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8 UNITED STATES DISTRICT COURT
 9 EASTERN DISTRICT OF CALIFORNIA

10 MARIA EVA MARTINEZ,
 Plaintiff,

11 v.

12 TULARE COUNTY, SAN DIEGO COUNTY
 and DOES 1-100,
 13 Defendants.

Case No. 16-cv-01140-DAD-SKO

AMENDED STIPULATED PROTECTIVE
 ORDER AND ORDER

14
 15 1. INTRODUCTION

16 1.1 Purposes and Limitations

17 Disclosure and discovery activity in this action are likely to involve production of
 18 confidential, proprietary, or private information for which special protection from public disclosure
 19 and from use for any purpose other than prosecuting this litigation may be warranted. The
 20 documents that warrant protection that have been identified to date include documents of
 21 identification (such as passports and driver licenses) and California Law Enforcement
 22 Telecommunications System (CLETS) information and records. Accordingly, the parties hereby
 23 stipulate to and petition the Court to enter the following Stipulated Protective Order, which the
 24 parties agree is necessary to ensure protection of protected materials. The parties acknowledge that
 25 this Order does not confer blanket protections on all disclosures or responses to discovery and that
 26 the protection it affords from public disclosure and use extends only to the limited information or
 27 items that are entitled to confidential treatment under the applicable legal principles.

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1 1.2 Good Cause Statement

2 As set forth above, Defendant County of San Diego will be producing CLETS information
3 and records, which are unavailable to the general public. Access to CLETS information and records
4 is strictly prohibited unless authorized by law. San Diego County contends restrictions on access to
5 such information are necessary because disclosure may jeopardize the security of CLETS, the
6 effectiveness of law enforcement efforts that rely on CLETS, and disclosure in this action may
7 invoke individual privacy rights. San Diego County accordingly believes that it cannot provide
8 CLETS information and records pertaining to Plaintiff Maria Eva Martinez absent a court order.
9 Mrs. Martinez will be producing documents, including her passport and driver license, which
10 contain personal and confidential information that is unavailable to the general public. The
11 disclosure of this information to the public may violate Mrs. Martinez’s privacy rights. Given the
12 sensitive nature of these documents and the potential harm Mrs. Martinez would face if the
13 documents were disseminated publicly (including identity theft), Mrs. Martinez believes it is
14 prudent to ensure that a protective order is in place before she produces copies of her passport and
15 driver license.

16 Accordingly, to expedite the flow of information, to facilitate the prompt resolution of
17 disputes over confidentiality, to adequately protect information the parties are entitled or required to
18 keep confidential, to ensure that the parties are permitted reasonable and necessary uses of such
19 materials in preparation for and in the conduct of the litigation, to address their handling at the end
20 of the litigation and to serve the ends of justice, a protective order for such information is justified
21 in this matter.

22 2. DEFINITIONS

23 2.1 Challenging Party: a Party or Non-Party that challenges the designation of
24 information or items under this Order.

25 2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is
26 generated, stored or maintained) or tangible things that contain confidential or sensitive personal
27 information or that qualify for protection under Federal Rule of Civil Procedure 26(c), and as
28 specified above in the Good Cause Statement.

1 2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as well
2 as their support staff).

3 2.4 Designating Party: a Party or Non-Party that designates information or items that it
4 produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

5 2.5 Disclosure or Discovery Material: all items or information, regardless of the
6 medium or manner in which it is generated, stored, or maintained (including, among other things,
7 testimony, transcripts, and tangible things), that are produced or generated in disclosures or
8 responses to discovery in this matter.

9 2.6 Expert: a person with specialized knowledge or experience in a matter pertinent to
10 the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a
11 consultant in this action.

12 2.7 House Counsel: attorneys who are employees of a party to this action. House
13 Counsel does not include Outside Counsel of Record or any other outside counsel.

14 2.8 Non-Party: any natural person, partnership, corporation, association, or other legal
15 entity not named as a Party to this action, including Tulare County, against whom judgment has
16 already been entered in this matter.

