

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ERIKA EBERHARDINGER, :

Plaintiff :

vs. :

CITY OF YORK, BENJAMIN :

SMITH, MATTHEW FOSTER, :

STATE FARM MUTUAL :

AUTOMOBILE INSURANCE :

COMPANY, STATE FARM FIRE :

& CASUALTY COMPANY, :

STATE FARM INSURANCE :

COMPANY, STATE FARM :

COMPANIES, STATE FARM, :

And STATE FARM INSURANCE, :

Defendants. :

NO.: 1:16-CV-02481-CCC

FILED  
HARRISBURG, PA  
APR 19 2018  
Per [Signature] CLERK

**CONFIDENTIALITY STIPULATION AND PROTECTIVE ORDER**

WHEREAS, defendant City of York intends to produce certain documents pursuant to Rule 26 of the Federal Rules of Civil Procedure that it deems to be confidential or otherwise inappropriate for public disclosure; and

WHEREAS, defendant City of York will only produce these documents if appropriate protection for their confidentiality is assured; and

WHEREAS, good cause exists for the entry of an order pursuant to Rule 26(c) of the Federal Rules of Civil Procedure;

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED**, by and between the attorney for plaintiff and defendants, as follows:

1. As used herein, "Confidential Materials" shall mean personnel records of Police Officer Benjamin Smith, and other documents that may, during the pendency of this litigation, be designated "Confidential Material" by defendants or the Court, except that such documents and information shall not be deemed "Confidential Materials" to the extent, and only to the extent, that they are (a) obtained by plaintiff from sources other than defendants, or (b) are otherwise publicly available.

2. Neither Plaintiff's attorney nor Co-Defendants' attorneys shall use the Confidential Materials for any purpose other than for the preparation or presentation of their case in this action.

3. Neither Plaintiff's attorney nor Co-Defendants' attorneys shall disclose the Confidential Materials to any person not a member of the staff of their law office, except under the following conditions:

a. Disclosure may be made only if necessary to the preparation or presentation of their case in this action.

b. Disclosure before trial may be made only to Plaintiff and Co-Defendants', to an expert who has been retained or specially employed by Plaintiff's attorney or Co-Defendants' attorneys in

this action in anticipation of litigation or preparation for this action, to a witness at deposition, or to the Court.

c. Before any disclosure is made to a person listed in subparagraph (b) above (other than to the Court), the attorney shall provide each such person with a copy of this Stipulation and Protective Order, and such person shall consent in writing, in the form annexed hereto as Exhibit A, not to use the Confidential Materials for any purpose other than in connection with the prosecution of this case and not to further disclose the Confidential Materials except in testimony taken in this case. The signed consent shall be retained by the attorney and a copy shall be furnished to Defendant City of York's attorneys upon their request.

4. Deposition testimony concerning any Confidential Materials that reveals the contents of such materials shall be deemed confidential, and the transcript of such testimony, together with any exhibits referred to therein, shall be separately bound, with a cover page prominently marked "CONFIDENTIAL." Such portion of the transcript shall be deemed to be Confidential Materials within the meaning of this Stipulation and Protective Order.

5. The parties agree that, if any papers that incorporate Confidential Materials or reveal the contents thereof, are to be filed with the Court, the parties

shall make a joint application to the Court for permission to file those papers under seal. If the Court grants permission for filing under seal, the filing shall be delivered to the Court enclosed in a sealed envelope bearing the caption of this action, an indication of the nature of the contents, and the following legend:

**CONFIDENTIAL**

This envelope contains documents or information designated confidential pursuant to an order entered by the United States District Court for the Middle District of Pennsylvania in the above-captioned action. This envelope shall not be opened or unsealed without the express direction of a judge of this Court, and its contents shall not be displayed or revealed except as the Court may order. This envelope and its contents shall at all times be maintained separate and apart from the publicly available files of this case.

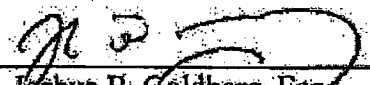
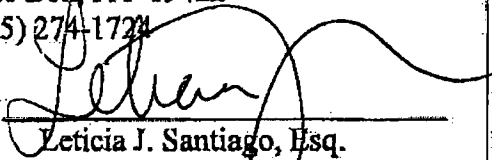
6. Within 30 days after the termination of this case, including any appeals, the Confidential Materials, including all copies, notes, and other materials containing or referring to information derived therefrom, shall be returned to Defendant City of York's attorneys or, upon their consent, destroyed, and all persons who possessed such materials shall verify their return or destruction by affidavit furnished to Defendant City of York's attorneys.

7. This stipulation shall be binding upon the parties immediately upon signature, and shall be submitted to the Court for entry as an Order.


8. Nothing in this Stipulation and Protective Order shall be construed to limit Defendant City of York's use of the Confidential Materials in any manner.

9. Plaintiff's counsel and Co-Defendants' counsel shall keep confidential for "attorney's-eyes-only" the address, telephone number, social security number, date of birth, and other personal information regarding any non-parties identified by the production of documents or otherwise identified in the course of this litigation. Such information shall be used only by the attorneys or their law firms or agents for the purpose of communication with witnesses or the service of subpoenas, and shall not be disclosed to plaintiff, her family members, or other persons, and such information shall not be include in documents publicly filed with the Court.

Dated: January 25<sup>th</sup>, 2018

<p>ARM Lawyers 18 North 8<sup>th</sup> Street Stroudsburg, PA 18360 (570) 424-6899</p> <p>By:  Joshua B. Goldberg, Esq. Attorney for Plaintiff</p>	<p>William J. Ferren &amp; Associates 10 Sentry Parkway, Suite 301 Blue Bell, PA 19422 (215) 274-1724</p> <p>By:  Leticia J. Santiago, Esq. Attorney for Defendants, Smith and City of York</p>
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SO ORDERED:

  
THE HONORABLE CHRISTOPHER C. CONNER  
UNITED STATES DISTRICT JUDGE

DATE: 4/19/18

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EXHIBIT A

The undersigned hereby acknowledges that (s)he has read the Confidentiality Stipulation and Order entered in the United States District Court for the Middle District of Pennsylvania dated \_\_\_\_\_, 2018 in the action entitled Erika Eberhardinger v. City of York, et al., 16-CV-02481-CCC, and understands the terms thereof. The undersigned agrees not to use the Confidential Materials defined therein for any purpose other than in connection with the prosecution of this case, and will not further disclose the Confidential Materials except in testimony taken in this case.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Occupation