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UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION

JAMES ALLEN, JEANNE ALLEN

SA CV 15-00559 AG (JCx)

Plaintiffs,

v.

UNITED STATES OF AMERICA, et al,

Defendants.

**PROTECTIVE ORDER GOVERNING  
ACCESS TO, HANDLING OF, AND  
DISPOSITION OF POTENTIAL  
SENSITIVE SECURITY  
INFORMATION**

**[CHANGES MADE BY COURT TO  
PARAGRAPHS 7.1. 7.2. 7.3]**

Upon consideration of the Stipulation filed by the parties requesting that the Court issue a Protective Order in regard to Sensitive Security Information (SSI) and for good cause shown, the stipulated request is GRANTED.

In accordance with Section 525(d) of the Department of Homeland Security Appropriations Act, 2007, Public Law No. 109-295, § 525(d), 120 Stat. 1382, 1355 (Oct. 4, 2006), as reenacted (the “Act”), the Court hereby enters this Protective Order

1 Governing Access to, Handling of, and Disposition of Potential Sensitive Security  
2 Information (the “Order”) exchanged in the above-captioned matter (this “Litigation”).1.

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4 **Scope**

5 1.1 This Order shall govern any Document, information or other material that  
6 contains “Sensitive Security Information” as defined herein, including Documents  
7 potentially containing Sensitive Security Information.  
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9 1.2 Nothing contained herein alters or affects or in any manner changes a  
10 Covered Person’s obligations and duties as set forth in 49 C.F.R. Part 1520.  
11

12 **2. Definitions**

13 2.1 Cleared Counsel. The term “Cleared Counsel” shall refer to the two  
14 attorneys representing the Plaintiffs in this Litigation, who are not otherwise authorized  
15 to have access to Sensitive Security Information pursuant to 49 C.F.R. Part 1520, but  
16 whom the Transportation Security Administration (“TSA”) has cleared for access to  
17 specific Sensitive Security Information after determining that such access does not  
18 present a risk of harm to the nation based upon a criminal history records check, terrorist  
19 threat assessment, and evaluation of the sensitivity of the information as mandated by  
20 Section 525(d) of the Act. Cleared Counsel must agree to be bound by the terms of this  
21 Protective Order by signing attached EXHIBIT A.  
22  
23

24 2.2 Covered Person. The term “Covered Person” shall refer to any person who  
25 is authorized to have access to specific Sensitive Security Information pursuant to 49  
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1 C.F.R §§ 1520.7 and 1520.11.

2           2.3 Documents. The term “Documents” shall include, but is not limited to, all  
3 written or printed matter of any kind, formal or informal, including originals, conforming  
4 and nonconforming copies (whether different from the original by reason of notation  
5 made on such copies or otherwise). The term further includes, but is not limited to, the  
6 following:  
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8           a. papers, correspondence, memoranda, notes, letters, reports, summaries,  
9 photographs, maps, charts, graphs, inter-office and intra-office communications,  
10 notations of any sort concerning conversations, meetings, or other communications,  
11 bulletins, teletypes, telegrams, telefacsimiles, invoices, worksheets, transcripts of any  
12 kind (including depositions and Court proceedings), legal briefs, pleadings and papers  
13 (including those filed with the Court) and drafts, alterations, modifications, changes and  
14 amendments of any kind to the foregoing;  
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18           b. graphic or oral records or representations of any kind, including, but not  
19 limited to, photographs, charts, graphs, microfiche, microfilm, videotapes, sound  
20 recordings of any kind, and motion pictures;  
21

22           c. electronic, mechanical or electric records of any kind, including, but not  
23 limited to, tapes, cassettes, disks, recordings, electronic mail, films, typewriter ribbons,  
24 word processing or other computer tapes or disks, and all manner of electronic data  
25 processing storage.  
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1           2.4 Restricted Use Document. The term “Restricted Use Document” shall refer  
2 to any Document that contains Sensitive Security Information.

3           2.5 Sensitive Security Information. The term “Sensitive Security Information”  
4 shall have the meaning set forth in 49 U.S.C. § 114(r)(1)(C), 49 C.F.R. § 1520.1 et seq.,  
5 and as designated in orders issued by TSA pursuant to 49 U.S.C. § 114(r).  
6

7  
8 **3. Access to Sensitive Security Information**

9           3.1 Access to the Sensitive Security Information under the terms and conditions  
10 of this Order shall be restricted to:

11           a. Covered Persons;

12           b. Cleared Counsel;

13           c. Designated court personnel; and,

14           d. Court reporters retained by the parties for purposes recording depositions and  
15  
16 who have signed a TSA-approved Non-Disclosure Agreement.  
17

18           3.2 If Cleared Counsel seeks access to the Sensitive Security Information  
19 contained in any Restricted Use Document, Cleared Counsel must make a showing to  
20 TSA that they: (a) have a substantial need for relevant Sensitive Security Information in  
21 the preparation of this case, and, (b) are unable without undue hardship to obtain the  
22 substantial equivalent of the relevant Sensitive Security Information by other means. If  
23 TSA determines that the Cleared Counsel seeking access has successfully made such  
24 showings, TSA will grant Cleared Counsel access to the specific Sensitive Security  
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1 Information if TSA determines that such access would not present a risk of harm to the  
2 nation.

