

1 MELINDA HAAG (CSBN 132612)
 United States Attorney
 2 JOANN M. SWANSON (SBN 88143)
 Chief, Civil Division
 3 ABRAHAM A. SIMMONS (SBN 146400)
 Assistant United States Attorney

4 450 Golden Gate Avenue, 9th Floor
 5 San Francisco, California 94102-3495
 Telephone: (415) 436-7264
 6 Facsimile: (415) 436-6748
 Email: abraham.simmons@usdoj.gov

7 Attorneys for United States of America

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN FRANCISCO DIVISION

11 GEORGE WALTER TITUS by and ,) No. C 10-02795-SI
 12 through his successor-in-interest LUCIE)
 TITUS and LUCIE TITUS, individually,)

13 Plaintiffs,)

STIPULATED PROTECTIVE ORDER

14 v.)

15 UNITED STATES DEPARTMENT OF)
 16 VETERANS AFFAIRS, VETERANS)
 17 AFFAIRS NORTHERN CALIFORNIA)
 18 HEALTH CARE SYSTEM)
 (VANCHSC), CENTER for,)
 19 REHABILITATION & EXTENDED)
 CARE(Martinez), MATTHEW TITUS as)
 20 a nominal defendant,)

21 Defendants.)

22 The Parties hereby stipulate and request that the Court sign and enter the following
 23 attached Protective Order.

24 MELINDA HAAG
 25 United States Attorney

26 Dated: January 25, 2011

27 /s/
 SANFORD I. HOROWITZ
 Attorney for Plaintiffs

28 /s/
 ABRAHAM A. SIMMONS
 Assistant United States Attorney
 Attorneys for the United States of
 America

1 MELINDA HAAG (CSBN 132612)
United States Attorney
2 JOANN M. SWANSON (SBN 88143)
Chief, Civil Division
3 ABRAHAM A. SIMMONS (SBN 146400)
Assistant United States Attorney

4 450 Golden Gate Avenue, 9th Floor
5 San Francisco, California 94102-3495
6 Telephone: (415) 436-7264
7 Facsimile: (415) 436-6748
8 Email: abraham.simmons@usdoj.gov

9 Attorneys for United States of America

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 GEORGE WALTER TITUS by and ,)
14 through his successor-in-interest LUCIE)
15 TITUS and LUCIE TITUS, individually,)

16 Plaintiffs,)

17 v.)

18 UNITED STATES DEPARTMENT OF)
19 VETERANS AFFAIRS, VETERANS)
20 AFFAIRS NORTHERN CALIFORNIA)
21 HEALTH CARE SYSTEM)
(VANCHSC), CENTER for,)
22 REHABILITATION & EXTENDED)
23 CARE(Martinez), MATTHEW TITUS as)
24 a nominal defendant,)

25 Defendants.)

No. C 10-02795-SI

PROTECTIVE ORDER

26 Upon joint motion of the parties, this Court, having been duly advised, hereby ORDERS
27 that:

- 28 1. In accordance with the terms of this Order pursuant to 5 U.S.C. § 552a (b)(1 l),
the Defendant United States may disclose to Plaintiff records which, in whole or
in part, are otherwise subject to the Privacy Act of 1974, 5 U.S.C. § 552a, and
which contain information within the proper scope of discovery under Fed. R.
Civ. P. 26.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2. The United States shall have the right to designate as subject to this Protective Order any document or other item subject to disclosure pursuant to Fed.R.Civ.P. 26 (a) or responsive to Plaintiffs discovery requests which is a record subject to the Privacy Act of 1974 or which contains or refers or relates to records which are subject to the Privacy Act of 1974.
3. Such documents or other tangible items must be designated as subject to this Protective Order by conspicuously stamping the phrase "SUBJECT TO A PROTECTIVE ORDER" on each page or, in the case of other tangible items, by notifying the Plaintiff in writing.
4. Information designated as SUBJECT TO A PROTECTIVE ORDER shall not be disclosed or disseminated to anyone, except:
 - (a) A party, counsel for any party and the employees of such counsel to whom it is necessary that the information be disclosed for purposes of preparation for and litigation of this action;
 - (b) Any expert engaged by a party for the purpose of assisting in the preparation of this litigation;
 - (c) Any person who was involved in the preparation of the document or information;
 - (d) The Court, the jury and court personnel, court reporters and persons engaged to make copies, provided that all SUBJECT TO A PROTECTIVE ORDER information filed with the Clerk of Court shall be filed under seal and shall be released only upon agreement among all parties, or pursuant to the terms of this Order, or by order of the Court;
 - (e) Any other person, entity, or firm with the prior written consent of the parties.
5. Counsel for any party receiving SUBJECT TO A PROTECTIVE ORDER information and disseminating same shall maintain a list of all persons receiving information subject to this Order and shall provide copies of such list to other

