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6 **IN THE UNITED STATES DISTRICT COURT**  
 7 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
 8 **SACRAMENTO DIVISION**

9  
 10 Tammy Saling, an individual,  
 Plaintiff  
 11 v.  
 12 Keith Royal, Sheriff Nevada County,  
 13 California; and  
 14 Gayle Satchwell, Director Human  
 15 Resources, Nevada County, California,  
 16 Defendants.

CASE NO. 2:13-CV-001039 TLN EFB

**[PROPOSED] STIPULATED  
 PROTECTIVE ORDER**

17  
 18 **1. Purposes and Limitations**

19 Disclosure and discovery activity in this action are likely to involve  
 20 production of confidential, proprietary, or private information for which special  
 21 protection from public disclosure and from use for any purpose other than  
 22 prosecuting this litigation may be warranted. Accordingly, the parties hereby  
 23 stipulate to and petition the court to enter the following Stipulated Protective  
 24 Order. The parties acknowledge that this Order does not confer blanket protections  
 25 on all disclosures or responses to discovery and that the protection it affords from  
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1 public disclosure and use extends only to the limited information or items that are  
2 entitled to confidential treatment under the applicable legal principles. The parties  
3 further acknowledge, as set forth in Section 14.4, below, that this Stipulated  
4 Protective Order does not entitle them to file confidential information under seal;  
5 Civil Local Rule 141 sets forth the procedures that must be followed and the  
6 standards that will be applied when a party seeks permission from the court to file  
7 material under seal.  
8

9  
10 **2. Definitions**

11 2.1 Challenging Party: a Party or Non-Party that challenges the  
12 designation of information or items under this Order.

13 2.2 "CONFIDENTIAL" Information or Items: information (regardless of  
14 how it is generated, stored or maintained) or tangible things that qualify for  
15 protection under Federal Rule of Civil Procedure 26(c).  
16

17 2.3 Designating Party: a Party or Non-Party that designates information  
18 or items that it produces in disclosures or in responses to discovery as  
19 "CONFIDENTIAL".  
20

21 2.4 Disclosure or Discovery Material: all items or information, regardless  
22 of the medium or manner in which it is generated, stored, or maintained (including,  
23 among other things, testimony, transcripts, and tangible things), that are produced  
24 or generated in disclosures or responses to discovery in this matter.  
25

26 2.5 Expert: a person with specialized knowledge or experience in a matter  
27 pertinent to the litigation who (1) has been retained by a Party or its counsel to  
28



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

20 Even after final disposition of this litigation, the confidentiality obligations  
21 imposed by this Order shall remain in effect until: (1) a Designating Party agrees  
22 otherwise in writing; (2) a court order otherwise directs; or (3) there is a complete  
23 return or demolition of all Protected Material pursuant to Section 12. Final  
24 disposition shall be deemed to be the later of (1) dismissal of all claims and defenses  
25 in this action, with or without prejudice; and (2) final judgment herein after the  
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1 completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of  
2 this action, including the time limits for filing any motions or applications for  
3 extension of time pursuant to applicable law.

#### 4 **5. Designating Protected Material**

##### 5 **5.1 Exercise of Restraint and Care in Designating Material for Protection**

6 Each Party or Non-Party that designates information or items for protection  
7 under this Order must take care to limit any such designation to specific material  
8 that qualifies under the appropriate standards. To the extent it is practical to do so,  
9 the Designating Party must designate for protection only those parts of material,  
10 documents, items, or oral or written communications that qualify - so that other  
11 portions of the material, documents, items, or communications for which protection  
12 is not warranted are not swept unjustifiably within the ambit of this Order.

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

18 If it comes to a Designating Party's attention that information or items that  
19 it designated for protection do not qualify for protection at all or do not qualify for  
20 the level of protection initially asserted, that Designating Party must promptly  
21 notify all other parties that it is withdrawing the mistaken designation.

