

1 MICHAEL J. HADDAD (State Bar No. 189114)
JULIA SHERWIN (State Bar No. 189268)
2 T. KENNEDY HELM (State Bar No. 282319)
MAYA SORENSEN (State Bar No. 250722)
3 HADDAD & SHERWIN LLP
4 505 Seventeenth Street
Oakland, California 94612
5 Telephone: (510) 452-5500
Facsimile: (510) 452-5510
6

7 Attorneys for Plaintiff Patrick Jackson

8 LAW OFFICES OF DALE K. GALIPO
DALE K. GALIPO (State Bar No. 144074)
9 TANYA SUKHIJA (State Bar No. 295589)
21800 Burbank Boulevard, Suite 310
10 Woodland Hills, California 91367
Telephone: (818) 347-3333
11 Facsimile: (818) 347-4118

12 Attorney for Plaintiff Angela Ainley
13

14 **UNITED STATES DISTRICT COURT**

15 **EASTERN DISTRICT OF CALIFORNIA**
16

17 ANGELA AINLEY, individually; PATRICK)
JACKSON, individually; ANGELA AINLEY) No: 2:16-CV-00049-TLN-CKD
18 and PATRICK JACKSON as joint personal)
representatives of the Estate KRIS JACKSON;)
19 the Estate of KRIS JACKSON,)

20 Plaintiffs,)

21 vs.)

**STIPULATED PROTECTIVE ORDER
PURSUANT TO CIVIL LOCAL RULE
141.1**

22 CITY OF SOUTH LAKE TAHOE, a municipal)
corporation; JOSHUA KLINGE, individually)
23 and as a police officer for the city of South Lake)
24 Tahoe; BRIAN UHLER, individually and in his)
capacity as the CITY OF SOUTH LAKE)
25 TAHOE Chief of Police; and DOES 1)
THROUGH 25, inclusive,)

26
27 Defendants

28

1 1. PURPOSES AND LIMITATIONS

2 Disclosure and discovery activity in this action are likely to involve production of confidential,
3 proprietary, or private information for which special protection from public disclosure and from use
4 for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties
5 hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The
6 parties acknowledge that this Order does not confer blanket protections on all disclosures or responses
7 to discovery and that the protection it affords from public disclosure and use extends only to the
8 limited information or items that are entitled to confidential treatment under the applicable legal
9 principles. The parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated
10 Protective Order does not entitle them to file confidential information under seal; Civil Local Rule
11 141 sets forth the procedures that must be followed and the standards that will be applied when a party
12 seeks permission from the court to file material under seal.

12 2. DEFINITIONS

13 2.1 Challenging Party: a Party or Non-Party that challenges the designation of information or
14 items under this Order.

15 2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is generated,
16 stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil
17 Procedure 26(c), and for which public disclosure is likely to result in particularized harm and violate
18 privacy interests recognized by law. This information may include:

- 19 a. personnel file records of any peace officer;
- 20 b. medical records;
- 21 c. social security numbers and similar sensitive identifying information (unless
22 redacted by order or by agreement of all parties).

23 Except by stipulation or order based on good cause, this information may not include
24 records and information of foundational facts and investigation of the subject incident(s),
25 specifically: the officer involved shooting of Kris Jackson on or about June 15, 2015.

