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8 Attorneys for Defendants
CITY AND COUNTY OF SAN FRANCISCO,
9 MATTHEW LOPEZ, and RICHARD HASTINGS

10
11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 THE ESTATE OF KENNETH HARDING Jr.;
DENIKA CHATMAN, individually and as
14 personal representative of the ESTATE OF
KENNETH HARDING, Jr.

15 Plaintiffs,

16 vs.

17 CITY AND COUNTY OF SAN FRANCISCO,
18 a municipal corporation;
OFFICER MATTHEW LOPEZ individually
19 and in his official capacity as a Police Officer
for CITY AND COUNTY OF SAN
20 FRANCISCO; OFFICER RICHARD
HASTINGS individually and in his official
21 capacity as a Police Officer for CITY AND
COUNTY OF SAN FRANCISCO; DOES 1-50,
22 inclusive; individually and in their official
capacities as POLICE OFFICERS for CITY
23 AND COUNTY OF SAN FRANCISCO,

24 Defendants.

Case No. C12-3978 WHO

**STIPULATED PROTECTIVE
ORDER**

Trial Date: Not Set

1 Pursuant to Federal Rule of Civil Procedure 26(c) the parties have met and conferred and agree
2 that the discovery of CONFIDENTIAL INFORMATION in this matter be made pursuant to the terms
3 of this PROTECTIVE ORDER.

4 GOOD CAUSE APPEARING, the parties stipulate, though their attorneys of record, to the
5 entry of an order as follows:

6 1. CONFIDENTIAL, within the meaning of this PROTECTIVE ORDER, shall mean any
7 information which is in the possession of a Designating Party who believes in good faith that such
8 information is entitled to confidential treatment under applicable law. CONFIDENTIAL
9 MATERIALS means any Documents, Testimony or Information as defined below designated as
10 CONFIDENTIAL pursuant to the provisions of this PROTECTIVE ORDER. DOCUMENTS means
11 (i) any "Writing", "Original", and "Duplicate" as those terms are defined by the California Evidence
12 Code Sections 250, 255, and 260 which have been produced in discovery in this Proceeding by any
13 person, and (ii) any copies, reproductions, or summaries of all or any part of the foregoing.
14 INFORMATION means the contents of TESTIMONY or DOCUMENTS. TESTIMONY means all
15 depositions, declarations or other testimony taken or used in this Proceeding. The Designating Party
16 shall have the right to designate as CONFIDENTIAL any DOCUMENTS, INFORMATION OR
17 TESTIMONY that the Designating Party in good faith believes to contain non-public information that
18 is entitled to confidential treatment under applicable law. The entry of this PROTECTIVE ORDER
19 does not alter, waive, modify, or abridge any right, privilege or protection otherwise available to any
20 Party with respect to the discovery of matters, including, but not limited to any Party's right to assert
21 the attorney-client privilege, the attorney work product doctrine, or other privileges, or any Party's
22 right to contest any such assertion. The Designating Party shall attempt to stamp "Confidential" on all
23 such documents prior to production. In the event that any CONFIDENTIAL INFORMATION is
24 inadvertently not stamped as "Confidential," the party who notices this oversight shall immediately
25 make it known to the other parties and the documents shall immediately be stamped as "Confidential"
26 and treated as such, as per this order.

27 CONFIDENTIAL INFORMATION, within the meaning of this PROTECTIVE ORDER, shall
28 also include any and all documents containing peace officer Personnel Information, private

1 information, confidential information, including any and all records made pursuant to citizen
2 complaint, or other administrative or internal Department investigation, that a Designating Party
3 considers in good faith to be or to contain Confidential, Official Information, or otherwise protected
4 information, shall be subject to this Order and stamped or otherwise designated “Confidential.”

5 2. The Non-Designating Party may challenge the Designating Party’s designation of a
6 particular document as CONFIDENTIAL INFORMATION by filing an appropriate motion, under
7 seal, with the Court. The parties agree that the prevailing party in a motion to remove the confidential
8 designation shall waive any entitlement to monetary sanctions, including attorney’s fees.

9 3. Unless disclosure is ordered by the Court, attorneys for a Designating Party shall have
10 the sole authority to determine that materials designated pursuant to this PROTECTIVE ORDER by
11 that Party are no longer considered CONFIDENTIAL INFORMATION and will advise counsel for
12 the Non-Designating Parties in writing if this determination is made.