17 2.9 Outside Counsel of Record: attorneys who are not employees of a party to this
18 action but are retained to represent or advise a party to this action and have appeared in this action
19 on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.

20 2.10 Party: any party to this action, including all of its officers, directors, employees,
21 consultants, retained experts, and Outside Counsel of Record (and their support staffs), but
22 excluding Tulare County, against whom judgment has already been entered in this matter.

23 2.11 Producing Party: a Party or Non-Party that produces Disclosure or Discovery
24 Material in this action.

25 2.12 Professional Vendors: persons or entities that provide litigation support services
26 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing,
27 storing, or retrieving data in any form or medium) and their employees and subcontractors.

28 2.13 Protected Material: any Disclosure or Discovery Material that is designated as

1 “CONFIDENTIAL.”

2 2.14 Receiving Party: a Party that receives Disclosure or Discovery Material from a
3 Producing Party.

4 3. SCOPE

5 The protections conferred by this Stipulation and Order cover not only Protected Material
6 (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all
7 copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony,
8 conversations, or presentations by Parties or their Counsel that might reveal Protected Material.
9 However, the protections conferred by this Stipulation and Order do not cover the following
10 information: (a) any information that is in the public domain at the time of disclosure to a Receiving
11 Party or becomes part of the public domain after its disclosure to a Receiving Party as a result of
12 publication not involving a violation of this Order, including becoming part of the public record
13 through trial or otherwise; and (b) any information known to the Receiving Party prior to the
14 disclosure or obtained by the Receiving Party after the disclosure from a source who obtained the
15 information lawfully and under no obligation of confidentiality to the Designating Party. Any use of
16 Protected Material at trial shall be governed by a separate agreement or order.

17 4. DURATION

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

24 5. DESIGNATING PROTECTED MATERIAL

25 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party or
26 Non-Party that designates information or items for protection under this Order must take care to
27 limit any such designation to specific material that qualifies under the appropriate standards. The
28 Designating Party must designate for protection only those parts of material, documents, items, or

1 oral or written communications that qualify – so that other portions of the material, documents,
2 items, or communications for which protection is not warranted are not swept unjustifiably within
3 the ambit of this Order.

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

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

11 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order
12 (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered,
13 Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so
14 designated before the material is disclosed or produced.

15 Designation in conformity with this Order requires:

16 (a) for information in documentary form (e.g., paper or electronic documents, but
17 excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing Party
18 affix the legend “CONFIDENTIAL – Subject to Protective Order in Martinez v. Tulare County, et
19 al., United States District Court, Eastern District of California, Case No.: 16-cv-01140-DAD-SKO”
20 to each page that contains protected material. A Party or Non-Party that makes original documents
21 or materials available for inspection need not designate them for protection until after the inspecting
22 Party has indicated which material it would like copied and produced. During the inspection and
23 before the designation, all of the material made available for inspection shall be deemed
24 “CONFIDENTIAL.” After the inspecting Party has identified the documents it wants copied and
25 produced, the Producing Party must determine which documents, or portions thereof, qualify for
26 protection under this Order. Then, before producing the specified documents, the Producing Party
27 must affix the “CONFIDENTIAL – Subject to Protective Order in Martinez v. Tulare County, et al.,
28 United States District Court, Eastern District of California, Case No.: 16-cv-01140-DAD-SKO”

1 legend to each page that contains Protected Material. If only a portion or portions of the material on
2 a page qualifies for protection, the Producing Party also must clearly identify the protected
3 portion(s) (e.g., by making appropriate markings in the margins).

4 (b) for testimony given in deposition or in other pretrial or trial proceedings, that the
5 Designating Party identify on the record, before the close of the deposition, hearing, or other
6 proceeding, all protected testimony, or alternatively, that the Designating Party identify protected
7 testimony by notifying all Parties, in writing, of the specific pages and lines of the transcript or
8 recording that should be protected, within 14 days of receipt of a transcript or recording of a
9 deposition. All transcripts or recordings of depositions shall be treated as protected for 14 days after
10 receipt of the transcript or recording, or until either written notice of confidentiality designations by
11 any Party or written notice that no such designations will be made is received from such Parties,
12 whichever occurs first.

