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

18 ARLENE WESTWOOD, individually;
19 DESTINY SHERI SANDOVAL,
individually and as Personal
20 Representative of the Estate of JEFF
PAUL WESTWOOD, Deceased,

21 Plaintiff,

22 vs.

23 COUNTY OF SAN BERNARDINO, a
Government Entity; Sergeant
24 SHAVER, individually; Deputy
MENDOZA, individually; Deputy
25 MARTINEZ, individually; Deputy K.
SHEPARD, individually; CHRISTINA
26 LOY, individually; BARBI RINCON,
individually; E. SANTOY,
27 individually; MARCIA CARR,
individually; ANA FLORES,
28

CASE NO. 5:21-CV-00117 JGB (KKx)

*Assigned for Discovery Matters to:
Hon. Kenly Kiya Kato*

**STIPULATED PROTECTIVE
ORDER**

[NOTE CHANGES BY COURT]

Trial Date: None set

Complaint filed: March 22, 2021

1 individually; C. BARBOSA,
2 individually; A. IBARRA, individually;
3 B. YOUNG, individually; G.
4 CHAKMA, individually; A.
5 ENCAMACION, individually; A.
6 MORGAN, individually; C. JIMENEZ,
7 individually; M. GAINES, individually;
8 CLAUDIA ALVAREZ, individually;
9 MICHELLE DAVID, individually;
10 DOES 1 through 10, inclusive,

11 Defendant.

12
13
14 1. A. PURPOSES AND LIMITATIONS

15 Discovery in this action is likely to involve production of confidential
16 proprietary, or private information for which special protection from public
17 disclosure and from use for any purpose other than prosecuting this litigation may
18 be warranted. Accordingly, the parties hereby stipulate to and petition the Court to
19 enter the following Stipulated Protective Order. The parties acknowledge that this
20 Order does not confer blanket protections on all disclosures or responses to
21 discovery and that the protection it affords from public disclosures or responses to
22 discovery and that the protection it affords from public disclosure and use extends
23 only to the limited information or items that are entitled to confidential treatment
24 under the applicable legal principles. The parties further acknowledge, as set forth
25 in Section 12.3, below, that this Stipulated Protective Order does not entitle them to
26 file confidential information under seal; Civil Local Rule 79-5 sets forth the
27 procedures that must be followed and the standards that will be applied when a party
28 seeks permission from the court to file material under seal.

1 B. GOOD CAUSE STATEMENT

2 This action is likely to involve law enforcement sensitive information, jail and
3 custody sensitive information, law enforcement personnel information, medical
4 information, third party contact information, and other information for which special

1 protection from public disclosure and from use for any purpose other than
2 prosecution of this action is warranted. Such confidential materials and information
3 consist of, among other things, law enforcement internal investigation reports, and
4 law enforcement personnel records, as well as confidential medical records,
5 (including information implicating privacy rights of third parties), information
6 otherwise generally unavailable to the public, or which may be privileged or
7 otherwise protected from disclosure under state or federal statutes, court rules, case
8 decisions, or common law. Accordingly, to expedite the flow of information, to
9 facilitate the prompt resolution of disputes over confidentiality. of discovery
10 materials, to adequately protect information the parties are entitled to keep
11 confidential, to ensure that the parties are permitted reasonable necessary uses of
12 such material in preparation for and in the conduct of trial, to address their handling
13 at the end of the litigation, and serve the ends of justice, a protective order for such
14 information is justified in this matter. It is the intent of the parties that information
15 will not be designated as confidential for tactical reasons and that nothing be so
16 designated without a good faith belief that it has been maintained in a confidential
17 non-public manner, and there is good cause why it should not be part of the public
18 record of this case.

19 2. DEFINITIONS

- 20 1. Action: Westwood v. County of San Bernardino et al., Case No.
21 5:21-cv-00117-JGB-KKx.
- 22 2. Challenging Party: a Party or Non-Party that challenges the
23 designation of information or items under this Order.
- 24 3. “CONFIDENTIAL” Information or Items: information
25 (regardless of how it is generated, stored or maintained) or tangible
26 things that qualify for protection under Federal Rule of Civil Procedure
27 26(c), and as specified above in the Good Cause Statement.
28

1 4. Counsel: Outside Counsel of Record and House Counsel (as
2 well as their support staff).

3 5. Designating Party: a Party or Non-Party that designates
4 information or items that it produces in disclosures or in responses to
5 discovery as “CONFIDENTIAL.”

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

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

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

17 9. Non-Party: any natural person, partnership, corporation,
18 association, or other legal entity not named as a Party to this Action.

19 10. Outside Counsel of Record: attorneys who are not employees of
20 a party to this Action but are retained to represent or advise a party to
21 this Action and have appeared in this Action on behalf of that party or
22 are affiliated with a law firm which has appeared on behalf of that
23 party, and includes support staff.

24 11. Party: any party to this Action, including all officers, directors,
25 employees, consultants, retained experts, and Outside Counsel of
26 Record (and their support staffs).

27 12. Producing Party: a Party or Non-Party that produces Disclosure
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or Discovery Material in this Action.

