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10 Attorneys for Plaintiff Thomas Clinton

11 **UNITED STATES DISTRICT COURT**  
12 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

13  
14 THOMAS CLINTON, an individual,  
15 Plaintiff,

16 v.

17 Cooper, an individual,  
18 Dixon, an individual  
19 R. SHERER, an individual,  
20 Defendant.  
21

Case No.: 2:05-CV-01600-JAM-DMC  
**PROTECTIVE ORDER**  
**DISCOVERY MATTER**

1 IT IS HEREBY ORDERED that the following Protective Order be entered in this Action:

2 1. PURPOSES AND LIMITATIONS

3 Disclosure and discovery activity in this action are likely to involve production of  
4 confidential, sensitive, propriety, security sensitive, or private information for which special  
5 protection from public disclosure and from use for any purpose other than prosecuting this litigation  
6 may be warranted. Accordingly, the Parties hereby stipulate to and petition the court to enter the  
7 following Stipulated Protective Order. The Parties acknowledge that this Order does not confer  
8 blanket protections on all disclosures or responses to discovery and that the protection it affords  
9 from public 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 acknowledge, as set  
11 forth in Section 12.3 below, that this Stipulated Protective Order does not automatically entitle them  
12 to file confidential information under seal.

13 2. DEFINITIONS

14 2.1 Challenging Party: a Party or Non-Party that challenges the designation of  
15 information or items under this Order.

16 2.2 “CONFIDENTIAL” Information or Items: information designated as  
17 “CONFIDENTIAL” (regardless of how it is generated, stored, or maintained) shall mean and  
18 include any document, thing, deposition testimony, interrogatory answers, responses to requests for  
19 admissions and requests for production, disclosures pursuant to Federal Rule of Civil Procedure 26,  
20 or other information provided in discovery or settlement communications and negotiations in this  
21 Action, which contains information that is non-public, confidential, and/or sensitive.

22 Certain limited types of “CONFIDENTIAL” information may be further designated, as  
23 defined and detailed below, as “Confidential Attorneys’ Eyes Only Information.”

24 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items:  
25 extremely sensitive “Confidential Information or Items,” disclosure of which to another Party or  
26 Non-Party would create a substantial risk of harm that could not be avoided by less restrictive  
27 means. This type of information and items include, for example, Plaintiff’s or third parties’ highly  
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1 sensitive and private confidential prison files and associated personal legal, medical, or other  
2 personal information, or other highly sensitive financial or personal information.

3       Highly Confidential information may concern or relate to the processes, operations,  
4 investigations, or other information relating to the California Department of Corrections and  
5 Rehabilitation, disclosure of which may have the effect of causing harm to the safety and security of  
6 law enforcement officers, the public, or Defendants. Highly Confidential information also concerns  
7 or relates to the personal information of any Defendant, including but not limited to home address,  
8 social security number, telephone number, email address, names or identifying information of family  
9 members, the disclosure of which places the safety any Defendant, whom are each former peace  
10 officers, and their family members at risk. Highly Confidential information also includes all  
11 personal identifying information of any current or former California Department of Corrections  
12 employee, and any third party entitled to confidential protection of personal identifying information  
13 under California and/or applicable federal law. Defendants reserve the right to redact such personal  
14 identifying information from any document.

15       2.3     Counsel: Outside Counsel of Record and House Counsel (as well as their support  
16 staff).

17       2.4     Designating Party: a Party or Non-Party that designates information or items that it  
18 produces in disclosures or in responses to discovery as “CONFIDENTIAL” or “HIGHLY  
19 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

20       2.5     Disclosure or Discovery Material: all items or information, regardless of the medium  
21 or manner in which it is generated, stored, or maintained (including, among other things, testimony,  
22 transcripts, and tangible things), that are produced or generated in disclosures or responses to  
23 discovery in this matter.

24       2.6     Expert: a person with specialized knowledge or experience in a matter pertinent to the  
25 litigation who (1) has been retained by a Party or its counsel to serve as an expert witness or as a  
26 consultant in this action.

27       2.7     House Counsel: attorneys who are, or were, employers of a party to this action.  
28 House Counsel does not include Outside Counsel of Record or any other outside counsel.

1           2.8     Party: any party to this action, including consultants, retained experts, House  
2           Counsel, and Outside Counsel of record (and their support staffs).