- 1 2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as well as their
2 support staff).
- 3 2.4 Designating Party: a Party or Non-Party that designates information or items that it produces
4 in disclosures or in responses to discovery as “CONFIDENTIAL.”
- 5 2.5 Disclosure or Discovery Material: all items or information, regardless of the medium or
6 manner in which it is generated, stored, or maintained (including, among other things, testimony,
7 transcripts, and tangible things), that are produced or generated in disclosures or responses to
8 discovery in this matter.
- 9 2.6 Expert: a person with specialized knowledge or experience in a matter pertinent to the
10 litigation who has been retained by a Party or its counsel to serve as an expert witness or as a
11 consultant in this action.
- 12 2.7 House Counsel: attorneys who are employees of a party to this action. House Counsel does
13 not include Outside Counsel of Record or any other outside counsel.
- 14 2.8 Non-Party: any natural person, partnership, corporation, association, or other legal entity not
15 named as a Party to this action.
- 16 2.9 Outside Counsel of Record: attorneys who are not employees of a party to this action but are
17 retained to represent or advise a party to this action and have appeared in this action on behalf of that
18 party or are affiliated with a law firm which has appeared on behalf of that party.
- 19 2.10 Party: any party to this action, including all of its officers, directors, employees, consultants,
20 retained experts, and Outside Counsel of Record (and their support staffs).
- 21 2.11 Producing Party: a Party or Non-Party that produces Disclosure or Discovery Material in this
22 action.
- 23 2.12 Professional Vendors: persons or entities that provide litigation support services (e.g.,
24 photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing,
25 or retrieving data in any form or medium) and their employees and subcontractors.
- 26 2.13 Protected Material: any Disclosure or Discovery Material that is designated as
27 “CONFIDENTIAL.”
28

1 2.14 Receiving Party: a Party that receives Disclosure or Discovery Material from a Producing
2 Party.

3 3. SCOPE

4 The protections conferred by this Stipulation and Order cover not only Protected Material (as
5 defined above), but also (1) any information copied from Protected Material; (2) all copies, excerpts,
6 summaries, or compilations of Protected Material that reveal the source of the Protected Material or
7 that reveal specific information entitled to confidentiality as a matter of law; and (3) any testimony,
8 conversations, or presentations by Parties or their Counsel that might reveal Protected Material.

9 However, the protections conferred by this Stipulation and Order do not cover the following
10 information: (a) any information that is in the public domain at the time of disclosure to a Receiving
11 Party or becomes part of the public domain after its disclosure to a Receiving Party as a result of
12 publication not involving a violation of this Order, including becoming part of the public record
13 through trial or otherwise; and (b) any information known to the Receiving Party prior to the
14 disclosure or obtained by the Receiving Party after the disclosure from a source who obtained the
15 information lawfully and under no obligation of confidentiality to the Designating Party. Any use of
16 Protected Material at trial shall be governed by a separate agreement or order.

17 4. DURATION

18 Even after final disposition of this litigation, the confidentiality obligations imposed by this
19 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order
20 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and
21 defenses in this action, with or without prejudice; and (2) final judgment herein after the completion
22 and exhaustion of all appeals, rehearings, remands, trials, or reviews of this action, including the time
23 limits for filing any motions or applications for extension of time pursuant to applicable law.

24 5. DESIGNATING PROTECTED MATERIAL

25 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party or Non-Party
26 that designates information or items for protection under this Order must take care to limit any such
27 designation to specific material that qualifies under the appropriate standards. The Designating Party
28 must designate for protection only those parts of material, documents, items, or oral or written

1 communications that qualify – so that other portions of the material, documents, items, or
2 communications for which protection is not warranted are not swept unjustifiably within the ambit of
3 this Order.

4 Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to
5 be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber
6 or retard the case development process or to impose unnecessary expenses and burdens on other
7 parties) expose the Designating Party to sanctions.

8 If it comes to a Designating Party’s attention that information or items that it designated for
9 protection do not qualify for protection, that Designating Party must promptly notify all other Parties
10 that it is withdrawing the mistaken designation.

11 **5.2 Manner and Timing of Designations.** Except as otherwise provided in this Order (see, e.g.,
12 second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or
13 Discovery Material that qualifies for protection under this Order must be clearly so designated before
14 the material is disclosed or produced.

