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16 Attorneys for Defendant
17 County of Butte

18 UNITED STATES DISTRICT COURT
19 EASTERN DISTRICT OF CALIFORNIA

20 DENISE RUSSELL,
21 Plaintiff,

CASE NO. 2:14-CV-00694-TLN-CMK

STIPULATED PROTECTIVE ORDER

22 v.

23 COUNTY OF BUTTE, et al.

Complaint Filed: 03/14/14

24 Defendants.

25 Defendant COUNTY BUTTE and TOWN OF PARADISE in good faith believes that the
26 following documents contain information that is (a) confidential, sensitive, or potentially invasive
27 of an individual's privacy interests; (b) not generally known; (c) not normally revealed to the
28 public or third parties, or, if disclosed to third parties, would require such third parties to maintain
the information in confidence and (d) protected by the federal common law official information
privilege.

1 Defendant takes the position that these documents are Confidential:

2
3 1. Personnel records of County of Butte’s Sheriff Deputies Martha Sharpe, Donovan
4 Stockwell, Jason Behlke, Maxina Roberts, and Trevor Frankovich, employed by Butte County
5 Sheriff’s Department, including but not limited to documents concerning, relating or referring to:
6 background investigations, hiring, appointment, termination, job performance and evaluations,
7 awards, commendations, and recognition of all professional accomplishments, training, internal
8 affairs investigative files, citizen complaints, charges of misconduct, resulting discipline or
9 retraining. And Personnel records of the same nature pertaining to Officers Patrick Feaster and
10 Jake Smith of the Paradise Police Department.

11 IT IS HEREBY STIPULATED by, among and between the parties through their counsels
12 of record, that the documents described herein may be designated as “Confidential” by the
13 COUNTY OF BUTTE and TOWN OF PARADISE and produced subject to the following
14 Protective Order:

15 1. The disclosed documents shall be used solely in connection with the civil case
16 Russell v. County of Butte, et al., Case No. 2:14-CV-00694-TLN-CMK (USDC EDCA) and in the
17 preparation and trial of the cases. The Parties do not waive any objections to the admissibility of
18 the documents or portions thereof in future proceedings in this case, including trial. Any
19 documents submitted in any related litigation that were under seal remain under seal in this action.

20 2. A party producing the documents and materials described herein may designate
21 those materials as confidential by affixing a mark labelling them “Confidential” provided that such
22 marking does not obscure or obliterate the content of any record. If any confidential materials
23 cannot be labeled with this marking, those materials shall be placed in a sealed envelope or other
24 container that is in turn marked “Confidential” in a manner agreed upon by the disclosing and
25 requesting parties. Documents may also bear a mark labelling them “Redacted” to protect third
26 party privacy rights and information not subject to disclosure.

27 3. Documents or materials designated under this Protective Order as “Confidential”
28 may only be disclosed to the following persons:

(a) Larry L. Baumbach of LAW OFFICES OF LARRY L. BAUMBACH, and associate

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1 attorneys in that office, if any, as counsel for Plaintiff DENISE RUSSELL in the case enumerated above;

2 (b) Stephen E. Horan of PORTER SCOTT, and associate attorneys in his office, as
3 counsel for Defendant COUNTY OF BUTTE in the case enumerated above;

4 (c) Douglas R. Thorn of LAW OFFICES OF DOUGLAS R. THORN, and associates
5 attorneys in his office, if any, as counsel for Defendant TOWN OF PARADISE in the case
6 enumerated above;

7 (d) Paralegal, clerical, and secretarial personnel regularly employed by counsel
8 referred to in subparts (a), (b) and (c) immediately above, including stenographic deposition
9 reports or videographers retained in connection with this action;

10 (g) Court personnel, including stenographic reporters or videographers engaged in
11 proceedings as are necessarily incidental to the preparation for the trial in the civil action;

12 (h) Any expert, consultant, or investigator retained in connection with this action;

13 (i) The finder of facts at the time of trial, subject to the court's rulings on in limine
14 motions and objections of counsel; and,

15 (j) Witnesses during their depositions in this action.