13 4. Any CONFIDENTIAL INFORMATION that is disclosed or produced by any party or
14 non-party in connection with this case may be used only for prosecuting, defending, or attempting to
15 settle this litigation. CONFIDENTIAL INFORMATION may be disclosed only to the categories of
16 persons and under the conditions described in this Order. When the litigation has been terminated, all
17 parties or non-parties that have received CONFIDENTIAL INFORMATION must comply with the
18 provisions of section Eleven (11), below. All parties or non-parties that have received
19 CONFIDENTIAL INFORMATION must store and maintain it in a secure manner that ensures that
20 access is limited to the persons authorized under this Order.

21 5. A Non-Designating Party may exhibit, discuss, and/or disclose CONFIDENTIAL
22 INFORMATION only to the following categories of person and no other unless authorized by order of
23 the Court:

- 24 a. the Non-Designating Party’s Counsel;
- 25 b. Those partners, employees and agents of a Non-Designating Party that counsel
26 for such party deems necessary to aid counsel in the prosecution and defense of this
27 Proceeding. This is provided that prior to the Disclosure of CONFIDENTIAL MATERIALS
28 such individual agrees to comply with the terms of this PROTECTIVE ORDER by executing

1 the document attached as Exhibit A. Counsel shall file and serve that document upon its
2 execution.

3 c. Experts, investigators or consultants retained by a Non-Designating Party to
4 assist in the evaluation, preparation, or trial of this case; however, before any expert,
5 investigator, or consultant is permitted to review the CONFIDENTIAL INFORMATION, such
6 individual must agree to comply with the terms of this PROTECTIVE ORDER by executing
7 the document attached as Exhibit A. The Non-Designating Party's counsel shall file and serve
8 that document upon its execution; however, the Non-Designating Party's counsel shall not be
9 required to file any Agreement to Comply any earlier than the date that Expert Disclosures are
10 required to be made. Experts, investigators, and consultants shall not have any power to
11 authorize further disclosure of CONFIDENTIAL INFORMATION to any other person.

12 6. Counsel for Plaintiff may not provide originals or copies of the CONFIDENTIAL
13 INFORMATION to any plaintiff absent the written agreement of counsel for defendants or a court
14 order, subject to the following:

15 a. For purposes of evaluating the settlement value or potential jury verdict, counsel
16 for Plaintiff may discuss the general nature of the CONFIDENTIAL INFORMATION with
17 Plaintiff without disclosing any identifying details about a specific witness or any documents.
18 Plaintiff's counsel may also review with Plaintiff any statement or interview given by Plaintiff.

19 7. Unless otherwise stipulated to by the Designating Party, any use of CONFIDENTIAL
20 INFORMATION or comment on the substance of any CONFIDENTIAL INFORMATION in any
21 papers or pleadings filed with the Court, shall be filed under seal pursuant to the Court's rules and
22 procedures (see Northern District of California Civil Local Rule 79-5). The sealed envelopes shall be
23 endorsed with the caption of this litigation, and an indication of the nature of the contents of the
24 envelopes and a statement substantially in the following form:

25 "This envelope contains documents that are filed in this case pursuant to a
26 Protective Order and are not to be opened nor the contents thereof to be
27 displayed or revealed except by further order of the Court or written consent of
28 the City and County of San Francisco."

1 8. In the event any person desires to exhibit documents or disclose CONFIDENTIAL
2 INFORMATION covered under this stipulation during trial or pretrial proceedings, such person shall
3 meet and confer with counsel for the Designating Party to reach an agreement, in accordance with the
4 Court’s rules and procedures, on an appropriate method for disclosure, and if the Designating Party
5 does not agree to such disclosure, such CONFIDENTIAL INFORMATION shall not be disclosed
6 unless authorized by order of the Court. Unless otherwise agreed, transcripts and exhibits that
7 incorporate or reference CONFIDENTIAL INFORMATION covered under this stipulation shall be
8 treated as CONFIDENTIAL INFORMATION that is subject to the provisions of this PROTECTIVE
9 ORDER. The Court Reporter shall mark as “Confidential” any deposition or hearing transcript that
10 contains any CONFIDENTIAL INFORMATION or any reference to CONFIDENTIAL
11 INFORMATION.

