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6 **UNITED STATES DISTRICT COURT**  
 7 **EASTERN DISTRICT OF CALIFORNIA**

8 REBECCA WILSON (by and through Heather ) Case No. 2:13-cv-02550 WBS AC  
 9 Bevard as Guardian ad Litem), ) \_\_\_\_\_

10 Plaintiff, )

11 v. )

12 CITY OF WEST SACRAMENTO, et. al. )

13 Defendant. )  
 14 )  
 15 )

**PLAINTIFF’S REQUEST FOR COURT  
 INSPECTION OF INFORMATION FROM  
 SOCIAL SECURITY ADMINISTRATION  
 AND [~~PROPOSED~~] PROTECTIVE  
 ORDER**

16 On August 27, 2015, this Court ordered the Social Security Administration (SSA) to  
 17 release information about the Plaintiff in the above-captioned case.

18 Plaintiff’s attorney requests the Court to enter this Protective Order limiting the use of  
 19 this information pursuant to 20 C.F.R. § 401.180(f).

20 **STIPULATED PROTECTIVE ORDER**

21 **1. PURPOSE.**

22 This Court has ordered SSA to produce program information to assist the Court in  
 23 determining Plaintiff’s legal capacity.

24 The Privacy Act, the Social Security Act and regulations, and SSA policies strictly  
 25 protect an individual’s program information. 5 U.S.C. § 552a; 42 U.S.C. §§ 405, 902(a)(5),  
 26 1306, & 1320b-11; 20 C.F.R. 401.5 et. seq. Program information means personal information  
 27 and records collected and compiled by SSA in order to discharge its responsibilities under the  
 28 Social Security Act and the Federal Coal Mine Health and Safety Act. 20 C.F.R. § 401.25.

1 Absent the subject individual's consent, SSA must not release the individual's program  
2 information unless one of 12 exceptions of the Privacy Act, Social Security Act and regulations  
3 is satisfied. Under 5 U.S.C. § 552a(b)(11), a federal agency may release information in its  
4 records pursuant to an order of a court of competent jurisdiction. SSA's regulations place  
5 additional restrictions on its disclosure of information pursuant to a court order. Under 20 C.F.R.  
6 § 401.180(f), SSA may disclose information to a court of competent jurisdiction, and  
7 will make [our] decision regarding disclosure by balancing the needs of a court  
8 while preserving the confidentiality of information. For example, [SSA] may  
9 disclose information under a court order that restricts the use and redisclosure of  
10 the information by the participants in the proceeding; [SSA] may offer the  
11 information for inspection by the court *in camera* and under seal; or [SSA] may  
12 arrange for the court to exclude information identifying individuals from that  
13 portion of the proceedings that is available to the public. [SSA] will make these  
14 determinations in accordance with § 401.140<sup>1</sup>.

15 20 C.F.R. § 401.180(f).

16 In this case, SSA may comply with the Court's August 27, 2015 order, because the  
17 requested program records will be produced solely for the Court's in camera inspection under  
18 seal for the limited purpose of determining Plaintiff's legal capacity; the only other individual

19 \_\_\_\_\_  
20 <sup>1</sup>According to 20 C.F.R § 401.140, when no law specifically requiring or prohibiting disclosure  
21 applies to a question of whether to disclose information, we follow FOIA principles to resolve  
22 that question. We do this to insure uniform treatment in all situations. The FOIA principle which  
23 most often applies to SSA disclosure questions is whether the disclosure would result in a  
"clearly unwarranted invasion of personal privacy." To decide whether a disclosure would be a

24 clearly unwarranted invasion of personal privacy we consider—  
(a) The sensitivity of the information (e.g., whether individuals would suffer harm or  
embarrassment as a result of the disclosure);

25 (b) The public interest in the disclosure;

26 (c) The rights and expectations of individuals to have their personal information kept  
confidential;

27 (d) The public's interest in maintaining general standards of confidentiality of personal  
28 information; and

(e) The existence of safeguards against unauthorized redisclosure or use.

1 permitted to see any such program records will be Plaintiff's attorney; none of the information  
2 will be used for any other purpose, or re-disclosed for any reason or in any manner; and within  
3 sixty (60) days after the termination of this case, the Court and Plaintiff's attorney will destroy  
4 the documents and any and all copies.

