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 9 IN THE UNITED STATES DISTRICT COURT
 10 FOR THE EASTERN DISTRICT OF CALIFORNIA
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<p>13 SHANA MCLOUD, 14 15 Plaintiff, 16 17 JOSEPH A. FARROW, 18 Defendant.</p>	<p>2:13-CV-02404-JAM-KJN STIPULATED MOTION FOR PROTECTIVE ORDER; ORDER Judge: The Honorable John A. Mendez Action Filed: November 19, 2013</p>
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19 TO THE HONORABLE COURT:

20 Pursuant to Federal Rules of Civil Procedure 26 and Local Rule 141.1 the parties hereby
 21 stipulate to the protective order:

22 IT IS HEREBY STIPULATED by and between the parties, through their respective
 23 counsel, that the Court may enter the following protective order:

24 I. Description of information and reasons for protection:

25 A. Investigative reports prepared by third party agencies including, but not limited to, the
 26 San Joaquin County District Attorney’s Office, the San Joaquin County Sheriff’s Department, the
 27 Multidisciplinary Accident Investigation Team (MAIT) and the Critical Incident Investigation
 28

1 Team Protocol Unit. The work of these investigative agencies is protected from disclosure by the
2 deliberative process doctrine, the official information privilege and the law enforcement
3 investigatory privilege. The materials also include private, personal information relating to third
4 party witnesses (i.e. medical records, criminal histories, home addresses, telephone numbers) who
5 have not been advised of the request and have not consented to the disclosure of their private
6 information.

7 B. Video and audio recordings from the Mobile Video and Audio Recording System
8 (MVARs) placed in law enforcement vehicles who responded to the incident at issue. The
9 MVARs contains law enforcement security codes, communication codes, techniques and
10 procedures which if released could jeopardize future investigations and endanger the lives of law
11 enforcement personnel engaged in the performance of their official duties. The recordings also
12 include private information relating to third parties who have not consented to the disclosure of
13 their information.

14 C. Audio recordings of witness interviews and dispatch logs which contain information
15 protected from disclosure by the deliberative process doctrine, the official information privilege
16 and the law enforcement investigatory privilege. The materials also include private, personal
17 information relating to third party witnesses (i.e. home addresses, telephone numbers) who have
18 not been advised of the request and have not consented to the disclosure of their private
19 information.

20 D. Digital photographs which contain extremely graphic images of the decedent at the
21 incident scene and subsequent autopsy which if released to the public could cause severe
22 emotional distress and suffering to Plaintiff and the public.

23 E. Any other materials that the parties agree may be covered by this order.

24 These materials will be collectively referred to as “confidential material” throughout the
25 remainder of this document. It is the obligation of the party producing confidential material to
26 identify such materials at the time of production.

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1 II. Need for a court order:

2 The confidential materials were prepared by persons other than the Defendants in this
3 action who would not disclose such information to the general public. They have agreed to allow
4 the materials to be produced in this litigation if the information is subject to the proposed
5 protective order. There are also numerous third party witnesses whose private information is at
6 issue who have not been advised of the request and have not consented to the disclosure of their
7 information. It would be unduly burdensome and cause substantial delay in the judicial process if
8 each such person had to be located and provide their specific consent. Because some of the
9 information is contained in audio and video recordings, it is not in a form that can be readily
10 redacted. The parties believe that the proposed protective order will adequately resolve any third
11 party privacy issues.

12 III. Proposed Order:

13 A. Permissible use of confidential material. Counsel for Plaintiff may not use
14 confidential material, or any document derived from or based on such material, such as an expert
15 report (hereinafter “derivative material”), for any purpose other than the conduct of this litigation.

16 B. Duplication of confidential material. Counsel for Plaintiff may make only one copy
17 of any confidential or derivative material.

18 C. Nondisclosure of confidential material to Plaintiff. Counsel for Plaintiff shall not
19 disclose confidential or derivative material to the Plaintiff herself or any other person except as
20 provided by section D below.

21 D. Permissive disclosure of confidential material to specific individuals and entities.
22 Counsel for Plaintiff may disclose confidential or derivative material only to (a) the Court,
23 including any courtroom personnel; (b) the paralegal and clerical staff employed by counsel for
24 Plaintiff, if such disclosure is necessary to the conduct of the litigation; (c) any experts or
25 consultants (together with their clerical staff) that counsel for Plaintiff retain to assist in the
26 prosecution of this action; (d) any court reporter responsible for recording or transcribing any
27 proceeding in this action; (e) any witness at any deposition or other reported proceeding in this
28 action; and (f) any other person to whom the Office of the Attorney General agrees in writing it

1 may be disclosed. Counsel for Plaintiff shall not disclose confidential or derivative material to
2 any of the above individuals (excluding the Court and courtroom personnel) until counsel for
3 Plaintiff has explained to that person the obligations created by this protective order and obtained
4 that person's agreement to abide by the contents of this protective order. Nothing in this
5 paragraph imposes any restrictions on the use or disclosure by counsel for Plaintiff of any
6 material obtained independent of discovery in this action, whether or not such material is also
7 obtained through discovery in this action.

8 E. Use of confidential material at depositions. Counsel for Plaintiff may present
9 confidential information to witnesses at depositions, and examine them concerning that
10 confidential information, only after explaining to the witness on the record that the information is
11 confidential and subject to this protective order, and only after the witness agrees to abide by the
12 terms of this protective order and maintain the confidentiality of the information per the terms of
13 the order. No witness may leave any deposition with any confidential or derivative material that
14 was disclosed to that witness during that deposition. If a witness testifies concerning confidential
15 information at a deposition, that testimony will be treated as confidential information. Counsel
16 for Plaintiff shall make arrangements with the court reporter transcribing the deposition to
17 separately bind any portions of the transcript containing information designated as confidential,
18 and to label those portions appropriately.

19 F. Use of confidential material in open court. Counsel for Plaintiff may not use any
20 confidential or derivative material in open court for any purpose without first obtaining the
21 Court's permission to do so. The use of confidential material in open court shall not cause the
22 material to lose its confidential status.

23 G. Filing of confidential material. Counsel for Plaintiff may not file any confidential or
24 derivative material other than under seal.

25 H. Destruction of confidential material. At the conclusion of this litigation, counsel for
26 Plaintiff shall return all confidential and derivative materials to the Office of the Attorney
27 General, or shall certify to the Office of the Attorney General that all such materials have been
28 destroyed.

1 I. Further orders. The foregoing is without prejudice to the right of any party: (a) to
2 apply to the Court for a further or different protective order covering any material to be produced
3 in this litigation; (b) to apply to the Court for an order removing the confidential designation
4 from any material; and (c) to apply to the Court for an order compelling production of documents
5 or modification of this order or for any order permitting disclosure of confidential material
6 beyond the terms of this order.

7 J. Term. This order shall remain in effect after the termination of this litigation and the
8 Court shall retain jurisdiction to resolve any dispute arising out of this order.

9 SO STIPULATED:

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11 Dated: December 3, 2014

LAW OFFICES OF JOHN L. BURRIS

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13 By: /s/ DeWitt Lacy
14 John L. Burris
15 DeWitt Lacy
16 Attorney for Plaintiffs

17 Dated: December 3, 2014

OFFICE OF THE ATTORNEY GENERAL

18 By: /s/ Kevin W. Reager
19 Kevin W. Reager
20 Attorney for Defendants

21 PURSUANT TO STIPULATION, IT IS SO ORDERED.

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23 DATED: 12/3/2014

/s/ John A. Mendez
24 The Honorable Judge John A. Mendez
25 UNITED STATES DISTRICT COURT JUDGE