13 (c) for information produced in some form other than documentary and for any other
14 tangible items, that the Producing Party affix in a prominent place on the exterior of the container or
15 containers in which the information or item is stored the legend “CONFIDENTIAL – Subject to
16 Protective Order in Martinez v. Tulare County, et al., United States District Court, Eastern District
17 of California, Case No.: 16-cv-01140-DAD-SKO.” If only a portion or portions of the information
18 or item warrant protection, the Producing Party, to the extent practicable, shall identify the protected
19 portion(s).

20 5.3 Inadvertent Failures to Designate. An inadvertent failure to designate qualified
21 information or items does not waive the Designating Party’s right to secure protection under this
22 Order for such material. Upon correction of a designation, the Receiving Party must make
23 reasonable efforts to assure that the material is treated in accordance with the provisions of this
24 Order.

25 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

26 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of
27 confidentiality at any time. Unless a prompt challenge to a Designating Party’s confidentiality
28 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic

1 burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to
2 challenge a confidentiality designation by electing not to mount a challenge promptly after the
3 original designation is disclosed.

4 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process
5 by providing written notice of each designation it is challenging and describing the basis for each
6 challenge. To avoid ambiguity as to whether a challenge has been made, the written notice must
7 recite that the challenge to confidentiality is being made in accordance with this specific paragraph
8 of the Protective Order. The parties shall attempt to resolve each challenge in good faith and must
9 begin the process by conferring directly via telephone within three days of the date of receipt of
10 notice. In conferring, the Challenging Party must explain the basis for its belief that the
11 confidentiality designation was not proper and must give the Designating Party an opportunity to
12 review the designated material, to reconsider the circumstances, and, if no change in designation is
13 offered, to explain the basis for the chosen designation. A Challenging Party may proceed to the
14 next stage of the challenge process only if it has engaged in this meet and confer process first or
15 establishes that the Designating Party is unwilling to participate in the meet and confer process in a
16 timely manner.

17 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court
18 intervention, the Challenging Party may file a motion challenging a confidentiality designation
19 within fourteen days of the initial notice of challenge or within seven days of the parties agreeing
20 that the meet and confer process will not resolve their dispute (or, if one party refuses entirely to
21 participate, within seven days of reaching an impasse after making reasonable efforts to obtain the
22 other party's participation), whichever is later, if there is good cause for the challenge. Any motion
23 brought pursuant to this provision must be accompanied by a competent declaration affirming that
24 the movant has complied with the meet and confer requirements imposed by the preceding
25 paragraph.

26 The burden of persuasion in any such challenge proceeding shall be on the Designating
27 Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose
28 unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions.

1 All parties shall continue to afford the material in question the level of protection to which it is
2 entitled under the Producing Party's designation until the court rules on the challenge.

3 7. ACCESS TO AND USE OF PROTECTED MATERIAL

4 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or
5 produced by another Party or by a Non-Party in connection with this case only for prosecuting,
6 defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to
7 the categories of persons and under the conditions described in this Order. When the litigation has
8 been terminated, a Receiving Party must comply with the provisions of section 13 below (FINAL
9 DISPOSITION).

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

12 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered
13 by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any
14 information or item designated "CONFIDENTIAL" only to:

15 (a) the Receiving Party's Outside Counsel of Record in this action, as well as employees
16 of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information
17 for this litigation and who have signed the "Acknowledgment and Agreement to Be Bound" that is
18 attached hereto as Exhibit A;

19 (b) the officers, directors, and employees (including House Counsel) of the Receiving
20 Party to whom disclosure is reasonably necessary for this litigation and who have signed the
21 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

22 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is
23 reasonably necessary for this litigation and who have signed the "Acknowledgment and Agreement
24 to Be Bound" (Exhibit A);

25 (d) the court and its personnel;

26 (e) court reporters and their staff, professional jury or trial consultants, mock jurors, and
27 Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have
28 signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

1 (f) during their depositions, witnesses in the action to whom disclosure is reasonably
2 necessary and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A),
3 unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed
4 deposition testimony or exhibits to depositions that reveal Protected Material must be separately
5 bound by the court reporter and may not be disclosed to anyone except as permitted under this
6 Stipulated Protective Order.

