

1 CLAUDIA QUINTANA,
City Attorney, SBN 178613
2 BY: KELLY J. TRUJILLO,
Deputy City Attorney, SBN 244286
3 CITY OF VALLEJO, City Hall
555 Santa Clara Street, P.O. Box 3068
4 Vallejo, CA 94590
Tel: (707) 648-4545
5 Fax: (707) 648-4687

6 MARK A. JONES, SBN 96494
KRISTEN K. PRESTON, SBN 125455
7 JONES & DYER
A Professional Corporation
8 1800 J Street
Sacramento, CA 95811
9 Tel: (916) 552-5959
Fax: (916) 442-5959

10 Attorneys for Defendants CITY OF VALLEJO, a municipal corporation;
11 SEAN KENNEY; WAYLON BOYCE, MARK THOMPSON
individually and in their official capacities as Police Officers for the CITY OF VALLEJO

12 UNITED STATES DISTRICT COURT

13 EASTERN DISTRICT

14 THE ESTATE OF ANTON BARRETT, by
15 and through its representatives ANTON
FRANK BARRETT, PASHANEY
16 BARRETT AND A.P.B., a minor, by and
through his guardian ad litem TASHA
17 PERRY; ANTON FRANK BARRETT,
individually, PASHANEY BARRETT,
18 individually and A.P.B., a minor, by and
through his guardian ad litem, TASHA
19 PERRY,

Case No.: 2:13-CV-00846-JAM-CKD

PROTECTIVE ORDER

20 Plaintiffs,

21 vs.

22 CITY OF VALLEJO, a municipal
23 corporation; SEAN KENNEY; WAYLON
BOYCE, MARK THOMPSON; AND
24 DOES 1-50, inclusive; individually and in
their official capacities as Police Officers
25 for the CITY OF VALLEJO,

26 Defendants.

1 In order to protect the confidentiality of the records described below, any of said records
2 disclosed are designated as “Confidential Material” pursuant to the protective order previously
3 entered by this court (Docket No. 13) or designated “Confidential – Attorney’s Eyes Only” in this
4 Order as follows:

- 5 1. Documents designated as “Confidential Material” include:
 - 6 a. Vallejo Police Department Training Program and Approved External
7 Training Calendar, 2010-2014 (DEF 997-1023)
 - 8 b. K9 use of force effectiveness statistics Dec. 2012 to Dec. 2014 (DEF 937)
- 9 2. Documents designated as “Confidential – Attorney’s Eyes Only” include:
 - 10 a. Sean Kenney POST Profile report (DEF 912-918)
 - 11 b. Mark Thompson POST Profile report. (DEF 923-926)
 - 12 c. Waylon Boyce POST Profile report. (DEF 919-922)
 - 13 d. Employee history – Officer Mark Thompson. Citizen Complaints and
14 Administrative Investigations regarding alleged use of excessive force,
15 allegations of dishonesty and/or planting evidence, and/or racial
16 discrimination/racial profiling/disparate treatment, and Critical Incidents
17 involving officer’s deployment of K9 resulting in injury or death, 2008-
18 2012 (DEF 931-933)
 - 19 e. Employee history – Waylon Boyce. Citizen Complaints and
20 Administrative Investigations regarding alleged use of excessive force,
21 allegations of dishonesty and/or planting evidence, and/or racial
22 discrimination/racial profiling/disparate treatment, and Critical Incidents
23 involving officer’s deployment of K9 resulting in injury or death, 2008-
24 2012 (DEF 934-936)
 - 25 f. Employee History- Detective Sean Kenney: Citizen Complaints and
26 Administrative Investigations regarding alleged use of excessive force,
27 allegations of dishonesty and/or planting evidence, and/or racial
28 discrimination/racial profiling/disparate treatment, and Critical Incidents

1 involving officer's discharge of firearm resulting in injury or death, 2008-
2 2012 (DEF 927-930)

3 g. IA Report Barrett (DEF 938-940)

4 h. IA Report 2009 Thompson/Yago (DEF 941-996)

5 3. Counsel who receive documents designated as "Confidential – Attorney's Eyes
6 Only", as well as information contained in such designated documents, may disclose such
7 documents and/or information only subject to the provisions of this Stipulation and Order and only
8 to the following persons:

9 a. Counsel for any party to this action.

