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 7 Regional Center

8 UNITED STATES DISTRICT COURT
 9 CENTRAL DISTRICT OF CALIFORNIA

10
 11 LILIANA IBARRA, et al.

12 Plaintiff,

13 vs.

14 INLAND COUNTIES REGIONAL
 CENTER, INC. and DOES 1
 15 THROUGH 50, inclusive,

16 Defendant.

CASE NO. EDCV13-00671 MWF
 (OPx)

The Hon. Michael W. Fitzgerald

**STIPULATION FOR PROTECTIVE
 ORDER AND ORDER THEREON**

Trial Date: September 23, 2014

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 19 1. PURPOSES AND LIMITATIONS

20 Disclosure and discovery activity in this action are likely to involve
 21 production of confidential, proprietary, or private information for which special
 22 protection from public disclosure and from use for any purpose other than
 23 prosecuting this litigation may be warranted. Accordingly, the parties hereby
 24 stipulate to and petition the court to enter the following Stipulated Protective Order.
 25 The parties acknowledge that this Order does not confer blanket protections on all
 26 disclosures or responses to discovery and that the protection it affords from public
 27 disclosure and use extends only to the limited information or items that are entitled
 28 to confidential treatment under the applicable legal principles. The parties further



1 acknowledge, as set forth in Section 14.3, below, that this Stipulated Protective
2 Order does not entitle them to file confidential information under seal; Civil Local
3 Rule 79-5 sets forth the procedures that must be followed and the standards that will
4 be applied when a party seeks permission from the court to file material under seal.

5 2. DEFINITIONS

6 2.1 Challenging Party: a Party or Non-Party that challenges the
7 designation of information or items under this Order.

8 2.2 “CONFIDENTIAL” Information or Items: information (regardless of
9 how it is generated, stored or maintained) or tangible things that qualify for
10 protection under Federal Rule of Civil Procedure 26(c).

11 2.3 Counsel (without qualifier): Outside Counsel of Record and House
12 Counsel (as well as their support staff).

13 2.4 Designating Party: a Party or Non-Party that designates information or
14 items that it produces in disclosures or in responses to discovery as
15 “CONFIDENTIAL.”

16 2.5 Disclosure or Discovery Material: all items or information, regardless
17 of the medium or manner in which it is generated, stored, or maintained (including,
18 among other things, testimony, transcripts, and tangible things), that are produced or
19 generated in disclosures or responses to discovery in this matter.

20 2.6 Expert: a person with specialized knowledge or experience in a matter
21 pertinent to the litigation who has been retained by a Party or its counsel to serve as
22 an expert witness or as a consultant in this action.

23 2.7 House Counsel: attorneys who are employees of a party to this action.
24 House Counsel does not include Outside Counsel of Record or any other outside
25 counsel.

26 2.8 Non-Party: any natural person, partnership, corporation, association, or
27 other legal entity not named as a Party to this action.

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1 2.9 Outside Counsel of Record: attorneys who are not employees of a
2 party to this action but are retained to represent or advise a party to this action and
3 have appeared in this action on behalf of that party or are affiliated with a law firm
4 which has appeared on behalf of that party.

5 2.10 Party: any party to this action, including all of its officers, directors,
6 employees, consultants, retained experts, and Outside Counsel of Record (and their
7 support staffs).

8 2.11 Producing Party: a Party or Non-Party that produces Disclosure or
9 Discovery Material in this action.

10 2.12 Professional Vendors: persons or entities that provide litigation
11 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
12 demonstrations, and organizing, storing, or retrieving data in any form or medium)
13 and their employees and subcontractors.

14 2.14 Receiving Party: a Party that receives Disclosure or Discovery
15 Material from a Producing Party.

16 3. PROTECTED MATERIAL

17 Protected Material, for the purposes of this Stipulation shall be defined as:

18 a) Documents disclosing the name, address, telephone number, Unique
19 Client Identification (“UCI”) number or any other date identifying or relating to an
20 individual consumer of services under the *Lanterman Development Disabilities*
21 *Services Act*, California *Welfare and Institutions Code* §§ 4500, et seq.;

22 b) Any other Document made confidential pursuant to California *Welfare*
23 *and Institutions Code* § 4515; and

24 c) Any Documents disclosing the name, address, telephone number, UCI
25 number or any other date identifying or relating to an individual consumer of
26 services, containing medical information implicating consumers’ privacy rights and
27 personal health information which is protected by the Health Insurance Portability
28 and Accountability Act of 1996 (HIPAA).

