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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PHILLIP MORRIS, JR.,
Plaintiff,
vs.
R. A. WHITE, et al.,
Defendants.

CV 08-2823-DOC (SS)

**[PROPOSED] ORDER ON
STIPULATED PROTECTIVE
ORDER**

*[Stipulated Protective Order Filed
Concurrently Herewith]*

Courtroom: 23- Third Floor
Magistrate Judge: The Honorable
Suzanne H. Segal

Hearing: N/A

ORDER

Based on the stipulation of the parties filed concurrently herewith, and for good cause shown, the Court makes the following orders:

1. In connection with discovery proceedings in this action, the parties may designate any document, thing, material, testimony, or other information derived from them, as "Confidential" under the terms of this Stipulated Protective Order (Order). Confidential information is information that has not been made public or that concerns or relates to the processes, operations, investigations, or other information relating to the California Department of Corrections and Rehabilitation, disclosure of which may have the effect of causing harm to the safety and security of the prison, prison staff, inmates, the public, Plaintiff, or

1 Defendants. Confidential information is also personal information of the
2 Defendants, including but not limited to home addresses, social security numbers,
3 telephone numbers, email addresses, names or identifying information of family
4 members, the disclosure of which places the safety of Defendants, who are current
5 and former peace officers, and their family members at risk. Confidential
6 information also includes all personal identifying information of any inmate,
7 current or former California Department of Corrections employee, and any third
8 party entitled to confidential protection of personal identifying information under
9 California and/or applicable federal law. Defendants reserve the right to redact
10 such personal identifying information from any “Confidential” document.

11 By designating a document, thing, material, testimony or other
12 information derived from them as “Confidential,” under the terms of this Order,
13 the party making the designation is certifying to the Court that there is a good-faith
14 basis both in law and in fact for the designation within the meaning of Federal Rule
15 of Civil Procedure 26.

16 2. Confidential documents will be designated by stamping copies of the
17 document produced to a party with the legend “CONFIDENTIAL.” Stamping the
18 legend “CONFIDENTIAL” on each page of any multipage document will
19 designate all pages of the document as confidential.

20 3. The parties may further designate certain discovery material or
21 testimony of a highly confidential as “CONFIDENTIAL—ATTORNEY’S EYES
22 ONLY” (Attorney’s Eyes Only Material), in the manner described in paragraph
23 two. Attorney’s Eyes Only Material, and the information contained in them, may
24 be disclosed only to the Court, to counsel for the parties (including the paralegal,
25 clerical, and secretarial staff employed by counsel), and to the “qualified persons”
26 listed in subparagraphs 6(a) through (c) below, but will not be disclosed to a party,
27 unless otherwise agreed or ordered. If disclosure of Attorney’s Eyes Only Material
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1 is made, all other provisions in this Order with respect to confidentiality will also
2 apply.

3 4. Testimony taken at a deposition, conference, hearing or trial may be
4 designated as Confidential or Attorney’s Eyes Only by making a statement to that
5 effect on the record at the deposition or other proceeding. Arrangements will be
6 made with the court reporter taking and transcribing the proceeding to separately
7 bind portions of the transcript containing information designated as Confidential or
8 Attorney’s Eyes Only, and to label the separately bound portions appropriately.
9 Defendants, and employees of the California Department of Corrections and
10 Rehabilitation, will not be required to disclose confidential personal information,
11 as described in paragraph one, in response to discovery, including questioning at
12 deposition, or trial, without the protections for “Confidential” or “Attorney’s Eyes
13 Only” information required by this Stipulated Protective Order. Contact with
14 Defendants and all other employees or officers of the California Department of
15 Corrections and Rehabilitation will be made through the Office of the Attorney
16 General.

17 5. Material designated as Confidential or Attorney’s Eyes Only under
18 this Order, the information contained in them, and any summaries, copies,
19 abstracts, or other documents derived in whole or in part from material designated
20 as Confidential (Confidential Material) or Attorney’s Eyes Only (Attorney’s Eyes
21 Only Material) may be used only for the purpose of prosecution, defense, or
22 settlement of this action, but for no other purpose.