3           2.9     Non-Party: any natural person, partnership, corporation, association, or other entity  
4           not named as a party to this action.

5           2.10    Outside Counsel of Record: attorneys who are not employees of a party to this action  
6           but are retained to represent or advise a party to this action and have appeared in this action on  
7           behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.

8           2.11    Producing Party: a Party or Non-Party that produces or provides Disclosure or  
9           Discovery Material in this action.

10          2.12    Professional Vendors: persons or entities that provide litigation support services (e.g.,  
11          photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing,  
12          storing, or retrieving data in any form or medium) and their employees and subcontractors.

13          2.13    Protected Material: any Disclosure or Discovery Material that is designated as  
14          “CONFIDENTIAL,” or as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

15          2.14    Receiving Party: a Party that receives Disclosure or Discovery Material from a  
16          Producing Party.

17         3.     SCOPE

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

3 4. DURATION

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

10 5. DESIGNATING PROTECTED MATERIAL

11 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party or  
12 Non-Party that designates information or items for protection under this Order must take care to  
13 limit any such designation to specific material that qualifies under the appropriate standards. The  
14 Designating Party must designate for protection only those parts of material, documents, items, or  
15 communications that qualify – so that other portions of the material, documents, items, or  
16 communications for which protection is not warranted are not swept unjustifiably within the ambit of  
17 this Order.

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

22 If it comes to a Designating Party's attention that information or items that it designated for  
23 protection do not qualify for protection, or do not qualify for the level of protection initially  
24 asserted, that Designating Party must promptly notify all other parties that it is withdrawing the  
25 inapplicable designation.

26 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order (see,  
27 e.g., second paragraph of Section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or  
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1 Discovery Material that qualifies for protection under this Order must be clearly so designated  
2 before the material is disclosed or produced. Designation in conformity with this Order requires:

3 (a) for information in documentary form (e.g., paper or electronic documents, but excluding  
4 transcripts of depositions or other pretrial or trial proceedings), that the Producing Party  
5 affix the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
6 ONLY” to each page that contains protected material. In addition to the legend, all personally  
7 identifying information other than a person’s last name with first initial, and position, will be  
8 redacted. If only a portion or portions of the material on a page qualifies for protection, the  
9 Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate  
10 markings in the margins) and must specify, for each portion, the level of protection being asserted.

11 If only a portion or portions of the material on a page qualifies for protection, the Producing  
12 Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the  
13 margins) and must specify, for each portion, the level of protection being asserted.

14 (b) for testimony given in deposition or in other pretrial or trial proceedings, that the  
15 Designating Party identify on the record, before the close of the deposition, hearing, or other  
16 proceeding, all protected testimony and specify the level of protection being asserted. When it is  
17 impractical to identify separately each portion of testimony that is entitled to protection or it appears  
18 that substantial portions of the testimony may qualify for protection, the Designating Party may  
19 invoke on the record (before the deposition, hearing, or other proceeding is concluded) a right to  
20 have up to 21 days from the date the deposition transcript is received by counsel for the Designating  
21 Party to identify the specific portions of the testimony as to which protection is sought and to specify  
22 the level of protection being asserted. Only those portions of the testimony that are appropriately  
23 designated for protection within the 21 days from the date the deposition transcript is received by  
24 counsel for the Designating Party shall be covered by the provisions of this Stipulated Protective  
25 Order. Alternatively, a Designating Party may specify, at the deposition or up to 21 days from the  
26 date the deposition transcript is received by counsel for the Designating Party if that period is  
27 properly invoked, that the entire transcript shall be treated as “CONFIDENTIAL” or “HIGHLY  
28 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” Parties shall give the other parties notice if

1 they reasonably expect a deposition, hearing or other proceeding to include Protected Material so  
2 that the other parties can ensure that only authorized individuals who have signed the  
3 “Acknowledgment and Agreement to Be Bound” (Exhibit A) are present at those proceedings. The  
4 use of a document as an exhibit at a deposition shall not in any way affect its designation as  
5 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

6 Transcripts containing Protected Material shall have an obvious legend on the title page that  
7 the transcript contains Protected Material, and the title page shall be followed by a list of all pages  
8 (including line numbers as appropriate) that have been designated as Protected Material and the level  
9 of protection being asserted by the Designating Party. The Designating Party shall inform the court  
10 reporter of these requirements.

