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

RUSSELL LANING, an individual,

Plaintiff,

v.

COUNTY OF SAN BERNARDINO,
ROBERT ARRIETA, DOES 1-50,
inclusive,

Defendant.

Case No. 5:14-CV-01499-VAP-CW

Judge: Hon. Virginia A. Phillips
Crtrm.: 2

**[PROPOSED] ORDER RE
STIPULATION FOR ENTRY OF
PROTECTIVE ORDER RE
CONFIDENTIAL DOCUMENTS**

PURSUANT TO THE STIPULATION of the parties, and Good Cause appearing therefore, and in furtherance of the interests of justice, the Court hereby GRANTS the Protective Order stipulated to by the parties regarding Confidential Documents. Accordingly,

IT IS HEREBY ORDERED that the production, disclosure, sharing, publication, reviewing, copying, retention, and/or dissemination of any and all Confidential Documents, as defined under the parties' Stipulation for Entry of a Protective Order re Confidential Documents (hereafter as "Stipulation"), shall be

1 1043, and 1045); and (2) police personnel records are also deemed confidential by
2 federal decisional law (e.g., Sanchez v. Santa Ana Police Department (9th Cir.
3 1990) 936 F.2d 1027, 1033-1034). Plaintiffs do not necessarily agree with these
4 contentions as stated herein and plaintiff reserves all of plaintiffs' rights under
5 California and federal law.

6 4. Therefore, in light of the foregoing, the parties agree that certain types of
7 confidential documents and/or information should be the subject of a protective
8 order. Accordingly, the parties, by and through their attorneys of record in this
9 action, hereby stipulate that good cause exists for a protective order in this matter
10 regarding confidential documents and/or information, and the parties respectfully
11 request the procedural protections listed herein below.

12 5. By agreeing to designate documents as "confidential " no party is waiving its
13 rights to assert and maintain objections and/or privileges, and by doing so no party
14 is admitting that such materials are subject to discovery or will be produced and/or
15 that such documents are admissible.

16 6. The parties agree unprotected disclosure of such information may potentially
17 "poison the jury pool", "affect jury service" and/or cause or contribute to potentially
18 adverse pre-trial publicity. Therefore, a protective order is necessary to prevent any
19 party from disclosing the "confidential" information to the traditional media,
20 internet, or "social media" and to limit the dissemination of the material to those
21 with a true need to know.

22 **STIPULATION FOR PROTECTIVE ORDER.**

23 7. Plaintiffs and Defendant have agreed that the above-listed documents shall be
24 designated confidential documents and/or writings because the Parties believe, in
25 good faith, that some or all of these documents and/or writings are privileged,
26 confidential, private and/or are of a sensitive nature.

27 8. The confidentiality of documentation being provided pursuant to this
28 Protective Order will be accomplished by affixing to such document or writing a

1 legend, such as "Confidential," "Confidential Documents," "Confidential Material
2 Subject to Protective Order" or words of similar effect. The documents and writings
3 so designated, and all information derived from those documents (collectively
4 referred as "Confidential Information"), shall be treated in accordance with the
5 terms of this stipulation/protective order. The "Confidential" mark or watermark
6 shall not obscure the writings on the document's legibility and shall not be repeated
7 more than once per page.

8 9. Confidential Information may be used by those receiving such information
9 only for the purpose of this above-captioned litigation.

10 10. Subject to the further conditions imposed by this stipulation/protective order,
11 Confidential Information may be disclosed only to the following people:

12 a. Counsel for the parties and to experts, investigators, paralegal
13 assistants, office clerks, secretaries and other such personnel working under their
14 supervision;

15 b. Such other parties as may be agreed by written stipulation among the
16 parties here, or by Court Order;

17 c. Court personnel; and

18 d. The parties themselves as necessary for the defense or prosecution of
19 this action.

20 11. Prior to the disclosure of any Confidential Information to any person
21 described in paragraphs a-d , with the exception of all Court Personnel and
22 employees of counsel for Plaintiffs and Defendant, counsel for the party that has
23 received and seeks to use or disclose such Confidential Information shall first
24 provide any such person with a copy of this protective order, and shall cause him or
25 her to execute the following acknowledgment:

26 "I understand that I am being given access to Confidential Information
27 pursuant to the foregoing protective order. I have read the stipulation/protective
28 order and agree to be bound by its terms with respect to the handling, use and

1 disclosure of such Confidential Information.

2 Dated: _____/s/ _____"

3 Once this is completed, counsel will serve a copy of the acknowledgment upon
4 counsel for all other parties.

5 12. In the event that a recipient party or counsel contends that any Confidential
6 Documents were already in the possession of that party, or that party's counsel, prior
7 to the date of this Stipulation and Protective Order, or prior to such documents'
8 production in this matter by the producing-disclosing party, the recipient party or
9 counsel shall have the burden of proving that any such documents were in fact
10 already in the possession of the recipient party or that party's counsel prior to the
11 date of this Stipulation and Protective Order, or prior to such documents' production
12 in this matter.

