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IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

**DANA FEWELL, individually and as
Successor in Interest to WELDON
PATTERSON FEWELL, deceased;
NOLAN FEWELL, individually and as
Successor in Interest to WELDON
PATTERSON FEWELL, deceased;
and KAREN SIFFERT, individually,**

Plaintiff,

v.

**STATE OF CALIFORNIA;
CALIFORNIA HIGHWAY
PATROL; COUNTY OF SANTA
BARBARA; OFFICER MARTIN
SANCHEZ, and individual; DEPUTY
GREG SORENSON, an individual;
and DOES 1 through 10, inclusive,**

Defendants.

Case No. 2:16-cv-01934 DSF (JEMx)

**STIPULATED PROTECTIVE
ORDER**

Judge: Dale S. Fischer
Courtroom: 840

Action filed: March 21, 2016
Trial Date: Not set

Mag. Judge: John E. McDermott

1. A. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the

1 following Stipulated Protective Order. The parties acknowledge that this Order does
2 not confer blanket protections on all disclosures or responses to discovery and that
3 the protection it affords from public disclosure and use extends only to the limited
4 information or items that are entitled to confidential treatment under the applicable
5 legal principles. The parties further acknowledge, as set forth in Section 12.3,
6 below, that this Stipulated Protective Order does not entitle them to file confidential
7 information under seal; Civil Local Rule 79-5 sets forth the procedures that must be
8 followed and the standards that will be applied when a party seeks permission from
9 the court to file material under seal.

10 **B. GOOD CAUSE STATEMENT**

11 Defendants State of California, acting by and through the California
12 Highway Patrol (State), Officer Martin Sanchez, County of Santa Barbara (County)
13 and Deputy Greg Sorenson may be producing reports obtained from the California
14 Law Enforcement Telecommunications System (CLETS), which reports are
15 generally unavailable to the public. The disclosure of this information to the public
16 may jeopardize the security of CLETS, the effectiveness of law enforcement efforts
17 that rely on CLETS, and the safety of law enforcement officers using CLETS. In
18 addition, defendants may be producing documents concerning its confidential
19 internal policies, which documents are generally unavailable to the public. The
20 disclosure of this information may jeopardize the security of the State's and
21 County's operations, and jeopardize the safety of peace officers. Defendants may
22 also be producing documents that contain personal and confidential information
23 regarding individuals which information is generally unavailable to the public. The
24 disclosure of this information to the public may violate those individuals' privacy
25 rights. Defendants may also be producing video (MVARs and COBAN), audio
26 and still photo images related to the traffic stop of Weldon P. Fewell which is
27 generally unavailable to the public. In addition, defendants may be producing
28 investigation reports which are generally unavailable to the public, the disclosure of

1 which could violate individuals' privacy rights and jeopardize the safety of officers.

2 Accordingly, to expedite the flow of information, to facilitate the prompt
3 resolution of disputes over confidentiality of discovery materials, to adequately
4 protect information the parties are entitled to keep confidential, to ensure that the
5 parties are permitted reasonable necessary uses of such material in preparation for
6 and in the conduct of trial, to address their handling at the end of the litigation, and
7 serve the ends of justice, a protective order for such information is justified in this
8 matter. It is the intent of the parties that information will not be designated as
9 confidential for tactical reasons and that nothing be so designated without a good
10 faith belief that it has been maintained in a confidential, non-public manner, and
11 there is good cause why it should not be part of the public record of this case.

12 13 2. DEFINITIONS

14 2.1 Action: *Dana Fewell, et al., v. State of California, et al.*, United States
15 District Court for the Central District of California case number 2:16-cv-01934
16 DSF (JEMx).

17 2.2 Challenging Party: a Party or Non-Party that challenges the designation
18 of information or items under this Order.

19 2.3 "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), and as specified above in
22 the Good Cause Statement.

23 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their
24 support staff)

25 2.5 Designating Party: a Party or Non-Party that designates information or
26 items that it produces in disclosures or in responses to discovery as
27 "CONFIDENTIAL."

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1 2.6 Disclosure or Discovery Material: all items or information, regardless of
2 the medium or manner in which it is generated, stored, or maintained (including,
3 among other things, testimony, transcripts, and tangible things), that are produced
4 or generated in disclosures or responses to discovery in this matter.

5 2.7 Expert: a person with specialized knowledge or experience in a matter
6 pertinent to the litigation who has been retained by a Party or its counsel to serve as
7 an expert witness or as a consultant in this Action.

8 2.8 House Counsel: attorneys who are employees of a party to this Action.
9 House Counsel does not include Outside Counsel of Record or any other outside
10 counsel.