5 **2. INFORMATION SUBJECT TO THIS ORDER.**

6 This protective order covers any information and documents that SSA may release to the  
7 Court pursuant to the Court's August 27, 2015 order. The Protective Order extends to any  
8 information copied or extracted from information produced to the Court from SSA, such as  
9 copies, excerpts, summaries, or compilations. It also includes testimony, conversations, or  
10 presentations by parties or counsel to or in court or in other settings that might reveal information  
11 subject to the Protective Order. Collectively, this information is classified as "Protected  
12 Information."

13 **3. DESIGNATING AND HANDLING CONFIDENTIAL INFORMATION.**

14 Protected Information shall be marked "CONFIDENTIAL" on each page that contains  
15 Protected Information.

16 If the Plaintiff's counsel or the Court changes a document marked "CONFIDENTIAL"  
17 by copying or extracting the information therefrom, the Plaintiff's counsel or the Court will mark  
18 the secondary document as "CONFIDENTIAL."

19 An inadvertent failure to designate qualified information or items as "CONFIDENTIAL"  
20 does not waive the right to secure protection under this Protective Order.

21 The Court and Plaintiff's counsel shall ensure that the Protected Information is secured.  
22 The Court and Plaintiff's counsel shall encrypt any electronic transmission of the Protected  
23 Information. The Court and Plaintiff's counsel shall password-protect any electronic version of  
24 the Protected Information. The Court and Plaintiff's counsel shall store or transmit any paper  
25 copies of the Protected Information in a locked case.

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**4. DURATION.**

Even after the termination of this proceeding, the confidentiality obligations imposed by this Protective Order shall remain in effect.

**5. ACCESS TO AND USE OF PROTECTED INFORMATION.**

Except as provided herein, no person having access to Protected Information subject to this Protective Order shall disclose that information in a manner not specifically provided for by this Protective Order in the absence of a further order of the Court and in consultation with SSA’s Office of Regional Chief Counsel in Region IX, San Francisco.

Any information SSA may release pursuant to 20 C.F.R. §§ 401.140, 401.180(f) shall be produced under seal and in camera for the Court’s consideration solely to determine Plaintiff’s legal capacity. The Court may decide that disclosure of the information to Plaintiff’s counsel is necessary to assist the Court in making this determination.

Protected Information shall only be made available for in camera inspection under seal.

Only the Court and Plaintiff’s counsel may view and/or use Protected Information for the specific purpose of determining Plaintiff’s legal capacity, and for no other purpose.

Only the Court and Plaintiff’s counsel may make copies of Protected Information.

**6. UNAUTHORIZED DISCLOSURE.**

Protected Information must be stored in a secure manner that ensures that access is limited to the persons authorized under this Protective Order. If Protected Information is lost or compromised, the disclosing party shall notify SSA as soon as possible after discovery, ordinarily within 24 hours of discovery, so that SSA can meet its reporting requirements. The disclosing party must use its best efforts to retrieve all copies of Protected Information and inform the person to whom unauthorized disclosure was made of the terms of this Protective Order.

**7. FILING PROTECTED INFORMATION.**

The Protected Information will not be filed in the public record.

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**8. FINAL DISPOSITION.**

Unless otherwise ordered, within sixty days after the conclusion of this matter, which shall be at the conclusion of proceedings before this Court or the exhaustion of any direct appeals, the Court and Plaintiff’s counsel shall destroy all copies of documents and portions thereof containing the Protected Information .

Respectfully submitted,

Dated: October 1, 2015

/s/ Stewart Katz  
STEWART KATZ  
Attorneys for Plaintiff

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**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF CALIFORNIA**

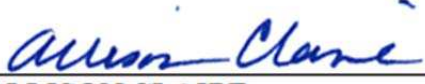
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**[PROPOSED] PROTECTIVE ORDER**

GOOD CAUSE HAVING BEEN SHOWN, the Court hereby enters Plaintiff's Proposed  
Protective Order.

DATED: October 6, 2015

  
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ALLISON CLAIRE  
UNITED STATES MAGISTRATE JUDGE