13 13. The parties will attempt to resolve any issue regarding such disputed
14 documents or records pursuant to Local Rule 7-3 before submitting any such
15 dispute-issue to the Court.

16 14. Notwithstanding the foregoing, and despite any dispute as to whether any
17 documents produced should be subject to the terms of the Stipulation and Protective
18 Order as a result of prior possession, the parties will continue to treat the
19 document(s) at issue as confidential and subject to this Stipulation and Protective
20 Order until the Court rules upon the dispute or until the parties reach agreement on
21 the issue, whichever comes first.

22 15. If, upon review of such a dispute, the Court determines that the disputed
23 Confidential Documents were already in the possession of the recipient party or
24 counsel prior to the date of this Stipulation and Protective Order, or prior to such
25 documents' production in this matter, those specific documents shall not be subject
26 to paragraph 21's provisions on destruction of copies, nor shall the recipient party or
27 counsel be prohibited from using those specific documents in other litigation:
28 otherwise, the remaining provisions of this Stipulation and Protective Order shall

1 19. This Stipulation and Protective Order shall not be construed as a stipulation
2 by any party that any privilege asserted by any party regarding Confidential
3 Documents, whether produced or disclosed or not, is applicable or valid as to such
4 documents; however, all parties, by and through their undersigned counsel, agree to
5 abide by the terms of this Stipulation and Protective Order and to maintain such
6 documents' confidentiality pursuant to the terms of this Stipulation and Protective
7 Order.

8 20. Upon the final termination of this litigation, including any appeal pertaining
9 thereto, all materials that were designated as confidential, as well as any other Court
10 Ordered Documents provided pursuant to this Protective Order and all copies
11 thereof, shall be destroyed and such destruction shall be confirmed by letter to the
12 office of counsel of the party to whom the materials pertain.

13 21. If any party who receives Confidential Information receives a subpoena or
14 other request seeking Confidential Information, he, she or it shall immediately give
15 written notice to counsel for the party to whom the request pertains, identifying the
16 Confidential Information sought and the time in which production or other
17 disclosure is required, and the affected party shall, per their discretion, object to the
18 request or subpoena on the grounds of this stipulation/protective order, OR other
19 grounds and/or obtain an order barring production or other disclosure, or to
20 otherwise respond to the subpoena or other request for production or disclosure of
21 Confidential Material. No party shall be obligated to seek an order barring
22 production of Confidential Information, which obligation shall be borne by the party
23 to whom to the privileges apply. The duty is to notify. However, in no event should
24 production or disclosure be made without written approval by the affected party's
25 counsel unless required by Court Order arising from a motion to compel production
26 or disclosure of Confidential Information.

27 22. Any pleadings, motions, briefs, declarations, stipulations, exhibits or other
28 written submissions to the Court in this litigation, except at trial, with which

1 Confidential Information is included shall be subject to a motion or application, at
2 the discretion of any desirous party, to request that the papers, or the confidential
3 portion thereof, be placed under seal by the Court.

4 23. Counsel for the parties further agree that, during any portion of this action,
5 including the pre-trial (e.g. motions in limine) or trial of this action which could
6 entail the discussion or disclosure of Confidential Information, that any party will
7 have an opportunity to request that access to the courtroom be limited to parties,
8 their counsel and other designated representative, experts or consultants who agreed
9 to be bound by this stipulation/protective order, and court personnel.

10 24. Nothing here shall prejudice any party's rights to object to the introduction of
11 any Confidential Information into evidence, on grounds including but not limited to
12 relevance and privilege.

13 25. The fact that the parties have entered into this stipulation does not waive any
14 of parties' rights to challenge the designation of materials as confidential.
15 Nevertheless, the parties understand and acknowledge that non-public materials
16 contained within personal, financial and/or educational files and records are being
17 provided pursuant to this Protective Order and they are to remain protected by this
18 Order to the extent they were not publicly accessible originally. In the event there is
19 some "good faith" disagreement as to whether certain documents and/or information
20 provided by the parties that were labeled as "confidential" should be treated as
21 confidential, the parties agree to make informal attempts to resolve such issues.
22 However, to be clear, this stipulation and order in no way makes any originally
23 publicly accessible information confidential.

24 26. The Court shall maintain continuing jurisdiction over this matter
25 to the extent necessary to enforce the terms and /or address alleged breaches of this
26 protective order.

27 27. The provisions of the Stipulation and/or this Protective Order
28 shall be in effect until further Order of the Court or further written Stipulation by the

1 parties by and through their attorneys of record.

2 IT IS SO ORDERED.

3 *Carla M. Woelke*

4 Dated: April 8, 2015

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6 United States Magistrate Judge
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