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8 Attorneys for Defendants CHIEF MITCH CELAYA

And CAPTAIN MARGOT BENNETT

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10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA

12 ZHIVKA VALIAVICHARSKA,

Case No.: CV 10 4847 JL

13 Plaintiff,

14 **STIPULATION AND ~~PROPOSED~~**  
15 **PROTECTIVE ORDER**

16 vs.

17 MITCH CELAYA, Police Chief of the  
18 University of California Police Department;  
19 MARGOT BENNETT, Chief of  
Administration/Services of the University of  
20 California Police Department; and DOES 1  
through 20, inclusive,

Defendants.

21 1. PURPOSES AND LIMITATIONS

22 Disclosure and discovery activity in this action are likely to involve production of  
23 confidential, proprietary, or private information for which special protection from public  
24 disclosure and from use for any purpose other than prosecuting this litigation would be  
25 warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the  
26 following Stipulated Protective Order. The Parties acknowledge that this Order does not confer  
27 blanket protections on all disclosures or responses to discovery and that the protection it affords  
28 extends only to the limited information or items that are entitled under the applicable legal

STIPULATION AND ~~PROPOSED~~ PROTECTIVE ORDER

1 principles to treatment as confidential. The Parties further acknowledge, as set forth in Section  
2 10, below, that this Stipulated Protective Order creates no entitlement to file confidential  
3 information under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed  
4 and reflects the standards that will be applied when a party seeks permission from the court to  
5 file material under seal.

6 2. DEFINITIONS

7 2.1 Party: any party to this action, including all of its officers, directors, employees,  
8 consultants, retained experts, counsel, and outside counsel (and their support staff).

9 2.2 Disclosure or Discovery Material: all items or information, regardless of the  
10 medium or manner generated, stored, or maintained (including, among other things, documents,  
11 correspondence, emails, computer files, testimony, transcripts, and/or tangible things) that are  
12 produced or generated in disclosures or responses to discovery (including without limitation  
13 deposition questioning) in this matter.

14 2.3 Confidential and Protected Documents and Information: for purposes of this  
15 Agreement, the term "Confidential and Protected Documents and Information" shall be deemed  
16 to refer solely to: (1) all documents in the possession, custody or control of the parties regarding  
17 and/or comprising confidential personnel matters and/or confidential internal affairs  
18 investigations regarding defendants CELAYA, BENNETT and OFFICER BRENDAN TINNEY  
19 (who is not yet a named defendant) and/or any other employee and/or agent of THE REGENTS.

20 3. SCOPE

21 The protections conferred by this Stipulation and Order cover not only Confidential and  
22 Protected Documents and Information (as defined above), but also any information copied or  
23 extracted there from, as well as all copies, excerpts, summaries, and/or compilations thereof, plus  
24 testimony, conversations, communications, or presentations by parties or counsel to or in court or  
25 in any other settings that might reveal Confidential and Protected Documents and Information  
26 and/or any portion thereof.

27 4. DURATION

1 Even after the termination of this litigation, the confidentiality obligations imposed by  
2 this Order shall remain in effect unless and until all parties agree otherwise in writing or a court  
3 order otherwise directs.

4 5. CHALLENGING CONFIDENTIALITY DESIGNATIONS

5 5.1 Object in Writing. Any party may object in writing to the designation of a  
6 document or information as confidential and protected. If the parties are unable to resolve an  
7 objection within fourteen court days of making the objection, the parties shall submit a joint  
8 letter in compliance with Judge Larson's standing order regarding discovery disputes. Until the  
9 Court resolves the issue, the material shall be treated as confidential. The failure of a party to  
10 challenge the confidentiality of a document or information will not constitute an admission that  
11 the document or information is or is not confidential. Nor will such failure constitute an  
12 admission that the document or information is or is not admissible.

13 6. ACCESS TO AND USE OF CONFIDENTIAL AND PROTECTED MATERIAL

14 6.1 Provisions. The following provisions shall govern the use of a  
15 "Confidential and Protected Documents and Information" by any person to whom such  
16 document or information is produced, whether in response to discovery or otherwise or disclosed  
17 in the course of this litigation:

18 (a) All Confidential and Protected Documents and Information produced in this action  
19 (and all copies, excerpts, digests, summaries, and indices of such documents and information)  
20 can only be viewed by the Parties and the attorneys of record in this Action –Steven Yourke,  
21 Claudia Leed, Jennifer Logue and Louis Leone and the attorneys' necessary staff, who all will  
22 agree to be bound by this Order. All Confidential and Protected Documents shall be clearly  
23 marked, "Confidential and Protected Documents Subject to Protective Order. All Confidential  
24 and Protected Information shall be designated "Confidential and Protected Information subject to  
25 Protective Order" in an appropriate manner.

