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9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA
11 OAKLAND DIVISION

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13 **KEVIN MARILLEY; SALVATORE**
14 **PAPETTI; SAVIOR PAPETTI, on behalf of**
themselves and similarly situated,

15 Plaintiffs,

16 v.

17 **CHARLTON H. BONHAM, in his official**
18 **capacity; JIM KELLOGG, in his official**
19 **capacity; MICHAEL SUTTON, in his**
20 **official capacity; DANIEL W. RICHARDS,**
in his official capacity; and JACK BAYLIS,
in his official capacity;

21 Defendants.
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11-CV-2418-DMR

**STIPULATION AND [PROPOSED]
PROTECTIVE ORDER**

Judge The Honorable Donna M. Ryu

Trial Date July 30, 2012

Action Filed: May 18, 2011

23 WHEREAS, on October 15, 2011, Plaintiff Kevin Marilley propounded his first set of
24 requests for production of documents on Defendant Director of the Department of Fish and Game
25 (“DFG Director”), in his official capacity;

26 WHEREAS, to the extent Plaintiff seeks documents identifying persons who have paid a
27 nonresident fee in connection with the purchase or renewal of one or more of four California
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1 commercial fishing licenses, permits, or registrations, these identifying documents are
2 confidential documents under California Fish and Game Code section 8022(a);

3 WHEREAS, Fish and Game Code section 8022(b) provides that “the department may
4 release the confidential information . . . pursuant to a court order[.]”;

5 WHEREAS, Plaintiffs assert that they need the identifying information described above to
6 prepare their class certification motion due January 5, 2012, and potentially for other purposes
7 going to the merits;

8 WHEREAS, DFG Director does not oppose a Court order allowing him to release the
9 confidential documents in compliance with Fish and Game Code section 8022(b), pursuant to and
10 within the scope of a proper discovery request in this case.

11 ACCORDINGLY, THE PARTIES STIPULATE AND AGREE AS FOLLOWS:

12 1. Pursuant to and within the scope of a proper discovery request in this case, DFG
13 Director is authorized to release any document designated as confidential under Fish and Game
14 Code section 8022(a).

15 2. To the extent DFG Director produces documents containing identifying information,
16 including names and contact information, for nonresident fishermen, Plaintiffs agree to keep the
17 information confidential.

18 3. Plaintiffs agree not to use the information deemed confidential to contact anyone
19 identified in these documents unless and until (a) the Court certifies a class in this matter, or (b)
20 the Court modifies this order.

21 4. Nothing in this stipulation and [~~proposed~~] order shall prevent or limit Plaintiffs from
22 communicating with persons whose contact information Plaintiffs independently possess or
23 acquire.

24 5. Nothing in this stipulation and [~~proposed~~] order shall prevent Defendants from
25 objecting to, or otherwise opposing, any discovery request by Plaintiffs.

26 6. Nothing in this stipulation and [~~proposed~~] order shall be deemed to constitute any
27 agreement, admission, or consent by Plaintiffs concerning the propriety or legal basis of the
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1 limitations described in Paragraph 3, and Defendants shall be barred from introducing the fact
2 that counsel for Plaintiffs executed this stipulation and [~~proposed~~] order in support of any
3 argument concerning the propriety or legal basis of the limitations described in Paragraph 3,
4 including but not limited to any motion by Plaintiffs for sanctions.

5 7. Plaintiffs further agree not to duplicate any information deemed confidential except to
6 the extent necessary to utilize the confidential documents for the purposes for which they are
7 being released.

8 8. Plaintiffs further agree to destroy the original and any duplicates of any confidential
9 information within 60 days of the Court's denial of class certification or, if the class is certified,
10 within 60 days of a final determination of this case, including any appeals.

11 9. Plaintiffs' counsel certifies that procedures are in place at his firm, office or other
12 places where he conduct business, as well as at his residence if he takes the data home in any
13 form, to prevent unauthorized disclosure of the confidential information.

14 10. If any confidential identifying information subject to this protective order is lost,
15 stolen, or misplaced while in the custody of Plaintiffs, Plaintiffs shall notify DFG Director in
16 writing of any such occurrences.

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19 Dated: November 30, 2011

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22
23 /s/ Cecilia L. Dennis
24 CECILIA L. DENNIS
25 Deputy Attorney General
26 *Attorneys for All Defendants*
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1 Dated: November 29, 2011

GROSS LAW

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3 *Original Signed by S. Gross*

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11 *Counsel for Plaintiffs and Proposed Class*

12 PURSUANT TO STIPULATION, IT IS SO ORDERED

13 December 1, 2011

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