16 4. Prior to the disclosure of any Confidential information to any person identified in
17 paragraph 3 and its sub-parts, each such recipient of Confidential information shall be provided
18 with a copy of this Stipulated Protective Order, which he or she shall read. Upon reading this
19 Protective Order, such person shall acknowledge in writing as follows:

20
21 I have read the Protective Order that applies in Russell v. County of Butte, et al.,
22 Case No. 2:14-CV-00694-TLN-CMK (USDC EDCA) and shall abide by its
23 terms. I consent to be subject to the jurisdiction of the United States District Court
24 for the Eastern District of California, including without limitation in any
25 proceeding for contempt.

26 Such person also must consent to be subject to the jurisdiction of the United States District
27 Court, Eastern District of California, including without limitation any proceeding for contempt.
28 Provisions of this Stipulated Protective Order, insofar as they restrict disclosure and use of the
material, shall be in effect until further order of this Court. The attorneys designated in subparts
(a) and (b) of Paragraph 3 above shall be responsible for internally tracking the identities of those

1 individuals to whom copies of documents marked Confidential are given. The Defendants may
2 request the identities of said individual(s) upon the final termination of the litigation or if it is able
3 to demonstrate a good faith basis that any of the other parties to this actions, or agents thereof,
4 have breached the terms of the Stipulated Protective Order.

5 5. As to all documents or materials designated as “Confidential” pursuant to this
6 Stipulated Protective Order, the parties agree that they will seek permission from the Court to file
7 the Confidential information under seal according to Local Rule 141. If permission is granted, the
8 Confidential material will be filed and served in accordance with Local Rule 141.

9 6. The designation of documents or information as “Confidential” and the subsequent
10 production thereof is without prejudice to the right of any party to oppose the admissibility of the
11 designated document or information.

12 7. A party may apply to the Court for an order that information or materials labeled
13 “Confidential” are not, in fact, confidential. Prior to applying to the Court for such an order, the
14 party seeking to reclassify Confidential information shall meet and confer with the producing
15 party. Until the matter is resolved by the parties or the Court, the information in question shall
16 continue to be treated according to its designation under the terms of this Stipulated Protective
17 Order. The producing party shall have the burden of establishing the propriety of the
18 “Confidential” designation. A party shall not be obligated to challenge the propriety of a
19 confidentiality designation at the time made and a failure to do so shall not preclude a subsequent
20 challenge thereto.

21 8. Copies of Confidential Documents

22 The following procedures shall be utilized by the parties in production of documents and
23 materials designated as “Confidential”:

24 (a) Counsel for parties other than the Defendants shall receive one copy of the
25 Confidential documents at no charge.

26 (b) Counsel for parties other than the Defendants shall not copy, duplicate, furnish,
27 disclose, or otherwise divulge any information contained in the confidential documents to
28 any source, except those persons identified in Paragraph 3 herein, without further order of
the Court or authorization from counsel for the Defendants. But should counsel disclose

1 the information to anyone under this provision, then counsel shall notify the attorneys of
2 record for the other parties at least 10 days before the disclosure so that additional
3 protective orders may be sought from the Court.

4 (c) If the other parties in good faith require additional copies of documents marked
5 “Confidential” in preparation of their case, they shall make a further request to counsel for
6 the Defendants. Upon agreement with counsel for the Defendants, copies will be produced
7 in a timely manner to the requesting party, pursuant to the procedures of this Stipulated
8 Protective Order. Agreement shall not be unreasonably withheld by counsel for the
9 Defendants.

10 9. If any document or information designated as confidential pursuant to this
11 Stipulated Protective Order is used or disclosed during the course of a deposition, that portion of
12 the deposition record reflecting such material shall be stamped with the appropriate designation
13 and access shall be limited pursuant to the terms of this Stipulated Protective Order. The court
14 reporter for the deposition shall mark the deposition transcript cover page and all appropriate
15 pages or exhibits and each copy thereof, in accordance with paragraph 5 of this Stipulated
16 Protective Order. Only individuals who are authorized by this Protective Order to see or receive
17 such material may be present during the discussion or disclosure of such material.