1 parties upon request.

- 2 6. When any SUBJECT TO A PROTECTIVE ORDER information, documents,
3 discovery responses, portions of transcripts or any other pleadings or papers
4 disclosing or referring to such SUBJECT TO A PROTECTIVE ORDER
5 information are used in connection with any motion or pretrial hearing, or are
6 otherwise submitted to the Court, they shall be filed ~~under seal and marked as~~
7 follows:

8 ~~CONFIDENTIAL/SUBJECT TO A PROTECTIVE ORDER: This envelope~~
9 ~~contains documents that are subject to a protective order of this Court. The~~
10 ~~contents are not to be revealed to anyone except the Court, or with the prior~~
11 ~~written consent of the parties herein, or pursuant to any order of this Court. If the~~
12 ~~contents are thus revealed, they shall thereafter be resealed.~~

- 13 7. All documents and other discovery produced or obtained in the course of this
14 litigation marked SUBJECT TO A PROTECTIVE ORDER shall be used for the
15 sole and limited purpose of preparation for and trial of this action and shall not be
16 used for any other purpose.
- 17 8. Within thirty (30) days of the close of this litigation for any reason, each party
18 shall retrieve all copies of materials marked SUBJECT TO A PROTECTIVE
19 ORDER from his or its own files, and from experts or other persons to whom he
20 or it has provided such materials consistent with this Order, and shall do one of
21 the following: (1) return to the designating party all such materials, including all
22 copies thereof, produced by such designating party during the action or (2) certify
23 in writing to the designating party that all such materials produced by such other
24 party during this action have been destroyed. All information protected by this
25 Order which has been placed in any computer data bank shall be completely
26 erased, and any documents listing or summarizing information protected by this
27 Order shall be destroyed within the same period.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

9. Nothing herein contained shall be construed to preclude or limit any party from opposing any discovery on any ground that would otherwise be available. Entry of this Order shall not, in and of itself, prejudice any contention of any party upon any motion, nor shall this Order and any consent hereto constitute a waiver of any right to seek relief from the Court from any and all of the provisions hereof or other modifications of the terms hereof. This Order shall not limit any party's right to seek judicial review or to seek further and additional protection against or limitation upon production or dissemination of information and documents or their contents.
10. Nothing herein shall be construed to preclude or limit the presence of any individual at any hearing in or the trial of this action.
11. The Defendants and their agents and employees by complying with this Order by and hereby are relieved of any penalties to which they would otherwise be subjected pursuant to Title 5, section 552a, United States Code.

Dated: _____



HONORABLE SUSAN ILLSTON
UNITED STATES DISTRICT JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A PROTECTIVE ORDER

I hereby certify that I have read the PROTECTIVE ORDER entered in the above captioned litigation. I hereby agree to be bound by the terms of the PROTECTIVE ORDER and to submit personally to the jurisdiction of the United States District Court for the Northern District of California for purposes of enforcing my agreement to be bound by the terms of the PROTECTIVE ORDER.

DATED: _____

[PRINT NAME]

[SIGNATURE]