10 b. Paralegal, stenographic, clerical and secretarial personnel regularly
11 employed by counsel referred to in 4(a);

12 c. Court personnel including stenographic reporters engaged in such
13 proceedings as are necessarily incidental to preparation for the trial of this
14 action;

15 d. Any outside expert or consultant retained in connection with this action,
16 and not otherwise employed by either party;

17 e. Any expert designated to testify at trial in this matter; and

18 f. The parties agree that at the time of trial Defendants may seek orders from
19 the Court to prevent CONFIDENTIAL, ATTORNEYS' EYES ONLY
20 Materials disclosed during discovery from being made public during a jury
21 trial.

22 4. Each person to whom disclosure of documents designated "Confidential – Attorney's
23 Eyes Only" is made, with the exception of counsel who are presumed to know of the contents of
24 this protective order, shall, prior to disclosure: (1) be provided with a copy of this order by the
25 person furnishing him/her such material, and (2) agree on the record or in writing that she/he has
26 read the protective order and that she/he understand the provisions of the protective order. Such
27 person must also consent to be subject to the jurisdiction of the United States District Court, Eastern
28 District, with respect to any proceeding relating to the enforcement of this order. Defendants City

1 of Vallejo, W. Boyce, S. Kenney and M. Thompson shall be entitled to retain possession of the
2 original writings described above. Nothing in this paragraph 3 is intended to prevent officials or
3 employees of the City of Vallejo or other authorized government officials or any other persons from
4 having access to the documents if they would have had access in the normal course of their job
5 duties or rights as a citizen. Further, nothing in this order prevents a witness from disclosing event
6 or activities personal to them, i.e., a witness can disclose to others previous information given to the
7 City of Vallejo with respect to what she/he saw, heard, or otherwise sensed.

8 5. At the conclusion of the trial and of any appeal or upon other termination of this
9 litigation, all CONFIDENTIAL, ATTORNEYS' EYES ONLY Material received under the
10 provision of this order (including any copies made) shall be returned to the City of Vallejo and no
11 copies of any so-designated material shall be retained by the attorneys for plaintiffs or any of their
12 agents, employees, consultants or experts. Provisions of this order insofar as they restrict disclosure
13 and use of the material shall be in effect until all documents designated "Confidential – Attorney's
14 Eyes Only" (including all copies thereof) are returned to defendants.

15 6. Any document filed with the Court that includes or otherwise incorporates material
16 designated or derived from materials designated "Confidential – Attorney's Eyes Only" shall be
17 filed under seal pursuant to the procedures required by the F.R.C.P and/or applicable Local Rules of
18 Court and labeled with a cover sheet as follows: "*Barrett v. City of Vallejo, et al.*, United States
19 District Court, Eastern District, Case No.: 2:13-CV-00846-JAM-CKD. This document is subject to
20 a protective order issued by the Court and may not be copied or examined except in compliance
21 with that order." Documents so labeled shall be kept by the Clerk under seal and shall be made
22 available only to the Court or counsel. Upon failure of the party to so file a document under seal,
23 the producing party may request that the Court place the filing under seal.

24 7. The foregoing is without prejudice to the right of any party (a) to apply to the Court
25 for a further protective order relating to designation of any other documents as "Confidential
26 Material" and/or "Confidential – Attorney's Eyes Only"; (b) to apply to the Court for an order
27 removing the "Confidential Material" and/or "Confidential – Attorney's Eyes Only" designation
28 from any document; and (c) to apply to the Court for an order compelling production of documents

1 or modification of this order or for any order permitting disclosure of and material designated
2 “Confidential Material” and/or “Confidential – Attorney’s Eyes Only” beyond the terms of this
3 order.

4 IT IS SO ORDERED.

5 Dated: February 19, 2015



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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