##### 22 **5.2 Manner and Timing of Designations**

1 Except as otherwise provided in this Order (see, e.g., second paragraph of  
2 section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery  
3 Material that qualifies for protection under this Order must be clearly so  
4 designated before the material is disclosed or produced. Designation in conformity  
5 with this Order requires:  
6

7 (a) for information in documentary form (e.g., paper or electronic  
8 documents, but excluding transcripts of depositions or other pretrial or trial  
9 proceedings), that the Producing Party affix the legend "CONFIDENTIAL" to each  
10 page that contains protected material. If only a portion or portions of the material  
11 on a page qualifies for protection, the Producing Party also must clearly identify the  
12 protected portion(s) (e.g., by making appropriate markings in the margins) and  
13 must specify, for each portion, the level of protection being asserted. Alternatively,  
14 the Producing Party may designate an entire production or storage device (such as  
15 CD or flash drive) as confidential by including notice of such designation or  
16 including "CONFIDENTIAL" in the title of each designated file.  
17

18  
19 A Party or Non-Party that makes original documents or materials available for  
20 inspection need not designate them for protection until after the inspecting Party  
21 has indicated which material it would like copied and produced. During the  
22 inspection and before the designation, all of the material made available for  
23 inspection shall be deemed "CONFIDENTIAL". After the inspecting Party has  
24 identified the documents it wants copied and produced, the Producing Party must  
25 determine which documents, or portions thereof, qualify for protection under this  
26  
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1 Order. Then, before producing the specified documents, the Producing Party must  
2 affix the appropriate legend "CONFIDENTIAL" to each page that contains  
3 Protected Material. If only a portion or portions of the material on a page qualifies  
4 for protection, the Producing Party also must clearly identify the protected  
5 portion(s) (e.g., by making appropriate markings in the margins) and must specify,  
6 for each portion, the level of protection being asserted.  
7

8 (b) for testimony given in deposition or in other pretrial or trial  
9 proceedings, that the Designating Party identify on the record, before the close of  
10 the deposition, hearing, or other proceeding, or in a writing to all parties within 30  
11 business days of receipt of the deposition or hearing transcript, all protected  
12 testimony and specify the level of protection being asserted. A Designating Party  
13 may specify, at the deposition or up to 30 days afterwards, that the entire transcript  
14 shall be treated as "CONFIDENTIAL".  
15

16 Parties shall give the other parties notice if they reasonably expect a  
17 deposition, hearing or other proceeding to include Protected Material so that the  
18 other parties can ensure that only authorized individuals who have signed the  
19 "Acknowledgment and Agreement to Be Bound" (Exhibit A) are present at those  
20 proceedings. The use of a document as an exhibit at a deposition shall not in any  
21 way affect its designation as "CONFIDENTIAL".  
22

23 Transcripts containing Protected Material shall have an obvious  
24 legend on the title page that the transcript contains Protected Material, and the  
25 title page shall be followed by a list of all pages (including line numbers as  
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27

1 appropriate) that have been designated as Protected Material and the level of  
2 protection being asserted by the Designating Party. The Designating Party shall  
3 inform the court reporter of these requirements. Any transcript that is prepared  
4 before the expiration of a 30-day period for designation shall be treated during that  
5 period as if it had been designated "CONFIDENTIAL" in its entirety unless  
6 otherwise agreed. After the expiration of that period, the transcript shall be treated  
7 only as actually designated.  
8

9 (c) for information produced in some form other than documentary and  
10 for any other tangible items, that the Producing Party affix in a prominent place on  
11 the exterior of the container or containers in which the information or item is stored  
12 the legend "CONFIDENTIAL". If only a portion or portions of the information or  
13 item warrant protection, the Producing Party, to the extent practicable, shall  
14 identify the protected portion(s) and specify the level of protection being asserted.  
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### 17 5.3 Inadvertent Failures to Designate

18 If timely corrected, an inadvertent failure to designate qualified information  
19 or items does not, standing alone, waive the Designating Party's right to secure  
20 protection under this Order for such material. Upon timely correction of a  
21 designation, the Receiving Party must make reasonable efforts to assure that the  
22 material is treated in accordance with the provisions of this Order.  
23