7 (g) the author or recipient of a document containing the information or a custodian or
8 other person who otherwise possessed or knew the information.

9 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
10 LITIGATION

11 If a Party is served with a subpoena or a court order issued in other litigation that compels
12 disclosure of any information or items designated in this action as “CONFIDENTIAL,” that Party
13 must:

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

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

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

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

28 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS

1 LITIGATION

2 (a) The terms of this Order are applicable to information produced by a Non-Party in
3 this action and designated as “CONFIDENTIAL.” Such information produced by Non-Parties in
4 connection with this litigation is protected by the remedies and relief provided by this Order.
5 Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional
6 protections.

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

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

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

15 (3) make the information requested available for inspection by the Non-Party.

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

23 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

24 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected
25 Material to any person or in any circumstance not authorized under this Stipulated Protective Order,
26 the Receiving Party must immediately (a) notify in writing the Designating Party of the
27 unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected
28 Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the

1 terms of this Order, and (d) request such person or persons to execute the “Acknowledgment and
2 Agreement to Be Bound” that is attached hereto as Exhibit A.

3 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
4 MATERIAL

5 When a Producing Party gives notice to Receiving Parties that certain inadvertently
6 produced material is subject to a claim of privilege or other protection, the obligations of the
7 Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B).

8 12. MISCELLANEOUS

9 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to
10 seek its modification by the court in the future.

11 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order
12 no Party waives any right it otherwise would have to object to disclosing or producing any
13 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no
14 Party waives any right to object on any ground to use in evidence of any of the material covered by
15 this Protective Order.

16 12.3 Filing Protected Material. Without written permission from the Designating Party or
17 a court order secured after appropriate notice to all interested persons, a Party may not file in the
18 public record in this action any Protected Material. A Party that seeks to file under seal any
19 Protected Material must comply with Civil Local Rule 141. Protected Material may only be filed
20 under seal pursuant to a court order authorizing the sealing of the specific Protected Material at
21 issue. If a Receiving Party's request to file Protected Material under seal pursuant to Civil Local
22 Rule 141 is denied by the court, then the Receiving Party may file the information in the public
23 record pursuant to Civil Local Rule 141 unless otherwise instructed by the court.

24 13. FINAL DISPOSITION

25 Within 60 days after the final disposition of this action, as defined in paragraph 4, each
26 Receiving Party must return all Protected Material to the Producing Party or destroy such material.
27 As used in this subdivision, “all Protected Material” includes all copies, abstracts, compilations,
28 summaries, and any other format reproducing or capturing any of the Protected Material. Whether

1 the Protected Material is returned or destroyed, the Receiving Party must submit a written
2 certification to the Producing Party (and, if not the same person or entity, to the Designating Party)
3 by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected Material
4 that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies,
5 abstracts, compilations, summaries or any other format reproducing or capturing any of the
6 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy
7 of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda,
8 correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant
9 and expert work product, even if such materials contain Protected Material. Any such archival
10 copies that contain or constitute Protected Material remain subject to this Protective Order as set
11 forth in Section 4 (DURATION).

12 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

14 DATED: April 4, 2017

/s/Caitlin Sinclair Blythe
CAITLIN SINCLAIRE BLYTHE
Attorneys for Plaintiff

17 DATED: April 4, 2017

/s/Robert A. Ortiz (as authorized 04/04/2017)
ROBERT A. ORTIZ
Attorneys for Defendant

20 **ORDER**

21 IT IS SO ORDERED.

22 Dated: April 5, 2017

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Eastern District of California on [date] in the case of Maria Eva Martinez v. Tulare County, San Diego County, and DOES 1-100, No. 16-cv-01140-DAD-SKO. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Eastern District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

I hereby appoint _____ [print or type full name] of _____ [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____