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 CITY AND COUNTY OF SAN FRANCISCO

11 UNITED STATES DISTRICT COURT  
 12 NORTHERN DISTRICT OF CALIFORNIA

13 JOSE A. HERNANDEZ GARCIA,  
 14 Plaintiff,  
 15 vs.  
 16 CITY AND COUNTY OF SAN  
 FRANCISCO; and Does 1-50,  
 17 Defendants.

Case No. 13-cv-3295 DMR

~~[PROPOSED]~~ **STIPULATED PROTECTIVE ORDER**

Trial Date: January 20, 2015

20 **STIPULATED PROTECTIVE ORDER**

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

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

- 26 1. CONFIDENTIAL INFORMATION, within the meaning of this PROTECTIVE ORDER,  
 27 shall include all documents containing official information privileged materials, criminal investigation  
 28 materials and any other such documents that defendants in good faith have determined to be

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

5 CONFIDENTIAL INFORMATION, within the meaning of this PROTECTIVE ORDER, shall also  
6 include any and all documents containing peace officer Personnel Information, private information,  
7 confidential information, including any and all records made pursuant to citizen complaint, or other  
8 administrative or internal Department investigation, that the defendants consider in good faith to be or to  
9 contain Confidential, Official Information, or otherwise protected information, shall be subject to this  
10 Order and stamped or otherwise designated "Confidential."

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

14 3. 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. The parties shall follow the procedures  
for raising discovery disputes described  
in Judge Ryu's standing order.

18 4. 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 considered  
20 CONFIDENTIAL INFORMATION and will advise counsel for plaintiff in writing if this determination  
21 is made.

22 5. Any CONFIDENTIAL INFORMATION that is disclosed or produced by any party or non  
23 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  
25 of 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 12, below. All parties or non parties that have received CONFIDENTIAL  
28 INFORMATION must store and maintain it in a secure manner that ensures that access is limited

1 to the persons authorized under this Order.

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

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

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

- 19 a. For purposes of evaluating the settlement value or potential jury verdict, counsel  
20 for Plaintiff may discuss the CONFIDENTIAL INFORMATION with plaintiffs  
21 without disclosing any identifying details about a specific witness. Plaintiff's  
22 counsel may also review with a plaintiff any statement or interview given by that  
23 plaintiff. Counsel may inform Plaintiff of statements made by any person  
24 describing the facts of the incident but may not provide details that would identify  
25 the person making the statement or any other person who may have provided  
26 statements or information regarding the incident.

27 8. Unless otherwise stipulated to by defendants, any use of CONFIDENTIAL  
28 INFORMATION or comment on the substance of any CONFIDENTIAL INFORMATION in any

1 papers or pleadings filed with the Court, shall be filed under seal pursuant to the Court's rules and  
2 procedures (see Northern District of California Civil Local Rule 79-5). The sealed envelopes shall  
3 be endorsed with the caption of this litigation, and an indication of the nature of the contents of the  
4 envelopes and a statement substantially in the following form:

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

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

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

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

12. All documents covered by this PROTECTIVE ORDER and copies thereof (including

1 those in the possession of experts, consultants, etc.) will be returned to the San Francisco City  
2 Attorney's Office at the termination of this litigation. On final disposition of this case, plaintiff's  
3 counsel shall within 30 days after the final disposition of this case, without request or further order of this  
4 Court, return all CONFIDENTIAL INFORMATION to the Deputy City Attorney of record in this matter.  
5 The provisions of this PROTECTIVE ORDER shall, without further order of the Court, continue  
6 to be binding after the conclusion of the action, and this Court will have jurisdiction to enforce the  
7 terms of this PROTECTIVE ORDER.

8 13. Should plaintiff or plaintiff's counsel fail to comply with this PROTECTIVE  
9 ORDER, plaintiff and plaintiff's counsel shall be liable for all costs associated with enforcing this  
10 agreement, including but not limited to all attorney fees in amounts to be determined by the Court.

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

13 IT IS SO STIPULATED.

14 Dated: May 15, 2014

LAW OFFICES OF H. NELSON MEEKS

15  
16 By: /s/ H. Nelson Meeks  
H. NELSON MEEKS  
Attorneys for Plaintiff Jose A. Hernandez Garcia

17  
18 Dated: May 15, 2014

OFFICE OF THE CITY ATTORNEY

19  
20 By: /s/ Warren Metlitzky  
WARREN METLITZKY  
Attorney for Defendant City and County of San Francisco

21  
22 **ORDER**

23 Based on the above entered Stipulation, IT IS SO ORDERED

24 Dated: May 20, 2014

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26 \_\_\_\_\_  
THE HONORABLE DONNA M. RYU  
27 UNITED STATES MAGISTRATE JUDGE

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**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.

AGREED:

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINT NAME