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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MARY AMADOR, individually
and as class representatives, et al.,

Plaintiffs,

vs.

SHERIFF LEROY D. BACA,
individually and in his official
capacity, et al,

Defendants.

Case No. CV 10-1649 SVW (JEM)
[Hon. Stephen V. Wilson]

PROTECTIVE ORDER

1 **I. PURPOSES AND LIMITATIONS**

2 Disclosure and discovery activity in this action may involve production of
3 confidential, proprietary, or private information for which special protection from
4 public disclosure and from use for any purpose other than prosecuting this
5 litigation may be warranted. Accordingly, the parties petition the court to enter the
6 following Protective Order. The parties acknowledge that this Order does not
7 confer blanket protections on all disclosures or responses to discovery and that the
8 protection it affords from public disclosure and use extends only to the limited
9 information or items that are entitled to confidential treatment under the applicable
10 legal principles. The parties further acknowledge, as set forth in Section 12.3,
11 below, that this Protective Order does not entitle them to file confidential
12 information under seal; Civil Local Rule 79-5 sets forth the procedures that must
13 be followed and the standards that will be applied when a party seeks permission
14 from the court to file material under seal.

15 **II. 2. DEFINITIONS**

16
17 2.1 Challenging Party: a Party or Non-Party that challenges the
18 designation of information or items under this Order.

19 2.2 “CONFIDENTIAL” Information or Items: information (regardless of
20 how it is generated, stored or maintained) or tangible things that qualify for
21 protection under Federal Rule of Civil Procedure 26(c).

22 2.3 Counsel (without qualifier): Outside Counsel of Record and House
23 Counsel (as well as their support staff).

24 2.4 Designating Party: a Party or Non-Party that designates information
25 or items that it produces in disclosures or in responses to discovery as
26 “CONFIDENTIAL.”

27 2.5 Disclosure or Discovery Material: all items or information, regardless
28 of the medium or manner in which it is generated, stored, or maintained (including,

1 among other things, testimony, transcripts, and tangible things), necessary to
2 identify the total number of inmates who, between September 23, 2006 to present,
3 went to court and were thereafter incarcerated at the Century Regional Detention
4 Center, and for each of those inmates, their name, booking number, home address,
5 and home telephone number.”

6 2.6 Expert: a person with specialized knowledge or experience in a
7 matter pertinent to the litigation who has been retained by a Party or its counsel to
8 serve as an expert witness or as a consultant in this action.

9 2.7 House Counsel: attorneys who are employees of a party to this action.
10 House Counsel does not include Outside Counsel of Record or any other outside
11 counsel.

12 2.8 Non-Party: any natural person, partnership, corporation, association,
13 or other legal entity not named as a Party to this action.

14 2.9 Outside Counsel of Record: attorneys who are not employees of a
15 party to this action but are retained to represent or advise a party to this action and
16 have appeared in this action on behalf of that party or are affiliated with a law firm
17 which has appeared on behalf of that party.

18 2.10 Party: any party to this action, including all of its officers, directors,
19 employees, consultants, retained experts, and Outside Counsel of Record (and their
20 support staffs).

21 2.11 Producing Party: a Party or Non-Party that produces Disclosure or
22 Discovery Material in this action.

23 2.12 Professional Vendors: persons or entities that provide litigation
24 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
25 demonstrations, and organizing, storing, or retrieving data in any form or medium)
26 and their employees and subcontractors.

27 2.13 Protected Material: any Disclosure or Discovery Material that is
28 designated as “CONFIDENTIAL.”

1 2.14 Receiving Party: a Party that receives Disclosure or Discovery
2 Material from a Producing Party.

3 **III. 3. SCOPE**

4 The protections conferred by this Protective Order cover not only Protected
5 Material (as defined above), but also (1) information copied or extracted from
6 Protected Material; (2) copies or excerpts of Protected Material; and (3) any
7 testimony, conversations, or presentations by Parties or their Counsel that reveal
8 Protected Material. However, the protections conferred by this Protective Order do
9 not cover the following information: (a) any information that is in the public
10 domain at the time of disclosure to a Receiving Party or becomes part of the public
11 domain after its disclosure to a Receiving Party as a result of publication not
12 involving a violation of this Order, including becoming part of the public record
13 through trial or otherwise; and (b) any information known to the Receiving Party
14 before the disclosure or obtained by the Receiving Party after the disclosure from a
15 source who obtained the information lawfully and under no obligation of
16 confidentiality to the Designating Party. Any use of Protected Material at trial shall
17 be governed by a separate agreement or order.

