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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

C.M., a minor, by and through his
guardian *ad litem*, CARLOS
MAGALLON,

Plaintiff,

vs.

THE COUNTY OF VENTURA; a
public entity; DEPUTY ROBERT
RAWSTON; an individual; and DOES
1 through 10, inclusive,

Defendants.

Case No. 2:17-cv-06038 GW (SKx)

[Discovery Document: Referred to
Magistrate Judge Steve Kim]

STIPULATED PROTECTIVE
ORDER

22
23 1. A. PURPOSES AND LIMITATIONS

24 Discovery in this action is likely to involve production of confidential,
25 proprietary, or private information for which special protection from public
26 disclosure and from use for any purpose other than prosecuting this litigation may
27 be warranted. Accordingly, the parties hereby stipulate to and petition the Court
28 to enter the following Stipulated Protective Order. The parties acknowledge that

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

9
10 B. GOOD CAUSE STATEMENT

11
12 The parties anticipate that during discovery in this action they will exchange
13 documents, items, or materials and other information that contain sensitive and
14 confidential information that derives actual or potential value from not being
15 generally known to the public and are the subject of reasonable efforts to maintain
16 their confidentiality. The parties believe, in good faith, that these documents
17 and/or writing are protected by the Official Information Privilege, the right to
18 privacy guaranteed in Federal Constitution, First Amendment and California
19 Constitution, Article I, Section I, and various California Government, Penal, and
20 Evidence Code sections, and thus protected from disclosure. Such confidential
21 and privilege materials and information consist of, among other things, non-
22 public material relating to the criminal investigation of the July 26, 2016 incident
23 involving Plaintiff's arrest, material relating to or regarding the personnel files
24 and/or records of officers of the Ventura County Sheriff's Office, Ventura County
25 Sheriff's Office policies, practices or procedures and/or training materials
26 including but not limited to documentation relating to use of force and laws of
27 arrest, material containing sensitive and/or private information regarding third
28

1 parties, and records pertaining to criminal prosecutions or probationary status of
2 Plaintiff.

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

13
14 2. DEFINITIONS

15 2.1 Action: *C.M. v. County of Ventura, et al.*, Case No. 2:17-cv-06038 GW
16 (SKx).

17 2.2 Challenging Party: a Party or Non-Party that challenges the
18 designation 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
24 their support staff).

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

28

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

6 2.7 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 2.8 House Counsel: attorneys who are employees of a party to this
10 Action. House Counsel does not include Outside Counsel of Record or any other
11 outside counsel.

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

14 2.10 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
16 and have appeared in this Action on behalf of that party or are affiliated with a
17 law firm which has appeared on behalf of that party, and includes support staff.

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

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

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

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

1 2.15 Receiving Party: a Party that receives Disclosure or Discovery
2 Material 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 might reveal Protected Material.

10 Any use of Protected Material at trial shall be governed by the orders of the
11 trial judge. This 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
21 time pursuant to applicable law.

22
23 5. DESIGNATING PROTECTED MATERIAL

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

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

1 for protection only those parts of material, documents, items, or oral or written
2 communications that qualify so that other portions of the material, documents,
3 items, or communications for which protection is not warranted are not swept
4 unjustifiably within the ambit of this Order.

5 Mass, indiscriminate, or routinized designations are prohibited.
6 Designations that are shown to be clearly unjustified or that have been made for
7 an improper purpose (e.g., to unnecessarily encumber the case development
8 process or to impose unnecessary expenses and burdens on other parties) may
9 expose the Designating Party to sanctions.

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

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

19 Designation in conformity with this Order requires:

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

27 A Party or Non-Party that makes original documents available for
28 inspection need not designate them for protection until after the inspecting Party

1 has indicated which documents it would like copied and produced. During the
2 inspection and before the designation, all of the material made available for
3 inspection shall be deemed “CONFIDENTIAL.” After the inspecting Party has
4 identified the documents it wants copied and produced, the Producing Party must
5 determine which documents, or portions thereof, qualify for protection under this
6 Order. Then, before producing the specified documents, the Producing Party must
7 affix the “CONFIDENTIAL legend” to each page that contains Protected
8 Material. If only a portion or portions of the material on a page qualifies for
9 protection, the Producing Party also must clearly identify the protected portion(s)
10 (e.g., by making appropriate markings in the margins).

