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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JESSE I. SANTANA AND DAVID VASQUEZ,

Case No. 2:15-cv-00794-KJM-EFB

Plaintiff,

**[PROPOSED] STIPULATED  
PROTECTIVE ORDER**

v.

THE COUNTY OF YUBA, et al.,

Complaint Filed: 04/13/2015

1<sup>st</sup> Amended Complaint filed: 04/22/2015

2<sup>nd</sup> Amended Complaint filed: 09/09/2016

Defendants.

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1           **1.     PURPOSE AND LIMITATIONS**

2           Plaintiffs have requested that the County of Yuba provide a copy of the District Attorney’s file  
3 regarding Joe Griesa. That file contains confidential or private information for which special protection  
4 from public disclosure and from use for any purpose other than prosecuting this litigation may be  
5 warranted.

6           Accordingly, the parties hereby stipulate to and petition the Court to enter the following  
7 Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections  
8 on all disclosures or responses to discovery and that the protection it affords from public disclosure and  
9 use extends only to the limited information or items that are entitled to confidential treatment under Fed.  
10 R. Civ. P. 26(c).

11           Specifically, parties in this action, in good faith, believe that certain documents contained in the  
12 Joe Griesa criminal file contain information that is (a) confidential, sensitive, or potentially invasive of a  
13 minor’s privacy interests; (b) not generally known; and (c) not normally revealed to the public or third  
14 parties or, if disclosed to third parties, would require such third parties to maintain the information in  
15 confidence.

16           In light of the sensitive nature of the documents potentially to be disclosed and the strong  
17 presumption against disclosure of such information pursuant to 18 U.S. Code § 3509 (d) and all other  
18 applicable federal and state privacy laws, the parties hereby request that any such disclosure be governed  
19 by a court-ordered protective order.

20           The parties believe a court order, not a private agreement, properly facilitates the limited  
21 disclosure of such documents while protecting them from general disclosure. While this order seeks to  
22 protect information specific to the underlying criminal cases of Plaintiffs and the identity of third-party  
23 victims, the sheer volume of documentation related to these cases makes a protective order necessary to  
24 protect these interests.

25           The parties further acknowledge that this Stipulated Protective Order does not entitle them to file  
26 confidential information under seal; E.D. Cal. L.R. 141 sets forth the procedures that must be followed  
27 and the standards that will be applied when a party seeks permission from the Court to file material under  
28 seal.

1           **2.     DEFINITIONS**

2           2.1     **Challenging Party**: a Party to this litigation that challenges the designation of  
3 information or items under this Order.

4           2.2     **Designating Party**: a Party to this litigation that designates information or items that it  
5 produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

6           2.3     **Expert**: a person with specialized knowledge or experience in a matter pertinent to the  
7 litigation who has been retained by a Party to this litigation or its Counsel to serve as an expert witness or  
8 as a consultant in this action.

9           2.4     **Party**: any Party to this litigation, including its officers, directors, employees, consultants,  
10 retained experts, and Counsel of Record (and their support staff).

11          2.5     **Professional Vendors**: persons or entities that provide litigation support services (*e.g.*,  
12 photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or  
13 retrieving data in any form or medium) and their employees and subcontractors.

14          2.6     **Receiving Party**: a Party to this litigation that receives Disclosure Material or Discovery  
15 Material from a Producing Party.

16           **3.     SCOPE**

17           The protections conferred by this Stipulated Protective Order cover the Joe Griesa criminal file,  
18 which is Bates-numbered YUBA SANTANA 000001-009935, including: (1) any information copied or  
19 extracted from those materials; (2) copies, excerpts, summaries, or compilations of those materials; and  
20 (3) any testimony, conversations, or presentations by a Party or their Counsel that might reveal protected  
21 information regarding those materials.

22           The protections conferred by this Stipulated Protective 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 through  
26 trial or otherwise; or (b) any information known to the Receiving Party prior to the disclosure or obtained  
27 by the Receiving Party after the disclosure from a source who obtained the information lawfully and  
28 under no obligation of confidentiality to the Designating Party.

1           **4. DURATION**

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

8           **5. DESIGNATING PROTECTED MATERIAL**

9           **5.1 Designating Party:** The County of Yuba has conditionally produced records regarding  
10 the Joe Griesa criminal prosecution. In those records, certain information has been redacted. The  
11 County of Yuba designated those documents as confidential. Further, any party, including the County of  
12 Yuba, may designate any other portion of the Joe Griesa criminal file as confidential, as set forth herein.

13           A party may only designate as “CONFIDENTIAL” Information or Items which it has determined  
14 in good faith to be sufficient to justify the Court’s entry of a protective order pursuant to Fed. R. Civ. P.  
15 26(c) and E.D. Cal. L.R. 141.1.

16           **5.2 Manner and Timing of Designations:** The County of Yuba has redacted certain portions  
17 of the Joe Griesa criminal file. As to those records, it claims confidentiality under the Stipulated  
18 Protective Order. Any other portion of the file designated as confidential must be done within 30 days of  
19 entry of this Order.