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4 3.3 Should Cleared Counsel cease representing the Plaintiffs in this Litigation,  
5 for whatever reason, such Cleared Counsel shall no longer be cleared for access to  
6 Sensitive Security Information. Plaintiffs may elect to have a new attorney undergo the  
7 vetting process described in Section 525(d) of the Act in order to obtain access to  
8 Sensitive Security Information in this Litigation.  
9

10 3.4 In the event that Cleared Counsel loses or relinquishes their clearance for  
11 access to Sensitive Security Information, for whatever reason, the former Cleared  
12 Counsel must promptly certify in writing to TSA that all Sensitive Security Information  
13 in their custody has been destroyed or that all Sensitive Security Information in their  
14 custody has been transferred to the new Cleared Counsel in this Litigation.  
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17 3.5 All Restricted Use Documents subject to this Order in the possession of  
18 Cleared Counsel shall be certified in writing to have been destroyed within 60 days of  
19 termination of this Litigation, including any appellate proceedings.  
20

21 **4. Non-Disclosure of Sensitive Security Information**

22 4.1 Except as provided in this Order, persons authorized to have access to  
23 Sensitive Security Information pursuant to 3.1 of this Order are prohibited from  
24 disclosing, in any manner, or otherwise providing access to, Sensitive Security  
25 Information, however obtained, to any individual or entity.  
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1 device containing Restricted Use Document(s), and such persons have a duty to  
2 safeguard the DVD-ROM or storage device, the Restricted Use Document(s), and the  
3 Sensitive Security Information contained therein, from unauthorized disclosure. When  
4 not in the physical possession of such persons, the DVD-ROM or storage device  
5 containing the Restricted Use Document(s) shall be stored in a secured container, such as  
6 a locked desk or file cabinet.  
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9       5.4 Persons authorized to have access to Sensitive Security Information  
10 pursuant to Section 3.1 of this Order may create Documents containing Sensitive  
11 Security Information found in a Restricted Use Document, provided that any such  
12 Document is secured in the same or equivalent manner, to the same or equivalent extent,  
13 and with the same restrictions on access as the DVD-ROM or storage device containing  
14 the Restricted Use Document as set forth in this Section 4.  
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17 **6. Use of Sensitive Security Information in Depositions and Examinations**

18       6.1 Sensitive Security Information that is authorized for production pursuant to  
19 this Order may be used and/or elicited during the deposition or examination of a  
20 witness, provided such witness is a Covered Person, subject to the following restrictions:  
21

22               6.1.1 Only the individuals identified in Section 3.1 of this Order may be  
23 present in the room when such Sensitive Security Information is used and/or elicited.  
24

25               6.1.2 The court reporter shall secure the Restricted Use Documents in the  
26 same manner, to the same extent, and with the same restrictions on access prescribed in  
27

1 this Order.

2           6.2    The court reporter who records a deposition shall promptly submit the  
3 deposition transcript to TSA for review. TSA shall promptly complete a review within  
4 ten business days of receipt to determine if a deposition transcript contains Sensitive  
5 Security Information. To the extent that TSA determines, upon review of the deposition  
6 transcript, that the transcript contains Sensitive Security Information that is appropriate  
7 for release pursuant to this Order, TSA shall authorize the transcript for release to  
8 counsel for Covered Persons and to Cleared Counsel.  
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12 **7.    Use of Sensitive Security Information in Motions and Court Proceedings**

13           7.1    Any Party who wishes to use a Restricted Use Document or the Sensitive  
14 Security Information contained therein in connection with a motion or other submission  
15 to this Court must submit the Restricted Use Document and any pleadings, motions or  
16 other papers containing Sensitive Security Information for filing under seal in  
17 accordance with Local Rule 79-5. Where possible, only the portions of the filings that  
18 contain Sensitive Security Information shall be submitted for filing under seal in  
19 accordance with Local Rule 79-5.  
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22           7.2    All court proceedings, or portions thereof, in which Sensitive Security  
23 Information may be disclosed, shall be closed to the public absent further order of the  
24 Court. If there is a possibility that Sensitive Security Information may be disclosed  
25 during any portion of the trial, such as the testimony of a particular witness, the  
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1 courtroom shall be closed to the public for that portion absent further order of the Court.

2       7.3 Cleared counsel may use SSI disclosed to them in this Litigation only for  
3 the purposes of the Litigation. SSI may not be further disseminated, including to a jury,  
4 except with written permission from TSA, absent further order of the Court.  
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6 **8. Dispute Resolution**

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8       8.1 To the extent there is a dispute between the Parties concerning whether  
9 information constitutes Sensitive Security Information, Cleared Counsel shall refer the  
10 matter to TSA for a determination by the close of discovery. If Cleared Counsel does not  
11 agree with TSA's determination it shall request in writing that TSA issue a final order  
12 pursuant to 49 U.S.C. § 114(r) designating such information as Sensitive Security  
13 Information. TSA final orders concerning the designation of information as Sensitive  
14 Security Information are reviewable exclusively in the United States Court of Appeals in  
15 accordance with 49 U.S.C. § 46110.  
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18       8.2 To the extent there is a dispute concerning whether specific redacted or  
19 withheld Sensitive Security Information should be authorized for production under this  
20 Order and Section 525(d) of the Act, the Parties shall meet and confer in an attempt to  
21 resolve the dispute consensually. For all unresolved disputes concerning whether specific  
22 Sensitive Security Information should be authorized for production, Cleared Counsel  
23 may submit the dispute to the appropriate Court as follows: TSA final determinations  
24 concerning granting or denying access to specific Sensitive Security Information based  
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1 upon relevance, substantial need, and the ability to obtain information without undue  
2 hardship, are reviewable by this Court; TSA final orders concerning whether a risk of  
3 harm to the nation is presented by granting access to specific Sensitive Security  
4 Information, either because of the sensitivity of the information or the results of the  
5 criminal history records check and terrorist threat assessment as set forth in Section  
6 525(d) of the Act, are reviewable exclusively by the Court of Appeals in accordance with  
7  
8 49 U.S.C. § 46110.

10 **9. Unauthorized Disclosure**

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12 9.1 If Sensitive Security Information is disclosed other than as authorized by  
13 this Order, the person responsible for the unauthorized disclosure, and any other person,  
14 firm or entity that is subject to this Order and learns of the unauthorized disclosure, shall  
15 immediately bring such disclosure to the attention of TSA.  
16

17 9.2 The person responsible for the unauthorized disclosure shall make every  
18 effort to obtain the return of the Sensitive Security Information (including, without  
19 limitation, from the person to whom the unauthorized disclosure was made and from any  
20 other person to whom Sensitive Security Information was transmitted as a direct or  
21 indirect result of the unauthorized disclosure) and to prevent further disclosure on its  
22 own part or on the part of any person to whom the unauthorized disclosure was made.  
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25 9.3 In addition to any other remedies that are available under law, any person,  
26 firm or entity responsible for an unauthorized disclosure of Sensitive Security  
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1 Information protected by this Order may be subject to a civil penalty by TSA of up to  
2 \$50,000 per violation, and all other remedies provided under 49 C.F.R. § 1520.17.

3  
4 9.4 In the event that TSA determines that Cleared Counsel has intentionally,  
5 willfully or recklessly disclosed Sensitive Security Information in violation of this Order,  
6 TSA may, in the exercise of its sole discretion, and in addition to the remedies  
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8 authorized above in paragraph 9.3, revoke such Cleared Counsel's clearance for access  
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10 to Sensitive Security Information. Furthermore, TSA may consider such intentional,  
11 willful or reckless disclosure in determining whether granting access to Sensitive  
12 Security Information to any member of a firm or entity that employed such Cleared  
13 Counsel, and/or to the Party whom that Cleared Counsel represents in this Litigation.

14 **10. Reservation of Rights**

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16 10.1 In the event that TSA determines that a Document containing Sensitive  
17 Security Information, or portion thereof, was inappropriately produced, TSA reserves the  
18 right to remove the Document, or portion thereof, from this Litigation, and to take any  
19 other measures necessary to protect the Sensitive Security Information at issue.  
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**EXHIBIT A**

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1                   AGREEMENT TO BE BOUND BY THE PROTECTIVE ORDER  
2                   REGARDING SENSITIVE SECURITY INFORMATION  
3                   ALLEN, ET AL V. UNITED STATES, ET AL, CASE NO. 15-CV-00559 AG (JCx)

4 I reside at \_\_\_\_\_ in the City of \_\_\_\_\_, County of \_\_\_\_\_.  
5 My present employer is \_\_\_\_\_. My present occupation is \_\_\_\_\_.

6 I understand that I will have access to and will be examining documents that contain protected  
7 sensitive security information as defined in 49 U.S.C. § 114(r) and 49 C.F.R. pt. 1520. I have read and  
8 understand the Stipulation and Protective Order Regarding Sensitive Security Information covering  
these documents, and pledge to comply with all the provisions of that Protective Order. Furthermore, I  
certify that I am a Cleared Counsel as defined in Paragraph 2.1 of the Protective Order.

9 I will maintain all Restricted Use Documents, as defined in Paragraph 2.4 of the Protective  
10 Order, according to all the provisions of the Protective Order.

11  
12 \_\_\_\_\_  
13 DATE

12 \_\_\_\_\_  
13 SIGNATURE

14 \_\_\_\_\_  
15 FULL NAME