15 Designation in conformity with this Order requires:

16 (a) for information in documentary form (e.g., paper or electronic documents, but excluding
17 transcripts of depositions or other pretrial or trial proceedings), that the Producing Party affix the
18 legend “CONFIDENTIAL” to each page that contains protected material. If only a portion or portions
19 of the material on a page qualifies for protection, the Producing Party also must clearly identify the
20 protected portion(s) (e.g., by making appropriate markings in the margins). A Party or Non-Party that
21 makes original documents or materials available for inspection need not designate them for protection
22 until after the inspecting Party has indicated which material it would like copied and produced. During
23 the inspection and before the designation, all of the material made available for inspection shall be
24 deemed “CONFIDENTIAL.” After the inspecting Party has identified the documents it wants copied
25 and produced, the Producing Party must determine which documents, or portions thereof, qualify for
26 protection under this Order. Then, before producing the specified documents, the Producing Party
27 must affix the “CONFIDENTIAL” legend to each page that contains Protected Material. If only a
28

1 portion or portions of the material on a page qualifies for protection, the Producing Party also must
2 clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

3 (b) for testimony given in deposition or in other pretrial or trial proceedings, that the Designating
4 Party identify on the record, before the close of the deposition, hearing, or other proceeding, all
5 protected testimony.

6 (c) for information produced in some form other than documentary and for any other tangible items,
7 that the Producing Party affix in a prominent place on the exterior of the container or containers in
8 which the information or item is stored the legend "CONFIDENTIAL." If only a portion or portions
9 of the information or item warrant protection, the Producing Party, to the extent practicable, shall
10 identify the protected portion(s).

11 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate
12 qualified information or items does not, standing alone, waive the Designating Party's right to secure
13 protection under this Order for such material. Upon timely correction of a designation, the Receiving
14 Party must make reasonable efforts to assure that the material is treated in accordance with the
15 provisions of this Order.

16 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

17 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality
18 at any time. Unless a prompt challenge to a Designating Party's confidentiality designation is
19 necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens, or a significant
20 disruption or delay of the litigation, a Party does not waive its right to challenge a confidentiality
21 designation by electing not to mount a challenge promptly after the original designation is disclosed.

22 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process by
23 providing written notice of each designation it is challenging and describing the basis for each
24 challenge. To avoid ambiguity as to whether a challenge has been made, the written notice must recite
25 that the challenge to confidentiality is being made in accordance with this specific paragraph of the
26 Protective Order. The parties shall attempt to resolve each challenge in good faith and must begin the
27 process by conferring directly (in voice to voice dialogue; other forms of communication are not
28 sufficient) within 14 days of the date of service of notice. In conferring, the Challenging Party must

1 explain the basis for its belief that the confidentiality designation was not proper and must give the
2 Designating Party an opportunity to review the designated material, to reconsider the circumstances,
3 and, if no change in designation is offered, to explain the basis for the chosen designation. A
4 Challenging Party may proceed to the next stage of the challenge process only if it has engaged in this
5 meet and confer process first or establishes that the Designating Party is unwilling to participate in the
6 meet and confer process in a timely manner.

7 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court
8 intervention, the Designating Party shall file and serve a motion to retain confidentiality under Civil
9 Local Rule 230 (and in compliance with Civil Local Rule 141, if applicable) within 21 days of the
10 initial notice of challenge or within 14 days of the parties agreeing that the meet and confer process
11 will not resolve their dispute, whichever is earlier. Each such motion must be accompanied by a
12 competent declaration affirming that the movant has complied with the meet and confer requirements
13 imposed in the preceding paragraph. Failure by the Designating Party to make such a motion
14 including the required declaration within 21 days (or 14 days, if applicable) shall automatically waive
15 the confidentiality designation for each challenged designation. In addition, the Challenging Party
16 may file a motion challenging a confidentiality designation at any time if there is good cause for doing
17 so, including a challenge to the designation of a deposition transcript or any portions thereof. Any
18 motion brought pursuant to this provision must be accompanied by a competent declaration affirming
19 that the movant has complied with the meet and confer requirements imposed by the preceding
20 paragraph.

