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

12
13 **DUBRIN, et al.,**

14 Plaintiffs,

15 v.

16 **Michael Stainer, et al.,**

17 Defendants.
18

1:11-cv-01484 AWI JLT (PC)

**ORDER GRANTING STIPULATION
FOR PROTECTIVE ORDER**

(Doc. 41).

19
20 **IT IS STIPULATED BY THE PARTIES, BY AND THROUGH THEIR**
21 **RESPECTIVE COUNSEL, AND ORDERED BY THE COURT AS FOLLOWS:**

22 **A. CONFIDENTIAL MATERIAL SUBJECT TO THIS PROTECTIVE ORDER**

23 Plaintiffs seek the production of documents, files, memoranda, letters, electronic mail,
24 written reports, personnel information, and other records pertaining to the denial of privileges to
25 inmates housed in the Security Housing Unit (SHU) at the California Correctional Institution
26 (CCI), as well as documents, files, memoranda, letters, written reports, personnel information,
27 and other records contained in the confidential portions of inmates' central files ("Document" or
28 "Documents").

1 These Documents may contain information that has been deemed confidential by the
2 California Department of Corrections and Rehabilitation (“CDCR”). Release of any such
3 Documents may jeopardize the safety and security of the institution, as well as inmates and
4 correctional personnel. Therefore, Defendants shall be entitled to designate in good faith which
5 of the Documents in its production are confidential. The criteria for such a designation shall be
6 whether the Document is of an inflammatory, sensitive, privileged, or confidential nature, such
7 that the release of this information is deemed inappropriate.

8 With respect to any such Documents, the parties stipulate to the following procedure : (1)
9 Before CDCR releases these Documents to Plaintiffs’ counsel, the parties will meet and confer to
10 determine whether they can agree that the records are admissible evidence, or are likely to lead to
11 the discovery of admissible evidence, and will be produced subject to the conditions set forth
12 below; (2) if the parties do not agree, then the documents in question will be presented to the
13 Court for *in camera* review; and (3) documents ordered to be produced after *in camera* review
14 will be subject to the conditions of this protective order as set forth below.

15 **B. CONDITIONS FOR RELEASE OF CONFIDENTIAL DOCUMENTS**

16 1. Defendants shall indicate which Documents in its production it claims are
17 confidential by producing such Documents on pink or lilac-colored paper, by stamping them as
18 “confidential” on their face, or by other mutually agreeable means. If Defendants do not indicate
19 that a particular Document is confidential at the time it is produced, it will be presumed not
20 confidential, without prejudice to Defendants’ right to assert confidentiality at a later time.

21 2. Confidential Documents and the information contained therein may be disclosed only
22 to the following persons:

- 23 a. Counsel of record;
- 24 b. Paralegal, stenographic, clerical, and secretarial personnel employed by counsel
25 of record;
- 26 c. Court personnel, stenographic reporters, and videographers engaged in such
27 proceedings that are incidental to preparation for the trial in this action;

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1 d. Any outside expert or consultant retained by the parties for purposes of this
2 litigation;

3 e. Witnesses to whom the Documents and the information contained in the
4 Documents may be disclosed during, or in preparation for, a deposition taken in
5 this matter, or otherwise during the preparation for trial and during trial,
6 provided that the witness may not leave any deposition with copies of any of
7 the confidential Documents, and shall be informed or and shall agree to be
8 bound by the terms of this order.

9 3. Plaintiff's counsel is prohibited from disclosing any confidential Documents or
10 information to Plaintiffs, any inmate presently or previously in the custody of the CDCR, or any
11 other correctional facility, including Federal facilities, or any relative of an inmate presently or
12 previously in the custody of the CDCR.

13 4. Plaintiff's counsel, including paralegal, stenographic, clerical, and secretarial
14 personnel employed by Plaintiff's counsel of record shall not make copies of the confidential
15 Documents except as necessary for purposes of this litigation, *Dubrin, et al. v. Stainer, et al.*,
16 USDC, Eastern District of California, 1:11-cv-01484 AWI JLT (PC), including appeals.

17 5. Each person to whom disclosure of confidential Documents and the information
18 contained therein is made shall, prior to the time of disclosure, be provided a copy of this order
19 and shall agree in writing that he or she has read this order, understands the provisions and
20 conditions, and agrees to be bound by its provisions, and consent to be subject to the jurisdiction
21 of the United States District Court for the Eastern District of California with respect to any
22 proceeding relating to the enforcement of this order, including, without limitation, any proceeding
23 for contempt.

24 6. At the conclusion of this litigation, including appeals, all confidential Documents,
25 including copies, shall be destroyed or returned to the Defendants.

26 7. When Plaintiffs' counsel returns or destroys the confidential Documents, counsel
27 shall provide Defendants' counsel with a declaration stating that all confidential Documents have
28 been returned or destroyed.

1 8. All confidential Documents and the information contained therein shall be used solely
2 in connection with this litigation, including appeals, and not for any other purpose, including
3 other litigation.

4 9. ~~All confidential Documents that are filed with the Court shall be filed under seal,
5 labeled with a cover sheet bearing the case name along with the following statement: "This
6 document is subject to a protective order issued by the Court and shall not be examined or copied
7 except in compliance with that order." Upon failure of the filing party to file confidential
8 Documents under seal, any party may request that the Court place the document under seal.~~

9 Should a party wish to file a confidential Document, that party SHALL comply with
10 the requirements of Local Rule 141. Upon the failure of the filing party to request the Court file
11 confidential Documents under seal, any party may request that the Court place the document
12 under seal, according to Local Rule 141.

13 10. Nothing in this protective order is intended to prevent officials or employees of the
14 State of California, or other authorized government officials, from having access to confidential
15 Documents to which they would have access in the normal course of their official duties.

- 16 11. The provisions of this protective order are without prejudice to the right of any party:
- 17 a. To apply to the Court for a further protective order relating to any confidential
 - 18 Documents or material, or relating to discovery in this litigation;
 - 19 b. To apply to the Court for an order removing the confidential material
 - 20 designation from any Documents;
 - 21 c. To object to a discovery request.

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12. This Protective Order shall be binding on the parties as of the date it is signed by the parties. The provisions of this order shall remain in full force and effect until further order of this Court.

IT IS SO STIPULATED.

January 23, 2013

/s/ Kelli M. Hammond
KELLI M. HAMMOND
Attorney for Defendants

January 22, 2013

/s/ Mark Ravis
MARK RAVIS
Attorney for Plaintiffs

ORDER

IT IS SO ORDERED.

Dated: January 25, 2013

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE