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SCOTT JONES; DEPUTY JAVIER BUSTAMANTE; DETECTIVE MICHELLE HENDRICKS;
DEPUTY DARIN EPPERSON

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

RICHARD MALOTT,

Plaintiff

v.

PLACER COUNTY; SACRAMENTO
COUNTY; Placer County Sheriff's Deputy KEN
ADDISON; Sacramento County Sheriff's
Department Deputy JAVIER BUSTAMANTE;
Sacramento County Sheriff's Department Deputy
DARIN EPPERSON; Placer County Sheriff's
Department Detective MATT HARDCASTLE;
Sacramento County Sheriff's Department
Detective MICHELLE HENDRICKS;
Sacramento County Sheriff's Department Sheriff
SCOTT JONES; and DOES 1 through 15 and 21
through 25, inclusive,

Defendants.

) Case No. 2:14-cv-01040-KJM-EFB

)
) **STIPULATION AND [PROPOSED]**
) **PROTECTIVE ORDER**

1 IT IS HEREBY STIPULATED by, among and between the parties to the above-captioned
2 action through their counsel of record, that the documents described herein may be designated as
3 “Confidential” and produced subject to the following Protective Order:

4 1. Categories of documents described as follows:

5 (a) Medical treatment and assessment records of Richard Malott.

6 (b) Mental Health treatment and assessment records of Richard Malott.

7 (c) Records made in connection with any California Welfare and Institutions
8 Code § 5150 et. seq. assessments or determinations pertaining to Richard Malott.

9 (d) The following categories of items from the personnel files of any law
10 enforcement file produced in this action:

11 (1) Employment Applications.

12 (2) Evaluations.

13 (3) Personnel Action Forms.

14 (4) Employment Verification Forms.

15 (5) Pay Information, including rates, time sheets, and income.

16 (6) Next of Kin Notifications, including third party contact information.

17 2. The portions designated as confidential contain information that is not available to
18 the public and are the types of records and information which Malott has a privacy interest in.

19 3. A Court approved protective order is appropriate pursuant to Local Rule 141.1
20 because there are certain relevant documents that contain private information regarding Malott’s
21 medical treatment and mental health.

22 4. The disclosed documents shall be used solely in connection with the civil action of
23 Richard Malott v. Placer County et al., Case No. 2:14-CV-1040-KJM-EFB (USDC EDCA) and in
24 the preparation and trial of the cases, or any related proceeding. The Parties do not waive any
25 objections to the admissibility of the documents or portions thereof in future proceedings in this
26 case, including trial.

27 5. A party may only designate as “Confidential” a document which it has determined
28 in good faith to be: (a) confidential or potentially invasive of an individual’s privacy interests; (b)
not generally known; and (c) not normally revealed to the public or third parties or, if disclosed to

1 third parties, such that third parties would be required to maintain the information in confidence.
2 By designating a document or portion thereof as “Confidential,” the party making the designation
3 avers that it can and would make a showing to the Court sufficient to justify entry of a protective
4 order covering that document or portion thereof under Federal Rule of Civil Procedure 26 and
5 Eastern District of California Local Rule 141.1.

6 6. A party producing the documents and materials described herein may designate
7 those materials as confidential by affixing a mark labelling them “Confidential” provided that such
8 marking does not obscure or obliterate the content of any record. If any confidential materials
9 cannot be labelled with this marking, those materials shall be placed in a sealed envelope or other
10 container that is in turn marked “Confidential” in a manner agreed upon by the disclosing and
11 requesting parties.

12 7. A party may apply to the Court for an order that information or materials labeled
13 “Confidential” are not, in fact, confidential. Prior to applying to the Court for such an order, the
14 party seeking to reclassify Confidential information shall meet and confer with the producing
15 party. Until the matter is resolved by the parties or the Court, the information in question shall
16 continue to be treated according to its designation under the terms of this Stipulated Protective
17 Order. The producing party shall have the burden of establishing the propriety of the
18 “Confidential” designation. A party shall not be obligated to challenge the propriety of a
19 confidentiality designation at the time made and a failure to do so shall not preclude a subsequent
20 challenge thereto.

21 8. Documents or materials designated under this Protective Order as “Confidential”
22 may only be disclosed to the following persons:

23 (a) All counsel of record and attorneys in the offices of counsel for any of the
24 Defendants in this action;

25 (b) All counsel of record, and attorneys in the offices of counsel for Plaintiff in
26 this action;

27 (c) Paralegal, clerical, and secretarial personnel regularly employed by counsel
28 referred to in subparts (a) and (b) immediately above, including stenographic deposition reports or
videographers retained in connection with this action;

1 (d) Court personnel, including stenographic reporters or videographers engaged
2 in proceedings as are necessarily incidental to the preparation for the trial in the civil action;

3 (e) Any expert, consultant, or investigator retained in connection with this
4 action;

5 (f) The finder of facts at the time of trial, subject to the court's rulings on in
6 limine motions and objections of counsel;

7 (g) Witnesses during their depositions in this action; and,

8 (h) The parties to this action.

9 9. Prior to the disclosure of any Confidential information to any person identified in
10 paragraph 8 and its sub-parts, each such recipient of Confidential information, shall be provided
11 with a copy of this Stipulated Protective Order, which he or she shall read. Upon reading this
12 Protective Order, such person shall acknowledge in writing as follows:

13 I have read the Protective Order that applies in Richard Malott v. Placer County, et
14 al., Case No. 2:14-CV-01040-KJM-EFB (USDC EDCA) and shall abide by its
15 terms. I consent to be subject to the jurisdiction of the United States District Court
16 for the Eastern District of California, including without limitation in any
17 proceeding for contempt.

