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9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF CALIFORNIA
11 FRESNO DIVISION

13 **DAVID HARRELL,**

14 Plaintiff,

15 v.

16
17 **CALIFORNIA DEPARTMENT OF
DEVELOPMENTAL SERVICES and
DOES 1-100, inclusive,**

18 Defendants.
19

1:11-cv-01127-LJO-BAM

**STIPULATION FOR PROTECTIVE
ORDER AND PROTECTIVE ORDER**

Judge: Hon. Barbara A. McAuliffe
Action Filed: April 26, 2011

20 Subject to the approval of this Court, the parties hereby stipulate to the following
21 protective order:

22 1. In connection with discovery proceedings in this action, the parties hereby designate
23 documents as “confidential” under the terms of this Stipulation for Protective Order
24 (hereinafter “Order”). The documents protected pursuant to this Order have not been made public
25 and the disclosure of said documents would have the effect of causing harm.

26 2. The documents eligible for protection under this order include:

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1 A. Medical information regarding a third party, including but not limited to patient
2 medical records. Production of such documents would violate a third party's right to privacy.

3 B. Confidential reports and investigations that would reveal the deliberations,
4 communications and predecisional mental process made in regard to medical and mental health
5 care provided to the patients and/or personnel records of peace officers and other employees.

6 C. A third party's personnel file or documents relating to the employment of third
7 parties. Production of such documents would violate a third party's right to privacy.

8 D. Department training materials regarding the operations of its facilities, which
9 include intelligence training. Production of such documents would compromise the safety and
10 security of the facilities, employees and patients.

11 3. By designating documents as "confidential" under the terms of this Order, the party
12 making the designation is certifying to the Court that there is a good faith basis both in law and in
13 fact for the designation within the meaning of Federal Rule of Civil Procedure 26(g).

14 4. Documents produced by a party shall be designated by the party as "confidential" by
15 bates stamping copies of the document with the word "CONFIDENTIAL".

16 5. Documents designated as "confidential" under this Order (hereinafter, "Confidential
17 Material"), the information contained therein, and any summaries, copies, abstracts, or other
18 documents derived in whole or in part from material designated as confidential shall be used only
19 for the purpose of this action, and for no other purpose.

20 6. Confidential Material produced pursuant to this Order may be disclosed or made
21 available only to counsel for a party (including the paralegal, clerical, and secretarial staff
22 employed by such counsel and independent office services vendors hired by such counsel).
23 Confidential Material may be provided to any expert retained for consultation and/or trial. In the
24 event that Confidential Material is given to an expert, counsel that retained the expert shall
25 provide a copy of this Order with the Confidential Material.

26 7. The Confidential Material produced pursuant to this Order will be redacted with
27 respect to (i) social security numbers; (ii) dates of birth; (iii) financial information (including
28 financial account numbers); and (iv) in all circumstances when federal law requires redaction.

1 Each redaction must be identified by showing what information has been redacted (e.g., “social
2 security number,” etc.) This provision complies with Eastern District Local Rule 140.

3 8. If a party would like to use Confidential Material in Court filings, at least seven (7)
4 days notice shall be given to all parties. All parties shall comply with the requirements of
5 Eastern District Local Rule 141, in the event that a party would like Confidential Material to be
6 sealed. In lieu of seeking a motion to seal, the parties may agree to redact identifying information
7 relating to any patient and/or any third party peace officer. Such identifying information includes
8 but is not limited to names, identification numbers, badge number, commitment number, or other
9 information that would disclose the identity of a patient or peace officer.

10 9. Nothing in this Order shall in any way limit or prevent Confidential Material from
11 being used in any deposition or other proceeding in this action. In the event that any Confidential
12 Material is used in any deposition or other proceeding in this action, it shall not lose its
13 confidential status through such use.

14 10. This Order is entered for the purpose of facilitating the exchange of documents
15 between the parties to this action without involving the Court unnecessarily in the process.
16 Nothing in this Order, or the production of any document under the terms of this Order,
17 shall be deemed to have the effect of an admission or waiver by either party or of altering
18 the confidentiality or non-confidentiality of any such document.

19 11. Nothing in this Order shall in and of itself require disclosure of information that is
20 protected by the attorney-client privilege, work-product doctrine, or any other privilege,
21 doctrine, or immunity, nor does anything in this Order, result in any party giving up its right to
22 argue that otherwise privileged documents must be produced due to waiver or for any other
23 reason.

24 12. If Confidential Material produced in accordance with this Order is disclosed to any
25 person other than in the manner authorized by this Order, the party responsible for the disclosure
26 shall immediately bring all pertinent facts relating to such disclosure to the attention of all counsel
27 of record and, without prejudice to other rights and remedies available to the producing party,
28 make every effort to obtain the return of the disclosed Confidential Material and prevent further

1 disclosure of it by the person who was the recipient of such information.

2 13. This Order shall survive the final termination of this action, to the extent that the
3 Confidential Material is not or does not become known to the public, and the Court shall
4 retain jurisdiction to resolve any dispute concerning the use of the information disclosed
5 hereunder. Counsel for the parties shall destroy all Confidential Material in their possession,
6 custody, or control within 180 (one hundred eighty) days of final termination of this action, which
7 shall be deemed to occur only when final judgment has been entered and all appeals have been
8 exhausted.

9 **IT IS SO STIPULATED.**

10 Dated: December 12, 2012

MAYALL HURLEY P.C.

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12 By: /s/ Robert Wasserman
13 Robert Wasserman
Attorneys for Plaintiff David Harrell

14 Dated: December 12, 2012

OFFICE OF THE ATTORNEY GENERAL

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16 By: /s/ Judith A. Recchio
17 Judith A. Recchio
18 Deputy Attorney General
Attorneys for Defendant Department
of Developmental Services

19 **ORDER**

20 Having considered the stipulated protective order filed and signed by all parties on
21 December 12, 2012, pursuant to Local Rule 141, the Court adopts the protective order in its
22 entirety.

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25 IT IS SO ORDERED.

26 Dated: December 13, 2012

/s/ Barbara A. McAuliffe
27 UNITED STATES MAGISTRATE JUDGE

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