## 24 6. Challenging Confidentiality Designations

### 25 6.1 Timing of Challenges

26 Any Party or Non-Party may challenge a designation of confidentiality at any  
27



1 time. Unless a prompt challenge to a Designating Party's confidentiality  
2 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary  
3 economic burdens, or a significant disruption or delay of the litigation, a Party does  
4 not waive its right to challenge a confidentiality designation by electing not to  
5 mount a challenge promptly after the original designation is disclosed.  
6

## 7 6.2 Meet and Confer

8 The Challenging Party shall initiate the dispute resolution process by  
9 providing written notice of each designation it is challenging and describing the  
10 basis for each challenge. To avoid ambiguity as to whether a challenge has been  
11 made, the written notice must recite that the challenge to confidentiality is being  
12 made in accordance with this specific paragraph of the Protective Order. The  
13 parties shall attempt to resolve each challenge in good faith and must begin the  
14 process by conferring directly (in voice to voice dialogue; other forms of  
15 communication are not sufficient) within 14 days of the date of service of notice. In  
16 conferring, the Challenging Party must explain the basis for its belief that the  
17 confidentiality designation was not proper and must give the Designating Party an  
18 opportunity to review the designated material, to reconsider the circumstances,  
19 and, if no change in designation is offered, to explain the basis for the chosen  
20 designation. A Challenging Party may proceed to the next stage of the challenge  
21 process only if it has engaged in this meet and confer process first or establishes  
22 that the Designating Party is unwilling to participate in the meet and confer  
23 process in a timely manner.  
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1           6.3     Judicial Intervention

2           If the Parties cannot resolve a challenge without court intervention, the  
3 Designating Party shall file and serve a motion to retain confidentiality within 21  
4 days of the initial notice of challenge or within 14 days of the parties agreeing that  
5 the meet and confer process will not resolve their dispute, whichever is earlier.

6           Each such motion must be accompanied by a competent declaration affirming that  
7 the movant has complied with the meet and confer requirements imposed in the  
8 preceding paragraph. Failure by the Designating Party to make such a motion  
9 including the required declaration within 21 days (or 14 days, if applicable) shall  
10 automatically waive the confidentiality designation for each challenged designation.

11           In addition, the Challenging Party may file a motion challenging a confidentiality  
12 designation at any time if there is good cause under FRCP 26(c), including a  
13 challenge to the designation of a deposition transcript or any portions thereof. Any  
14 motion brought pursuant to this provision must be accompanied by a competent  
15 declaration affirming that the movant has complied with the meet and confer  
16 requirements imposed by the preceding paragraph.

17           The burden of persuasion in any such challenge proceeding shall be on the  
18 Designating Party. Frivolous challenges and those made for an improper purpose  
19 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may  
20 expose the Challenging Party to sanctions. Unless the Designating Party has  
21 waived the confidentiality designation by failing to file a motion to retain  
22 confidentiality as described above, all parties shall continue to afford the material

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

3 **7. Access to and Use of Protected Material**

4 **7.1 Basic Principles**

5 A Receiving Party may use Protected Material that is disclosed or produced  
6 by another Party or by a Non-Party in connection with this case only for  
7 prosecuting, defending, or attempting to settle this litigation. Such Protected  
8 Material may be disclosed only to the categories of persons and under the conditions  
9 described in this Order. When the litigation has been terminated, a Receiving Party  
10 must comply with the provisions of section 15 below (FINAL DISPOSITION).  
11

12 Protected Material must be stored and maintained by a Receiving Party at a  
13 location and in a secure manner that ensures that access is limited to the persons  
14 authorized under this Order.  
15

16 **7.2 Disclosure of "CONFIDENTIAL" Information or Items**

17 Unless otherwise ordered by the court or permitted in writing by the  
18 Designating Party, a Receiving Party may disclose any information or item  
19 designated "CONFIDENTIAL" only to:  
20