12 9. If a party who has received CONFIDENTIAL INFORMATION learns that, by
13 inadvertence or otherwise, it has disclosed CONFIDENTIAL INFORMATION to any person or in any
14 circumstance not authorized under this PROTECTIVE ORDER, the party must immediately (a) notify
15 counsel for the Designating Party in writing of the unauthorized disclosures, (b) use its best efforts to
16 retrieve all copies of the CONFIDENTIAL INFORMATION, (c) inform the person or persons to
17 whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person
18 or persons to execute the document that is attached hereto as Exhibit A.

19 10. Any inadvertent disclosure made in violation of this PROTECTIVE ORDER shall be
20 immediately corrected by the offending party and does not constitute a waiver of the terms of this
21 PROTECTIVE ORDER, except by written agreement of the parties, or further order of this Court.

22 11. All documents covered by this PROTECTIVE ORDER and copies thereof (including
23 those in the possession of experts, consultants, *etc.*) will be returned to the Designating Party at the
24 termination of this litigation. On final disposition of this case, counsel for a Non-Designating Party
25 shall within 30 days after the final disposition of this case, without request or further order of this
26 Court, return all CONFIDENTIAL INFORMATION to counsel of record for the Designating Party in
27 this matter. The provisions of this PROTECTIVE ORDER shall, without further order of the Court,
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1 continue to be binding after the conclusion of the action, and this Court will have jurisdiction to
2 enforce the terms of this PROTECTIVE ORDER.

3 12. Should plaintiffs and plaintiffs' counsel or defendants or defendants' counsel fail to
4 comply with this PROTECTIVE ORDER, the violating party shall be liable for all costs associated
5 with enforcing this agreement, including but not limited to all attorney fees in amounts to be
6 determined by the Court.

7 Plaintiff and plaintiff's counsel and defendants and defendants' counsel may also be subject to
8 additional sanctions or remedial measures, such as contempt, evidentiary or terminating sanctions.

9 IT IS SO STIPULATED.

10 Dated: October 20, 2014

11 DENNIS J. HERRERA
City Attorney
12 CHERYL ADAMS
Chief Trial Attorney
13 SEAN F. CONNOLLY
Deputy City Attorneys

14
15 By: /s/ Sean F. Connolly
SEAN F. CONNOLLY

16 Attorneys for Defendants
17 CITY AND COUNTY OF SAN FRANCISCO, ET AL.

18 DATED: October 20, 2014

19 **LAW OFFICES OF JAMES P. SEGALL-**
GUTIERREZ

20 By: /s/ James P. Segall-Gutierrez
James P. Segall-Gutierrez
21 Attorney for Plaintiff

22 *Pursuant to General Order 45, §X.B., the filer of this
23 document attests that he has received the concurrence of
24 this signatory to file this document.
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EXHIBIT A

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**AGREEMENT TO COMPLY WITH STIPULATED PROTECTIVE
ORDER FOR CONFIDENTIAL INFORMATION**

I, _____, have read and understand the Court’s Protective Order for CONFIDENTIAL INFORMATION. I agree to abide by all terms of the Order. In addition, I specifically understand and agree to the following:

1. I will not disclose the CONFIDENTIAL INFORMATION to any other person.
2. I understand that I have no power to authorize any other person to review the CONFIDENTIAL INFORMATION.
3. I agree not to make copies of the CONFIDENTIAL INFORMATION.
4. I agree to return the CONFIDENTIAL INFORMATION to the counsel for the party that produced it, at or before the conclusion of this litigation.

AGREED:

DATE

SIGNATURE

PRINT NAME

1 DENNIS J. HERRERA, State Bar #139669
City Attorney

2 CHERYL ADAMS, State Bar #164194
Chief Trial Deputy

3 SEAN F. CONNOLLY, State Bar #152235
Deputy City Attorney

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8 Attorneys for Defendants
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20 FRANCISCO; OFFICER RICHARD
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22 COUNTY OF SAN FRANCISCO; DOES 1-50,
inclusive; individually and in their official
23 capacities as POLICE OFFICERS for CITY
AND COUNTY OF SAN FRANCISCO,

24 Defendants.

Case No. C12-3978 EMC

PROTECTIVE ORDER

25 Trial Date: Not Set
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ORDER

Based on the above entered Stipulation, IT IS SO ORDERED

Dated: October 21, 2014



THE HONORABLE WILLIAM H. ORRICK
UNITED STATES JUDGE

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