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10 **IN THE UNITED STATES DISTRICT COURT**  
 11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

13 **LUZ HERNANDEZ,**  
 14  
 15 **Petitioner,**  
 16 **v.**  
 17 **DONALD GREEN,**  
 18 **Respondent.**

Case No. CV 09 2782 EDL

**PROTECTIVE ORDER RE  
 DISCLOSURE OF INFORMATION AND  
 DOCUMENTS FROM DEFENDANT  
 DONALD GREEN'S DMV PERSONNEL  
 RECORDS**

20 On March 22, 2010, the respondent California Department of Mental Health (DMH), an  
 21 agency of the State of California, was served by plaintiff Luz Hernandez with a subpoena duces  
 22 tecum, which requested compliance by April 7, 2010, by delivering the confidential and  
 23 privileged personnel file of Donald Allen Green, a former DMH law enforcement officer, to  
 24 Doucette & Associates, an agency employed by plaintiff's attorney Tim A. Pori. Specifically, the  
 25 subpoena commanded the respondent to produce for inspection and copying any and all personnel  
 26 records of Mr. Green. Counsel for plaintiff Hernandez and counsel for respondent DMH have  
 27 conferred and stipulated that the scope of the subpoena be limited to any and all personnel records  
 28 relating to the DMH Internal Affairs investigation of the April 1, 2008 incident between plaintiff

1 and Mr. Green (incident), which was the subject of a citizens complaint made by plaintiff  
2 Hernandez to Napa State Hospital, an institution operated and managed by the DMH. The parties  
3 have also stipulated, by and through their respective counsel to the terms of the Protective Order  
4 set forth below.

5 On April 30, 2010, respondent DMH filed its motion with this Court for an order for an *in*  
6 *camera* review of the DMH's file personnel records relating to the incident to determine which  
7 documents are relevant to the pending lawsuit and must be disclosed to the plaintiff and for a  
8 protective order. No opposition to the respondent's motion was filed. On June 17, 2010, good  
9 cause appearing, the Court granted the respondent's motion for an *in camera* review. The Court  
10 subsequently conducted an *in camera* review of the DMH Internal Affairs file related to the  
11 incident and has determined that certain documents be produced to the plaintiff's counsel  
12 pursuant to the following protective order. Accordingly,

13 IT IS HEREBY ORDERED that

14 1. This Protective Order shall govern the use and disclosure of all documents and  
15 information produced in response to the subpoena seeking confidential peace officer personnel  
16 records and information, issued by plaintiff Hernandez and served on the DMH, and ordered  
17 disclosed by this Court.

18 2. The confidential peace officer personnel record information and documents ordered  
19 disclosed by this Court shall not be used in any proceeding other than this action, *Luz Hernandez*  
20 *v. City of Napa, et al.*, Case No. CV 09-2782 EDL, in the United States District Court for the  
21 Northern District of California.

22 3. Under no circumstances shall such confidential peace officer personnel record  
23 information and documents either orally or by writing, be inputted into any file, computer  
24 program, or database or listed manually in any file manual, notebook, listing, or other writing as it  
25 pertains to law enforcement personnel, except any computer program or case file maintained  
26 specifically for this action.

1           4.     The attorney for the parties, including any and all agents hired to assist the attorney  
2 for the parties in this action, shall at all times maintain the confidentiality of all peace officer  
3 personnel record information and documents ordered disclosed.

4           5.     At the conclusion of this action, and in order to allow defendant to exhaust his right to  
5 appeal and/or pursue any habeas corpus action, the attorneys for the parties shall either destroy, or  
6 return to the California Attorney General's Office within one (1) year after judgment is final, all  
7 originals or copies of all confidential peace officer personnel documents and materials ordered  
8 disclosed by this Court, including without limitation, any delivered by defendant's counsel, or the  
9 attorneys for the Government, to any third party agent.

10          6.     In advance of trial, plaintiff may not disclose to any other party to this action any  
11 document or information disclosed to plaintiff by respondent DMH under this Protective Order,  
12 except as required by the Federal Rules of Civil Procedure or rule of this Court.

13          7.     Any party, who receives from the plaintiff any information or document disclosed  
14 under this Protective Order, is bound by all its terms.

15          8.     Disobedience of this Protective Order may be treated as a Contempt of Court.

16  
17 DATED: July 6, 2010

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20 THE HONORABLE ELIZABETH D. LAPORTE  
21 MAGISTRATE JUDGE OF THE U.S. DISTRICT COURT,  
22 NORTHERN DISTRICT OF CALIFORNIA  
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