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26 MICHAEL PATRICK ALEXANDER

27 UNITED STATES DISTRICT COURT
28 EASTERN DISTRICT OF CALIFORNIA

MICHAEL PATRICK ALEXANDER,

CASE NO. 2:17-cv-01622 WBS-CKD

Plaintiff,

STIPULATED PROTECTIVE ORDER

V.

YUBA CITY, its agents, servants and/or
employees; NICOLAS MORAWCZNSKI,
JASON PARKER, COUNTY OF SUTTER,
DOES 1-50 inclusive,

Defendants.

Complaint Filed: August 4, 2017

_____ /

1 **IT IS HEREBY STIPULATED** by and between Plaintiff, MICHAEL PATRICK
2 ALEXANDER, and Defendants, YUBA CITY, NICOLAS MORAWCZNSKI, JASON
3 PARKER, and COUNTY OF SUTTER, by and through their respective counsel of record, that in
4 order to facilitate the exchange of information and documents which are subject to confidentiality
5 limitations based on the law enforcement investigatory privilege and the Defendants' rights to
6 privacy in their personnel files. This Order shall constitute a protective order pursuant to Fed. R.
7 Civ. P. 26(c) and shall be enforceable as set forth therein. The Parties stipulate as follows:

8 1. PURPOSES AND LIMITATIONS

9 Disclosure and discovery activity in this action will potentially involve production of
10 confidential law enforcement investigatory information and personnel records for which special
11 protection from public disclosure and from use for any purpose other than prosecuting this
12 litigation would be warranted. Accordingly, the parties stipulate and the court hereby issues the
13 following Protective Order regarding production of confidential records.

14 2. DEFINITIONS

15 2.1 Party: any Party to this action, including all of its officers, directors,
16 employees, consultants, retained experts, and outside counsel (and their support staff).

17 2.2 Disclosure or Discovery Material: all items or information, regardless of the
18 medium or manner generated, stored or maintained (including, among other things, testimony,
19 transcripts, or tangible things) that are produced or generated in disclosures or responses to
20 discovery by any Party in this matter.

21 2.3 Receiving Party: a Party that receives Disclosure or Discovery Material from a
22 Producing Party.

23 2.4 Producing Party: a Party or non-party that produces Disclosure or Discovery
24 Material in this action.

25 2.5 Expert: a person with specialized knowledge or experience in a matter
26 pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert
27 witness or as a consultant in this action and who is not a part or a current employee of a Party and
28 who, at the time of retention, is not anticipated to become an employee of a Party.

 3. SCOPE

1 The protections conferred by this Stipulation and Order cover all information disclosed by
2 Parties during the course of this litigation, including but not limited to information disclosed
3 pursuant to Fed. R. Civ. P. 26, 30, 31, 33, 34, 35, 36, and 45. This includes information copied or
4 extracted therefrom, as well as all copies, excerpts, summaries, or compilations thereof, plus
5 testimony, conversations, or presentations by parties or counsel to or in court or in other settings
6 that might reveal disclosed material.

7 4. DURATION

8 Even after the termination of this litigation, the confidentiality obligations imposed by this
9 Order shall remain in effect until a Producing Party agrees otherwise in writing or a court order
10 otherwise directs.

11 5. CHALLENGING CONFIDENTIALITY

12 5.1 Timing of Challenges. Unless a prompt challenge to the confidentiality of a
13 disclosure is necessary to avoid foreseeable substantial unfairness, unnecessary economic burdens,
14 or a later significant disruption or delay of the litigation, a Party does not waive its right to
15 challenge confidentiality by electing not to mount a challenge promptly after the information is
16 disclosed.

17 5.2 Meet and Confer. A Party that elects to initiate a challenge must do so in good
18 faith and must begin the process by conferring with counsel for the Producing Party. In
19 conferring, the challenging Party must explain the basis for its belief that confidentiality is not
20 proper and must give the Producing Party an opportunity to review the challenged material, to
21 reconsider the circumstances, and to explain the basis for confidentiality. A challenging Party
22 may proceed to the next stage of the challenge process only if it has engaged in this meet and
23 confer process first.

24 5.3 Judicial Intervention. A Party that elects to press a challenge to confidentiality
25 may file and serve a motion under Civil Local Rule 230 (and in compliance with Civil Local Rule
26 141, if applicable) that identifies the challenged material and sets forth in detail the basis for the
27 challenge. Each such motion must be accompanied by a competent declaration that affirms that
28 the movant has complied with the meet and confer requirements imposed in the preceding
paragraph and that sets forth with specificity the justification for challenge. The burden of

1 persuasion in any such challenge proceeding shall be on the Producing Party. Until the court rules
2 on the challenge, all parties shall continue to afford the material in question the level of protection
3 to which it is entitled.