26 (b) Any Confidential and Protected Document and Information (and any copy, excerpt,  
27 digest, summary, or index thereof) and all information contained therein will be used only for the  
28 purpose of preparation and trial of the above-captioned lawsuit.

1 (c) All Confidential and Protected Documents produced in this action shall be returned to  
2 counsel for the parties who produced the documents or shall be destroyed at the conclusion of  
3 this lawsuit.

4 (d) Confidential and Protected Documents and information contained therein and  
5 Confidential and Protected Information will not be disclosed by the parties or the parties'  
6 attorneys, except to the Court, court personnel, certified court reporters, consultants, and experts  
7 engaged to prepare their respective claims or defenses in this case. Such court reporters,  
8 consultants, and experts will agree to be bound by the terms of this Agreement.

9 (e) The Confidential and Protected Documents and Information and the information  
10 contained therein may be shown to and used by experts and consultants engaged by or for parties  
11 to this litigation and their insurers for the purposes of preparing this case for trial. All notes,  
12 copies or other reproductions of the text of the documents or of the confidential information,  
13 however made, shall be either: (1) returned to counsel for the parties who produced the  
14 documents or provided the information; or (2) destroyed at the conclusion of this lawsuit.

15 (f) In the event that questions asked at depositions require disclosure of any Confidential  
16 and Protected Documents and Information, counsel for the parties will request on the record that  
17 the pertinent pages of the deposition transcripts be sealed and be utilized only as permitted by  
18 this Agreement. When Confidential and Protected Documents and Information is contained or  
19 incorporated in a deposition transcript, arrangements shall be made with the reporter to bind the  
20 CONFIDENTIAL portions of the transcript separately and label it "Confidential Information  
21 Subject to Protective Order."

22 (g) In the event that a Confidential and Protected Document or any document containing  
23 Confidential and Protected Information is introduced into evidence or otherwise filed with the  
24 Court during the pendency of trial of this lawsuit, counsel introducing or filing such document  
25 will, at the conclusion of this lawsuit, promptly request return of such document and, upon  
26 receipt thereof, shall return the document to the party who produced it or destroy it.

27 (h) Each document or thing designated by any party as confidential and protected and,  
28 therefore, subject to the terms of this Agreement will be plainly marked with a legend identifying

1 it as a "Confidential and Protected Document subjected to Protective Order" subject to the terms  
2 of this Agreement.

3 (i) At the conclusion of this lawsuit, all documents, transcripts, answers to  
4 interrogatories, exhibits or portions thereof that have been designated as confidential and  
5 protected, that have been obtained as a result of discovery in this action, and that are in the  
6 possession of counsel, a party, expert, or consultant shall be returned to the party who produced  
7 the documents or destroyed upon request.

8 (j) All provisions herein regarding confidentiality and non-disclosure of any document  
9 and the information contained therein shall continue to be in force after the conclusion of this  
10 lawsuit or the return of any document.

11 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN  
12 OTHER LITIGATION

13 If any Party is served with a subpoena or an order issued in other litigation that would  
14 compel disclosure of the information or items designated in this action as "CONFIDENTIAL",  
15 that Party must so notify the other Parties to this litigation through their respective counsel, in  
16 writing (by fax or e-mail if possible) immediately and in no event more than three court days  
17 after receiving the subpoena or order. Such notification must include a copy of the subpoena or  
18 court order.

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

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 Subpoenaed Party in this case an opportunity to try to  
26 protect the confidentiality interests in the court from which the subpoena or order issued. The  
27 Party seeking protection of this Protective Order shall bear the burdens and the expenses of  
28 seeking protection in that court of its confidential material and nothing in these provisions should

1 be construed as authorizing or encouraging Subpoenaed Party in this action to disobey a lawful  
2 directive from another court.

3 8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

13 9. FILING PROTECTED MATERIAL

14 A Party may not file in the public record in this action any Confidential and Protected  
15 Documents without written permission from the parties to this stipulation or a court order  
16 secured after appropriate notice to all interested persons. A Party that seeks to file under seal any  
17 Confidential and Protected Documents must comply with Civil Local Rule 79-5.

18 10. ANY OTHER CONFIDENTIAL AND PROTECTED DOCUMENTS

19 If through the course of further discovery, it is learned that other confidential and  
20 protected documents and/or confidential and protected information within the possession,  
21 custody or control of the Parties may be reasonably calculated to lead to the discovery of  
22 admissible evidence, it is the intent of the Parties to extend this STIPULATED PROTECTIVE  
23 ORDER to these other confidential and protected documents and confidential and protected  
24 information.

25 WHEREFORE, all Parties agree that any and all additional documents or confidential  
26 and protected information released by the parties that bear the term, "Confidential and Protected  
27 Document" or "Confidential and Protected Information", respectively shall be subject to all of  
28 the terms and conditions outlined in this STIPULATED PROTECTIVE ORDER.