11 (c) for information produced in some form other than documentary and for any other tangible  
12 items, that the Producing Party affix in a prominent place on the exterior of the container or  
13 containers in which the information or item is stored the legend “CONFIDENTIAL” or “HIGHLY  
14 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” If only a portion or portions of the information  
15 or item warrant protection, the Producing Party, to the extent practicable, shall identify the protected  
16 portion(s) and specify the level of protection being asserted.

17 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to  
18 designate qualified information or items does not, standing alone, waive the Designating Party’s  
19 right to secure protection under this Order for such material. Upon timely correction of a  
20 designation, the Receiving Party must make reasonable efforts to assure that the material is treated in  
21 accordance with the provisions of this Order.

## 22 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

23 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of  
24 confidentiality at any time that is consistent with the court’s scheduling order. Unless a prompt  
25 challenge to a Designating Party’s confidentiality designation is necessary to avoid foreseeable,  
26 substantial unfairness, unnecessary economic burdens, or a significant disruption or delay of the  
27 litigation, a Party does not waive its right to challenge a confidentiality designation by electing not to  
28 mount a challenge promptly after the original designation is disclosed.

1           6.2     Meet and Confer. The Challenging Party shall initiate the dispute resolution process  
2 by providing written notice of each designation it is challenging and describing the basis for each  
3 challenge. To avoid ambiguity as to whether a challenge has been made, the written notice must  
4 recite that the challenge to confidentiality is being made in accordance with this specific paragraph  
5 of the Protective Order. The parties shall attempt to resolve each challenge in good faith and must  
6 begin the process by conferring directly (in voice to voice dialogue; other forms of communication  
7 are not sufficient) within 14 days of the date of service of notice, or within 10 days if it is the  
8 electronic service of discovery. In conferring, the Challenging Party must explain the basis for its  
9 belief that the confidentiality designation was not proper and must give the Designating Party an  
10 opportunity to review the designated material, to reconsider the circumstances, and, if no change in  
11 designation is offered, to explain the basis for the chosen designation. A Challenging Party may  
12 proceed to the next stage of the challenge process only if it has engaged in this meet and confer  
13 process first or establishes that the Designating Party is unwilling to participate in the meet and  
14 confer process in a timely manner.

15           6.3     Informal Judicial Intervention: If the Parties cannot resolve a challenge without court  
16 intervention,

17           (a) the Parties may stipulate to an Informal Telephonic Conference whereby Judge  
18 Cota will resolve discovery disputes outside the formal Local Rule 251 procedures.

19           (b) after obtaining the available dates and times from the courtroom deputy and  
20 agreeing upon a date and time with opposing counsel, confirm with the courtroom deputy when the  
21 parties will be calling in. All parties must appear telephonically.

22           (c) at least 48 hours before the conference, the parties shall email chambers a two-page  
23 synopsis of their dispute in a letter or memo format (no exhibits or attachments). Email  
24 dmcorders@caed.uscourts.gov.

25           6.4     Formal Judicial Intervention: If the Parties cannot resolve a challenge during the  
26 Informal Telephonic Conference, or if they do not so stipulate, the Designating Party shall file and  
27 serve a motion to retain confidentiality under Civil Local Rule 251 (and in compliance with Civil  
28 Local Rule 141, if applicable) within 21 days of the Informal Telephonic Conference, if the Parties



1 so stipulate, or within 14 days of the parties agreeing that the meet and confer process will not  
2 resolve their dispute, if the Parties do not stipulate to the Informal Telephonic Conference. Each  
3 such motion must be accompanied by a competent declaration affirming that the movant has  
4 complied with the meet and confer requirements imposed in Paragraph 6.2. The joint statement re  
5 discovery disagreement under Rule 251(a) shall be filed seven (7) days before the scheduled hearing  
6 date (i.e., the Friday before the customary Friday hearing). Any motion will be dropped from  
7 calendar if the statement is not timely filed, and courtesy copies of all motion-related documents,  
8 including the 251 statement, declarations, and exhibits (see section 1(d) above), are not delivered to  
9 the Clerk's Office by 9:00 a.m. on the fourth (4th) day (Monday) prior to the hearing (customarily  
10 on Friday).