4 6. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

5 A Receiving Party shall use disclosed information only for prosecuting, defending, or
6 attempting to settle this litigation. Such material may be disclosed only to counsel of record and a
7 Party's expert. Attorneys who disclose such information to experts must instruct them not to
8 disclose the information to anybody. If a person is deposed, confidential information may be used
9 subject to the protective order. In such cases, the terms of the protective order will be put on the
10 record and that part of the transcript shall remain confidential until otherwise allowed by court
11 order.

12 When the litigation has been terminated, a Receiving Party must comply with the
13 provisions of section 9 below (FINAL DISPOSITION). Information must be stored and
14 maintained by a Receiving Party at a location and in a secure manner that ensures that access is
15 limited to the persons authorized under this Order.

16 7. UNAUTHORIZED DISCLOSURE OF CONFIDENTIAL INFORMATION

17 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed information
18 covered by this Protective Order to any person or in any circumstance not authorized under this
19 Protective Order, the Receiving Party must immediately (a) notify in writing the Producing Party
20 of the unauthorized disclosures, (b) use its best efforts to retrieve all copies of the information, and
21 (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of
22 this Order.

23 8. FILING CONFIDENTIAL INFORMATION

24 Without written permission from the Producing Party or a court order secured after
25 appropriate notice to all interested persons, a Party may not file in the public record in this action
26 any information covered by this Order. A Party that seeks to file under seal any such information
27 must comply with Civil Local Rule 141.

28 9. FINAL DISPOSITION

1 Unless otherwise ordered or agreed in writing by the Producing Party, within sixty (60)
2 days after the final termination of this action, defined as the dismissal or entry of judgment by the
3 district court, or if an appeal is filed, the disposition of the appeal, each Receiving Party must
4 return all information covered by this Order to the Producing Party. This includes all copies,
5 abstracts, compilations, summaries or any other form of reproducing or capturing any information
6 covered by this Order. With permission in writing from the Producing Party, the Receiving Party
7 may destroy some or all of the information instead of returning it. Whether the information is
8 returned or destroyed, the Receiving Party must submit a written certification to the Producing
9 Party by the sixty day deadline that identifies the information that was returned or destroyed and
10 that affirms that the Receiving Party has not retained any copies, abstracts, compilations,
11 summaries or other forms of reproducing or capturing any of the information covered by this
12 Order. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all
13 pleadings, motion papers, transcripts, legal memoranda, correspondence or attorney work product.

14 10. MISCELLANEOUS

15 10.1 Right to Further Relief. Nothing in this Order abridges the right of any person
16 to seek its modification by the Court in the future.

17 10.2 Right to Assert Other Objections. This Protective Order does not limit any
18 right the Parties have to object to disclosing or producing any information or item on any ground
19 not addressed in this Stipulated Protective Order. Similarly, this Protective Order does not limit
20 the Parties' right to object on any ground to use in evidence any of the material covered by this
21 Protective Order.

22 10.3 Documents Not Considered Confidential. Documents, including but not
23 limited to electronic media, not considered confidential include video or audio recorded (including
24 written transcripts) interviews or statements made to, with or by MICHAEL ALEXANDER. All
25 documents that were filed with any court or received from any court and were not sealed will also
26 not be considered confidential. All documents that were previously turned over to MICHAEL
27 ALEXANDER's criminal defense counsel that were not sealed will also not be considered
28 confidential. These documents are still covered by this protective order and will not be provided

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1 to anybody, will not be uploaded or posted to any online website, and will not be disclosed to any
2 news organization.

3 10.4 Documents to be Controlled by Receiving Party. The receiving Party agrees
4 to control documents provided by producing Party. The receiving Party agrees not to upload or
5 post any produced material to any online website and not to disclose any produced material to any
6 news organization.

7 **IT IS SO STIPULATED.**

8 Dated: December 19, 2017

PORTER SCOTT
A PROFESSIONAL CORPORATION

/s/Daniel J. Bardzell

By _____

Carl L. Fessenden
Daniel J. Bardzell
Attorneys for Defendant County of
Sutter

15 Dated: December 19, 2017

ANGELO, KILDAY & KILDUFF, LLP

/s/ Derick E. Konz

By _____

Bruce A. Kilday
Derick E. Konz
Attorneys for Defendants Yuba City,
Nicolas Morawczski and Jason Parker

21 Dated: December 19, 2017

David L. Bishop

/s/ David L. Bishop

By _____

David L. Bishop
Attorney for Plaintiff
Michael Patrick Alexander

26 **IT IS SO ORDERED.**

27 Dated: December 26, 2017

Carolyn K. Delaney

CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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