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

14. Protected Material: any Disclosure or Discovery material that is designated as “CONFIDENTIAL.”

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

3. SCOPE

The protections conferred by this Stipulation and Order cover not only Protected Material (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony, conversations, or presentations by Parties or their Counsel that might reveal Protected Material.

Any use of Protected Material at trial shall be governed by the orders of the trial judge. This Order does not govern the use of Protected Material at trial.

4. DURATION

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

5. DESIGNATING PROTECTED MATERIAL

1 1. Exercise of Restraint and Care in Designating Material for Protection.

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

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

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

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

22 Designation in conformity with this Order requires:

23 (a) for information in documentary form (e.g., paper or electronic documents,
24 but excluding transcripts of depositions or other pretrial or trial proceedings), that
25 the Producing Party affix at a minimum, the legend "CONFIDENTIAL" (hereinafter
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

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

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

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

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

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

3 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

4 1. Timing of Challenges. Any Party or Non-Party may challenge a
5 designation of confidentiality at any time that is consistent with the
6 Court's Scheduling Order.

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

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

18 7. ACCESS TO AND USE OF PROTECTED MATERIAL

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

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

3 2. Disclosure of “CONFIDENTIAL” Information or Items. Unless
4 otherwise ordered by the court or permitted in writing by the
5 Designating Party, a Receiving Party may disclose any information or
6 item designated “CONFIDENTIAL” only to:

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

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

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

15 (d) The court and its personnel;

16 (e) Court reporters and their staff;

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

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

22 (h) During their depositions, witnesses, and attorneys for witnesses, in the
23 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
24 requests that the witness and his or her attorney sign Exhibit A; “Acknowledgment
25 and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the
26 Designating Party or ordered by the court. Pages of transcribed deposition testimony
27 or exhibits to depositions that reveal Protected Material may be separately bound by
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1 the court reporter and may not be disclosed to anyone except as permitted under this
2 Stipulated Protective Order; and

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

5 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
6 IN OTHER LITIGATION

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

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

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

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

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

26 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
27 PRODUCED IN THIS LITIGATION
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1 (a) The terms of this Order are applicable to information produced by a Non-
2 Party in this Action and designated as “CONFIDENTIAL.” Such information
3 produced by Non-Parties in connection with this litigation is protected by the
4 remedies and relief provided by this Order. Nothing in these provisions should be
5 construed as prohibiting a Non-Party from seeking additional protections.

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

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

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

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

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

26 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

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

12. MISCELLANEOUS

1. Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.
2. Right to Assert Other Objections. By stipulating to the entry of this Protective Order no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of

any of the material covered by this Protective Order.

3. Filing Protected Material. A Party that seeks to file under seal any Protected Material must comply with Civil Local Rule 79-5.

Protected Material may only be filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material at issue.

If a Party's request to file Protected Material under seal is denied by the court, then the Receiving Party may file the information in the public record unless otherwise instructed by the court.

13. FINAL DISPOSITION

After the final disposition of this Action, as defined in Paragraph 4, within 60 days of a written request by the Designating Party, each Receiving Party must return all Protected Material to the Producing Party or destroy such material. As used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Material. ~~Any such archival copies that contain or constitute Protected Material.~~ Any such archival copies that contain or constitute

Protected Material remain subject to this Protective Order as set forth in Section 4 (DURATION).

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

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD

DATED: July 15, 2021

/s/ Kelly Hatfield

KELLY HATFIELD

CAMERON SEHAT

THE SEHAT LAW FIRM, P.L.C.

Attorneys for Plaintiffs, Arlene Westwood,
Michael Westwood and Destiny Sheri Sandoval

DATED: July 15, 2021

/s/ Shannon L. Gustafson

SHANNON L. GUSTAFSON

LYNBERG & WATKINS

Attorneys for Defendants, County of San Bernardino, Alicia Morgan, Ana Flores, Brad Shaver, Briana Young, Charleen Barbosa, Gnana Chakma, Christina Loy, Kyle Shepherd, Marcia Carr, Megan Gaines, Michelle David, Angelica Ibarra, and A. Encarnacion

I certify that all other signatories listed, and on whose behalf the filing is submitted, concur in the filing's content and have authorized the filing.

/s/ Shannon L. Gustafson

SHANNON L. GUSTAFSON

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: July 16, 2021



Hon. Kenly Kiya Kato
United States Magistrate Judge

1
2
3
4 EXHIBIT A

5 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUNND

6 I, _____ [print or type full name], of _____
7 [type or print full address] declare under penalty of perjury that I have read in its
8 entirety and understand the Stipulated Protective Order that was issued by the
9 United States Court for the Central District of California on _____, 2021 in the
10 case of Westwood vs. County of San Bernardino, Case No. 5:21-cv-00117-JGB-
11 KKx. I agree to comply with and to be bound by all the terms of this Stipulated
12 Protective Order and I understand and acknowledge that failure to so comply could I
13 expose me to sanctions and punishment in the nature of contempt. I solemnly
14 promise that I will not disclose in any manner any information or item that is subject
15 to this Stipulated Protective Order to any person or entity except in strict compliance
16 with the provisions of this Order.

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

24 Date: _____, 2021

25 City and State where sworn and signed: _____

26 Printed name: _____

27 Signature: _____
28