18 **IV. 4. DURATION**

19 Even after final disposition of this litigation, the confidentiality obligations
20 imposed by this Order shall remain in effect until a Designating Party agrees
21 otherwise in writing or a court order otherwise directs. Final disposition shall be
22 deemed to be the later of (1) dismissal of all claims and defenses in this action,
23 with or without prejudice; and (2) final judgment herein after the completion and
24 exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,
25 including the time limits for filing any motions or applications for extension of
26 time pursuant to applicable law.
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1 **V. 5. DESIGNATING PROTECTED MATERIAL**

2 5.1 Exercise of Restraint and Care in Designating Material for Protection.

3 Each Party or Non-Party that designates information or items for protection under
4 this Order must take care to limit any such designation to specific material that
5 qualifies under the appropriate standards. The Designating Party must designate for
6 protection only those parts of material, documents, items, or oral or written
7 communications that qualify – so that other portions of the material, documents,
8 items, or communications for which protection is not warranted are not swept
9 unjustifiably within the ambit of this Order.

10 Mass, indiscriminate, or routinized designations are prohibited. Designations
11 that are shown to be clearly unjustified or that have been made for an improper
12 purpose (e.g., to unnecessarily encumber or retard the case development process or
13 to impose unnecessary expenses and burdens on other parties) expose the
14 Designating Party to sanctions.

15 If it comes to a Designating Party’s attention that information or items that it
16 designated for protection do not qualify for protection, that Designating Party must
17 promptly notify all other Parties that it is withdrawing the mistaken designation.

18 5.2 Manner and Timing of Designations. Except as otherwise provided in
19 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
20 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
21 under this Order must be clearly so designated before the material is disclosed or
22 produced.

23 Designation in conformity with this Order requires:

24 (a) for information in documentary form (e.g., paper or electronic
25 documents, but excluding transcripts of depositions or other pretrial or trial
26 proceedings), that the Producing Party affix the legend “CONFIDENTIAL” to
27 each page that contains protected material. If only a portion or portions of the
28 material on a page qualifies for protection, the Producing Party also must clearly

1 identify the protected portion(s) (e.g., by making appropriate markings in the
2 margins).

3 A Party or Non-Party that makes original documents or materials available
4 for inspection need not designate them for protection until after the inspecting
5 Party has indicated which material it would like copied and produced. During the
6 inspection and before the designation, all of the material made available for
7 inspection shall be deemed “CONFIDENTIAL.” After the inspecting Party has
8 identified the documents it wants copied and produced, the Producing Party must
9 determine which documents, or portions thereof, qualify for protection under this
10 Order. Then, before producing the specified documents, the Producing Party must
11 affix the “CONFIDENTIAL” legend to each page that contains Protected Material.
12 If only a portion or portions of the material on a page qualifies for protection, the
13 Producing Party also must clearly identify the protected portion(s) (e.g., by making
14 appropriate markings in the margins).

15 The legend “CONFIDENTIAL” shall not be affixed in a manner that
16 obscures or makes illegible information in the Protected Material.

17 (b) for testimony given in deposition or in other pretrial or trial proceedings,
18 that the Designating Party identify on the record, before the close of the deposition,
19 hearing, or other proceeding, all protected testimony.

20 (c) for information produced in some form other than documentary and for
21 any other tangible items, that the Producing Party affix in a prominent place on the
22 exterior of the container or containers in which the information or item is stored
23 the legend “CONFIDENTIAL.” If only a portion or portions of the information or
24 item warrant protection, the Producing Party, to the extent practicable, shall
25 identify the protected portion(s).
26

27 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
28 failure to designate qualified information or items does not, standing alone, waive

1 the Designating Party's right to secure protection under this Order for such
2 material. Upon timely correction of a designation, the Receiving Party must make
3 reasonable efforts to assure that the material is treated in accordance with the
4 provisions of this Order.

