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11 Attorneys for Defendants City of Vallejo, Officer Dustin B. Joseph,
Officer Sean G. Kenney and Vallejo Chief of Police Joseph M. Kreins
12

13 IN THE UNITED STATES DISTRICT COURT
14 EASTERN DISTRICT OF CALIFORNIA

15 JOSEPH L. JOHNSON, an individual,
CYNTHIA A. MITCHELL, an individual,
16 and as successor-in-interest and personal
representative of decedent MARIO D.S.M.
17 ROMERO,

18 Plaintiffs,

19 vs.

20 THE CITY OF VALLEJO, a municipality
and charter city, POLICE OFFICER
21 DUSTIN B. JOSEPH, an individual,
POLICE OFFICER SEAN G. KENNEY,
22 an individual, VALLEJO CHIEF OF
POLICE JOSEPH M. KREINS, an
23 individual and DOES 1-5, inclusive,

24 Defendants.

Case No.: 2:13-CV-01072-JAM-KJN
(Consolidated with Case No.: 2:13-CV-
02060-JAM-KJN)

STIPULATION AND [PROPOSED]
ORDER RE DATA RECOVERY FROM
CELLULAR TELEPHONES

25
26 AND CONSOLIDATED ACTIONS

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28 The parties to this action hereby stipulate to the procedure set forth below for transferring
cellular telephones described in Report No. 1211085.6 as Property Items 15 and 16 consisting of a NW5

1 Samsung Metro PCS cell phone and a NW6 Metro PCS cell phone from the Vallejo Police Department
2 to the forensic examiner designated in the Order below for the purpose of data recovery within the scope
3 described in the Order. All the parties stipulate to the foregoing and to the chain of custody identified in
4 the Order as follows:

5 GOOD CAUSE having been made to appear and pursuant to the stipulation of all counsel it is
6 ordered that:

7 The Vallejo Police Department will release to Jones & Dyer cellular telephones described in
8 Report No. 1211085.6 as Property Items 15 and 16 consisting of a NW5 Samsung Metro PCS cell phone
9 and a NW6 Metro PCS cell phone. A representative of Jones & Dyer will sign a receipt for the evidence
10 to maintain the chain of custody. A representative of Jones & Dyer will then deliver the evidence to
11 California Data Recovery, Inc. at 9139 Haverton Court, Elk Grove, California. A representative of
12 California Data Recovery, Inc. will sign a receipt for the evidence to maintain chain of custody. Upon
13 receipt of the evidence, a certified forensic examiner will retrieve available data from each cellular
14 telephone including but not limited to text messages, instant messages, telephone numbers, voice mail
15 messages or any other retrievable data for the period including from September 1, 2012 at 4:30 a.m. to
16 September 3, 2012 at 4:30 a.m.

17 Upon completion of the data recovery, a report detailing the results and content shall be
18 simultaneously sent by California Data Recovery, Inc. to counsel of record. The report detailing the
19 results and content of data retrieved shall be designated "Confidential Material" pursuant to the
20 Protective Order previously issued by this court [Docket No. 13] except that the report may be disclosed
21 only to the following persons:

- 22 a. Counsel for any party to this action.
- 23 b. Paralegal, stenographic, clerical and secretarial personnel regularly
24 employed by counsel referred to in 4(a);
- 25 c. Court personnel including stenographic reporters engaged in such
26 proceedings as are necessarily incidental to preparation for the trial of this
27 action;

- 1 d. Any outside expert or consultant retained in connection with this action,
2 and not otherwise employed by either party; and
3 e. Any expert designated to testify at trial in this matter.

4 The parties agree that at the time of trial Plaintiffs may seek orders from the Court to prevent
5 confidential materials disclosed during discovery from being made public during a jury trial.

6 After the completion of the data recovery, the evidence will be returned to and maintained by the
7 Vallejo Police Department. A representative of the Vallejo Police Department will sign a receipt for the
8 evidence to maintain chain of custody.

9 All fees for the above-referenced data retrieval are to be paid by Jones & Dyer.

10 No objection shall be raised by any party regarding admissibility at trial of the evidence related
11 to the data recovery described in this order on the basis that the data recovery and production of the
12 report occur after the close of discovery. All other objections to admissibility of evidence pertaining to
13 the data recovery described in this order are preserved.

14 Dated: October 28, 2014 JONES & DYER

15
16 By: /s/ Kristen K. Preston
17 Mark A. Jones
18 Kristen K. Preston
19 Attorneys for Defendants City of Vallejo,
D. Joseph, S. Kenney and J. Kreins

20 Dated: October 28, 2014 CITY OF VALLEJO

21
22 By: /s/ Kelly J. Trujillo
23 Claudia Quintana
24 Kelly J. Trujillo
25 Attorneys for Defendants City of Vallejo,
D. Joseph, S. Kenny, and J. Kreins

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Dated: October 28, 2014

BOWLES & VERNA LLP

By: /s/ William Nagle
Lawrence Goldberg
William Nagle
Attorneys for Plaintiffs

Dated: October 28, 2014

THE HALEY LAW OFFICES, P.C.
LAW OFFICES OF CATHERINE HALEY

By: /s/ Matthew D. Haley
Matthew D. Haley
Catherine Haley
Attorneys for Plaintiffs

Dated: October 28, 2014

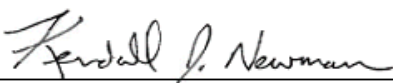
LAW OFFICE OF FULVIO F. CAJINA

By: /s/ Fulvio F. Cajina
Fulvio F. Cajina
Attorney for Plaintiffs

ORDER

IT IS SO ORDERED.

Dated: October 29, 2014


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE