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15 IN THE UNITED STATES DISTRICT COURT  
 16 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 17 SAN FRANCISCO DIVISION

19 **MICHAEL DEARING,**  
 20  
 Plaintiff,  
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 v.  
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 23 **CORRECTIONAL OFFICER MACHADO**  
**AND OFFICER GODINEZ,**  
 24  
 Defendants.

No. C 08-1712 MMC  
**STIPULATED PROTECTIVE ORDER**

26 Subject to the approval of this Court, the parties stipulate to the following protective order:  
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1           1.     In connection with discovery proceedings in this action, the parties may designate any  
2 document, thing, material, testimony, or other information derived therefrom, as "Confidential"  
3 under the terms of this Stipulated Protective Order ("Order"). Confidential information is  
4 information which has not been made public and includes information which concerns or relates  
5 to the processes, operations, investigations, or other information relating to the California  
6 Department of Corrections and Rehabilitation, the disclosure of which information may have the  
7 effect of causing harm to the safety and security of the prison, prison staff, inmates, Plaintiff, and  
8 Defendant.

9           By designating a document, thing, material, testimony or other information derived  
10 therefrom as "confidential," under the terms of this order, the party making the designation is  
11 certifying to the Court that there is a good-faith basis both in law and in fact for the designation  
12 within the meaning of Federal Rule of Civil Procedure 26.

13           2.     Confidential documents shall be so designated by stamping copies of the document  
14 produced to a party with the legend "CONFIDENTIAL." Stamping the legend  
15 "CONFIDENTIAL" on the cover of any multipage document shall designate all pages of the  
16 document as confidential, unless otherwise indicated by the producing party.

17           3.     Testimony taken at a deposition, conference, hearing or trial may be designated as  
18 confidential by making a statement to that effect on the record at the deposition or other  
19 proceeding. Arrangements shall be made with the court reporter taking and transcribing the  
20 proceeding to separately bind portions of the transcript containing information designated as  
21 confidential, and to label the separately bound portions appropriately.

22           4.     Material designated as confidential under this Order, the information contained  
23 therein, and any summaries, copies, abstracts, or other documents derived in whole or in part  
24 from material designated as confidential (hereinafter "Confidential Material") shall be used only  
25 for the purpose of prosecution, defense, or settlement of this action, and for no other purpose.

26           5.     Confidential Material produced pursuant to this Order may be disclosed or made  
27 available only to the Court, to counsel for a party (including the paralegal, clerical, and secretarial  
28 staff employed by such counsel), and to the "qualified persons" designated below:

1 (a) a party, or an employee of a party deemed necessary by counsel to aid in the  
2 prosecution, defense, or settlement of this action;

3 (b) experts or consultants (together with their clerical staff) retained by counsel to assist  
4 in the prosecution, defense, or settlement of this action;

5 (c) court reporter(s) employed in this action;

6 (d) a witness at any deposition or other proceeding in this action; and

7 (e) any other person as to whom the parties in writing agree.

8 Prior to receiving any Confidential Material, each “qualified person” shall be provided with  
9 a copy of this Order and shall execute a nondisclosure agreement in the form of Attachment A.

10 6. Depositions shall be taken only in the presence of qualified persons.

11 7. The parties may further designate certain discovery material or testimony of a highly  
12 confidential and/or proprietary nature as “CONFIDENTIAL—ATTORNEY’S EYES ONLY”  
13 (hereinafter “Attorney’s Eyes Only Material”), in the manner described in paragraphs 2 and 3  
14 above. Attorney’s Eyes Only Material, and the information contained therein, shall be disclosed  
15 only to the Court, to counsel for the parties (including the paralegal, clerical, and secretarial staff  
16 employed by counsel), and to the “qualified persons” listed in subparagraphs 5(b) through (e)  
17 above, but shall not be disclosed to a party, or to an employee of a party, unless otherwise agreed  
18 or ordered. If disclosure of Attorney’s Eyes Only Material is made, all other provisions in this  
19 Order with respect to confidentiality shall also apply.

20 8. Nothing herein shall impose any restrictions on the use or disclosure by a party of  
21 material obtained by the party independent of discovery in this action, or from disclosing its own  
22 Confidential Material as it deems appropriate.

23 9. If Confidential Material or Attorney’s Eyes Only Material, including any portion of a  
24 deposition transcript designated as Confidential or Attorney’s Eyes Only, is included in any  
25 papers to be filed in Court, such papers shall be labeled “Confidential—Subject to Court Order”  
26 and filed under seal until further order of this Court.

27 10. In the event that any Confidential Material or Attorney’s Eyes Only Material is used  
28 in any court proceeding in this action, it shall not lose its confidential status through such use, and

1 the party using the material shall take all reasonable steps to maintain its confidentiality during  
2 such use.

3 11. This Order shall be without prejudice to the right of the parties (i) to bring before the  
4 Court at any time a question of whether any particular document or information is confidential or  
5 whether its use should be restricted or (ii) to present a motion to the Court under FRCP 26(c) for a  
6 separate protective order as to any particular document or information, including restrictions  
7 differing from those as specified herein. This Order shall not be deemed to prejudice the parties  
8 in any way in any future application for modification of this Order.

9 12. This Order is entered solely for the purpose of facilitating the exchange of documents  
10 and information between the parties to this action without involving the Court unnecessarily in  
11 the process. Nothing in this Order nor the production of any information or document under the  
12 terms of this Order nor any proceedings pursuant to this Order shall be deemed to have the effect  
13 of an admission or a waiver by any party or of altering the confidentiality or nonconfidentiality or  
14 any such document or information or altering any existing obligation of any party or the absence  
15 of obligation.

16 13. This Order shall survive the final termination of this action, to the extent that the  
17 information contained in Confidential Material or Attorney's Eyes Only Material is not or does  
18 not become known to the public, and the Court shall retain jurisdiction to resolve any dispute  
19 concerning the use of information disclosed under this Order. Upon termination of this case,  
20 counsel for the parties shall assemble and return to each other all documents, material and  
21 deposition transcripts designated as confidential and all copies of same, other than papers on file  
22 with the Court, or shall certify the destruction thereof. Notwithstanding the foregoing, counsel  
23 shall be permitted to retain one copy of each document filed with the Court or served in this  
24 proceeding, including correspondence with opposing counsel, one copy of each trial and  
25 deposition transcript and exhibit, which copies shall remain subject to the terms of this Order.

26 14. Absent written permission by the designating party or Court order, information or  
27 items designated as Attorney's Eyes Only Material shall not be shown or otherwise disclosed to  
28 Plaintiff, Defendants, or any other inmates or guards. The parties agree that any audio or video

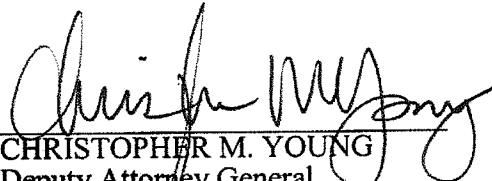
1 recordings of inmate interviews or other recordings designated as confidential under this order  
2 shall only be shown to Plaintiff to the extent necessary to question him about the incident and  
3 prepare him for trial. Plaintiff may not retain copies of any recordings. Counsel for Plaintiff may  
4 have and retain copies of any material designated for protection under this order.

5 15. The Court further orders that the last-known address for former Correctional Officer  
6 Oscar Machado, maintained by Salinas Valley State Prison, be designated as CONFIDENTIAL—  
7 ATTORNEY'S EYES ONLY. Any proof of service of the summons and complaint on Oscar  
8 Machado shall be filed under seal. Counsel for Defendant Godinez is ordered to serve counsel for  
9 Plaintiff Dearing with Machado's address designated as Attorney's Eyes Only Material.

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SO STIPULATED:

DATED: 2/11/11

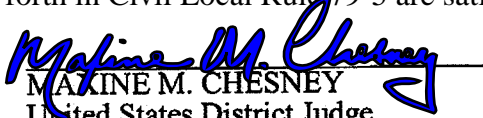
  
CHRISTOPHER M. YOUNG  
Deputy Attorney General  
Attorney for Defendant M. Godinez

DATED: 2/11/11

  
BRIAN P. VILLARREAL  
Attorney for Plaintiff M. Dearing

APPROVED AND SO ORDERED: provided, however, that no document submitted for filing will be filed under seal unless the requirements set forth in Civil Local Rule 79-5 are satisfied.

DATED: February 14, 2011

  
MAXINE M. CHESNEY  
United States District Judge