21 (a) the Receiving Party's Counsel of Record in this action, as well as  
22 employees of said Counsel of Record to whom it is reasonably necessary to disclose  
23 the information for this litigation;  
24

25 (b) the officers, directors, and employees of the Receiving Party to  
26 whom disclosure is reasonably necessary for this litigation and who have signed the  
27

1 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

2 (c) Experts (as defined in this Order) of the Receiving Party to whom  
3 disclosure is reasonably necessary for this litigation and who have signed the

4 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

5  
6 (d) the court and its personnel;

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

11  
12 (f) during their depositions, witnesses in the action to whom disclosure  
13 is reasonably necessary and who have signed the "Acknowledgment and Agreement  
14 to Be Bound" (Exhibit A), unless otherwise agreed by the Designating Party or  
15 ordered by the court. Pages of transcribed deposition testimony or exhibits to  
16 depositions that reveal Protected Material must be separately bound by the court  
17 reporter and may not be disclosed to anyone except as permitted under this  
18 Stipulated Protective Order.

19  
20 (g) the author or recipient of a document containing the information or  
21 a custodian or other person who otherwise possessed or knew the information.

22  
23 **8. Protected Material Subpoenaed or Ordered Produced in Other Litigation**

24 If a Party is served with a subpoena or a court order issued in other litigation  
25 that compels disclosure of any information or items designated in this action as  
26 "CONFIDENTIAL" that Party must:  
27

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

3 (b) promptly notify in writing the party who caused the subpoena or  
4 order to issue in the other litigation that some or all of the material covered by the  
5 subpoena or order is subject to this Protective Order. Such notification shall include  
6 a copy of this Stipulated Protective Order; and  
7

8 (c) cooperate with respect to all reasonable procedures sought to be  
9 pursued by the Designating Party whose Protected Material may be affected.  
10

11 If the Designating Party timely seeks a protective order, the Party served  
12 with the subpoena or court order shall not produce any information designated in  
13 this action as "CONFIDENTIAL" before a determination by the court from which  
14 the subpoena or order issued, unless the Party has obtained the Designating Party's  
15 permission. The Designating Party shall bear the burden and expense of seeking  
16 protection in that court of its confidential material - and nothing in these provisions  
17 should be construed as authorizing or encouraging a Receiving Party in this action  
18 to disobey a lawful directive from another court.  
19

20 **9. Unauthorized Disclosure of Protected Material**  
21

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

1 the person or persons to whom unauthorized disclosures were made of all the terms  
2 of this Order, and (d) request such person or persons to execute the  
3 "Acknowledgment and Agreement to Be Bound" that is attached as Exhibit A.

4  
5 **10. Inadvertent Production of Privileged or Otherwise Protected Material**

6 When a Producing Party gives notice to Receiving Parties that certain  
7 inadvertently produced material is subject to a claim of privilege or other  
8 protection, the obligations of the Receiving Parties are those set forth in Federal  
9 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify  
10 whatever procedure may be established in an e-discovery order that provides for  
11 production without prior privilege review. Pursuant to Federal Rule of Evidence  
12 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure  
13 of a communication or information covered by the attorney-client privilege or work  
14 product protection, the parties may incorporate their agreement in the stipulated  
15 protective order submitted to the court.  
16  
17

18 **11. Miscellaneous**

19 **11.1 Right to Further Relief**

20 Nothing in this Order abridges the right of any person to seek its  
21 modification by the court in the future.  
22

23 **11.2 Right to Assert Other Objections**

24 By stipulating to the entry of this Protective Order no Party waives any right  
25 it otherwise would have to object to disclosing or producing any information or item  
26 on any ground not addressed in this Stipulated Protective Order. Similarly, no  
27

1 Party waives any right to object on any ground to use in evidence of any of the  
2 material covered by this Protective Order.