11 2.9 Non-Party: any natural person, partnership, corporation, association, or
12 other legal entity not named as a Party to this action.

13 2.10 Outside Counsel of Record: attorneys who are not employees of a party
14 to this Action but are retained to represent or advise a party to this Action and have
15 appeared in this Action on behalf of that party or are affiliated with a law firm
16 which has appeared on behalf of that party, and includes support staff.

17 2.11 Party: any party to this Action, including all of its officers, directors,
18 employees, consultants, retained experts, and Outside Counsel of Record (and their
19 support staffs).

20 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
21 Discovery Material in this Action.

22 2.13 Professional Vendors: persons or entities that provide litigation support
23 services (e.g., photocopying, videotaping, translating, preparing exhibits or
24 demonstrations, and organizing, storing, or retrieving data in any form or medium)
25 and their employees and subcontractors.

26 2.14 Protected Material: any Disclosure or Discovery Material that is
27 designated as “CONFIDENTIAL.”

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1 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material
2 from a Producing Party.

3
4 3. SCOPE

5 The protections conferred by this Stipulation and Order cover not only
6 Protected Material (as defined above), but also (1) any information copied or
7 extracted from Protected Material; (2) all copies, excerpts, summaries, or
8 compilations of Protected Material; and (3) any testimony, conversations, or
9 presentations by Parties or their Counsel that reveals Protected Material. Any use of
10 Protected Material at trial shall be governed by the orders of the trial judge. This
11 Order does not govern the use of Protected Material at trial.

12
13 4. DURATION

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

22
23 5. DESIGNATING PROTECTED MATERIAL

24 5.1 Exercise of Restraint and Care in Designating Material for Protection.

25 Each Party or Non-Party that designates information or items for protection
26 under this Order must take care to limit any such designation to specific material
27 that qualifies under the appropriate standards. The Designating Party must
28 designate for protection only those parts of material, documents, items, or oral or

1 written communications that qualify so that other portions of the material,
2 documents items, or communications for which protection is not warranted are not
3 swept unjustifiably within the ambit of this Order. Mass, indiscriminate, or
4 routinized designations are prohibited. Designations that are shown to be clearly
5 unjustified or that have been made for an improper purpose (e.g., to unnecessarily
6 encumber the case development process or to impose unnecessary expenses and
7 burdens on other parties) may expose the Designating Party to sanctions.

8 If it comes to a Designating Party's attention that information or items that it
9 designated for protection do not qualify for protection, that Designating Party must
10 promptly notify all other Parties that it is withdrawing the inapplicable designation.

11 5.2 Manner and Timing of Designations. Except as otherwise provided in this
12 Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
13 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
14 under this Order must be clearly so designated before the material is disclosed or
15 produced.

16 Designation in conformity with this Order requires:

17 (a) for information in documentary form (e.g., paper or electronic documents,
18 but excluding transcripts of depositions or other pretrial or trial proceedings), that
19 the Producing Party affix at a minimum, the legend "CONFIDENTIAL"
20 (hereinafter "CONFIDENTIAL legend"), to each page that contains protected
21 material. If only a portion or portions of the material on a page qualifies for
22 protection, the Producing Party also must clearly identify the protected portion(s)
23 (e.g., by making appropriate markings in the margins).

24 A Party or Non-Party that makes original documents available for inspection
25 need not designate them for protection until after the inspecting Party has indicated
26 which documents it would like copied and produced. During the inspection and
27 before the designation, all of the material made available for inspection shall be
28 deemed "CONFIDENTIAL." After the inspecting Party has identified the

1 documents it wants copied and produced, the Producing Party must determine
2 which documents, or portions thereof, qualify for protection under this Order. Then,
3 before producing the specified documents, the Producing Party must affix the
4 “CONFIDENTIAL legend” to each page that contains Protected Material. If only a
5 portion or portions of the material on a page qualifies for protection, the Producing
6 Party also must clearly identify the protected portion(s) (e.g., by making
7 appropriate markings in the margins).

8 (b) for testimony given in depositions, that the Designating Party identify the
9 Disclosure or Discovery Material on the record, before the close of the deposition.

10 (c) for information produced in some form other than documentary and for
11 any tangible items, that the Producing Party affix in a prominent place on the
12 exterior of the container or containers in which the information is stored the legend
13 “CONFIDENTIAL.” If only a portion or portions of the information warrants
14 protection, the Producing Party, to the extent practicable, shall identify the
15 protected portion(s).

16 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
17 failure to designate qualified information or items does not, standing alone, waive
18 the Designating Party’s right to secure protection under this Order for such
19 material.