5 **VI. 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

6 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
7 designation of confidentiality at any time. Unless a prompt challenge to a
8 Designating Party's confidentiality designation is necessary to avoid foreseeable,
9 substantial unfairness, unnecessary economic burdens, or a significant disruption
10 or delay of the litigation, a Party does not waive its right to challenge a
11 confidentiality designation by electing not to mount a challenge promptly after the
12 original designation is disclosed.

13 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
14 resolution process by providing written notice of each designation it is challenging
15 and describing the basis for each challenge. To avoid ambiguity as to whether a
16 challenge has been made, the written notice must recite that the challenge to
17 confidentiality is being made in accordance with this specific paragraph of the
18 Protective Order. The parties shall attempt to resolve each challenge in good faith
19 and must begin the process by conferring directly (in voice to voice dialogue; other
20 forms of communication are not sufficient) within 14 days of the date of service of
21 notice. In conferring, the Challenging Party must explain the basis for its belief that
22 the confidentiality designation was not proper and must give the Designating Party
23 an opportunity to review the designated material, to reconsider the circumstances,
24 and, if no change in designation is offered, to explain the basis for the chosen
25 designation. A Challenging Party may proceed to the next stage of the challenge
26 process only if it has engaged in this meet and confer process first or establishes
27 that the Designating Party is unwilling to participate in the meet and confer process
28 in a timely manner.

1 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without
2 court intervention, the Designating Party shall file and serve a motion to retain
3 confidentiality under Civil Local Rule 7 (and in compliance with Civil Local Rule
4 79-5, if applicable) within 21 days of the initial notice of challenge or within 14
5 days of the parties agreeing that the meet and confer process will not resolve their
6 dispute, whichever is earlier. Each such motion must be accompanied by a
7 competent declaration affirming that the movant has complied with the meet and
8 confer requirements imposed in the preceding paragraph. Failure by the
9 Designating Party to make such a motion including the required declaration within
10 21 days (or 14 days, if applicable) shall automatically waive the confidentiality
11 designation for each challenged designation. In addition, the Challenging Party
12 may file a motion challenging a confidentiality designation at any time if there is
13 good cause for doing so, including a challenge to the designation of a deposition
14 transcript or any portions thereof. Any motion brought pursuant to this provision
15 must be accompanied by a competent declaration affirming that the movant has
16 complied with the meet and confer requirements imposed by the preceding
17 paragraph.

18 The burden of persuasion in any such challenge proceeding shall be on the
19 Designating Party. Frivolous challenges, and those made for an improper purpose
20 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
21 expose the Challenging Party to sanctions. Unless the Designating Party has
22 waived the confidentiality designation by failing to file a motion to retain
23 confidentiality as described above, all parties shall continue to afford the material
24 in question the level of protection to which it is entitled under the Producing
25 Party's designation until the court rules on the challenge.

26 **VII. 7. ACCESS TO AND USE OF PROTECTED MATERIAL**

27 7.1 Basic Principles. A Receiving Party may use Protected Material that is
28 disclosed or produced by another Party or by a Non-Party in connection with this

1 case only for prosecuting, defending, or attempting to settle this litigation. Such
2 Protected Material may be disclosed only to the categories of persons and under
3 the conditions described in this Order. When the litigation has been terminated, a
4 Receiving Party must comply with the provisions of section 13 below (FINAL
5 DISPOSITION).

6 Protected Material must be stored and maintained by a Receiving Party at a
7 location and in a secure manner that ensures that access is limited to the persons
8 authorized under this Order.

9 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
10 otherwise ordered by the court or permitted in writing by the Designating Party, a
11 Receiving Party may disclose any information or item designated
12 “CONFIDENTIAL” only to:

13 (a) the Receiving Party’s Outside Counsel of Record in this action, as
14 well as employees of said Outside Counsel of Record to whom it is reasonably
15 necessary to disclose the information for this litigation and who have signed the
16 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit
17 A;

18 (b) the officers, directors, and employees (including House Counsel, but
19 excluding all current and former CRDF deputies) of the Receiving Party to whom
20 disclosure is reasonably necessary for this litigation and who have signed the
21 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

22 (c) Experts (as defined in this Order) of the Receiving Party to whom
23 disclosure is reasonably necessary for this litigation and who have signed the
24 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

25 (d) the court and its personnel;

26 (e) court reporters and their staff, professional jury or trial consultants,
27 mock jurors, and Professional Vendors to whom disclosure is reasonably necessary
28

1 for this litigation and who have signed the “Acknowledgment and Agreement to
2 Be Bound” (Exhibit A);

3 (f) during their depositions, witnesses in the action to whom disclosure is
4 reasonably necessary and who have acknowledged on the record to be bound by
5 the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
6 agreed by the Designating Party or ordered by the court. Pages of transcribed
7 deposition testimony or exhibits to depositions that reveal Protected Material must
8 be separately bound by the court reporter and may not be disclosed to anyone
9 except as permitted under this Protective Order.