18 10. The following procedures shall be utilized by the parties making copies of
19 documents designated as "Confidential":

20 (a) The producing party shall provide one copy of the Confidential documents
21 to the receiving party.

22 (b) The receiving party shall not furnish, disclose, or otherwise divulge any
23 Confidential documents to any source, except those persons identified in Paragraph 8 herein,
24 without further order of the Court or authorization from counsel for the producing party.

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1 (c) If any document designated as “Confidential” pursuant to this Protective
2 Order is used or disclosed during the course of a deposition, that portion of the deposition record
3 reflecting such material shall be stamped with the appropriate designation and access shall be
4 limited pursuant to the terms of this Protective Order. The court reporter will be directed to bind
5 those portions of the transcript that contain discussion of the contents of the Confidential
6 documents separately. The cover of any portion of a deposition transcript that contains testimony
7 or documentary evidence that has been designated Confidential, including exhibits designated as
8 “Confidential,” will be marked: CONFIDENTIAL/SUBJECT TO PROTECTIVE ORDER.

9 11. Should any documents designated “Confidential” be disclosed, through
10 inadvertence or otherwise, to any person not authorized to receive the documents under this
11 Protective Order, the disclosing person(s) shall promptly: (a) inform the producing party of the
12 recipient(s) and the circumstances of the unauthorized disclosure, and (b) use best efforts to bind
13 the recipient(s) to the terms of this Protective Order. No document shall lose its Confidential status
14 because it was inadvertently or unintentionally disclosed to a person not authorized to receive it
15 under this Protective Order.

16 12. The Confidential Material produced pursuant to this Order will be redacted with
17 respect to any purely confidential identifying personal and family information.

18 13. If Plaintiff or Defendants intend to use Confidential Material in a Court filing, at
19 least seven (7) days notice shall be given to all parties identifying the Confidential Material that
20 the party intends to utilize. In the event that a party believes that the Confidential Material
21 intended to be used should be filed under seal, then it shall be the burden of the party desiring that
22 the material be filed under seal to make that request to the Court. Plaintiff and Defendants shall
23 comply with the requirements of Eastern District Local Rule 141. The Parties agree a request to
24 file under seal or remove the designation of Confidential Information may be heard on shortened
25 time and/or by telephone conference under the applicable sealing standard.

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1 14. Nothing in this Order shall in any way limit or prevent Confidential Material from
2 being used in any deposition or other proceeding in this action. In the event that any Confidential
3 Material is used in any deposition or other proceeding it shall not lose its confidential status
4 through such use. If any Confidential Material is used in a deposition then arrangements shall be
5 made with the court reporter to separately bind such portions of the transcript containing
6 information designated as “CONFIDENTIAL” and to label such portions appropriately.

7 15. This order is entered for the purpose of facilitating the exchange of documents
8 between the parties to this action without involving the Court unnecessarily in the process.
9 Nothing in this Order, or the production of any document under the terms of this Order, shall be
10 deemed to have the effect of an admission or waiver by either party or of altering the
11 confidentiality or non-confidentiality of any such document.

12 16. Nothing in this Order shall in and of itself require disclosure of information that is
13 protected by the attorney-client privilege, work-product doctrine, or any other privilege, doctrine,
14 or immunity, nor does anything Order, result in any party giving up its right to argue that
15 otherwise privileged documents must be produced due to waiver or for any other reason.

16 17. If Confidential Material produced in accordance with this Order is disclosed to any
17 person other than in the manner authorized by this Order, the party responsible for the disclosure
18 shall immediately bring all pertinent facts relating to such disclosure to the attention of all counsel
19 of record and without prejudice to their rights and remedies available to the producing party, make
20 every effort to obtain the return of the disclosed Confidential Material and prevent further
21 disclosure of it by the person who was the recipient of such information.

22 18. After the conclusion of this litigation, all Confidential documents, in whatever form
23 storm or reproduced, will remain confidential. All documents produced pursuant to this Protective
24 Order shall be destroyed or return to counsel for the producing party in a manner in which counsel
25 will be able to reasonably verify that all documents were returned. All parties agree to ensure that
26 Confidential documents disclosed to other persons shall be destroyed or returned to counsel for the
27 producing party. “Conclusion” of this litigation means a termination of the action following a trial
28 (any subsequent appeal) or settlement, and entry of an order, judgment, or decree terminating this
action.

1 IT IS SO STIPULATED.

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Respectfully submitted,

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5 Dated: June 10, 2016

LAW OFFICE OF STEWART KATZ

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By: /s/ Stewart Katz
STEWART KATZ
Attorney for Plaintiff
RICHARD MALOTT

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10 Dated: June 10, 2016

PLACER COUNTY COUNSEL'S OFFICE

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By: /s/ Clayton Cook
CLAYTON COOK
Attorneys for Defendants PLACER
COUNTY, KEN ADDISON and MATT
HARDCASTLE

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16 Dated: June 13, 2016

CREGGER & CHALFANT LLP

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By: /s/ Robert L. Chalfant
ROBERT L. CHALFANT
Attorney for Defendants
SACRAMENTO COUNTY;
SACRAMENTO COUNTY SHERIFF
SCOTT ONES; DEPUTY JAVIER
BUSTAMANTE; DETECTIVE MICHELLE
HENDRICKS; DEPUTY DARIN
EPPERSON

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22 IT IS SO ORDERED.

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24 Dated: June 15, 2016



EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE

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