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12 UNITED STATES DISTRICT COURT  
 13 EASTERN DISTRICT OF CALIFORNIA

14 U.S. EQUAL EMPLOYMENT OPPORTUNITY  
 COMMISSION,

Case No.: 2:13-cv-0577-KJM-EFB

15 Plaintiff,

**JOINT STIPULATION FOR  
 PROTECTIVE ORDER AND NON-  
 DISCLOSURE AGREEMENT TO  
 GOVERN PRODUCTION OF EXPERT  
 WITNESS’S TESTING MATERIALS  
 AND PROTOCOLS PURSUANT TO FED.  
 R. CIV. P. 26(c) AND LOCAL RULE 143**

16 vs.

18 PLACER ARC d/b/a PLACER ADVOCACY  
 RESOURCES & CHOICES,

19 Defendant.

The Honorable Kimberly J. Mueller  
 Magistrate Judge Edmund F. Brennan

23 Whereas Defendant Placer ARC noticed Plaintiff’s expert witness, Dr. Shana Williams, for  
 24 deposition on December 15, 2014, and attached a request for production of documents pursuant to  
 25 Federal Rule of Civil Procedure 34,

26 Whereas Defendant has requested that Plaintiff EEOC produce from Dr. Williams all  
 27 documents that comprise the one or more Comprehensive Test of Nonverbal Intelligence (CTONI-  
 28 2), Wechsler Individual Achievement Test(s) (WIAT-II), and Validity Indicator Profile(s) (VIP) and

1 all documents that comprise or reflect the ratings or scores (together “testing materials and  
2 protocols”) given to Homeyra Kazerounian in regard to these tests,

3         Whereas Defendant seeks to obtain Dr. Williams’ psychological test materials and protocols  
4 used within the industry to evaluate the opinions she will attest to during a trial on the merits of this  
5 action and Dr. Williams has relied upon these test materials and protocols in reaching her opinions,

6         Whereas Dr. Williams is a psychologist who has ethical obligations pursuant to the American  
7 Psychological Association (APA) Ethics Code, Standard 9, to protect the integrity and security of  
8 psychological test materials and protocols used within the industry, consistent with the law and her  
9 contractual obligations, and

10         Whereas Dr. Williams has objected to producing psychological testing materials and  
11 protocols used within the industry, citing her ethical and contractual obligations under the APA to  
12 protect the integrity of these documents, and has informed Plaintiff EEOC that she will not produce  
13 these documents absent a court order or protective order,

14         IT IS HEREBY STIPULATED by and between the undersigned counsel that, pursuant to  
15 Rule 26(c) of the Federal Rules of Civil Procedure and Local Rule 143 of the Eastern District of  
16 California, this Court approve the following Protective Order and Non-Disclosure Agreement which  
17 shall govern the production of Dr. Williams’ testing materials and protocols to Defendant:

- 18         1. Defendant and counsel agree that they will treat Dr. Williams’ testing materials and  
19 protocols as confidential materials “for attorneys’ eyes only,” and Defendant’s counsel  
20 agrees that it will not disclose, distribute, disseminate or communicate the content of Dr.  
21 Williams’ testing materials or protocols in any manner to anyone other than Defendant’s  
22 counsel and its paralegals, assistants or other such personnel working under its  
23 supervision, or to a licensed psychologist retained to assist Defendant in the preparation  
24 and trial of this litigation who, in good faith, it determines needs to view such ~~proprietary~~  
25 **confidential** materials for purposes of this litigation.
- 26         2. Defendant and counsel agree that they will utilize the test materials exclusively for  
27 purposes of this litigation.

28         ////

- 1 3. The information subject to this order shall be marked “Confidential” and is protected  
2 from disclosure to the public regardless of whether it is conveyed by or contained in a  
3 document produced, stated in answer to an interrogatory or request for admission,  
4 disclosed in an oral deposition by a party or a non-party in the course of discovery in this  
5 proceeding, or disclosed pursuant to a voluntary agreement among counsel.
- 6 4. All persons reviewing or receiving copies of confidential documents are enjoined from  
7 disclosing the contents thereof to any other person other than for the prosecution or  
8 defense of this action, except in conformity of this Protective Order, and hereby agree to  
9 subject themselves to the jurisdiction of the Court for the purpose of any proceeding  
10 relating to the performance under, compliance with, or violation of this Protective order.
- 11 5. Defendant and counsel agree that within 30 days after receipt of written notice of the  
12 final disposition of this lawsuit, whether by judgment and exhaustion of all appeals, or by  
13 settlement, they will return all of Dr. Williams’ confidential testing materials and  
14 protocols to her without retaining any copies of same.
- 15 6. In the event that either party wishes to file with the court materials marked “Confidential”  
16 subject to this Protective Order, as an exhibit to a pleading or otherwise, the party shall  
17 first seek an order to file under seal pursuant to Local Rule 141. **Any motion for a**  
18 **sealing order shall be directed to Judge Mueller.** The Request to Seal Documents shall  
19 refer to this Stipulation and Protective Order.

20 **EQUAL EMPLOYMENT**  
21 **OPPORTUNITY COMMISSION**

**REDIGER, McHUGH & OWENSBY, LLP**

22 /s/ Debra A. Smith  
23 DEBRA A. SMITH  
24 Attorney for Plaintiff

/s/ Robert L. Rediger  
ROBERT L. REDIGER  
Attorney for Defendant Placer ARC

25 DATED: December 15, 2014.

DATED: December 15, 2014.

26 **As modified above, IT IS SO ORDERED.**

27 DATED: December 15, 2014.

  
EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE