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

19 **K.P., a minor, by and through her**
guardian ad litem, CRYSTAL
 20 **LOOMIS, individually;**

Case No.: 5:23-cv-01545 HDV(DTBx)
 [District Judge: Hon. Hernan D. Vera;
 Magistrate Judge: David T. Bristow]

21 **Plaintiff,**

~~PROPOSED~~ **STIPULATED PROTECTIVE**
ORDER

22 **v.**

23 **SAN BERNARDINO COUNTY, a**
 24 **Governmental Entity; C. MORALES;**
 25 **and DOES 1 through 10, inclusive,**

26
 27 **Defendants.**

1 1. PURPOSES AND LIMITATIONS

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

7 The parties acknowledge that this Order does not confer blanket protections
8 on all disclosures or responses to discovery and that the protection it affords from public
9 disclosure and use extends only to the limited information or items that are entitled to
10 confidential treatment under the applicable legal principles. The parties further
11 acknowledge, as set forth in Section 13.3, below, that this Stipulated Protective Order
12 does not entitle them to file confidential information under seal; Civil Local Rule 79-5
13 sets forth the procedures that must be followed and the standards that will be applied
14 when a party seeks permission from the court to file material under seal.

15 2. GOOD CAUSE STATEMENT

16 This action is likely to involve medical records, juvenile education records,
17 family law records, law enforcement personnel records, juvenile court records and
18 information for which special protection from public disclosure and from use for any
19 purpose other than prosecution of this action is warranted. Such confidential and
20 sensitive information consist of, among other things, confidential medical records,
21 confidential personnel records, confidential juvenile records, information related to court
22 proceedings otherwise generally unavailable to the public, or which may be privileged or
23 otherwise protected from disclosure under state or federal statutes, court rules, case
24 decisions, or common law. Accordingly, to expedite the flow of information, to facilitate
25 the prompt resolution of disputes over confidentiality of discovery materials, to
26 adequately protect information the parties are entitled to keep confidential, to ensure that
27 the parties are permitted reasonable necessary uses of such material in preparation for
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1 and in the conduct of trial, to address their handling at the end of the litigation, and serve
2 the ends of justice, a protective order for such information is justified in this matter. It is
3 the intent of the parties that information will not be designated as confidential for tactical
4 reasons and that nothing be so designated without a good faith belief that it has been
5 maintained in a confidential, non-public manner, and there is good cause why it should
6 not be part of the public record of this case.

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8 3. DEFINITIONS.

9 3.1 Action: this pending federal law suit.

10 3.2 Challenging Party: a Party or Non-Party that challenges the designation of
11 information or items under this Order.

12 3.3 “CONFIDENTIAL” Information or Items: information (regardless of
13 how it is generated, stored or maintained) or tangible things that qualify for
14 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
15 the Good Cause Statement.

16 3.4 Counsel: Outside Counsel of Record and House Counsel (as well as
17 their support staff).

18 3.5 Designating Party: a Party or Non-Party that designates information or
19 items that it produces in disclosures or in responses to discovery as
20 “CONFIDENTIAL.”

21 3.6 Disclosure or Discovery Material: all items or information, regardless
22 of the medium or manner in which it is generated, stored, or maintained (including,
23 among other things, testimony, transcripts, and tangible things), that are produced or
24 generated in disclosures or responses to discovery in this matter.

25 3.7 Expert: a person with specialized knowledge or experience in a matter
26 pertinent to the litigation who has been retained by a Party or its counsel to serve as
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1 an expert witness or as a consultant in this Action.

2 3.8 House Counsel: attorneys who are employees of a party to this Action.
3 House Counsel does not include Outside Counsel of Record or any other outside
4 counsel.

5 3.9 Non-Party: any natural person, partnership, corporation, association, or
6 other legal entity not named as a Party to this action.

7 3.10 Outside Counsel of Record: attorneys who are not employees of a
8 party to this Action but are retained to represent or advise a party to this Action and
9 have appeared in this Action on behalf of that party or are affiliated with a law firm
10 which has appeared on behalf of that party, and includes support staff.

11 3.11 Party: any party to this Action, including all of its officers, directors,
12 employees, consultants, retained experts, and Outside Counsel of Record (and their
13 support staffs).

14 3.12 Producing Party: a Party or Non-Party that produces Disclosure or
15 Discovery Material in this Action.

16 3.13 Professional Vendors: persons or entities that provide litigation
17 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
18 demonstrations, and organizing, storing, or retrieving data in any form or medium)
19 and their employees and subcontractors.

20 3.14 Protected Material: any Disclosure or Discovery Material that is
21 designated as “CONFIDENTIAL.”

22 3.15 Receiving Party: a Party that receives Disclosure or Discovery
23 Material from a Producing Party.
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1 4. SCOPE

2 The protections conferred by this Stipulation and Order cover not only Protected
3 Material (as defined above), but also:

4 (A) Any information copied or extracted from Protected Material;

5 (B) All copies, excerpts, summaries, or compilations of Protected Material; and

6 (C) Any testimony, conversations, or presentations by Parties or their Counsel that
7 might reveal Protected Material. Any use of Protected Material at trial shall be
8 governed by the orders of the trial judge. This Order does not govern the use of
9 Protected Material at trial.

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11 5. DURATION

12 Even after final disposition of this litigation, the confidentiality obligations imposed
13 by this Order shall remain in effect until a Designating Party agrees otherwise in writing
14 or a court order otherwise directs. Final disposition shall be deemed to be the later of:

15 (A) dismissal of all claims and defenses in this Action, with or without prejudice;
16 and

17 (B) final judgment herein after the completion and exhaustion of all appeals, re-
18 hearings, remands, trials, or reviews of this Action, including the time limits for
19 filing any motions or applications for extension of time pursuant to applicable law.

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22 6. DESIGNATING PROTECTED MATERIAL

23 6.1 Exercise of Restraint and Care in Designating Material for Protection.

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

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

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

10 6.2 Manner and Timing of Designations.

11 Except as otherwise provided in this Order (see, e.g., second paragraph of section
12 6.2 (a) below), or as otherwise stipulated or ordered, Disclosure or Discovery Material
13 that qualifies for protection under this Order must be clearly so designated before the
14 material is disclosed or produced. Designation in conformity with this Order requires:

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

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

7 (c) For testimony given in depositions that the Designating Party identify the
8 Disclosure or Discovery Material on the record, before the close of the
9 deposition all protected testimony.

10 (d) For information produced in some form other than documentary and for any
11 other 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
13 legend “CONFIDENTIAL.” If only a portion or portions of the information
14 warrants protection, the Producing Party, to the extent practicable, shall identify
15 the protected portion(s).

16 6.3 Inadvertent Failures to Designate.

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

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1 7. CHALLENGING CONFIDENTIALITY DESIGNATIONS

2 7.1 Timing of Challenges.

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

5 7.2 Meet and Confer.

6 The Challenging Party shall initiate the dispute resolution process under Local Rule
7 37.1 et seq.

8 7.3 The Burden of Persuasion.

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

19 8.1 Basic Principles.

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

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

2 8.2 Disclosure of “CONFIDENTIAL” Information or Items.

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

- 6 (a) The Receiving Party’s Outside Counsel of Record in this Action, as well
7 as employees of said Outside Counsel of Record to whom it is reasonably
8 necessary to disclose the information for this Action;
- 9 (b) The officers, directors, and employees (including House Counsel) of the
10 Receiving Party to whom disclosure is reasonably necessary for this
11 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
14 the 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
19 who have signed the “Acknowledgment and Agreement to Be Bound”
20 (Exhibit A);
- 21 (g) The author or recipient of a document containing the information or a
22 custodian or other person who otherwise possessed or knew the
23 information;
- 24 (h) During their depositions, witnesses ,and attorneys for witnesses, in the
25 Action to whom disclosure is reasonably necessary provided:

- 26 1. The deposing party requests that the witness sign the form
27 attached as Exhibit 1 hereto; and
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1 2. They will not be permitted to keep any confidential information
2 unless they sign the Acknowledgment and Agreement to Be
3 Bound” (Exhibit A), unless otherwise agreed by the Designating
4 Party or ordered by the court. Pages of transcribed deposition
5 testimony or exhibits to depositions that reveal Protected Material
6 may be separately bound by the court reporter and may not be
7 disclosed to anyone except as permitted under this Stipulated
8 Protective Order; and

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

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13 9. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
14 OTHER LITIGATION

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

- 18 (a) Promptly notify in writing the Designating Party. Such notification shall include
19 a copy of the subpoena or court order;
- 20 (b) Promptly notify in writing the party who caused the subpoena or order to issue
21 in the other litigation that some or all of the material covered by the subpoena
22 or order is subject to this Protective Order. Such notification shall include a
23 copy of this Stipulated Protective Order; and
- 24 (c) Cooperate with respect to all reasonable procedures sought to be pursued by the
25 Designating Party whose Protected Material may be affected. If the Designating
26 Party timely seeks a protective order, the Party served with the subpoena or
27 court order shall not produce any information designated in this action as
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1 “CONFIDENTIAL” before a determination by the court from which the
2 subpoena or order issued, unless the Party has obtained the Designating Party’s
3 permission. The Designating Party shall bear the burden and expense of seeking
4 protection in that court of its confidential material and nothing in these
5 provisions should be construed as authorizing or encouraging a Receiving Party
6 in this Action to disobey a lawful directive from another court.
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8 10. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED
9 IN THIS LITIGATION

- 10 (a) The terms of this Order are applicable to information produced by a Non-Party
11 in this Action and designated as “CONFIDENTIAL.” Such information
12 produced by Non-Parties in connection with this litigation is protected by the
13 remedies and relief provided by this Order. Nothing in these provisions should
14 be construed as prohibiting a Non-Party from seeking additional protections.
15 (b) In the event that a Party is required, by a valid discovery request, to produce a
16 Non-Party’s confidential information in its possession, and the Party is subject
17 to an agreement with the Non-Party not to produce the Non-Party’s confidential
18 information, then the Party shall:
19 1) Promptly notify in writing the Requesting Party and the Non-Party that
20 some or all of the information requested is subject to a confidentiality
21 agreement with a Non-Party;
22 2) Promptly provide the Non-Party with a copy of the Stipulated Protective
23 Order in this Action, the relevant discovery request(s), and a reasonably
24 specific description of the information requested; and
25 3) Make the information requested available for inspection by the Non-Party,
26 if requested.
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1 (c) If the Non-Party fails to seek a protective order from this court within 14 days
2 of receiving the notice and accompanying information, the Receiving Party may
3 produce the Non-Party's confidential information responsive to the discovery
4 request. If the Non-Party timely seeks a protective order, the Receiving Party
5 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
8 and expense of seeking protection in this court of its Protected Material.
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10 11. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

11 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
12 Protected Material to any person or in any circumstance not authorized under this
13 Stipulated Protective Order, the Receiving Party must immediately:

- 14 (a) Notify in writing the Designating Party of the unauthorized disclosures,
15 (b) Use its best efforts to retrieve all unauthorized copies of the Protected Material,
16 (c) Inform the person or persons to whom unauthorized disclosures were made of
17 all the terms of this Order, and
18 (d) Request such person or persons to execute the "Acknowledgment and
19 Agreement to Be Bound" that is attached hereto as Exhibit A.
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22 12. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
23 PROTECTED MATERIAL

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

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8 13. MISCELLANEOUS

9 13.1 Right to Further Relief.

10 Nothing in this Order abridges the right of any person to seek its modification by
11 the Court in the future.

12 13.2 Right to Assert Other Objections.

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

18 13.3 Filing Protected Material.

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

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1 14. 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 return
4 all Protected Material to the Producing Party or destroy such material. As used in
5 this subdivision, “all Protected Material” includes all copies, abstracts, compilations,
6 summaries, and any other format reproducing or capturing any of the Protected
7 Material. Whether the Protected Material is returned or destroyed, the Receiving
8 Party must submit a written certification to the Producing Party (and, if not the same
9 person or entity, to the Designating Party) by the 60 day deadline that:

- 10 (a) Identifies (by category, where appropriate) all the Protected Material that was
11 returned or destroyed; and
12 (b) Affirms that the Receiving Party has not retained any copies, abstracts,
13 compilations, summaries or any other format reproducing or capturing any of
14 the Protected Material. Notwithstanding this provision, Counsel are entitled to
15 retain an archival copy of all pleadings, motion papers, trial, deposition, and
16 hearing transcripts, legal memoranda, correspondence, deposition and trial
17 exhibits, expert reports, attorney work product, and consultant and expert work
18 product, even if such materials contain Protected Material. Any such archival
19 copies that contain or constitute Protected Material remain subject to this
20 Protective Order as set forth in Section 5 (DURATION).

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1 EXHIBIT A

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3 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

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5 I, _____ [print or type full name], of _____
6 [print or type full address], declare under penalty of perjury that I have read in its entirety
7 and understand the Stipulated Protective Order that was issued by the United States
8 District Court for the Central District of California on [date] in the case of _____
9 [insert formal name of the case and the number and initials assigned to it by the court]. I
10 agree to 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 sanctions
12 and punishment in the nature of contempt. I solemnly promise that I will not disclose in
13 any manner any information or item that is subject to this Stipulated Protective Order to
14 any person or entity except in strict compliance with the provisions of this Order. I further
15 agree to submit to the jurisdiction of the United States District Court for the Central
16 District of California for the purpose of enforcing the terms of this Stipulated Protective
17 Order, even if such enforcement proceedings occur after termination of this action. I
18 hereby appoint _____ [print or type full name] of
19 _____ [print or type full address and telephone
20 number] as my California agent for service of process in connection with this action or
21 any proceedings related to enforcement of this Stipulated Protective Order.

22 Date: _____

23 City and State where sworn and signed: _____

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25 Printed name: _____

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27 Signature: _____

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