



**PROTECTIVE ORDER**

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2 1. Disclosure and discovery activity in this action has identified confidential  
3 and/or private documents and information for which special protection from public  
4 disclosure and from use for any purpose other than prosecuting or defending this litigation  
5 is warranted.

6 2. The following definitions shall apply to this Stipulation and Order:

7 (a) This “action” shall refer to the action entitled *Adriana Fernandez v.*  
8 *James Ray Morris, Harold Carter, Raymond Loera, County of Imperial, Imperial County*  
9 *Sheriff’s Department, et al.*, which is pending in the United States District Court, for the  
10 Southern District, California, (the “Court”), Case Number 08-CV-0601-H(CAB), and any  
11 appeal thereof through final judgment.

12 (b) “Confidential document” shall mean any document, material or thing  
13 containing confidential employment, or other similar confidential or private information  
14 (as defined herein).

15 (c) “Confidential information” shall mean any employment, or other  
16 similar confidential or private information not previously produced to the public or made  
17 available to the public and which the parties agree or the Court determines should be  
18 protected from disclosure pursuant to this Stipulation and Order. Only “Confidential  
19 information” and no other information shall be designated as confidential.

20 (d) Confidential information and documents that are “Attorney’s Eyes  
21 Only” shall mean information and documents that are entitled to heightened protection  
22 due to security risks that would result from public disclosure of the information or  
23 documents. “Attorney’s Eyes Only” information and documents shall be viewed only by  
24 counsel of record of the receiving party, and as necessary, by office staff, retained  
25 experts, consultants, or investigators of counsel of record, under the conditions set forth in  
26 paragraph 10 below.

27 (e) “Producing party” shall mean the person or entity producing  
28 documents, information or other materials in this action.

1 (f) "Legend" as used herein shall mean a large bold stamp or similar  
2 insignia stating either "CONFIDENTIAL", "THIS DOCUMENT CONTAINS  
3 CONFIDENTIAL INFORMATION PROTECTED BY COURT ORDER", or  
4 "ATTORNEY'S EYES ONLY DOCUMENT CONTAINS CONFIDENTIAL  
5 INFORMATION PROTECTED BY COURT ORDER" ("ATTORNEY'S EYES ONLY")  
6 When any document is so designated pursuant to this Stipulation and Order, the legend  
7 shall be affixed to the cover of such document.

8 (g) When reference is made in this Stipulation and Order to any  
9 document or party, the singular shall include the plural, and the plural shall include the  
10 singular.

11 3. The parties agree that the following shall constitute Confidential documents  
12 and/or information subject to the provisions of this Stipulation and Order:

13 (a) Administrative Investigations of any Imperial County Sheriff's  
14 Office ("ICSO") officer;

15 (b) 2007 Administrative Investigation regarding allegations against  
16 James Morris, including all audio and video-taped interviews;

17 (c) James Morris' Training File;

18 (d) James Morris' Pre-employment Background Investigation;

19 (e) Personnel files of any correctional officer of ICSO including James  
20 Morris' Personnel File;

21 (f) ICSO's Administrative Investigation into Adriana Fernandez' written  
22 complaint to the ICSO;

23 (g) 2005 Administrative Investigation regarding allegations against  
24 James Morris;

25 (h) 2007-2008 Administrative Investigation regarding Brenda-Flores-  
26 Nunez' allegations against Corban Dillion, including all audio and video-taped interviews;

27 (i) Administrative Investigation regarding allegations against Saul  
28 Lazaro;

1 (j) Inmate Records; and

2 (k) Correctional officer and inmate medical records.

3 Duplicate copies of documents designated as Confidential shall also be treated as  
4 confidential, irrespective of the files in which they are contained or the Bates numbers, if  
5 any, given to the documents.

6 4. The Parties agree that the following shall constitute Confidential  
7 “Attorney’s Eyes Only” documents and/or information subject to the provisions of this  
8 Stipulation and Order:

9 (a) The names, addresses and telephone numbers of inmates;

10 (b) The documents relating to Adriana Fernandez produced by the  
11 United States Probation Office, in response to an order granting permission to answer  
12 subpoena; and

13 (c) Any diagram of the Imperial County Jail.