23 6. Any Confidential or Attorney’s Eyes Only Materials will be disclosed
24 or made available only to counsel for a party (including the paralegal, clerical, and
25 secretarial staff employed by such counsel), and to the “qualified persons”
26 designated below:

27 a) experts (together with their clerical staff) retained by counsel to assist
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- 1 in the prosecution, defense, or settlement of this action;
2 b) court reporter(s) employed in this action;
3 c) any other person about whom the parties in writing agree.

4 Prior to receiving any Confidential or Attorney’s Eyes Only Material,
5 each “qualified person” will be provided with a copy of this Order and will execute
6 a nondisclosure agreement in the form of Attachment A. A copy of the executed
7 agreement will be provided to counsel for each other party.

8 7. If there is a dispute about the disclosure of Confidential Material or
9 Attorney’s Eyes Only Material to opposing counsel, the material will be submitted
10 to the Court for in camera review if a motion is presented to the Court under FRCP
11 37(a). Following in camera review, any Confidential or Attorney’s Eyes Only
12 Materials deemed relevant and ordered disclosed by the Court will be designated
13 “Confidential” or “Attorney’s Eyes Only,” by the producing party and disclosed or
14 made available as provided in paragraph 6.

15 8. Depositions will be taken only in the presence of qualified persons.

16 9. Nothing in this Stipulated Protective Order will impose any
17 restrictions on the use or disclosure by a party of material obtained by the party
18 independent of discovery in this action, or from disclosing its own Confidential
19 Material as it deems appropriate.

20 10. If Confidential or Attorney’s Eyes Only Material, including any
21 portion of a deposition transcript designated as Confidential or Attorney’s Eyes
22 Only, is included in any papers to be filed in Court, such papers will be labeled
23 “Confidential—Subject to Court Order” and filed under seal, according to the
24 procedure set out in the Local Rules of Court, until further order of this Court.

25 11. In the event that any Confidential or Attorney’s Eyes Only Material is
26 used in any court proceeding in this action, it will not lose its confidential status
27 through such use, and the party using the material will take all reasonable steps to
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1 maintain its confidentiality during such use.

2 12. This Order will be without prejudice to the right of the parties (i) to
3 bring before the Court at any time a question of whether any particular document
4 or information is confidential or whether its use should be restricted or (ii) to
5 present a motion to the Court under FRCP 26(c) for a separate protective order as
6 to any particular document or information, including restrictions differing from
7 those as specified herein. This Order will not prejudice the parties in any way in
8 any future application for modification of this Order.

9 13. This Order is entered solely for the purpose of facilitating the
10 exchange of documents and information between the parties to this action.
11 Nothing in this Order, or the production of any information or document under the
12 terms of this Order, or any proceedings under this Order will be deemed as an
13 admission or a waiver by any party, and will not alter the confidentiality or
14 nonconfidentiality or any such document or information or alter any existing
15 obligation of any party or the absence of obligation.

16 14. This Order will survive the final termination of this action, to the
17 extent that the information contained in Confidential or Attorney's Eyes Material is
18 not or does not become known to the public, and the Court will retain jurisdiction
19 to resolve any dispute concerning the use of information disclosed under this
20 Order. On termination of this case, including and up to the final appeal of
21 judgment, counsel for the parties will assemble and return to each other, within
22 thirty days, all documents, material and deposition transcripts designated as
23 Confidential or Attorney's Eyes Only and all copies of those materials, or will
24 certify that they have been destroyed.

25 15. Absent written permission by the designating party or Court order,
26 information or items designated as Confidential Material and/or Attorney's Eyes
27 Only Material will not be shown or otherwise disclosed to Plaintiff or any other
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1 inmates or third parties. The parties agree that any document, thing, material, or
2 testimony of inmate interviews designated as Confidential under this Order will
3 only be discussed with Plaintiff to the extent necessary to question him about the
4 incident and prepare him for trial. However, in no event shall the identity of an
5 inmate be disclosed to Plaintiff or third parties absent written agreement or a court
6 order authorizing the disclosure. Plaintiff may not retain copies of any document
7 or material. Counsel for Plaintiff may have and retain copies of any material
8 designated for protection under this order.
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10 IT IS SO ORDERED.
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_____/S/_____
14 Hon. Suzanne H. Segal
15 United States Magistrate Judge
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