11 Failure by the Designating Party to make such a motion including the required declaration  
12 within 21 days (or 14 days, if applicable) shall automatically waive the confidentiality designation  
13 for each challenged designation. In addition, the Challenging Party may file a motion challenging a  
14 confidentiality designation at any time if there is good cause for doing so, including a challenge to  
15 the designation of a deposition transcript or any portions thereof. Any motion brought pursuant to  
16 this provision must be accompanied by a competent declaration affirming that the movant has  
17 complied with the meet and confer requirements imposed by the preceding paragraph.

18 The burden of persuasion in any such challenge proceeding shall be on the Designating  
19 Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose  
20 unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions.  
21 Unless the Designating Party has waived the confidentiality designation by failing to file a motion to  
22 retain confidentiality as described above, all parties shall continue to afford the material in question  
23 the level of protection to which it is entitled under the Producing Party's designation until the court  
24 rules on the challenge.

## 25 7. ACCESS TO AND USE OF PROTECTED MATERIAL

26 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or  
27 produced by another Party or by a Non-Party in connection with this case only for prosecuting,  
28 defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to

1 the categories of persons and under the conditions described in this Order. When the litigation has  
2 been terminated, a Receiving Party must comply with the provisions of Section 13 below (FINAL  
3 DISPOSITION).

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

6 7.2 Disclosure of “CONFIDENTIAL” or HIGHLY CONFIDENTIAL – ATTORNEY’S  
7 EYES ONLY Information or Items. Unless otherwise ordered by the court or permitted in writing by  
8 the Designating Party, a Receiving Party may disclose any information or item designated  
9 “CONFIDENTIAL” only to:

10 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as employees of  
11 said Outside Counsel of Record;

12 (b) the officers, directors, and employees of the Receiving Party to whom disclosure is  
13 reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement  
14 to Be Bound” (Exhibit A);

15 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is  
16 reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement  
17 to Be Bound” (Exhibit A);

18 (d) the court and its personnel;

19 (e) court reporters and their staff, professional jury or trial consultants, and Professional  
20 Vendors to whom disclosure is reasonably necessary for this litigation and who have signed the  
21 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

22 (f) during their depositions, witnesses in the action to whom disclosure is reasonably  
23 necessary and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A),  
24 unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed  
25 deposition testimony or exhibits to depositions that reveal Protected Material must be separately  
26 bound by the court reporter and may not be disclosed to anyone except as permitted under this  
27 Stipulated Protective Order.  
28

1 (g) the author or recipient of a document containing the information or a custodian or other  
2 person who otherwise possessed or knew the information, including if such author or recipient is a  
3 deponent, even if such deponent does not sign Exhibit A.

4 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER  
5 LITIGATION:

6 If a Party is served with a subpoena or a court order issued in other litigation that compels  
7 disclosure of any information or items designated in this action as “CONFIDENTIAL” or “HIGHLY  
8 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” that Party must:

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

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

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

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

24 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS  
25 LITIGATION:

26 (a) The terms of this Order are applicable to information produced by a Non-Party in this  
27 action and designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’  
28 EYES ONLY.” Such information produced by Non-Parties in connection with this litigation is

1 protected by the remedies and relief provided by this Order. Nothing in these provisions should be  
2 construed as prohibiting a Non-Party from seeking additional protections.

3 (b) In the event that a Party is required, by a valid discovery request, to produce a Non-  
4 Party's confidential information in its possession, and the Party is subject to an agreement with the  
5 Non-Party not to produce the Non-Party's confidential information, then the Party shall; and

6 1. promptly notify in writing the Requesting Party and the Non-Party that some  
7 or all of the information requested is subject to a confidentiality agreement with a Non-Party;

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

11 3. make the information requested available for inspection by the Non-Party.

12 (c) If the Non-Party fails to object or seek a protective order from this court within 14  
13 days of receiving the notice and accompanying information, the Receiving Party may produce the  
14 Non-Party's confidential information responsive to the discovery request. If the Non-Party timely  
15 seeks a protective order, the Receiving Party shall not produce any information in its possession or  
16 control that is subject to the confidentiality agreement with the Non-Party before a determination by  
17 the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of  
18 seeking protection in this court of its Protected Material. Nothing in this provision shall prohibit a  
19 party from seeking a court order to enable it to produce a Non-Party's confidential information in  
20 order to confirm it is not breaching a contract.