20           Designation in conformity with this Order requires:

21           (a) for information in documentary form (*e.g.*, paper or electronic documents, but excluding  
22 transcripts of depositions or other pre-trial or trial proceedings), affix the legend “CONFIDENTIAL” to  
23 each page that contains Protected Material, or identifies by Bates number the page claimed to be  
24 confidential.

25           (b) for testimony given in deposition or in other pretrial or trial proceedings, that the Party  
26 identify on the record, before the close of the deposition, hearing, or other proceeding all protected  
27 testimony.

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1 (c) for information produced in some form other than documentary and for any other tangible  
2 items, that the Party affix in a prominent place on the exterior of the container or containers in which the  
3 information or item is stored the legend “CONFIDENTIAL.” If only a portion or portions of the  
4 information or item warrant protection, the Producing Party shall identify the protected portion(s).

5 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

6 6.1 Timing of Challenges: Any Party may challenge a designation of confidentiality at any  
7 time. Unless a prompt challenge to a Designating Party’s confidentiality designation is necessary to avoid  
8 foreseeable, substantial unfairness, unnecessary economic burdens, or a significant disruption or delay of  
9 the litigation, a Party does not waive its right to challenge a confidentiality designation by electing not to  
10 mount a challenge promptly after the original designation is disclosed.

11 6.2 Timing of Motion for Protective Order: Within seven calendar days of a Challenging  
12 Party’s challenge to the Producing Party’s designation, the Producing Party must move for a protective  
13 order pursuant to E.D. Cal. L.R. 251, if it seeks to maintain the Protected Material’s designation as  
14 “CONFIDENTIAL” and subject to this Stipulated Protective Order. If the Producing Party fails to move  
15 for a protective order within the specific seven calendar days, the Producing Party automatically waives  
16 each challenged Protected Material’s designation as “CONFIDENTIAL” and subject to this Stipulated  
17 Protective Order.

18 6.3 Judicial Intervention: If the Parties cannot resolve a challenge without Court intervention,  
19 the Producing Party’s motion for protective order must be accompanied by a competent declaration  
20 affirming that the movant has complied with this Stipulated Protective Order. Nothing in Stipulated  
21 Protective Order precludes a Challenging Party from filing a separate or parallel motion challenging a  
22 confidentiality designation at any time, if there is good cause for doing so.

23 Nothing in this Stipulated Protective Order changes or modifies the Designating Party’s burden of  
24 persuasion or substantive or procedural obligation in any such confidentiality challenge proceeding,  
25 pursuant to Fed. R. Civ. P. 26(c) and E.D. Cal. L.R. 141.1. Unless the Designating Party has waived the  
26 confidentiality designation by failing to file a motion for protective order, as described above, all parties  
27 shall continue to afford the material in question the level of protection to which it is entitled under the  
28 Producing Party’s designation until the Court rules on the challenge.

1           **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

2           7.1    Basic Principles: The Parties may use the Joe Griesa criminal file that is disclosed or  
3 produced in connection with this case only for prosecuting, defending, or attempting to settle this  
4 litigation. Such material may be disclosed only to the categories of persons and under the conditions  
5 described in this Stipulated Protective Order. Such material must be stored and maintained by a  
6 Receiving Party at a location and in a secure manner that ensures that access is limited to the persons  
7 authorized under this Stipulated Protective Order.

8           7.2    Disclosure of "CONFIDENTIAL" Information or Items: Unless otherwise ordered by the  
9 Court or permitted in writing by the Designating Party, a Receiving Party may disclose any information  
10 or item designated "CONFIDENTIAL" only to:

- 11           (a)    the Receiving Party's Counsel of Record in this action;
- 12           (b)    the officers, directors, and employees/staff of the Receiving Party;
- 13           (c)    Experts of the Receiving Party;
- 14           (d)    the Court and its personnel;
- 15           (e)    Court reporters and their employees/staff, professional jury or trial consultants, mock  
16 jurors, and Professional Vendors;
- 17           (f)    witnesses in the action, during their deposition, unless otherwise agreed by the  
18 Designating Party or ordered by the Court; and
- 19           (g)    the author or recipient of a document containing the information or a custodian or other  
20 person who otherwise possessed or knew the information.

21           **IT IS SO STIPULATED.**

22 Dated: July 11, 2017

Respectfully Submitted,

23  
24 By: /s/Carl L. Fessenden

Carl L. Fessenden

Ashley S. Wisniewski

Attorneys for Defendants

COUNTY OF YUBA, PATRICK

MCGRATH, MELANIE BENDORF, JOHN

VACEK, MARY BARR, and GENE

STOBER

1 Dated: July 11, 2017

Respectfully Submitted,

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3 By: /s/Jaime A. Leños (authorized 06/30/2017)  
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8 Dated: July 11, 2017

Respectfully Submitted,

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10 By: /s/Wendy A. Green (authorized 06/29/2017)  
11 Jason J. Sommer  
12 Wendy A. Green  
13 HANSEN, KOHLS, JONES,  
14 SOMMER & JACOB  
15 Attorneys for Defendant TIMOTHY EVANS

14 **IT IS SO ORDERED.**

16 Dated: July 11, 2017.

16   
17 EDMUND F. BRENNAN  
18 UNITED STATES MAGISTRATE JUDGE