### 3 11.3 Filing Protected Material

4 Without written permission from the Designating Party or a court order  
5 secured after appropriate notice to all interested persons, a Party may not file in the  
6 public record in this action any Protected Material. A Party that seeks to file under  
7 seal any Protected Material must comply with Civil Local Rule 141. Protected  
8 Material may only be filed under seal pursuant to a court order authorizing the  
9 sealing of the specific Protected Material at issue. Pursuant to Civil Local Rule 141,  
10 a sealing order will issue only upon a request establishing that the Protected  
11 Material at issue is privileged, protectable as a trade secret, or otherwise entitled to  
12 protection under the law.

### 13 12. Final Disposition

14 Within 60 days after the final disposition of this action, as defined in  
15 paragraph 4, each Receiving Party must return all Protected Material to the  
16 Producing Party or destroy such material. As used in this subdivision, "all Protected  
17 Material" includes all copies, abstracts, compilations, summaries, and any other  
18 format reproducing or capturing any of the Protected Material. Whether the  
19 Protected Material is returned or destroyed, the Receiving Party must submit a  
20 written certification to the Producing Party (and, if not the same person or entity, to  
21 the Designating Party) by the 60-day deadline that (1) identifies (by category, where  
22 appropriate) all the Protected Material that was returned or destroyed and (2)

1 affirms that the Receiving Party has not retained any copies, abstracts,  
2 compilations, summaries or any other format reproducing or capturing any of the  
3 Protected Material. Notwithstanding this provision, Counsel of Record are entitled  
4 to retain an archival copy of all pleadings, motion papers, trial, deposition, and  
5 hearing transcripts, legal memoranda, correspondence, deposition and trial  
6 exhibits, expert reports, attorney work product, and consultant and expert work  
7 product, even if such materials contain Protected Material. Any such archival copies  
8 that contain or constitute Protected Material remain subject to this Protective  
9 Order as set forth in Section 4 (DURATION).  
10  
11

12 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

13  
14 Dated: April 5, 2018

By: /s/ Patrick H. Dwyer  
Patrick H. Dwyer, SBN 137743  
P.O. Box 1705; 17318 Piper Lane  
Penn Valley, CA 95946  
Tel: (530) 432-5407; Fax: (530) 43-9122  
Attorney for Plaintiff Tammy Saling

15  
16  
17  
18 Dated: April 5, 2018

By: /s/ Amanda Uhrhammer  
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950 Maidu Avenue, Suite 240  
Nevada City, CA 95959  
Tel.: (530) 265-1319; Fax: (530) 265-9840  
Attorney for Defendants

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23 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

24  
25 DATED: April 16, 2018

  
EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE



1 EXHIBIT A

2 Acknowledgment and Agreement to Be Bound

3 I, \_\_\_\_\_ [print or type full name], of

4  
5 \_\_\_\_\_  
6 [print or type full address], declare under penalty of perjury that I have read in its  
7 entirety and understand the Stipulated Protective Order that was issued by the  
8 United States District Court for the Eastern District of California on \_\_\_\_\_,  
9 2018 in the case of *Tammy Saling v. Keith Royal*, et al., Case No. 2:13-CV-001039. I  
10 agree to comply with and to be bound by all the terms of this Stipulated Protective  
11 Order and I understand and acknowledge that failure to so comply could expose me  
12 to sanctions and punishment in the nature of contempt. I solemnly promise that I  
13 will not disclose in any manner any information or item that is subject to this  
14 Stipulated Protective Order to any person or entity except in strict compliance with  
15 the provisions of this Order.  
16  
17

18 I further agree to submit to the jurisdiction of the United States District  
19 Court for the Eastern District of California for the purpose of enforcing the terms of  
20 this Stipulated Protective Order, even if such enforcement proceedings occur after  
21 termination of this action.  
22

23 I hereby appoint \_\_\_\_\_ [print or type full name]  
24 of \_\_\_\_\_ [print  
25 or type full address and telephone number] as my California agent for service of  
26 process in connection with this action or any proceedings related to enforcement of  
27

1 this Stipulated Protective Order.

2 Date: \_\_\_\_\_

\_\_\_\_\_

Signature

3  
4 City and State where  
5 signed:

\_\_\_\_\_

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