## 21 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

22 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected  
23 Material to any person or in any circumstance not authorized under this Stipulated Protective Order,  
24 the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized  
25 disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c)  
26 inform the person or persons to whom unauthorized disclosures were made of all the terms of this  
27 Order, and (d) request such person or persons to execute the "Acknowledgment and Agreement to  
28 Be Bound" that is attached hereto as Exhibit A.

1 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED  
2 MATERIAL

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

11 12. MISCELLANEOUS

12 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek  
13 its modification by the court in the future.

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

19 12.3 Filing Protected Material. Without written permission from the Designating Party or a  
20 court order secured after appropriate notice to all interested persons, a Party may not file in the  
21 public record in this action any Protected Material. A Party that seeks to file under seal any Protected  
22 Material must comply with all applicable Local Rules for the Eastern District of California.  
23 Protected Material may only be filed under seal pursuant to a court order authorizing the sealing of  
24 the specific Protected Material at issue.

25 12.4 Court and Court Personnel. The Court and its personnel are not subject to this Order  
26 and are not required to sign Exhibit A.

27 12.5 Disclosure Prior to Entry of this Order. If a Party decides to produce information or  
28 documents subject to this Order before the Court has signed this Order, the Party may nonetheless

1 designate such information or documents pursuant to this Order as if it had already been entered and,  
2 once the Order is executed, it will be deemed retroactive to the date of the Party's production of such  
3 information or documents.

4 13. FINAL DISPOSITION

5 Within 60 days after the final disposition of this action, as defined in Paragraph 4, each  
6 Receiving Party must return all Protected Material to the Producing Party or destroy such material.  
7 As used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations,  
8 summaries, and any other format reproducing or capturing any of the Protected Material. Whether  
9 the Protected Material is returned or destroyed, the Receiving Party must submit a written  
10 certification to the Producing Party (and, if not the same person or entity, to the Designating Party)  
11 by the 60-day deadline that (1) identifies (by category, where appropriate) all the Protected Material  
12 that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies,  
13 abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected  
14 Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all  
15 pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda,  
16 correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant  
17 and expert work product, even if such materials contain Protected Material. Any such archival copies  
18 that contain or constitute Protected Material remain subject to this Protective Order as set forth in  
19 Paragraph 4.

20 IT IS SO STIPULATED BY AND THROUGH COUNSEL OF RECORD.

21 Dated: April 6, 2020

K&L GATES LLP

22  
23 By: /s/Armando V. Arballo  
ARMANDO V. ARBALLO  
24 Attorneys for Plaintiff T. Clinton  
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Dated: April 6, 2020

XAVIER BECERRA  
  
Attorney General of California  
R. LAWRENCE BRAGG  
Supervising Deputy Attorney General

/s/ Kelli M. Hammond  
KELLI M. HAMMOND  
Deputy Attorney General  
*Attorneys for Defendants  
Sherer, Dixon, and Cooper*

IT IS SO ORDERED.

Dated: April 8, 2020



—  
DENNIS M. COTA  
UNITED STATES MAGISTRATE  
JUDGE

1 EXHIBIT A

2 ACKNOWLEDGEMENT AND AGREEMENT TO BE BOUND

3 I, \_\_\_\_\_ [print or type full name], of \_\_\_\_\_  
4 [print or type full address], declare under penalty of perjury that I have read in its entirety and  
5 understand the Stipulated Protective Order that was issued by the United States District Court for the  
6 Eastern District of California on \_\_\_\_\_ in the case of \_\_\_\_\_ [**insert formal name of**  
7 **the case and the number and initials assigned to it by the court**]. I agree to comply with and to be  
8 bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that  
9 failure to so comply could expose me to sanctions and punishment in the nature of contempt. I  
10 solemnly promise that I will not disclose in any manner any information or item that is subject to this  
11 Stipulated Protective Order to any person or entity except in strict compliance with the provisions of  
12 this Order.

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

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

20 Date: \_\_\_\_\_

21 City and State where sworn and signed: \_\_\_\_\_

22  
23 Printed name: \_\_\_\_\_

24 [printed name]

25 Signature: \_\_\_\_\_

26 [signature]