10 (g) the author or recipient of a document containing the information or a
11 custodian or other person who otherwise possessed or knew the information.

12
13 **VIII. 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
14 **PRODUCED IN OTHER LITIGATION**

15 If a Party is served with a subpoena or a court order issued in other litigation
16 that compels disclosure of any information or items designated in this action as
17 “CONFIDENTIAL,” that Party must:

18 (a) promptly notify in writing the Designating Party. Such notification shall
19 include a copy of the subpoena or court order;

20 (b) promptly notify in writing the party who caused the subpoena or order to
21 issue in the other litigation that some or all of the material covered by the subpoena
22 or order is subject to this Protective Order. Such notification shall include a copy
23 of this Protective Order; and

24 (c) cooperate with respect to all reasonable procedures sought to be pursued
25 by the Designating Party whose Protected Material may be affected.

26
27 If the Designating Party timely seeks a protective order, the Party served
28 with the subpoena or court order shall not produce any information designated in

1 this action as “CONFIDENTIAL” before a determination by the court from which
2 the subpoena or order issued, unless the Party has obtained the Designating Party’s
3 permission. The Designating Party shall bear the burden and expense of seeking
4 protection in that court of its confidential material – and nothing in these
5 provisions should be construed as authorizing or encouraging a Receiving Party in
6 this action to disobey a lawful directive from another court.

7 **IX. 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**
8 **PRODUCED IN THIS LITIGATION**

9
10 (a) The terms of this Order are applicable to information produced by a
11 Non-Party in this action and designated as “CONFIDENTIAL.” Such information
12 produced by Non-Parties in connection with this litigation is protected by the
13 remedies and relief provided by this Order. Nothing in these provisions should be
14 construed as prohibiting a Non-Party from seeking additional protections.

15 (b) In the event that a Party is required, by a valid discovery request, to
16 produce a Non-Party’s confidential information in its possession, and the Party is
17 subject to an agreement with the Non-Party not to produce the Non-Party’s
18 confidential information, then the Party shall:

19 (1) promptly notify in writing the Requesting Party and the
20 Non-Party that some or all of the information requested is subject to a
21 confidentiality agreement with a Non-Party;

22 (2) promptly provide the Non-Party with a copy of the
23 Protective Order in this litigation, the relevant discovery request(s), and a
24 reasonably specific description of the information requested; and

25 (3) make the information requested available for inspection
26 by the Non-Party.

27 (c) If the Non-Party fails to object or seek a protective order from this
28 court within 14 days of receiving the notice and accompanying information, the

1 Receiving Party may produce the Non-Party’s confidential information responsive
2 to the discovery request. If the Non-Party timely seeks a protective order, the
3 Receiving Party shall not produce any information in its possession or control that
4 is subject to the confidentiality agreement with the Non-Party before a
5 determination by the court.¹ Absent a court order to the contrary, the Non-Party
6 shall bear the burden and expense of seeking protection in this court of its
7 Protected Material.

8 **X. 10. UNAUTHORIZED DISCLOSURE OF PROTECTED**
9 **MATERIAL**

10 If a Receiving Party learns that, by inadvertence or otherwise, it has
11 disclosed Protected Material to any person or in any circumstance not authorized
12 under this Protective Order, the Receiving Party must immediately (a) notify in
13 writing the Designating Party of the unauthorized disclosures, (b) use its best
14 efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the
15 person or persons to whom unauthorized disclosures were made of all the terms of
16 this Order, and (d) request such person or persons to execute the
17 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit
18 A.

