

1 CLAUDIA QUINTANA
2 City Attorney, SBN 178613
3 BY: KELLY J. TRUJILLO
4 Deputy City Attorney, SBN 244286
5 CITY OF VALLEJO, City Hall
6 555 Santa Clara Street, P.O. Box 3068
7 Vallejo, CA 94590
8 Tel: (707) 648-4545
9 Fax: (707) 648-4687

7 MARK A. JONES, SBN 96494
8 KRISTEN K. PRESTON, SBN 125455
9 JONES & DYER
10 A Professional Corporation
11 1800 J Street
12 Sacramento, CA 95811
13 Tel: (916) 552-5959
14 Fax: (916) 442-5959

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

14 UNITED STATES DISTRICT COURT
15 FOR THE EASTERN DISTRICT OF CALIFORNIA
16

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

21 Plaintiffs,

22 v.

23 THE CITY OF VALLEJO, a municipality
24 and charter city, POLICE OFFICER
25 DUSTIN B. JOSEPH, an individual,
26 POLICE OFFICER SEAN G. KENNEY,
27 an individual, VALLEJO CHIEF
28 OF POLICE JOSEPH M. KREINS, an
individual and DOES 1-5, inclusive,

27 Defendants.

28 AND CONSOLIDATED ACTIONS

Case No.: 2:13-CV-01072-JAM-KJN

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

SECOND STIPULATION AND

[PROPOSED] PROTECTIVE ORDER

1 IT IS HEREBY STIPULATED BY ALL PARTIES to this action by and through their attorneys of record,
2 that in order to protect the confidentiality of the records described below, any of said records disclosed are
3 designated as "Confidential Material" pursuant to the protective order previously entered by this court
4 (Docket No. 13) or designated "Confidential- Attorney's Eyes Only" in this Stipulation and Order as
5 follows:

6 1. Documents designated as "Confidential Material" include:

7 a. Vallejo Police Department Training Program and Approved External
8 Training Calendar, 2010-2014 (DEF 1184 - 1210.)

9 2. Documents designated as "Confidential- Attorney's Eyes Only" include:

10 a. Sean Kenney Post Profile report (DEF 1157- 1161)

11 b. Sean Kenney Vallejo Police Department Individual Training Activity.
12 (DEF 1162 - 1163)

13 c. Dustin Joseph Post Profile report. (DEF 1164 - 1167)

14 d. Dustin Joseph Vallejo Police Department Individual Training Activity.
15 (DEF 1168 - 1171)

16 e. Employee history- Corporal Dustin Joseph: Citizen Complaints and
17 Administrative Investigations regarding alleged use of excessive force,
18 allegations of dishonesty and/or planting evidence, and/or racial
19 discrimination/racial profiling/disparate treatment, and Critical Incidents
20 involving officer's discharge of firearm resulting in injury or death, 2008-
21 2012 (DEF 1173 - 1179)

22 f. Employee History- Detective Sean Kenney: Citizen Complaints and
23 Administrative Investigations regarding alleged use of excessive force,
24 allegations of dishonesty and/or planting evidence, and/or racial
25 discrimination/racial profiling/disparate treatment, and Critical Incidents
26 involving officer's discharge of firearm resulting in injury or death, 2008-
27 2012 (DEF 1180 - 1183)

28 g. Gang Intelligence Report: Lofus Related Gangsters. (DEF 1211 - 1225)

- 1 h. LRG video (DEF 1226)
- 2 i. Documents relating to Dustin Joseph's promotion to Corporal. (DEF 1227-
- 3 1233)

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

- 8 a. Counsel for any party to this action.
- 9 b. Paralegal, stenographic, clerical and secretarial personnel regularly
10 employed by counsel referred to in 4(a);
- 11 c. Court personnel including stenographic reporters engaged in such
12 proceedings as are necessarily incidental to preparation for the trial of this
13 action;
- 14 d. Any outside expert or consultant retained in connection with this action,
15 and not otherwise employed by either party;
- 16 e. Any expert designated to testify at trial in this matter; and
- 17 f. The parties agree that at the time of trial Defendants may seek orders from
18 the Court to prevent CONFIDENTIAL, ATTORNEYS' EYES ONLY
19 Materials disclosed during discovery from being made public during a jury
20 trial.

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

1 retain possession of the original writings described above. Nothing in this paragraph 3 is intended
2 to prevent officials or employees of the City of Vallejo or other authorized government officials
3 or any other persons from having access to the documents if they would have had access in the
4 normal course of their job duties or rights as a citizen. Further, nothing in this order prevents a
5 witness from disclosing event or activities personal to them, i.e., a witness can disclose to others
6 previous information given to the City of Vallejo with respect to what she/he saw, heard, or
7 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
13 disclosure and use of the material shall be in effect until all documents designated "Confidential-
14 Attorney's 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
18 of Court and labeled with a cover sheet as follows: "Johnson v. City of Vallejo, et al., United
19 States District Court, Eastern District, Case No.: 2: 13-CV -0 I 072-JAM-KJN. This document is
20 subject to a protective order issued by the Court and may not be copied or examined except in
21 compliance with that order." Documents so labeled shall be kept by the Clerk under seal and shall
22 be made available only to the Court or counsel. Upon failure of the party to so file a document
23 under seal, 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
25 Court for a further protective order relating to designation of any other documents as
26 "Confidential Material" and/or "Confidential- Attorney's Eyes Only"; (b) to apply to the Court for
27 an order removing the "Confidential Material" and/or "Confidential- Attorney's Eyes Only"
28 designation from any document; and (c) to apply to the Court for an order compelling production

1 of documents or modification of this order or for any order permitting disclosure of and material
2 designated "Confidential Material" and/or "Confidential- Attorney's Eyes Only" beyond the terms
3 of this order.

4
5 Dated: October 28, 2014

JONES & DYER

6 By: _____

7 Mark A. Jones
8 Kristen K. Preston
9 Attorneys for Defendants City of Vallejo,
D. Joseph, S. Kenney and J. Kreins

10 Dated: October 29, 2014

CITY OF VALLEJO

11 By: _____

12 Claudia Quintana
13 Kelly J. Trujillo
14 Attorneys for Defendants City of Vallejo,
D. Joseph, S. Kenny, and J. Kreins

15 Dated: October 28 , 2014

BOWLES & VERNA LLP

16 By: _____

17 MICHAEL P. VERNA
18 LAWRENCE D. GOLDBERG
19 Attorneys for Plaintiffs JOSEPH L.
JOHNSON and CYNTHIA A. MITCHELL

20 Dated: October 28, 2014

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

21 By: _____

22 Matthew D. Haley
23 Catherine Haley
24 Attorneys for Plaintiffs

25 Dated: October 28, 2014

LAW OFFICE OF FULVIO F. CAJINA


26 By: _____

27 Fulvio F. Cajina
28 Attorney for Plaintiffs

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS SO ORDERED.

Dated: October 31, 2014


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE