









1 The protections conferred by this Stipulation and Order cover not only Protected Material  
2 (as defined above), but also any information copied or extracted therefrom, as well as all copies,  
3 excerpts, summaries, or compilations thereof, plus testimony, conversations, or presentations by  
4 parties or counsel to or in court or in other settings that might reveal Protected Material.

5 4. DURATION

6  
7 Even after the termination of this litigation, the confidentiality obligations imposed by  
8 this Order shall remain in effect until a Designating Party agrees otherwise in writing or court  
9 order otherwise directs.

10 5. DESIGNATING PROTECTED MATERIAL

11  
12 5.1 Exercise of Restraint and Care in Designating Materials for Protection. Each Party or  
13 non-party that designates information or items for protection under this Order must take care to  
14 limit any such designation to specific material that qualifies under the appropriate standards. A  
15 Designating Party must take care to designate for protection only those parts of material,  
16 documents, items, or oral or written communications that qualify – so that other portions of the  
17 material, documents, items, or communications for which protection is not warranted are not  
18 swept unjustifiably within the ambit of this Order.

19  
20 Mass, indiscriminate, or routinized designations are prohibited. Designations that are  
21 shown to be clearly unjustified, or that have been made for an improper purpose (e.g., to  
22 unnecessarily encumber or retard the case development process, or to impose unnecessary  
23 expenses and burdens on other parties) expose the Designating Party to sanctions.

24  
25 If it comes to a Party's attention that information or items that it designated for protection  
26 do not qualify for protection at all, or do not qualify for the level of protection initially asserted,  
27  
28



1 CONFIDENTIAL-ATTORNEYS' EYES ONLY") at the top of each page that contains  
2 Protected Material. If only a portion or portions of the material on a page qualifies for  
3 protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by  
4 making appropriate markings in the margins) and must specify, for each portion, the level of  
5 protection being asserted (either "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL—  
6 ATTORNEYS' EYES ONLY").

7  
8 (b) for testimony given in deposition or in other pretrial or trial proceedings, that the  
9 Party or non-party offering or sponsoring the testimony identify on the record, before the close of  
10 the deposition, hearing, or other proceeding, all protected testimony, and further specify any  
11 portions of the testimony that qualify as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
12 ONLY." When it is impractical to identify separately each portion of testimony that is entitled to  
13 protection, the Party or non-party that sponsors, offers, or gives the testimony may invoke on the  
14 record (before the deposition or proceeding is concluded) a right to have up to 20 days to identify  
15 the specific portions of the testimony as to which protection is sought and to specify the level of  
16 protection being asserted ("CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS'  
17 EYES ONLY"). Only those portions of the testimony that are appropriate designated for  
18 protection with the 20 days shall be covered by the provisions of this Stipulated Protective Order.  
19  
20

21 Transcript pages containing Protected Material must be separately bound by the court  
22 reporter, who must affix to the top of each such page the legend "CONFIDENTIAL" or  
23 "HIGHLY CONFIDENTIAL—ATTORNEYS' EYES ONLY," as instructed by the Party or  
24 non-party offering or sponsoring the witness or presenting the testimony.  
25

26 (c) for information produced in some form other than documentary, and for any other  
27 tangible items, that the Producing Party affix in a prominent place on the exterior of the  
28

1 container or containers in which the information or item is stored the legend “CONFIDENTIAL”  
2 or “HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES ONLY.” If only portions of the  
3 information or item warrant protection, the Producing Party, to the extent practicable, shall  
4 identify the protection portions, specifying whether they qualify as “Confidential” or as “Highly  
5 Confidential – Attorneys’ Eyes Only.”

6  
7 5.3. Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to  
8 designate qualified information or items as “Confidential” or “Highly Confidential—Attorneys’  
9 Eyes Only” does not, standing alone, waive the Designating Party’s right to secure protection  
10 under this Order for such material. If material is appropriately designated as “Confidential” or  
11 “Highly Confidential—Attorneys’ Eyes Only” after the material was initially produced, the  
12 Receiving Party, on timely notification of the designation, must make reasonable efforts to  
13 assure that the material is treated in accordance with the provisions of the Order.

## 14 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

15  
16 6.1 Timing of Challenges. Unless a proper challenge to a Designating Party’s  
17 confidentiality designation is necessary to avoid foreseeable substantial unfairness, unnecessary  
18 economic burden, or a later significant disruption or delay of the litigation, a Party does not  
19 waive its right to challenge a confidentiality designation by electing not to mount a challenge  
20 promptly after the original designation is disclosed.

21  
22 6.2 Meet and Confer. A Party that elects to initiate a challenge to a Designating Party’s  
23 confidentiality designation must do so in good faith and must begin the process by conferring  
24 directly (in voice to voice dialogue; other forms of communication are not sufficient) with  
25 counsel for the Designating Party. In conferring, the challenging Party must explain the basis for  
26 its belief that the confidentiality designation was not proper and must give the Designating Party  
27



1 Protected Material must be stored and maintained by a Receiving Party at a location and  
2 in a secure manner that ensures that access is limited to the persons authorized under this Order.

3 7.2 Disclosure of "CONFIDENTIAL: Information or Items. Unless otherwise ordered  
4 by the court or permitted in writing by the Designating Party, a Receiving Party may disclose  
5 any information or item designated CONFIDENTIAL only to:

6  
7 (a) employees of the Receiving Party to whom disclosure is reasonably necessary for this  
8 litigation and who have signed the "Agreement to Be Bound by Protective Order" (Exhibit A);

9 (b) experts (as defined in this Order) of the Receiving Party to whom disclosure is  
10 reasonably necessary for this litigation and who have signed the "Agreement to Be Bound by  
11 Protective Order" (Exhibit A);

12 (c) the Court and its personnel;

13 (d) court reporters, their staffs, and professional vendors to whom disclosure is  
14 reasonably necessary for this litigation and who have signed the "Agreement to Be Bound by  
15 Protective Order" (Exhibit A);

16 (e) during their depositions, witnesses in the action to whom disclosure is reasonably  
17 necessary and who have signed the "Agreement to Be Bound by Protective Order" (Exhibit A).

18 Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected  
19 Material may be separately bound as specified above;

20 (f) the author the document or the original source of the information.

21 7.3 Disclosure of "HIGHLY CONFIDENTIAL—ATTORNEYS' EYES ONLY"  
22 Information or Items. Unless otherwise ordered by the court or permitted in writing by the  
23 Designating Party, Receiving Party may disclose any information or item designated "HIGHLY  
24 CONFIDENTIAL—ATTORNEYS' EYES ONLY" only to:

1 (a) Experts (as defined in this Order) (1) to whom disclosure is reasonably necessary for  
2 this litigation, who have signed the “Agreement to Be Bound by Protective Order” (Exhibit A);

3 (b) the Court and it’s personnel;

4 (c) court reporters, their staffs, and professional vendors to whom disclosure is  
5 reasonably necessary for this litigation and who have signed the “Agreement to Be Bound by  
6 Protective Order” (Exhibit A); and  
7

8 (d) the author of the document or the original source of the information.

9 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED  
10 PRODUCED IN OTHER LITIGATION

11 If a Receiving Party is served with a subpoena or an order issued in other litigation that  
12 would compel disclosure of any information or items designated in this action as  
13 “CONFIDENTIAL” or HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES ONLY,” the  
14 Receiving Party must so notify the Designating Party, in writing (by fax, if possible)  
15 immediately and in no event more than three court days after receiving the subpoena or order.  
16 Such notification must include a copy of the subpoena or court order.  
17

18 The Receiving Party also must immediately inform in writing the Party who caused the  
19 subpoena or order to issue in the other litigation that some or all the material covered by the  
20 subpoena or order is the subject of this Protective Order. In addition, the Receiving Party must  
21 deliver a copy of this Stipulated Protective Order promptly to the Party in the other action that  
22 caused the subpoena or order to issue.  
23

24 The purpose of imposing these duties is to alert the interested parties to the existence of  
25 this Protective Order and to afford the Designation Party in this case an opportunity to try to  
26 protect its confidentiality interests in the court from which the subpoena or order issued. The  
27

1 Designating Party shall bear the burdens and the expenses of seeking protection in that court of  
2 its confidential material—and nothing in these provisions should be construed as authorizing or  
3 encouraging a Receiving Party in this action to disobey a lawful directive from another court.

4 9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

5 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected  
6 Material to any person or in any circumstance not authorized under this Stipulated Protective  
7 Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the  
8 unauthorized disclosures, (b) use its best efforts to retrieve all copies of the Protected Material,  
9 (c) inform the person or persons to whom unauthorized disclosures were made of all of the terms  
10 of this Order, and (d) request such person or persons to execute the “Acknowledgment and  
11 Agreement to Be Bound” that is attached hereto as Exhibit A.  
12

13  
14 10. FILING PROTECTED MATERIAL. Without written permission from the  
15 Designating Party or a court order secured after appropriate notice to all interested persons, a  
16 Party may not in the public record in this action any Protected material. A Party that seeks to file  
17 under seal any Protected Material must comply with Civil Local Rule 79-5.  
18

19 11. FINAL DISPOSITION. Unless otherwise ordered or agreed in writing by the  
20 Producing Party, within sixty days after the final termination of this action, each Receiving Party  
21 must return all Protected Material to the Producing Party, as used in this subdivision, “all  
22 Protected Material” includes all copies, abstracts compilations, summaries or any other form of  
23 reproducing or capturing any of the Protected Material. With permission in writing from the  
24 Designating Party, the Receiving Party may destroy some or all of the Protected Material instead  
25 or returning it. Whether the Protected Material is returned or destroyed, the Receiving Party  
26 must submit a written certification to the Producing Party (and, if not the same person or entity,  
27  
28

1 to the Designating Party) by the sixty day deadline that identifies (by category, where  
2 appropriate) all the Protected Material that was returned or destroyed and that affirms that the  
3 Receiving Party has not retained any copies, abstracts, compilations, summaries or other forms  
4 of reproducing or capturing any of the Protected Material. Notwithstanding this provision,  
5 Counsel are entitled to retain an archival copy of all pleadings, motion papers, transcripts, legal  
6 memoranda, correspondence or attorney work product, even if such materials contain Protected  
7 Material. Any such archival copies that contain or constitute Protected Material remain subject  
8 to this Protective Order as set forth in Section 4 (DURATION), above.  
9

10 12. MISCELLANEOUS

11 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to  
12 seek its modification by the Court in the future.  
13

14 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective  
15 Order, no Party waives any right it otherwise would have to object to disclosing or producing  
16 any information or item on any ground not addressed in this Stipulated Protective Order.  
17 Similarly, no Party waives any right to object on any ground to use in evidence of any of the  
18 material covered by this Protective Order.  
19

20 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD,  
21

22 DATED: December 15, 2008

23  
24 By:   
25 JAMES B. CHANIN  
Attorney for Plaintiff

26 DATED: December 15, 2008

27  
28 By:   
STEPHEN Q. ROWELL

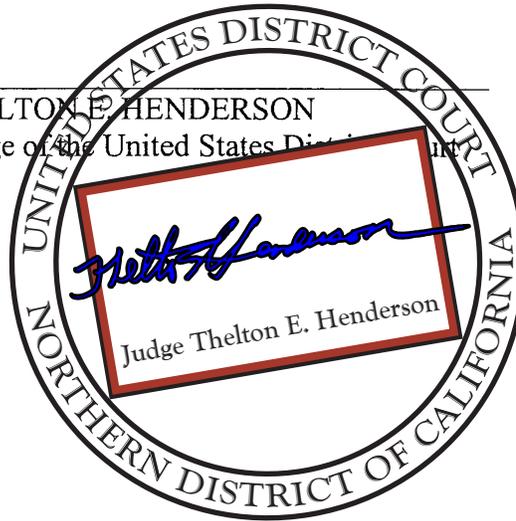
Attorney for Defendants  
City of Oakland and Karla Rush

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

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: December 17, 2008

THELTON E. HENDERSON  
Judge of the United States District Court



1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3  
4  
5 I, \_\_\_\_\_ [print or type full name], of

6 \_\_\_\_\_ [print or type full address], declare under penalty of  
7 perjury that I have read in its entirety and understand the Stipulated Protective Order that was  
8 issued by the United States Court for the Northern District of California on

9 \_\_\_\_\_ [date] in the case of *Reginald Oliver., v. City of Oakland, et al.*, Case  
10 No. C08-04914 TEH I agree to comply with and be bound by all the terms of this Stipulated  
11 Protective Order and I understand and acknowledge that failure to so comply could expose me to  
12 sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose  
13 in any manner any information or item that is subject to this Stipulated Protective Order to any  
14 person or entity except in strict compliance with the provisions of this Order.  
15

16  
17 I further agree to submit to the jurisdiction of the United States District for the Northern  
18 District of California for the purpose of enforcing the terms of this Stipulated Protective Order,  
19 even if such enforcement proceedings occur after termination of this action.  
20

21 I hereby appoint \_\_\_\_\_ [print or type full name] of  
22 \_\_\_\_\_ [print or type full address and telephone  
23 number] as my California agent for service of process in connection with this action or any  
24  
25  
26  
27  
28

1 proceedings related to enforcement of this Stipulated Protective Order.

2

3 Date: \_\_\_\_\_

4 City and State where sworn and signed: \_\_\_\_\_

5 Printed name: \_\_\_\_\_  
6 [printed name]

7

8 Signature: \_\_\_\_\_  
9 [signature]

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28