19 **XI. 11. INADVERTENT PRODUCTION OF PRIVILEGED OR**
20 **OTHERWISE PROTECTED MATERIAL**

21 When a Producing Party gives notice to Receiving Parties that certain
22 inadvertently produced material is subject to a claim of privilege or other
23 protection, the obligations of the Receiving Parties are those set forth in Federal
24 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
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26 _____
27 ¹ The purpose of this provision is to alert the interested parties to the existence of
28 confidentiality rights of a Non-Party and to afford the Non-Party an opportunity to protect its
confidentiality interests in this court.

1 whatever procedure may be established in an e-discovery order that provides for
2 production without prior privilege review. Pursuant to Federal Rule of Evidence
3 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure
4 of a communication or information covered by the attorney-client privilege or
5 work product protection, the parties may incorporate their agreement in the
6 protective order submitted to the court.

7 **XII. 12. MISCELLANEOUS**

8 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
9 person to seek its modification by the court in the future.

10 12.2 Right to Assert Other Objections. No Party waives any right it
11 otherwise would have to object to disclosing or producing any information or item
12 on any ground not addressed in this Protective Order. Similarly, no Party waives
13 any right to object on any ground to use in evidence of any of the material covered
14 by this Protective Order.

15 12.3 Filing Protected Material. Without written permission from the
16 Designating Party or a court order secured after appropriate notice to all interested
17 persons, a Party may not file in the public record in this action any Protected
18 Material. A Party that seeks to file under seal any Protected Material must comply
19 with Civil Local Rule 79-5.1. Protected Material may only be filed under seal
20 pursuant to a court order authorizing the sealing of the specific Protected Material
21 at issue. Pursuant to Civil Local Rule 79-5 a sealing order will issue only upon a
22 written application establishing that the Protected Material at issue is entitled to
23 protection under the law. If a Receiving Party's request to file Protected Material
24 under seal pursuant to Civil Local Rule 79-5.1 is denied by the court, then the
25 Receiving Party may file the information in the public record unless otherwise
26 instructed by the court.

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1 **XIII. 13. FINAL DISPOSITION**

2 Within 60 days after the final disposition of this action, as defined in
3 paragraph 4, each Receiving Party must return all Protected Material to the
4 Producing Party or destroy such material. As used in this subdivision, “all
5 Protected Material” includes all copies, abstracts, compilations, excerpts, and any
6 other format reproducing or capturing any of the Protected Material. Whether the
7 Protected Material is returned or destroyed, upon request the Receiving Party must
8 submit a written certification to the Producing Party (and, if not the same person or
9 entity, to the Designating Party) by 60 days following the request that (1) identifies
10 (by category, where appropriate) all the Protected Material that was returned or
11 destroyed and (2) affirms that the Receiving Party has not retained any copies,
12 abstracts, compilations, excerpts or any other format reproducing or capturing any
13 of the Protected Material. Notwithstanding this provision, Counsel are entitled to
14 retain an archival copy of all pleadings, motion papers, trial, deposition, and
15 hearing transcripts, legal memoranda, correspondence, deposition and trial
16 exhibits, expert reports, attorney work product, and consultant and expert work
17 product, even if such materials contain Protected Material. Any such archival
18 copies that contain or constitute Protected Material remain subject to this
19 Protective Order as set forth in Section 4 (DURATION).

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21 IT IS SO ORDERED.

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23 DATED: February 14, 2013



24 By _____

25 The Hon. Stephen V. Wilson
26 United States District Court

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address], declare under penalty of perjury
that I have read in its entirety and understand the Protective Order that was issued
by the United States District Court for the Central District of California on [date]
in the case of *Mary Amador, et al. v. Sheriff Leroy D. Baca, et al.* (CV 10-1649
SVW (JEM)). I agree to comply with and to be bound by all the terms of this
Protective Order and I understand and acknowledge that failure to so comply could
expose me to sanctions and punishment in the nature of contempt. I solemnly
promise that I will not disclose in any manner any information or item that is
subject to this Protective Order to any person or entity except in strict compliance
with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District
Court for the Central District of California for the purpose of enforcing the terms
of this Protective Order, even if such enforcement proceedings occur after
termination of this action.

I hereby appoint _____ [print or type full name] of
_____ [print or type full address and
telephone number] as my California agent for service of process in connection with
this action or any proceedings related to enforcement of this Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____

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