1 4. SCOPE

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

17 5. GOOD CAUSE STATEMENT

18 Good cause exists for the granting of this Protective Order stipulated to by the
19 parties and requested of this Court to protect the highly confidential and sensitive
20 information contained in the Protected Material defined above and maintained by
21 Defendant Inland Counties Regional Center, Inc. (“IRC”), relating to the care it
22 provides the disabled individuals it serves. The Protected Material requested by
23 Plaintiff and maintained by Defendant, pertains to third party individuals not
24 directly involved in this litigation. These records disclose the name, address,
25 telephone number, Unique Client Identification (“UCI”) number, and other
26 information identifying an individual consumer of services under the Lanterman
27 Development Disabilities Services Act, California *Welfare and Institutions* Code §§
28 4500, et seq., governing California Regional Centers, like IRC. Further, these

1 documents are confidential pursuant to California *Welfare and Institutions Code* §
2 4515. Also, these documents disclose confidential and sensitive medical
3 information implicating consumers' state and federal privacy rights and personal
4 health information which is protected by the Health Insurance Portability and
5 Accountability Act of 1996 (HIPAA), such as records describing their various
6 illnesses and afflictions, the treatment these individuals receive, and their health
7 status at a particular times.

8 6. DURATION

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

17 7. DESIGNATING PROTECTED MATERIAL

18 7.1 Exercise of Restraint and Care in Designating Material for Protection.

19 Each Party or Non-Party that designates information or items for protection under
20 this Order must take care to limit any such designation to specific material that
21 qualifies under the appropriate standards. The Designating Party must designate for
22 protection only those parts of material, documents, items, or oral or written
23 communications that qualify – so that other portions of the material, documents,
24 items, or communications for which protection is not warranted are not swept
25 unjustifiably within the ambit of this Order.

26 Mass, indiscriminate, or routinized designations are prohibited. Designations
27 that are shown to be clearly unjustified or that have been made for an improper
28 purpose (e.g., to unnecessarily encumber or retard the case development process or

1 to impose unnecessary expenses and burdens on other parties) expose the
2 Designating Party to sanctions.

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

6 7.2 Manner and Timing of Designations. Except as otherwise provided in
7 this Order (see, e.g., second paragraph of section 7.2(a) below), or as otherwise
8 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
9 under this Order must be clearly so designated before the material is disclosed or
10 produced.

11 Designation in conformity with this Order requires:

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

18 A Party or Non-Party that makes original documents or materials available for
19 inspection need not designate them for protection until after the inspecting Party has
20 indicated which material it would like copied and produced. During the inspection
21 and before the designation, all of the material made available for inspection shall be
22 deemed "CONFIDENTIAL." After the inspecting Party has identified the
23 documents it wants copied and produced, the Producing Party must determine which
24 documents, or portions thereof, qualify for protection under this Order. Then, before
25 producing the specified documents, the Producing Party must affix the
26 "CONFIDENTIAL" legend to each page that contains Protected Material. If only a
27 portion or portions of the material on a page qualifies for protection, the Producing
28 Party also must clearly identify the protected portion(s) (e.g., by making appropriate

1 markings in the margins).

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

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

11 7.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
12 failure to designate qualified information or items does not, standing alone, waive
13 the Designating Party’s right to secure protection under this Order for such material.
14 Upon timely correction of a designation, the Receiving Party must make reasonable
15 efforts to assure that the material is treated in accordance with the provisions of this
16 Order.

17 8. CHALLENGING CONFIDENTIALITY DESIGNATIONS

18 8.1 Timing of Challenges. Any Party or Non-Party may challenge a
19 designation of confidentiality at any time. Unless a prompt challenge to a
20 Designating Party’s confidentiality designation is necessary to avoid foreseeable,
21 substantial unfairness, unnecessary economic burdens, or a significant disruption or
22 delay of the litigation, a Party does not waive its right to challenge a confidentiality
23 designation by electing not to mount a challenge promptly after the original
24 designation is disclosed.

25 8.2 Procedure for Resolving Disputes Over the Designation of Documents.
26 The procedure for resolving potential disputes over the confidentiality designation
27 of the Protected Material as issue shall comport with Civil Local Rule 37.

