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 9 UNITED STATES DISTRICT COURT
 10 CLARK COUNTY, NEVADA

11 CHRISTOPHER BURR, Individually and as
 12 Adoptive Parent and Legal Guardian of L.B.,
 13 a Minor; and SUSAN HOY Guardian Ad
 Litem for L.B., a Minor,

CASE NO.: 2:20-cv-01101-JCM-VCF

14 Plaintiffs,

15 v.

16 CLARK COUNTY DEPARTMENT OF
 17 FAMILY SERVICES; COUNTY OF
 CLARK, a Political Subdivision of the State
 18 of Nevada; HEATHER MUMMEY,
 individually, and in her official capacity; TIM
 19 BURCH, individually, and in his official
 capacity; ROE CLARK COUNTY
 20 DEPARTMENT OF FAMILY SERVICES
 EMPLOYEES I through X, individually and
 21 in their official capacities; JONEL KAYE
 22 REPOLLO QUERRER, individually; DOES I
 through XX; and ROE CORPORATIONS I
 23 through XX, inclusive,

STIPULATION AND
PROTECTIVE ORDER

24 Defendants.
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1 1. Plaintiffs CHRISTOPHER BURR, Individually and as Adoptive Parent and Legal
2 Guardian of L.B., a Minor; and SUSAN HOY Guardian Ad Litem for L.B., a Minor, by and
3 through their respective counsel Marjorie Hauf, Esq. and Cara Xidis, Esq. of H&P LAW,
4 Defendants COUNTY OF CLARK and HEATHER MUMMEY (“County Defendants”), by and
5 through their respective counsel Felicia Galati, Esq. of OLSON CANNON GORMLEY and
6 STOBERSKI, and JONEL KAYE REPOLLO QUERRER, by and through her respective counsel
7 Jason G. Weiner, Esq. of WEINER LAW GROUP, LLC, and subject to the Court’s approval,
8 hereby stipulate and agree as follows, pursuant to Fed. R. Civ. P. 26(c), with respect to the
9 disclosure of Confidential Information.
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11 2. The parties to this action submit this Stipulation and Protective Order (hereinafter
12 “Order”) solely for the purpose of facilitating the exchange of documents and information
13 between the parties in this action without involving the Court unnecessarily in the process.
14 Nothing in this Order nor the production of any information or documents under the terms of this
15 Order nor any proceedings pursuant to this Order shall be deemed to have the effect of an
16 admission or waiver by any party or of altering the confidentiality or non-confidentiality of any
17 such document or information or altering any existing obligation of any party or absence thereof.
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19 **PROCEDURES REGARDING CONFIDENTIAL INFORMATION**

20 3. The parties define “DFS case records” as all documents, which are in the custody
21 of County Defendants, relating to DFS investigation, custody, and placement of Plaintiffs,
22 including, but not limited to, documents relating to all Plaintiffs’ institutional, foster family, and
23 kin placements; foster family’s licensing files; education, mental health, and health services; and
24 court proceedings. “DFS case records” shall also include the files and documents of any child
25 who has been or is in DFS custody. The term “document” and “documents” include any written,
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1 printed, typed, recorded, electronic or graphic material of every type and description, and each
2 and every thing from which information can be processed or transcribed, including computer
3 readable storage material. Documents include, but are not limited to, the following: records,
4 handwritten notes, reports, agreements, memoranda, email communications, photographs, and
5 UNITY database entries.
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7 4. The parties acknowledge that DFS case records and the files and documents of
8 any child who has been or is in DFS custody contain sensitive information that is generally
9 protected from disclosure pursuant to federal and state law, including without limitation:
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11 (a) Information that identifies by name or address, or could reasonably lead to
12 the disclosure of the name or address of any applicant for or recipient of child
13 welfare, foster care, or adoption assistance services [45 C.F.R. 1355.21];

14 (b) The names and addresses of applicants for and recipients of child welfare,
15 foster care, or adoption assistance services and the amounts of financial assistance
16 provided to them [45 C.F.R. 205.50];
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18 (c) Information related to the social and economic conditions or
19 circumstances of particular individual applicants for or recipients of child
20 welfare, foster care, or adoption services [45 C.F.R. 205.50];
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22 (d) Agency evaluations of information about particular individual applicants
23 for or recipients of child welfare, foster care, or adoption assistance services [45
24 C.F.R. 205.50];