21 The burden of persuasion in any such challenge proceeding shall be on the Designating Party.
22 Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose unnecessary
23 expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless the
24 Designating Party has waived the confidentiality designation by failing to file a motion to retain
25 confidentiality as described above, all parties shall continue to afford the material in question the level
26 of protection to which it is entitled under the Producing Party's designation until the court rules on the
27 challenge.
28

1 7. ACCESS TO AND USE OF PROTECTED MATERIAL

2 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or produced
3 by another Party or by a Non-Party in connection with this case only for prosecuting, defending, or
4 attempting to settle this litigation. Such Protected Material may be disclosed only to the categories of
5 persons and under the conditions described in this Order. When the litigation has been terminated, a
6 Receiving Party must comply with the provisions of section 13 below (FINAL DISPOSITION).
7 Protected Material must be stored and maintained by a Receiving Party at a location and in a secure
8 manner that ensures that access is limited to the persons authorized under this Order.

9 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered by the
10 court or permitted in writing by the Designating Party, a Receiving Party may disclose any
11 information or item designated “CONFIDENTIAL” only to:

- 12 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as employees of said
13 Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this
14 litigation (counsel and law firms appearing in this action are deemed to have agreed to be bound by
15 this Protective Order);
- 16 (b) the officers, directors, and employees (including House Counsel) of the Receiving Party to whom
17 disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment and
18 Agreement to Be Bound” (Exhibit A);
- 19 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably
20 necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound”
21 (Exhibit A);
- 22 (d) the court and its personnel;
- 23 (e) court reporters and their staff, professional jury or trial consultants, mock jurors, and Professional
24 Vendors to whom disclosure is reasonably necessary for this litigation;
- 25 (f) during their depositions, witnesses in the action to whom disclosure is reasonably necessary and
26 who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
27 agreed by the Designating Party or ordered by the court. Pages of transcribed deposition testimony or
28 exhibits to depositions that reveal Protected Material must be separately bound by the court reporter

1 and may not be disclosed to anyone except as permitted under this Stipulated Protective Order or as
2 agreed by the Designating Party.

3 (g) the author or recipient of a document containing the information or a custodian or other person
4 who otherwise possessed or knew the information.

5 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
6 LITIGATION

7 If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure
8 of any information or items designated in this action as “CONFIDENTIAL,” that Party must:

9 (a) promptly notify in writing the Designating Party. Such notification shall include a copy of the
10 subpoena or court order;

11 (b) promptly notify in writing the party who caused the subpoena or order to issue in the other
12 litigation that some or all of the material covered by the subpoena or order is subject to this Protective
13 Order. Such notification shall include a copy of this Stipulated Protective Order; and

14 (c) cooperate with respect to all reasonable procedures sought to be pursued by the Designating Party
15 whose Protected Material may be affected.

16 If the Designating Party timely seeks a protective order, the Party served with the subpoena or court
17 order shall not produce any information designated in this action as “CONFIDENTIAL” before a
18 determination by the court from which the subpoena or order issued, unless the Party has obtained the
19 Designating Party’s permission. The Designating Party shall bear the burden and expense of seeking
20 protection in that court of its confidential material – and nothing in these provisions should be
21 construed as authorizing or encouraging a Receiving Party in this action to disobey a lawful directive
22 from another court.

23 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS
24 LITIGATION

25 (a) The terms of this Order are applicable to information produced by a Non-Party in this action and
26 designated as “CONFIDENTIAL.” Such information produced by Non-Parties in connection with this
27 litigation is protected by the remedies and relief provided by this Order. Nothing in these provisions
28 should be construed as prohibiting a Non-Party from seeking additional protections.

1 (b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party's
2 confidential information in its possession, and the Party is subject to an agreement with the Non-Party
3 not to produce the Non-Party's confidential information, then the Party shall:

4 (1) promptly notify in writing the Requesting Party and the Non-Party that some or all of the
5 information requested is subject to a confidentiality agreement with a Non-Party;

6 (2) promptly provide the Non-Party with a copy of the Stipulated Protective Order in this
7 litigation, the relevant discovery request(s), and a reasonably specific description of the information
8 requested; and

9 (3) make the information requested available for inspection by the Non-Party.