20 Upon timely correction of a designation, the Receiving Party must make
21 reasonable efforts to assure that the material is treated in accordance with the
22 provisions of this Order.

23 24 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

25 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
26 designation of confidentiality at any time that is consistent with the Court’s
27 Scheduling Order.

28 //

1 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
2 resolution process under Local Rule 37.1 et seq.

3 6.3 The burden of persuasion in any such challenge proceeding shall be on
4 the Designating Party. Frivolous challenges, and those made for an improper
5 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
6 parties) may expose the Challenging Party to sanctions. Unless the Designating
7 Party has waived or withdrawn the confidentiality designation, all parties shall
8 continue to afford the material in question the level of protection to which it is
9 entitled under the Producing Party's designation until the Court rules on the
10 challenge.

11 12 7. ACCESS TO AND USE OF PROTECTED MATERIAL

13 7.1 Basic Principles. A Receiving Party may use Protected Material that is
14 disclosed or produced by another Party or by a Non-Party in connection with this
15 Action only for prosecuting, defending, or attempting to settle this Action. Such
16 Protected Material may be disclosed only to the categories of persons and under the
17 conditions described in this Order. When there has been a final disposition of this
18 Action as defined in paragraph 4, a Receiving Party must comply with the
19 provisions of section 13 below (FINAL DISPOSITION).

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

23 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
24 otherwise ordered by the court or permitted in writing by the Designating Party, a
25 Receiving Party may disclose any information or item designated
26 "CONFIDENTIAL" only to:

27 (a) the Receiving Party's Outside Counsel of Record in this Action, as well
28 as employees of said Outside Counsel of Record to whom it is reasonably necessary

1 to disclose the information for this Action;

2 (b) the officers, directors, and employees (including House Counsel) of the
3 Receiving Party to whom disclosure is reasonably necessary for this Action;

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

7 (d) the court and its personnel;

8 (e) court reporters and their staff;

9 (f) professional jury or trial consultants, mock jurors, and Professional
10 Vendors to whom disclosure is reasonably necessary for this Action and who have
11 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

12 (g) the author or recipient of a document containing the information or a
13 custodian or other person who otherwise possessed or knew the information;

14 (h) a witness, his or her attorneys, and other attorneys present during the
15 witness’ deposition provided the deposing party requests that the witness sign the
16 form attached as Exhibit A hereto. Witnesses and their attorneys will not be
17 permitted to keep any confidential information unless they sign the
18 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
19 agreed by the Designating Party or ordered by the court. Pages of transcribed
20 deposition testimony or exhibits to depositions that reveal Protected Material may
21 be separately bound by the court reporter and may not be disclosed to anyone
22 except as permitted under this Stipulated Protective Order; and

23 (i) any mediator or settlement officer, and their supporting personnel,
24 mutually agreed upon by any of the parties engaged in settlement discussions.

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1 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
2 OTHER LITIGATION

3 If a Receiving Party is served with a subpoena or a court order issued in other
4 litigation that compels disclosure of any information or items designated in this
5 Action as “CONFIDENTIAL,” that Receiving Party must:

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

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

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

14 If the Designating Party timely seeks a protective order, the Receiving Party
15 served with the subpoena or court order shall not produce any information
16 designated in this action as “CONFIDENTIAL” before a determination by the court
17 from which the subpoena or order issued, unless the Receiving Party has obtained
18 the Designating Party’s permission. The Designating Party shall bear the burden
19 and expense of seeking protection in that court of its confidential material and
20 nothing in these provisions should be construed as authorizing or encouraging a
21 Receiving Party in this Action to disobey a lawful directive from another court.
22

23 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED
24 IN THIS LITIGATION

25 (a) The terms of this Order are applicable to information produced by a Non-
26 Party in this Action and designated as “CONFIDENTIAL.” Such information
27 produced by Non-Parties in connection with this litigation is protected by the
28 remedies and relief provided by this Order. Nothing in these provisions should be

1 construed as prohibiting a Non-Party from seeking additional protections.

2 (b) In the event that a Party is required, by a valid discovery request, to
3 produce a Non-Party's confidential information in its possession, and the Party is
4 subject to an agreement with the Non-Party not to produce the Non-Party's
5 confidential information, then the Party shall: (1) promptly notify in writing the
6 Requesting Party and the Non-Party that some or all of the information requested is
7 subject to a confidentiality agreement with a Non-Party; (2) promptly provide the
8 Non-Party with a copy of the Stipulated Protective Order in this Action, the
9 relevant discovery request(s), and a reasonably specific description of the
10 information requested; and (3) make the information requested available for
11 inspection by the Non-Party, if requested.