25 (e) Medical data concerning particular individual applicants for or recipients
26 of child welfare, foster care, or adoption assistance services [45 C.F.R. 205.50];
27 and
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1 (f) All records of child abuse reports and all information obtained in
2 investigating reports of child abuse and neglect [45 C.F.R. 1340.14; Nev. Rev.
3 Stat. Ann. § 432B.280].
4

5 The parties also acknowledge that all files or documents of any child who has been or is in DFS
6 custody shall come within the provisions and protections of this Order.

7 5. DFS case records shall be deemed to be Confidential Information pursuant to
8 this Order and Defendants shall label each page as Confidential upon production.

9 6. A party may also label as “Confidential” any discovery that is served or produced
10 in this litigation (including subpoenas and deposition testimony), if the marking party believes
11 that the information contained in such discovery qualifies for protection under standards
12 developed under Fed. R. Civ. P. 26(c) or state or federal law, including the right to privacy.
13 Such information shall be deemed to be Confidential Information pursuant to this Order.
14

15 The fact that a document is stamped “Confidential” by one party shall not be construed
16 as an admission by any other party that such document is confidential, nor shall it limit or
17 preclude the right of any party to object to the “Confidential” designation and to file any
18 appropriate motion(s) to determine the propriety of such designation. If the producing party
19 inadvertently fails to stamp or otherwise appropriately designate or list certain documents,
20 material, or information as “Confidential” upon their production or disclosure, such inadvertent
21 failure to designate shall not constitute nor be deemed a waiver of a subsequent claim of
22 protected treatment under this Order.
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25 Any party may contest a designation of “Confidential” by serving a written objection (by
26 letter to the designating Party) to the Confidentiality designation at any time. Upon service of
27 such objection, the Parties shall make a good faith effort to resolve the issue informally. If that
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1 effort fails, the confidentiality designation shall expire unless, within three weeks of service of
2 the objection, or such additional time as may be agreed upon the Parties, the Party seeking
3 confidentiality applies to the Court or Magistrate Judge for an order designating the document
4 or information confidential. If such an application is made, the document or other information
5 marked “Confidential” which is in dispute shall remain “Confidential,” as the case may be, until
6 the dispute is resolved by and between or among the parties and so confirmed in writing or, if
7 necessary, until order of the Court or any Magistrate Judge. On any such application, the
8 proponent of confidentiality shall have the burden of showing, by a preponderance of the
9 evidence, good cause for the claimed protection.
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12 7. Confidential Information shall only be used for purpose of prosecution, defense,
13 or settlement of this action, and for no other purpose.

14 8. Confidential Information may be disclosed or made available only to the Court;
15 to counsel for a party (including paralegal, clerical, and secretarial staff employed by such
16 counsel), and to the “qualified persons” designated below:
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18 (a) a party, or an officer, director, agent, or employee of a party deemed
19 necessary by counsel to aid in the prosecution, defense, or settlement of this action;

20 (b) experts or consultants (and their clerical staff) consulted and/or retained
21 by such counsel to assist in the prosecution, defense, or settlement of this action;

22 (c) court reporter(s) employed in this action; or

23 (d) a witness at any deposition or court proceeding in this action.
24

25 9. Any person other than a party, counsel for a party, or a direct employee of such
26 counsel, having access to information pursuant to paragraph 8, shall be provided a copy of this
27 Order by the party providing access to the information. Such persons shall be bound by this
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1 Order and shall not disclose the information to any persons not authorized under state or federal
2 law or order of this Court to receive such information. Furthermore, any such person shall sign
3 a copy of the Statement of Confidentiality attached hereto and made a part hereof as Exhibit A,
4 prior to being furnished with any such information.
5

6 10. All documents meeting the definition of Confidential Information that are
7 produced in this case shall be clearly labeled or stamped "Confidential" prior to production.

