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8 Attorneys for Defendants
SAN FRANCISCO SHERIFF'S DEPUTIES MADDEN,
9 CASTRO, MILLER, FIELDS AND SERGEANT FREEMAN

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

12
13 DARREN BROWNE, A.K.A. AARON
BROWNE,

14 Plaintiff,

15 vs.

16 CITY AND COUNTY OF SAN
FRANCISCO, SHERIFF'S DEPT., ET
17 AL,

18 Defendants.

Case No.: 03-CV-00047 PJH

**STIPULATION AND [PROPOSED]
PROTECTIVE ORDER RE:
CONFIDENTIAL INFORMATION**

Trial Date: Not Set

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

23
24 GOOD CAUSE APPEARING, the parties stipulate, though their attorneys of record, to the
entry of an order as follows:

25 1. CONFIDENTIAL INFORMATION, within the meaning of this PROTECTIVE
26 ORDER, shall include all documents containing peace officer personnel records, official information
27 and any other such documents that defendants in good faith have determined to be confidential.
28

1 Defendants shall attempt to stamp "Confidential" on all such documents prior to production. In the
2 event that any CONFIDENTIAL INFORMATION is inadvertently not stamped as "Confidential" by
3 defendants, the party who notices this oversight shall nonetheless treat such documents as
4 CONFIDENTIAL INFORMATION. Such party shall also immediately make the labeling oversight
5 known to the other parties and the documents shall immediately be stamped as "Confidential" and
6 treated as such, as per this order.

7 2. The CONFIDENTIAL INFORMATION shall not be exhibited, displayed or otherwise
8 disclosed by Plaintiff's Counsel (or authorized persons described in Section 7) to other persons
9 except as specifically provided herein.

10 3. All documents, including, but not limited to, audiotapes, videotapes, photographs,
11 transcripts, etc., related to the criminal investigation incidental to the event forming the basis of this
12 lawsuit shall be also be deemed CONFIDENTIAL INFORMATION, within the meaning of this
13 stipulation.

14 4. Plaintiff may challenge defendants' designation of a particular document as
15 CONFIDENTIAL INFORMATION by filing an appropriate motion, under seal, with the Court. The
16 parties agree that the prevailing party in a motion to remove the confidential designation shall waive
17 any entitlement to monetary sanctions, including attorney's fees.

18 5. Unless disclosure is ordered by the Court, attorneys for defendants shall have the sole
19 authority to determine that documents subject to the PROTECTIVE ORDER are no longer
20 considered CONFIDENTIAL INFORMATION and will advise counsel for plaintiff in writing if this
21 determination is made.

22 6. Any CONFIDENTIAL INFORMATION that is disclosed or produced by any party or
23 non party in connection with this case may be used only for prosecuting, defending, or attempting to
24 settle this litigation. CONFIDENTIAL INFORMATION may be disclosed only to the categories of
25 persons and under the conditions described in this Order. When the litigation has been terminated, all
26 parties or non parties that have received CONFIDENTIAL INFORMATION must comply with the
27 provisions of Section 13, below.

1 All parties or non parties that have received CONFIDENTIAL INFORMATION must store
2 and maintain it in a secure manner that ensures that access is limited to the persons authorized under
3 this Order.

4 7. Plaintiff's Counsel may exhibit, discuss, and/or disclose CONFIDENTIAL
5 INFORMATION only to the following categories of person and no other unless authorized by order
6 of the Court:

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

16 8. Counsel for Plaintiff may not provide originals or copies of the CONFIDENTIAL
17 INFORMATION to plaintiff absent the written agreement of counsel for the City or a court order,
18 subject to the following:

19 a. For purposes of evaluating the settlement value or potential jury verdict,
20 counsel for Plaintiff may discuss the general nature of the CONFIDENTIAL INFORMATION with
21 plaintiff without disclosing any identifying details about a specific incident or any documents.
22 Plaintiff's counsel may also review with a plaintiff any statement or interview given by that plaintiff.

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

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

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

15 11. If a party who has received CONFIDENTIAL INFORMATION learns that, by
16 inadvertence or otherwise, it has disclosed CONFIDENTIAL INFORMATION to any person or in
17 any circumstance not authorized under this PROTECTIVE ORDER, the party must immediately (a)
18 notify the San Francisco City Attorney's Office in writing of the unauthorized disclosures, (b) use its
19 best efforts to retrieve all copies of the CONFIDENTIAL INFORMATION, (c) inform the person or
20 persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request
21 such person or persons to execute the document that is attached hereto as Exhibit A.

22 12. Any inadvertent disclosure made in violation of this PROTECTIVE ORDER does not
23 constitute a waiver of the terms of this PROTECTIVE ORDER, except by written agreement of the
24 parties, or further order of this Court.

25 13. All documents covered by this PROTECTIVE ORDER and copies thereof (including
26 those in the possession of experts, consultants, investigators, etc.) will be returned to the San
27 Francisco City Attorney's Office at the termination of this litigation, through final judgment, appeal,
28 or by whatever means resolved. On final disposition of this case, plaintiff's counsel, and all other
persons subject to this Order (including experts, consultants, and investigators), shall within 30 days

1 after the final disposition of this case, without request or further order of this Court, return all
2 CONFIDENTIAL INFORMATION to the Deputy City Attorney of record in this matter. ~~The~~
3 ~~provisions of this PROTECTIVE ORDER shall, without further order of the Court, continue to be~~
4 ~~binding after the conclusion of the action, and this Court will have jurisdiction to enforce the terms of~~
5 ~~this PROTECTIVE ORDER.~~ PJH

6 14. Should plaintiff fail to comply with this PROTECTIVE ORDER, plaintiff and
7 plaintiff's counsel shall be liable for all costs associated with enforcing this agreement, including but
8 not limited to all attorney fees in amounts to be determined by the Court. Plaintiff and plaintiff's
9 counsel may also be subject to additional sanctions or remedial measures, such as contempt,
10 evidentiary or terminating sanctions.

11 IT IS SO STIPULATED.

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Dated: August 14, 2008

DENNIS J. HERRERA
City Attorney
JOANNE HOEPER
Chief Trial Deputy
ROBERT A. BONTA
Deputy City Attorney

By: Robert A. Bonta
ROBERT A. BONTA

Attorneys for Defendants
SAN FRANCISCO SHERIFF'S DEPUTIES MADDEN,
CASTRO, MILLER, FIELDS AND SERGEANT
FREEMAN

Dated: August 14, 2008

By: Harriet Ross
HARRIET PAULINE ROSS
Attorney for Plaintiff

ORDER

Pursuant to this stipulation, IT IS SO ORDERED

Dated: 10/3/08

HON. PHYLLIS
UNITED STATES