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1 9. ACCESS TO AND USE OF PROTECTED MATERIAL

2 9.1 Basic Principles. A Receiving Party may use Protected Material that is
3 disclosed or produced by another Party or by a Non-Party in connection with this
4 case only for prosecuting, defending, or attempting to settle this litigation. Such
5 Protected Material may be disclosed only to the categories of persons and under the
6 conditions described in this Order. When the litigation has been terminated, a
7 Receiving Party must comply with the provisions of section 15 below (FINAL
8 DISPOSITION).

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

12 9.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
13 otherwise ordered by the court or permitted in writing by the Designating Party, a
14 Receiving Party may disclose any information or item designated
15 “CONFIDENTIAL” only to:

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

21 (b) the officers, directors, and employees (including House Counsel) of the
22 Receiving Party to whom disclosure is reasonably necessary for this litigation and
23 who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

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

27 (d) the court and its personnel;

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1 (e) court reporters and their staff, professional jury or trial consultants, mock
2 jurors, and Professional Vendors to whom disclosure is reasonably necessary for this
3 litigation and who have signed the “Acknowledgment and Agreement to Be Bound”
4 (Exhibit A);

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

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 10. PROTECTED MATERIAL SUBPOENAED OR ORDERED
15 PRODUCED IN OTHER LITIGATION

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

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

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

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

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1 If the Designating Party timely seeks a protective order, the Party served with
2 the subpoena or court order shall not produce any information designated in this
3 action as “CONFIDENTIAL” before a determination by the court from which the
4 subpoena or order issued, unless the Party has obtained the Designating Party’s
5 permission. The Designating Party shall bear the burden and expense of seeking
6 protection in that court of its confidential material – and nothing in these provisions
7 should be construed as authorizing or encouraging a Receiving Party in this action
8 to disobey a lawful directive from another court.

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

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

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

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

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

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

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

9 12. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

18 13. INADVERTENT PRODUCTION OF PRIVILEGED OR
19 OTHERWISE 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 protection,
22 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
23 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
24 may be established in an e-discovery order that provides for production without
25 prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar
26 as the parties reach an agreement on the effect of disclosure of a communication or
27 information covered by the attorney-client privilege or work product protection, the
28 parties may incorporate their agreement in the stipulated protective order submitted

1 to the court.

2 14. MISCELLANEOUS

3 14.1 Right to Further Relief. Nothing in this Order abridges the right of any
4 person to seek its modification by the court in the future, but no modification by the
5 parties shall have the force or effect of a Court order unless the Court approves the
6 modification.

7 14.2 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 this
10 Stipulated Protective Order. Similarly, no Party waives any right to object on any
11 ground to use in evidence of any of the material covered by this Protective Order.

12 14.3 Filing Protected Material. Without written permission from the
13 Designating Party or a court order secured after appropriate notice to all interested
14 persons, a Party may not file in the public record in this action any Protected
15 Material. A Party that seeks to file under seal any Protected Material must comply
16 with Civil Local Rule 79-5. Protected Material may only be filed under seal
17 pursuant to a court order authorizing the sealing of the specific Protected Material at
18 issue. Pursuant to Civil Local Rule 79-5, a sealing order will issue only upon a
19 request establishing that the Protected Material at issue is privileged, protectable as
20 a trade secret, or otherwise entitled to protection under the law. If a Receiving
21 Party's request to file Protected Material under seal pursuant to Civil Local Rule 79-
22 5(d) is denied by the court, then the Receiving Party may file the information in the
23 public record pursuant to Civil Local Rule 79-5(e) unless otherwise instructed by the
24 court.

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1 15. FINAL DISPOSITION

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

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IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: 01/08/14

/s/ Todd Boley

Todd Boley, Esq.
Attorneys for Plaintiff

DATED: 01/08/14

/s/ Brendan T. Sapien

Brendan T. Sapien, Esq.
Attorneys for Defendant

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: 01/14/2014



United States District/Magistrate Judge

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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 Stipulated Protective Order that
was issued by the United States District Court for the Central District of California
on [date] in the case of _____ [insert formal name of the case and the
number and initials assigned to it by the court]. I agree to comply with and to be
bound by all the terms of this Stipulated 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 Stipulated 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
Stipulated 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 Stipulated Protective
Order.

Date: _____

City and State where sworn and signed:

Printed name: _____

Signature: _____