8 11. In connection with proceedings in this action, testimony taken at a deposition,
9 hearing, or trial relating to Confidential Information or disclosing the identities of plaintiffs, any
10 other child who has been or is in DFS custody, or any individual not a named party to this action,
11 may be designated as Confidential Information by making a statement to that effect on the record
12 at the deposition or other proceeding. Arrangements shall be made with the court reporter taking
13 and transcribing such proceeding to label confidential portions of the transcript as containing
14 Confidential Information.
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16 12. Any party's inadvertent or unintentional failure to designate protected
17 information shall not be deemed a waiver in whole or in part of that party's claim of
18 confidentiality, as long as the disclosing party notifies all parties in writing that such protected
19 information constitutes confidential information within 7 days after learning that the protected
20 information was inadvertently or unintentionally produced without an appropriate
21 confidentiality designation and replaces the disclosure with a properly designated document.
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23 13. The terms of this Stipulated Protective Order apply, without limitation to all
24 documents and information exchanged between the parties in the course of this litigation.
25 whether or not such documents and/or information were exchanged prior to the entry of this
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1 Order and/or were designated as “Confidential.” This provision allows a party to designate a
2 previously produced document as “Confidential.”

3 14. If any party or non-party includes in papers to be filed with the Court: (i)
4 documents designated as containing Confidential Information, (ii) any portion of a deposition
5 transcript designated as containing Confidential Information, (iii) or information derived from
6 confidential documents or deposition testimony, such papers, or the confidential portion thereof,
7 shall be filed under seal. Hard copies shall be submitted to the parties in accordance with Local
8 Rule 10-5 and local e-filing instructions. Parties and nonparties shall also comply with all
9 requirements of Fed. R. Civ. P. 5.2 with regard to all documents that are filed with the court.
10

11 15. In all documents that are made part of the public record (unless under seal) and
12 in all references in open court, when referring to individual children or families, or other persons
13 whose names or other identifying information is contained in DFS case records, the parties shall
14 use initials agreed to by the parties.
15

16 16. This Order does not affect access to Confidential Information by individuals,
17 including employees of Clark County or the State of Nevada, who are otherwise authorized
18 under state law or regulation to have such access.
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20 17. The parties acknowledge that DFS information and material, which are the
21 subject of this Confidentiality Order, contain sensitive information that is generally protected
22 from disclosure by Federal statutes, and Nevada Statutes and Administrative Code, and that all
23 such information should be and hereby is deemed confidential and may not be discussed with or
24 disclosed, either orally or in writing, to anyone, including but not limited to the news or
25 publication media in any format, except in the strict accordance with the provisions of this
26 Confidentiality Order. This Order does not apply to policies and procedures of DFS which are
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1 otherwise deemed public record pursuant to Nev. Rev. Stat. 179A.110, Nev. Rev. Stat. 29.010,
2 Nev. Rev. Stat. 432B.290(2) and Nev. Rev. Stat. 432B.407. This Order shall be without
3 prejudice to the right of the parties (i) to bring before the Court at any time the question of
4 whether any particular document or information is, in fact, Confidential or whether its use
5 should be restricted in any manner whatsoever; or (ii) to present a motion to the Court for a
6 separate protective order as to any particular document or information, including restrictions
7 differing from those specified herein. This Order shall not be deemed to prejudice the parties in
8 any way in any future application for modification of this Order.
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11 18. This Order shall be without prejudice to any party to claim that a document that
12 a party marked as containing Confidential Information is also protected by the attorney-client
13 privilege, work product doctrine, or any other privilege or limitation recognized under state or
14 federal law. Determinations of confidentiality and privilege are separate, and nothing in this
15 Order constitutes a waiver of privilege.
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17 19. At the conclusion of this case, all discovery material made confidential pursuant
18 to this Order, or another court order, all documents reflecting such material, and all copies thereof
19 (including without limitation, copies provided to testifying or consulting experts or consultants)
20 shall be returned to the person or party that produced the confidential material, or, in the
21 alternative, destroyed. Notwithstanding the foregoing, counsel for plaintiffs may retain, until the
22 expiration of the statute of limitations applicable to attorney malpractice, including any period
23 for which the statute may be tolled, one copy of the named plaintiffs' case records, including the
24 confidential material contained therein, and one copy of any attorney work product reflecting
25 Confidential Information, provided that such case records and attorney work product is
26 prominently marked with the statement:
27