11 (b) for testimony given in depositions that the Designating Party identify
12 the Disclosure or Discovery Material on the record, before the close of the
13 deposition all protected testimony.

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

20 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
21 failure to designate qualified information or items does not, standing alone, waive
22 the Designating Party’s right to secure protection under this Order for such
23 material. Upon timely correction of a designation, the Receiving Party must make
24 reasonable efforts to assure that the material is treated in accordance with the
25 provisions of this Order.

26
27 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS
28

1 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
2 designation of confidentiality at any time that is consistent with the Court’s
3 Scheduling Order.

4 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
5 resolution process under Local Rule 37.1 et seq.

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

14
15 7. ACCESS TO AND USE OF PROTECTED MATERIAL

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

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

26 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
27 otherwise ordered by the court or permitted in writing by the Designating Party, a
28

1 Receiving Party may disclose any information or item designated

2 “CONFIDENTIAL” only to:

3 (a) the Receiving Party’s Outside Counsel of Record in this
4 Action, as well as employees of said Outside Counsel of Record to whom it is
5 reasonably necessary to disclose the information for this Action;

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

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

12 (d) the court and its personnel;

13 (e) court reporters and their staff;

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

18
19 (g) the author or recipient of a document containing the
20 information or a custodian or other person who otherwise possessed or knew the
21 information;

22 (h) during their depositions, witnesses, and attorneys for
23 witnesses, in the Action to whom disclosure is reasonably necessary provided: (1)
24 the deposing party requests that the witness sign the form attached as Exhibit 1
25 hereto; and (2) they will not be permitted to keep any confidential information
26 unless they sign the “Acknowledgment and Agreement to Be Bound” (Exhibit A),
27 unless otherwise agreed by the Designating Party or ordered by the court. Pages
28 of transcribed deposition testimony or exhibits to depositions that reveal

1 Protected Material may be separately bound by the court reporter and may not be
2 disclosed to anyone except as permitted under this Stipulated Protective Order;
3 and

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

7
8 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
9 IN OTHER LITIGATION

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

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

15
16 (b) promptly notify in writing the party who caused the subpoena or
17 order to issue in the other litigation that some or all of the material covered by the
18 subpoena or order is subject to this Protective Order. Such notification shall
19 include a copy of this Stipulated Protective Order; and

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

22 If the Designating Party timely seeks a protective order, the Party served with
23 the subpoena or court order shall not produce any information designated in this
24 action as “CONFIDENTIAL” before a determination by the court from which the
25 subpoena or order issued, unless the Party has obtained the Designating Party’s
26 permission. The Designating Party shall bear the burden and expense of seeking
27 protection in that court of its confidential material and nothing in these provisions
28

1 should be construed as authorizing or encouraging a Receiving Party in this
2 Action to disobey a lawful directive from another court.

3
4 9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE
5 PRODUCED IN THIS LITIGATION

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

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

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

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

23 (3) make the information requested available for inspection
24 by the Non-Party, if requested.

25 (c) If the Non-Party fails to seek a protective order from this court
26 within 14 days of receiving the notice and accompanying information, the
27 Receiving Party may produce the Non-Party's confidential information
28 responsive to the discovery request. If the Non-Party timely seeks a protective

1 order, the Receiving Party shall not produce any information in its possession or
2 control that is subject to the confidentiality agreement with the Non-Party before
3 a determination by the court. Absent a court order to the contrary, the Non-Party
4 shall bear the burden and expense of seeking protection in this court of its
5 Protected Material.

6
7 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

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

17
18 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
19 **PROTECTED MATERIAL**

20 When a Producing Party gives notice to Receiving Parties that certain
21 inadvertently produced material is subject to a claim of privilege or other
22 protection, the obligations of the Receiving Parties are those set forth in Federal
23 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
24 whatever procedure may be established in an e-discovery order that provides for
25 production without prior privilege review. Pursuant to Federal Rule of Evidence
26 502(d) and (e), insofar as the parties reach an agreement on the effect of
27 disclosure of a communication or information covered by the attorney-client
28

1 privilege or work product protection, the parties may incorporate their agreement
2 in the stipulated protective order submitted to the court.

3
4 12. MISCELLANEOUS

5 12.1 Right to Further Relief. Nothing in this Order abridges the right of
6 any person to seek its modification by the Court in the future.