12 (c) If the Non-Party fails to seek a protective order from this court within 14
13 days of receiving the notice and accompanying information, the Receiving Party
14 may produce the Non-Party's confidential information responsive to the discovery
15 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
16 not produce any information in its possession or control that is subject to the
17 confidentiality agreement with the Non-Party before a determination by the court.
18 Absent a court order to the contrary, the Non-Party shall bear the burden and
19 expense of seeking protection in this court of its Protected Material.

20 21 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

22 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
23 Protected Material to any person or in any circumstance not authorized under this
24 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
25 writing the Designating Party of the unauthorized disclosures, (b) use its best
26 efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the
27 person or persons to whom unauthorized disclosures were made of all the terms of
28 this Order, and (d) request such person or persons to execute the "Acknowledgment

1 and Agreement to Be Bound” that is attached hereto as Exhibit A.

2
3 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
4 PROTECTED MATERIAL

5 When a Producing Party gives notice to Receiving Parties that certain
6 inadvertently produced material is subject to a claim of privilege or other
7 protection, the obligations of the Receiving Parties are those set forth in Federal
8 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
9 whatever procedure may be established in an e-discovery order that provides for
10 production without prior privilege review.

11
12 12. MISCELLANEOUS

13 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
14 person to seek its modification by the Court in the future.

15 12.2 Right to Assert Other Objections. By stipulating to the entry of this
16 Protective Order no Party waives any right it otherwise would have to object to
17 disclosing or producing any information or item on any ground not addressed in
18 this Stipulated Protective Order. Similarly, no Party waives any right to object on
19 any ground to use in evidence of any of the material covered by this Protective
20 Order.

21 12.3 Filing Protected Material. A Party must seek to file under seal any
22 Protected Material in compliance with Civil Local Rule 79-5. Protected Material
23 may only be filed under seal pursuant to a court order authorizing the sealing of the
24 specific Protected Material at issue. If a Party's request to file Protected Material
25 under seal is denied by the court, then the Receiving Party may file the information
26 in the public record unless otherwise instructed by the court.

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1 13. FINAL DISPOSITION

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

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21 14. VIOLATION OF ORDER

22 Any violation of this Order may be punished by any and all appropriate
23 measures including, without limitation, contempt proceedings and/or monetary
24 sanctions.

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1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

2 Dated: _____, 2016

THE COCHRAN FIRM CALIFORNIA

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4

/s/ Jennifer A. Bandlow
BRIAN T. DUNN
JENNIFER A. BANDLOW
Attorneys for Plaintiffs

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7

8 Dated: _____, 2016

KAMALA D. HARRIS
Attorney General of California
JOEL A. DAVIS
Supervising Deputy Attorney General

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11

/s/ Donna M. Dean
DONNA M. DEAN
Deputy Attorney General
*Attorneys for Defendants
State of California, California
Highway Patrol, Officer Martin
Sanchez*

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16 Dated: _____, 2016

MICHAEL C. GHIZZONI
COUNTY COUNSEL

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/s/ Michael M. Youngdahl
Senior Deputy County Counsel
Attorneys for Defendants
*County Of Santa Barbara and
Deputy Gregory Sorenson*

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23 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

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25 Dated: August 31, 2016


John E. McDermott
United States Magistrate Judge

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1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [print or type full name], of
4 _____ [print or type full address],

5 declare under penalty of perjury that I have read in its entirety and understand the
6 Stipulated Protective Order that was issued by the United States District Court for
7 the Central District of California on _____ [date] in the case of *Dana*
8 *Fewell, et al., v. State of California, et al.*, United States District Court for the
9 Central District of California case number 2:16-cv-01934 DSF (JEMx). I agree to
10 comply with and to be bound by all the terms of this Stipulated Protective Order
11 and I understand and acknowledge that failure to so comply could expose me to
12 sanctions and punishment in the nature of contempt. I solemnly promise that I will
13 not disclose in any manner any information or item that is subject to this Stipulated
14 Protective Order to any person or entity except in strict compliance with the
15 provisions of this Order.

16 I further agree to submit to the jurisdiction of the United States District Court
17 for the Central District of California for the purpose of enforcing the terms of this
18 Stipulated Protective Order, even if such enforcement proceedings occur after
19 termination of this action. I hereby appoint _____ [print
20 or type full name] of _____ [print or type
21 full address and telephone number] as my California agent for service of process in
22 connection with this action or any proceedings related to enforcement of this
23 Stipulated Protective Order.

24
25 Date: _____

_____ [signature]

26
27 _____
28 [City and State where sworn]