

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FIDELIA DEL CARMEN MAY CAN,
et al.,

Plaintiffs,

v.

CITY AND COUNTY OF SAN
FRANCISCO, et al.,

Defendants.

Case No. 16-cv-05771-TEH

**ORDER RE: PROTECTIVE ORDER
AND ORDER OF REFERRAL**

The Court has reviewed the parties’ competing proposals for a protective order. Plaintiffs propose that the Court adopt its model protective order for standard litigation. Defendants propose three substantive changes to the model order: (1) broadening the scope of what is included within the definition of “confidential” information; (2) removing language that exempts from the protective order material that is or subsequently becomes part of the public domain; and (3) shifting the burden of justifying a confidential designation from the designating party to the challenging party.

The Court agrees with Plaintiffs that the model protective order for standard litigation is appropriate. Defendants make verbatim many of the same arguments they raised in *Woods*, a case pending in this district before Judge William Orrick. *Compare* ECF No. 31, at 3-5, with *Gwendolyn Woods v. City and County of San Francisco*, Case No. 15-cv-05666 WHO, ECF No. 35, at 2-4. Judge Orrick rejected those arguments, concluding that:

It may well be that the official information privilege will apply to many of the documents that defendants will produce in this case. But I agree with plaintiff that this district’s model protective order for standard litigation is the more appropriate protective order here; it affords adequate protection to the confidentiality concerns of each party and will by no means prevent defendants from maintaining the confidentiality of information related to the criminal investigation where

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appropriate. Notwithstanding the use of defendants' proposed order in some other cases in this district, there is no good cause to shift the burden on establishing the propriety of the designation of confidential documents.

Woods, ECF No. 36, at 1-2. This Court agrees. Defendants have also failed to justify why documents in the public domain should be subject to a protective order. Nor have Defendants even attempted to argue that the model protective order adopted in *Woods* has been insufficient to safeguard their interests. Accordingly, the Court will sign and file a version of the proposed protective order submitted by Plaintiffs. Plaintiffs shall email an electronic version of their proposed order to tehpo@cand.uscourts.gov, and the Court will enter it as an order after removing reference to any stipulation by the parties.

Disputes regarding confidentiality designations and all other discovery disputes are hereby REFERRED to a magistrate judge.

IT IS SO ORDERED.

Dated: 04/04/17



THELTON E. HENDERSON
United States District Judge