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7 Attorneys for Defendants
 8 CITY AND COUNTY OF SAN FRANCISCO, AND
 SHERIFF MICHAEL HENNESSEY
 9

10
 11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA

13 ESTER DOWNES, IN HER INDIVIDUAL
 CAPACITY AND AS PERSONAL
 14 REPRESENTATIVE FOR ISSIAH DOWNES
 AND THE ESTATE OF ISSIAH DOWNES,

Case No. CGC-10-4451 CW

STIPULATION AND PROTECTIVE ORDER

15 Plaintiffs,

Trial Date: Not Set

16 vs.

17 THE CITY AND COUNTY OF SAN
 18 FRANCISCO; Sheriff MICHAEL
 HENNESSEY; Undersheriff JANET
 19 DEMPSEY; Capt. JONAH PECOT; Lt. JOHN
 CASEY; Senior Deputy MATTHEW WONG;
 20 Dpeuty SMITH-AL-GHANI; Deputy JUAN
 GUITRON; Deputy EDWARD GUTIERREZ;
 21 Deputy MEL SONG; Deputy KEN LOMBA;
 Deputy DAN WHITE; Deuty KEVIN
 22 MACKSOUD; PAULA AVERY;
 EMMANUEL BULATO; and DOES 2 THRU
 23 100, all in their individual and official
 capacities,

24 Defendants.
 25

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 INFORMATION, within the meaning of this PROTECTIVE
7 ORDER, shall include all documents containing peace officer personnel records, official information
8 and any other such documents that defendants in good faith have determined to be confidential.
9 Defendants shall attempt to stamp "Confidential" on all such documents prior to production. In the
10 event that any CONFIDENTIAL INFORMATION is inadvertently not stamped as "Confidential" by
11 defendants, the party who notices this oversight shall nonetheless treat such documents as
12 CONFIDENTIAL INFORMATION. Such party shall also immediately make the labeling oversight
13 known to the other parties and the documents shall immediately be stamped as "Confidential" and
14 treated as such, as per this order.

15 2. All documents, including, but not limited to, audiotapes, videotapes, photographs,
16 transcripts, etc., related to any investigation by a law enforcement agency of the event forming the
17 basis of this lawsuit ("INVESTIGATIVE FILES") shall be also be deemed CONFIDENTIAL
18 INFORMATION, within the meaning of this stipulation.

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 considered
25 CONFIDENTIAL INFORMATION and will advise counsel for plaintiff in writing if this
26 determination is made.

27 5. Any CONFIDENTIAL INFORMATION that is disclosed or produced by any party or
28 non party in connection with this case may be used only for prosecuting, defending, or attempting to

1 settle this litigation. CONFIDENTIAL INFORMATION may be disclosed only to the categories of
2 persons and under the conditions described in this Order. When the litigation has been terminated, all
3 parties or non parties that have received CONFIDENTIAL INFORMATION must comply with the
4 provisions of section 12, below.

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

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

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

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

- 23 a. For purposes of evaluating the settlement value or potential jury verdict, counsel
24 for Plaintiff may discuss the general nature of the CONFIDENTIAL INFORMATION with plaintiffs
25 without disclosing any identifying details about a specific incident or any documents. Plaintiffs'
26 counsel may also review with a plaintiff any statement or interview given by that plaintiff.

27 b. In addition, Plaintiffs' counsel may show INVESTIGATIVE FILES materials
28 only to individual plaintiffs and discuss those materials with individual plaintiffs, but may not give

1 plaintiffs copies; however, each individual plaintiff must execute the document attached as Exhibit A
2 pursuant to the provisions of paragraph 6.b., and will be bound by this Protective Order.

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

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

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

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

1 Dated: January 18, 2011

LAW OFFICES OF GERI LYNN GREEN

2
3 By: /s/*

4 GERI LYNN GREEN

Attorneys for Plaintiff ESTHER DOWNES

5 **Pursuant to GO 45, the electronic signatory has obtained
6 approval from this signatory.*

7 **ORDER**

8 BASED ON THE ABOVE ENTERED STIPULATION, IT IS SO ORDERED.

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10 Dated: 1/19/2011

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12 

13 THE HONORABLE CLAUDIA WILKEN
14 UNITED STATES DISTRICT COURT JUDGE

EXHIBIT A

**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.
5. I understand that if I violate any of the terms of the Protective Order, then Plaintiffs,
Plaintiffs’ Counsel, and I may be subject to sanctions or possible contempt.

AGREED:

DATE

SIGNATURE

PRINT NAME