18 10. Notwithstanding the provisions of Paragraph 3, confidential information produced
19 pursuant to this Protective Order may not be delivered, exhibited or otherwise disclosed to any
20 reporter, writer or employee of any trade publication, newspaper, magazine or other media
21 organization, including but not limited to radio and television media.

22 11. Should any information designated confidential be disclosed, through inadvertence
23 or otherwise, to any person not authorized to receive it under this Protective Order, the disclosing
24 person(s) shall promptly (a) inform counsel for the Defendants of the recipient(s) and the
25 circumstances of the unauthorized disclosure to the relevant producing person(s) and (b) use best
26 efforts to bind the recipient(s) to the terms of this Protective Order.

27 12. No information shall lose its confidential status because it was inadvertently or
28 unintentionally disclosed to a person not authorized to receive it under this Protective Order. In
addition, any information that is designated confidential and produced by the Defendants does not

1 lose its confidential status due to any inadvertent or unintentional disclosure. In the event that the
2 Defendants make any such inadvertent disclosure, the documents which are confidential will be
3 identified accordingly, marked in accordance with Paragraph 2 above, and a copy of the
4 Confidential-marked documents provided to the other parties to this action.

5 Upon receipt of the Confidential-marked documents, the receiving parties will return the
6 unmarked version of the documents to counsel for the Defendants within fourteen (14) days.

7 13. After the conclusion of this litigation, all documents and materials, in whatever
8 form stored or reproduced containing confidential information will remain confidential. All
9 documents and materials produced to counsel for the other parties pursuant to this Stipulated
10 Protective Order shall be returned to counsel for the Defendants in a manner in which counsel will
11 be able to reasonably verify that all documents were returned. All parties agree to ensure that all
12 persons to whom confidential documents or materials were disclosed shall be returned to counsel
13 for Defendants. "Conclusion" of this litigation means a termination of the case following a trial or
14 settlement.

15 14. No later than thirty (30) days after settlement or of receiving notice of the entry of
16 an order, judgment, or decree terminating this action, all persons having received the confidential
17 documents shall return said documents to counsel for the Defendants.

18 15. If any party appeals a jury verdict or order terminating the case, counsel for the
19 Defendants shall maintain control of all copies of confidential documents. If following an appeal
20 the district court reopens the case for further proceedings, the documents shall be returned to
21 counsel for the other parties.

22 16. This Stipulated Protective Order shall remain in full force and effect and shall
23 continue to be binding on all parties and affected persons until this litigation terminates, subject to
24 any subsequent modifications of this Stipulated Protective Order for good cause shown by this
25 Court or any Court having jurisdiction over an appeal of this action. Upon termination of this
26 litigation, the parties agree the Stipulated Protective Order shall continue in force as a private
27 agreement between the parties.

28 17. During the pendency of this lawsuit, the Court shall (a) make such amendments,
modifications and additions to this Protective Order as it may deem appropriate upon good cause

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shown; and, (b) adjudicate any dispute arising under it.

IT IS SO STIPULATED.

Date: 12/1/2014

LAW OFFICES OF LARRY L. BAUMBACH

By: ___//s// Larry L. Baumbach___
Larry L. Baumbach
Attorney for Plaintiff

Date: 12/8/2014

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A PROFESSIONAL CORPORATION

By ___//s// William E. Camy___
Stephen E. Horan
William E. Camy
Attorneys for County of Butte

Date: 12/1/14

LAW OFFICE OF DOUGLAS R. THORN

By: ___//s// Douglas R. Thorn___
Douglas R. Thorn
Attorney for Town of Paradise

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ORDER

PURSUANT TO THE STIPULATION AND GOOD CAUSE APPEARING, IT IS SO ORDERED.

Dated: December 17, 2014


CRAIG M. KELLISON
UNITED STATES MAGISTRATE JUDGE