14 Duplicate copies of documents designated as “Attorney’s Eyes Only” shall also be  
15 treated as “Attorney’s Eyes Only” irrespective of the files in which they are contained or  
16 the Bates numbers, if any, given to the documents

17 5. Additional documents may be designated “Confidential” or “Attorney’s Eyes  
18 Only” pursuant to written agreement of the Parties. This Stipulation and Order does not  
19 waive a party’s right to subsequently challenge any other party’s designation of any  
20 document as “Confidential” or constitute an admission that any document designated as  
21 Confidential is in fact Confidential or entitled to protection as a Confidential document.

22 6. All documents that are designated “Confidential” shall be used for purposes  
23 of discovery, motions, briefs, expert review, the trial and preparation for trial in this  
24 action, and on appeal, if any, and for no other purpose whatsoever, and consistent with all  
25 other limitations set forth herein.

26 7. Except as set forth herein, Confidential documents, all copies thereof, and  
27 any summaries, charts or notes made there from, and any facts or information contained  
28 therein or derived there from, shall be disclosed only to the Court and/or to:

- 1 (d) the parties hereto and their agents and employees;
- 2 (e) counsel for the parties hereto and their agents, employees, paralegals,  
3 or other secretarial and clerical employees or agents;
- 4 (f) consultants and experts retained by one or more of the parties to this  
5 action or their counsel, to assist regarding discovery, motions, briefs, the trial and  
6 preparation for trial in this action, and on appeal, if any, or any other matter, issue or  
7 proceeding related to this action;
- 8 (g) deponents and their counsel;
- 9 (h) stenographic reporters who are involved in depositions, the trial or  
10 any hearings or proceedings, or appeal, if any, before the Court in this action;
- 11 (i) potential or actual witnesses at the trial of this action;
- 12 (j) individuals who have been or are otherwise in possession of the  
13 Confidential documents.

14 Confidential documents may be disclosed to persons listed in (a) and (f) of this  
15 paragraph only after such person has been shown a copy of this Stipulation and Order, and  
16 has been advised of the terms and operation of this Stipulation and Order, and agrees to be  
17 bound by the terms of this Stipulation and Order in the form attached hereto as Exhibit A;  
18 provided, however, a party who has produced Confidential documents may disclose its  
19 own documents to any persons, with or without any conditions to such disclosure, as it  
20 deems appropriate.

21 8. In the case of Confidential documents or information based on Confidential  
22 documents revealed during a deposition, if designation of a transcript as Confidential or  
23 any portion thereof, including exhibits, is made by any party or her or his counsel to that  
24 effect on the record, or is otherwise made before the stenographer transcribing such  
25 deposition has disseminated to counsel for the parties the transcript of the deposition, the  
26 stenographer shall affix the confidential legend to the cover page and all appropriate pages  
27 of the transcript, and to each copy thereof.

28 9. Subject to public policy, and further court order, nothing labeled

1 “Confidential” or “Attorney’s Eyes Only” shall be filed under seal, and the court shall not  
2 be required to take any action, without separate prior order by the Judge before whom the  
3 hearing or proceedings will take place, after application by the affected party with  
4 appropriate notice to opposing counsel.

5 10. All documents and information designated “Attorney’s Eyes Only” shall be  
6 used for purposes of providing information to counsel of record in this action, and shall  
7 only be disclosed to counsel of record in this action. Counsel of record in this action shall  
8 not disclose “Attorney’s Eyes Only” documents or information to any other person,  
9 except his or her office staff that assists with work in this action and as necessary,  
10 investigators, experts or consultants retained by counsel of record in this action. Prior to  
11 any disclosure to such office staff, investigators, experts or consultants, those individuals  
12 must sign Exhibit “A”, agreeing to be bound by this Stipulation and Protective Order and  
13 any such office staff, investigators, experts, or consultants shall not disclose any  
14 “Attorney’s Eyes Only” documents or information to any other person. Documents and  
15 information designated as “Attorney’s Eyes Only” may be filed with the Court in  
16 connection with motions and trial in this action, but due to the security issues that could  
17 result from public disclosure of certain inmate and jail information included in the  
18 “Attorney’s Eyes Only” documents and/or information, all documents and information  
19 labeled “Attorney’s Eyes Only” shall be filed or lodged in a sealed envelope marked on  
20 the outside with the title of this action, and general nature of each document within, and a  
21 statement in substantially the following form:

