Toby Wilson

15 **ORDER**

16 The Court having considered the foregoing stipulation of the parties, and good cause  
17 appearing, the Court hereby orders that the above-described records relating to this matter, as more  
18 specifically described in Paragraph 1 of the Stipulation, be subject to a protective order fully  
19 incorporating the provisions set forth above.

20 PURSUANT TO THE STIPULATION, IT IS SO ORDERED.

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22 Dated: July 24, 2012

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24 CAROLYN K. DELANEY  
25 UNITED STATES MAGISTRATE JUDGE