CONFIDENTIAL

This envelope contains documents that are subject to a Protective Order entered by the Court in this action governing the use of confidential discovery material.

or some substantially similar statement. The provisions of this Order shall continue to apply to all confidential materials not returned or destroyed in accordance with this paragraph. After the expiration of the statute of limitations applicable to attorney malpractice, including any period for which the statute may be tolled, plaintiffs' counsel shall return or destroy all confidential case records in accordance with the terms of this paragraph.

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1 20. This Protective Order also applies to any and all documents and other
2 discovery, including but not limited to depositions and written discovery, previously
3 conducted and/or disclosed in L.B., minor by and through his Adoptive Parent, Legal
4 Guardian and Guardian Ad Litem, before the United States District Court, District of
5 Nevada, Case No. 2:20-cv-01101-JCM-VCF, which the parties stipulate shall have full
6 force and effect in this matter and is subject to the Federal Rules of Civil Procedure.
7

8 Dated this 20th day of November, 2020. Dated this 20th day of November, 2020.

9 H&P LAW

10 OLSON CANNON GORMLEY & STOBERSKI

11 By: /s/ Cara Xidis, Esq.
12 MARJORIE HAUF, ESQ.
13 CARA XIDIS, ESQ.
14 8950 W. Tropicana Avenue, Suite 1
15 Las Vegas, NV 89147
16 Attorneys for Plaintiffs

11 By: /s/ Felicia Galati, Esq.
12 FELICIA GALATI, ESQ.
13 9950 West Cheyenne Avenue
14 Las Vegas, NV 89129
15 Attorneys for Defendants/Cross-Claimant
16 COUNTY OF CLARK and HEATHER
17 MUMMEY

16 Dated this 20th day of November, 2020.

17 WEINER LAW GROUP, LLC.

18
19 By: /s/ Jason G. Weiner, Esq.
20 JASON G. WEINER, ESQ.
21 2820 W. Charleston Blvd., #35
22 Las Vegas, NV 89102
23 Attorney for Defendant
24 JONEL KAYE REPOLLO
25 QUERRER
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ORDER

IT IS HEREBY ORDERED, ADJUDGED and DECREED that,

The records of the Clark County Department of Family Services (“CCDFS”), which may be discoverable in this action in L.B., minor by and through his Adoptive Parent, Legal Guardian and Guardian Ad Litem, before the United States District Court, District of Nevada, Case No. 2:20-cv-01101-JCM-VCF, as well as any other documents so marked by the Parties, are deemed confidential to this litigation, and may be released and disclosed only in accordance with the terms and provisions of the foregoing Stipulation, said terms and provisions being incorporated into this Order by this reference as though fully set forth herein.

IT IS SO ORDERED this 23rd day of November, 2020.



UNITED STATES MAGISTRATE JUDGE

Submitted by:

OLSON CANNON GORMLEY & STOBERSKI

By: /s/ Felicia Galati, Esq.

FELICIA GALATI, ESQ.

9950 West Cheyenne Avenue

Las Vegas, NV 89129

Attorneys for Defendants

COUNTY OF CLARK and HEATHER MUMMEY

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Exhibit A

STATEMENT OF CONFIDENTIALITY

By signing this document, I hereby certify that I have read the Confidentiality Order entered by the Court in in L.B., minor by and through his Adoptive Parent, Legal Guardian and Guardian Ad Litem, before the United States District Court, District of Nevada, Case No. 2:20-cv-01101-JCM-VCF, on _____, 20____. I understand this Order and agree to abide by its terms by not disclosing confidential information to anyone other than counsel, employees or clerical staff subject to this order, except as required by lawful judicial process.

Signature

Date

Print Name/Title

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ECF CERTIFICATION

I hereby attest that I have obtained concurrence regarding the filing of this document from each of the signatories within the e-filed document.

Dated: November 20, 2020

By: /s/ Erika Parker