7 12.2 Right to Assert Other Objections. By stipulating to the entry of this
8 Protective Order no Party waives any right it otherwise would have to object to
9 disclosing or producing any information or item on any ground not addressed in
10 this Stipulated Protective Order. Similarly, no Party waives any right to object on
11 any ground to use in evidence of any of the material covered by this Protective
12 Order.

13 12.3 Filing Protected Material. A Party that seeks to file under seal any
14 Protected Material must comply with Civil Local Rule 79-5. Protected Material
15 may only be filed under seal pursuant to a court order authorizing the sealing of
16 the specific Protected Material at issue. If a Party's request to file Protected
17 Material under seal is denied by the court, then the Receiving Party may file the
18 information in the public record unless otherwise instructed by the court.

19
20 13. FINAL DISPOSITION

21 After the final disposition of this Action, as defined in paragraph 4, within
22 60 days of a written request by the Designating Party, each Receiving Party must
23 return all Protected Material to the Producing Party or destroy such material. As
24 used in this subdivision, "all Protected Material" includes all copies, abstracts,
25 compilations, summaries, and any other format reproducing or capturing any of
26 the Protected Material. Whether the Protected Material is returned or destroyed,
27 the Receiving Party must submit a written certification to the Producing Party
28 (and, if not the same person or entity, to the Designating Party) by the 60 day

1 deadline that (1) identifies (by category, where appropriate) all the Protected
2 Material that was returned or destroyed and (2) affirms that the Receiving Party
3 has not retained any copies, abstracts, compilations, summaries or any other
4 format reproducing or capturing any of the Protected Material. Notwithstanding
5 this provision, Counsel are entitled to retain an archival copy of all pleadings,
6 motion papers, trial, deposition, and hearing transcripts, legal memoranda,
7 correspondence, deposition and trial exhibits, expert reports, attorney work
8 product, and consultant and expert work product, even if such materials contain
9 Protected Material. Any such archival copies that contain or constitute Protected
10 Material remain subject to this Protective Order as set forth in Section 4
11 (DURATION).

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1 14. Any violation of this Order may be punished by any and all appropriate
2 measures including, without limitation, contempt proceedings and/or monetary
3 sanctions.

4
5 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

6
7 Dated: March 29, 2018

Kirakosian & Associates

8
9 By /s/ Greg L. Kirakosian
10 Greg L. Kirakosian
11 Attorneys for Plaintiff
C.M., a minor, by and through his
guardian *ad litem*, Carlos Magallon

12
13 Dated: March 29, 2018

LAWRENCE BEACH ALLEN & CHOI, PC

14
15 By /s/ Rocco Zambito, Jr.
16 Rocco Zambito, Jr.¹
17 Attorneys for Defendant
County of Ventura and
Deputy Robert Rawston

18
19 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

20
21 DATED: March 30, 2018

22
23 

24 Honorable Steve Kim
25 United States Magistrate Judge

26
27
28 ¹ As the filer of this stipulation, I, Rocco Zambito, Jr., attest that Greg L. Kirakosian concurs in the content of the Stipulation and has authorized its filing.

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3
4 I, _____ [print or type full name], of
5 _____ [print or type full address], declare under penalty of perjury
6 that I have read in its entirety and understand the Stipulated Protective Order that
7 was issued by the United States District Court for the Central District of
8 California on [date] in the case of *C.M. v. County of Ventura, et al.*, Case No.
9 2:17-cv-06038 GW (SKx). I agree to comply with and to be bound by all the
10 terms of this Stipulated Protective Order and I understand and acknowledge that
11 failure to so comply could expose me to sanctions and punishment in the nature
12 of contempt. I solemnly promise that I will not disclose in any manner any
13 information or item that is subject to this Stipulated Protective Order to any
14 person or entity except in strict compliance with the provisions of this Order. I
15 further agree to submit to the jurisdiction of the United States District Court for
16 the Central District of California for the purpose of enforcing the terms of this
17 Stipulated Protective Order, even if such enforcement proceedings occur after
18 termination of this action. I hereby appoint _____ [print
19 or type full name] of _____ [print or
20 type full address and telephone number] as my California agent for service of
21 process in connection with this action or any proceedings related to enforcement
22 of this Stipulated Protective Order.

23 Date: _____

24 City and State where sworn and signed: _____

25
26 Printed name: _____

27
28 Signature: _____