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7 Attorneys for Defendants

8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA

10 JONATHAN MEAS,  
 11 Plaintiff,  
 12 vs.

Case No. C08-04075 PJH

**STIPULATION AND [PROPOSED]  
 CONFIDENTIALITY PROTECTIVE  
 ORDER**

13 CITY AND COUNTY OF SAN  
 FRANCISCO, a municipal corporation;  
 14 HEATHER FONG, in her capacity as  
 Chief of Police for the CITY AND  
 15 COUNTY OF SAN FRANCISCO; JESSE  
 SERNA, individually and in his capacity  
 16 as a police officer for the CITY AND  
 COUNTY OF SAN FRANCISCO; GARY  
 17 MORIYAMA, individually, and in his  
 capacity as a police officer for the CITY  
 18 AND COUNTY OF SAN FRANCISCO;  
 ERIC VALENTINI, individually, and in  
 19 his capacity as a police officer for the  
 CITY AND COUNTY OF SAN  
 20 FRANCISCO, SCOTT KORTE  
 individually, and in his capacity as a  
 21 police officer for the CITY AND  
 COUNTY OF SAN FRANCISCO; and,  
 22 San Francisco police officers DOES 1-25,  
 inclusive,

23 Defendants.

1 Pursuant to Federal Rule of Civil Procedure 26(c) the parties have met and conferred and  
2 agree that the discovery of CONFIDENTIAL INFORMATION in this matter be made pursuant to the  
3 terms 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 INFORMATION, within the meaning of this PROTECTIVE  
7 ORDER, shall include all documents containing peace officer personnel records (including, but not  
8 limited to, current and former officers' home addresses, medical records, and complaints and  
9 disciplinary records in the files of the San Francisco Police Department and/or the Office of Citizens'  
10 Complaints), official information and any other such documents that defendants in good faith have  
11 determined to be confidential. Defendants shall attempt to stamp "Confidential" on all such  
12 documents prior to production. In the event that any CONFIDENTIAL INFORMATION is  
13 inadvertently not stamped as "Confidential" by defendants, the party who notices this oversight shall  
14 immediately make it known to the other parties and the documents shall immediately be stamped as  
15 "Confidential" and treated as such, as per this order.

16 2. The CONFIDENTIAL INFORMATION shall not be exhibited, displayed or otherwise  
17 disclosed by Plaintiff's Counsel (or authorized persons described in paragraph 5) to other persons  
18 except as specifically provided herein.

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

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

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

4           a.     Plaintiff's Counsel;

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

15           6.     CONFIDENTIAL INFORMATION produced pursuant to this PROTECTIVE  
16 ORDER may be reviewed and relied upon in this case only, and not for any other purpose. Plaintiff's  
17 Counsel may not use any CONFIDENTIAL INFORMATION produced pursuant to this  
18 PROTECTIVE ORDER in any other litigation.

19           7.     Counsel for Plaintiff may not provide originals or copies of the Confidential  
20 Information to any plaintiff absent the written agreement of counsel for the City or a court order,  
21 subject to the following:

22           a.     For purposes of evaluating the settlement value or potential jury verdict,  
23 counsel for Plaintiff may discuss the general nature of the Confidential  
24 Information with plaintiffs without disclosing any identifying details about a  
25 specific incident or any documents.

26           b.     Plaintiffs' counsel may also review with a plaintiff any statement or interview  
27 given by that plaintiff.  
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1           8.       Unless otherwise stipulated to by defendants, any use of CONFIDENTIAL  
2 INFORMATION or comment on the substance of any CONFIDENTIAL INFORMATION in any  
3 papers or pleadings filed with the Court, shall be filed under seal pursuant to the Court's rules and  
4 procedures (see Northern District of California Civil Local Rule 79-5). The sealed envelopes shall  
5 be endorsed with the caption of this litigation, and an indication of the nature of the contents of the  
6 envelopes and a statement substantially in the following form:

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

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

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

23          11.       All documents covered by this PROTECTIVE ORDER and copies thereof (including  
24 those in the possession of experts, consultants, *etc.*) will be returned to the San Francisco City  
25 Attorney's Office at the termination of this litigation. On final disposition of this case, plaintiff's  
26 counsel shall within 30 days after the final disposition of this case, without request or further order of  
27 this Court, return all CONFIDENTIAL INFORMATION to the Deputy City Attorney of record in  
28 this matter. The provisions of this PROTECTIVE ORDER shall, without further order of the Court,

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

8 IT IS SO STIPULATED.

9  
10 Dated: May 27, 2009

11 DENNIS J. HERRERA  
12 City Attorney  
13 JOANNE HOEPER  
14 Chief Trial Deputy  
15 SCOTT D. WIENER  
16 Deputy City Attorney

17 -/s/- *Scott D. Wiener*

18 By: \_\_\_\_\_  
19 SCOTT D. WIENER  
20 Attorneys for Defendants

21  
22 Dated: May 27, 2009

23 LAW OFFICES OF JOHN BURRIS

24 -/s/- *Ben Nisenbaum*

25 By: \_\_\_\_\_  
26 BEN NISENBAUM  
27 Attorneys for Plaintiff JONATHAN MEAS  
28 \*Pursuant to GO 45, the electronic signatory has  
obtained approval from this signatory.

ORDER

Based on the foregoing stipulation and good cause appearing, IT IS SO ORDERED.

Dated: 5/28/09

HON. PHYLLIS J. HAMILTON  
UNITED STATES DISTRICT COURT



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**Exhibit A**

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

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

- 6                   1. I will not disclose the CONFIDENTIAL INFORMATION to any other person.  
7                   2. I understand that I have no power to authorize any other person to review the  
8 CONFIDENTIAL INFORMATION.  
9                   3. I agree not to make copies of the CONFIDENTIAL INFORMATION.  
10                  4. I agree to return the CONFIDENTIAL INFORMATION to the counsel for the  
11 party that produced it, at or before the conclusion of this litigation.  
12                  5. I understand that if I violate any of the terms of the Protective Order, then  
13 Plaintiffs, Plaintiffs’ Counsel, and I may be subject to sanctions or possible contempt.

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15                  AGREED:

16  
17 \_\_\_\_\_  
18                  DATE

17 \_\_\_\_\_  
18                  SIGNATURE

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21                  PRINT NAME  
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