10 (c) If the Non-Party fails to object or seek a protective order from this court within 14 days of
11 receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's
12 confidential information responsive to the discovery request. If the Non-Party timely seeks a
13 protective order, the Receiving Party shall not produce any information in its possession or control
14 that is subject to the confidentiality agreement with the Non-Party before a determination by the court.
15 Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking
16 protection in this court of its Protected Material.

17 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

18 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to
19 any person or in any circumstance not authorized under this Stipulated Protective Order, the
20 Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized
21 disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c)
22 inform the person or persons to whom unauthorized disclosures were made of all the terms of this
23 Order, and (d) request such person or persons to execute the "Acknowledgment and Agreement to Be
24 Bound" that is attached hereto as Exhibit A.

25 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
26 MATERIAL

27 When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material
28 is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those

1 set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
2 whatever procedure may be established in an e-discovery order that provides for production without
3 prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties
4 reach an agreement on the effect of disclosure of a communication or information covered by the
5 attorney-client privilege or work product protection, the parties may incorporate their agreement in the
6 stipulated protective order submitted to the court.

7 12. MISCELLANEOUS

8 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its
9 modification by the court in the future.

10 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order no Party
11 waives any right it otherwise would have to object to disclosing or producing any information or item
12 on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right
13 to object on any ground to use in evidence of any of the material covered by this Protective Order.

14 12.3 Filing Protected Material. Without written permission from the Designating Party or a court
15 order secured after appropriate notice to all interested persons, a Party may not file in the public
16 record in this action any Protected Material. A Party that seeks to file under seal any Protected
17 Material must comply with Civil Local Rule 141. Protected Material may only be filed under seal
18 pursuant to a court order authorizing the sealing of the specific Protected Material at issue. Pursuant to
19 Civil Local Rule 141, a sealing order will issue only upon a request establishing that the Protected
20 Material at issue is privileged, protectable as a trade secret, or otherwise entitled to protection under
21 the law. If a Receiving Party's request to file Protected Material under seal pursuant to Civil Local
22 Rule 141(b) is denied by the court, then the Receiving Party may file the information in the public
23 record pursuant to Civil Local Rule 141(e)(1) unless otherwise instructed by the court.

24 13. FINAL DISPOSITION

25 Within 60 days after the final disposition of this action, as defined in paragraph 4, upon written
26 notification served by Producing or Designating Party, each Receiving Party must return all Protected
27 Material to the Producing Party or destroy such material. As used in this subdivision, "all Protected
28 Material" includes all copies, abstracts, compilations, summaries, and any other format reproducing or

1 capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the
2 Receiving Party must submit a written certification to the Producing Party (and, if not the same person
3 or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category, where
4 appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the
5 Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format
6 reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are
7 entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing
8 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney
9 work product, and consultant and expert work product, even if such materials contain Protected
10 Material. Any such archival copies that contain or constitute Protected Material remain subject to this
11 Protective Order as set forth in Section 4 (DURATION).

12
13 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

14 DATED: July 19, 2017

LAW OFFICES OF DALE K. GALIPO

/s/ Tanya Sukhija

Tanya Sukhija

Attorneys for Plaintiff Angela Ainley

18 DATED: July 19, 2017

HADDAD & SHERWIN

/s/ Michael Haddad

Michael J. Haddad

Attorneys for Plaintiff Patrick Jackson

22 ////

24 ////

26 ////

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

DATED: July 19, 2017

FERGUSON PRAET & SHERMAN

/s/ Bruce Praet
Bruce Praet
Attorneys for Defendants City of South Lake Tahoe
and Joshua Klinge

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: July 21, 2017

Carolyn K. Delaney
CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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

EXHIBIT A
ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Eastern District of California on [date] _____ in the case of *Ainley v. City of South Lake Tahoe*, No. 2:16-cv-00049-TLN-CKD. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Eastern District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

I hereby appoint _____ [print or type full name] of _____ [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____