22 CONFIDENTIAL—SUBJECT TO PROTECTIVE ORDER.

23 THIS ENVELOPE CONTAINS THE ABOVE IDENTIFIED PAPERS  
24 FILED/LODGED BY (NAME OF PARTY) AND IS NOT TO BE OPENED NOR  
25 THE CONTENTS THEREOF DISPLAYED, EXCEPT BY THE COURT,  
26 PURSUANT TO COURT ORDER, OR BY WRITTEN STIPULATION OF THE  
27 PARTIES.

28 Any party may apply for any additional protections deemed prudent and necessary, or

1 seek other relief, in connection with the use of “Attorney’s Eyes Only” documents or  
2 information at trial or at the hearing on any motion, in this action.

3 11. Notwithstanding anything to the contrary contained herein, all objections as to  
4 the admissibility of evidence of the discovery material subject to this Stipulation and  
5 Order are reserved and are not waived by any terms of this Stipulation and Order.  
6 Nothing shall restrict the use of Confidential documents at trial, so long as such use is in  
7 accordance with the provisions of this Stipulation and Order, unless modified by the  
8 Court.

9 12. If at any time, any document or information protected by this Stipulation and  
10 Order is subpoenaed by any Court, administrative or legislative body, or is requested by  
11 any other person or entity purporting to have authority to require the production of such  
12 information, the party whom the subpoena or other request is directed shall give written  
13 notice thereof to the Producing party of that document and/or information within five (5)  
14 days of the date of the subpoena or other formal request. After receipt of the notice  
15 specified under this paragraph, the Producing party shall have the sole responsibility for  
16 obtaining any order it believes necessary to prevent disclosure of documents designated  
17 Confidential and Confidential information, as well as any “Attorney’s Eyes Only”  
18 information and documents.

19 13. The termination of proceedings in this action shall not relieve the parties from  
20 the obligation of maintaining the confidentiality of all Confidential or “Attorney’s Eyes  
21 Only” documents and information produced and designated pursuant to this Stipulation  
22 and Order, unless the Court orders otherwise. Upon the final disposition of this action,  
23 including the completion or running time for any available appeals, the attorneys for the  
24 parties shall return to the Producing party within thirty (30) days any documents (and all  
25 copies thereof) which have been designated as “Confidential” or “Attorney’s Eyes Only”  
26 and will abide by this Stipulation and Order with respect to any such information.

27 14. The attorneys in this litigation will advise their clients, consultants, experts  
28 and agents of the contents of this Stipulation and Order.

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15. This Stipulation and Order does not preclude any party from bringing a motion to quash or modify a subpoena, a motion to compel documents, a motion for protective order, a motion in limine before trial to preclude the admission into evidence of documents, or any other type of motion, related to documents or information protected under this Stipulation and Order.

For good cause shown, the foregoing Stipulation shall be the Order of this Court.

**IT IS SO ORDERED.**

DATED: May 4, 2009



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**CATHY ANN BENCIVENGO**  
United States Magistrate Judge



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EXHIBIT "A"

**UNDERSTANDING AND AGREEMENT RE "STIPULATED PROTECTIVE ORDER RE CONFIDENTIAL DOCUMENTS AND ORDER THEREON"**

I hereby state that I have read and received a copy of the Stipulated Protective Order re Confidential Documents and Order Thereon ("Stipulation and Order") in the action entitled *Adriana Fernandez v. James Ray Morris, Harold Carter, Raymond Loera, County of Imperial, Imperial County Sheriff's Department, et al.*, which is pending in the United States District Court, for the Southern District, California, Case Number 08-cv-0601-H(CAB). I understand the terms of the Stipulation and Order, and agree to be bound by those terms, and consent to the jurisdiction of the Court with respect to enforcement of the Stipulation and Order.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Address

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