

1 MARGARET G. FOLEY  
2 Nevada Bar No. 7703  
3 E-Mail: [margaret.foley@lewisbrisbois.com](mailto:margaret.foley@lewisbrisbois.com)  
4 LEWIS BRISBOIS BISGAARD & SMITH LLP  
5 6385 S. Rainbow Boulevard, Suite 600  
6 Las Vegas, Nevada 89118  
7 702.893.3383  
8 FAX: 702.893.3789

9 Attorneys for Defendants, Clark County,  
10 Clark County Department of Family Services, and  
11 Clark County Child Protective Services

12  
13  
14 UNITED STATES DISTRICT COURT  
15  
16 DISTRICT OF NEVADA

17 RODERICK DEVON ARRINGTON,  
18 SR., as Special Administrator of the  
19 Estate of RODERICK DEVON  
20 ARRINGTON, JR., deceased,

21 Plaintiff,

22 vs.

23 STATE OF NEVADA; STATE OF  
24 NEVADA DIVISIONS OF CHILD  
25 AND FAMILY SERVICES; CLARK  
26 COUNTY, a political subdivision of the  
27 State of Nevada; CLARK COUNTY  
28 DEPARTMENT OF FAMILY  
SERVICES; CLARK COUNTY  
CHILD PROTECTIVE SERVICES, a  
part of the Clark County Department of  
Family Services; CLARK COUNTY  
SCHOOL DISTRICT; DINA JAMISE  
BEVERLY-PALMER, an individual;  
MARKIECE PALMER, an individual;  
DOES 1 through X, inclusive and ROE  
CORPORATIONS 1 through X,  
inclusive,

Defendants.

CASE NO. 2:13-cv-00622-JAD-NJK

**STIPULATION AND PROTECTIVE  
ORDER**

## STIPULATION AND PROTECTIVE ORDER

2       1. Plaintiff, Clark County, Clark County Department of Family Services,  
3 and Clark County Child Protective Services (“County Defendants”), and Clark  
4 County School District (“CCSD”), through their respective counsel and subject to  
5 the Court’s approval, hereby stipulate and agree as follows with respect to the  
6 disclosure of Confidential Documents and Information in the above-captioned  
7 litigation (the “Litigation”).

8       2. The parties to this action acknowledge there is a presumption of access  
9 to judicial files and records and that good cause must be shown to overcome this  
10 presumption. *See Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1179  
11 (9<sup>th</sup> Cir. 2006). The parties believe good cause exists, as set forth hereinafter, and  
12 submit this Stipulation and Protective Order (hereinafter “Order”) solely for the  
13 purpose of facilitating the exchange of documents and information between the  
14 parties in this action without involving the Court unnecessarily in the process.  
15 Nothing in this Order nor the production of any information or documents under the  
16 terms of this Order nor any proceedings pursuant to this Order shall be deemed to  
17 have the effect of an admission or waiver by any party or of altering the  
18 confidentiality or non-confidentiality of any such document or information or  
19 altering any existing obligation of any party or absence thereof.

## **PROCEDURES REGARDING CONFIDENTIAL INFORMATION**

21       3.     “Documents” or “Information” shall mean and include any documents  
22 (whether in hard copy or electronic form), records, correspondence, analyses,  
23 assessments, photographs, memoranda, email communications, statements (financial  
24 or otherwise), responses to discovery, tangible articles or things, whether  
25 documentary or oral, and other information provided, served, disclosed, filed, or  
26 produced, whether voluntarily or through discovery or other means, in connection  
27 with this Litigation, including, without limitation, documents relating to the minor  
28 decedent’s UNITY file, education, mental health, and health services and any other

1 UNITY database entries. A draft or non-identical copy is a separate document  
2 within the meaning of these terms.

3       4. The parties acknowledge that Documents and Information regarding  
4 any child who has been or is in DFS custody contain sensitive information that is  
5 generally protected from disclosure pursuant to federal and state law, including  
6 without limitation (all of the following are collectively referred to herein as "DFS  
7 Records"):

8           (a) Information that identifies by name or address, or could reasonably lead  
9 to the disclosure of the name or address of any applicant for or recipient of child  
10 welfare, foster care, or adoption assistance services [45 C.F.R. 1355.21];

11           (b) The names and addresses of applicants for and recipients of child  
12 welfare, foster care, or adoption assistance services and the amounts of financial  
13 assistance provided to them [45 C.F.R. 205.50];

14           (c) Information related to the social and economic conditions or  
15 circumstances of particular individual applicants for or recipients of child welfare,  
16 foster care, or adoption services [45 C.F.R. 205.50];

17           (d) Agency evaluations of information about particular individual  
18 applicants for or recipients of child welfare, foster care, or adoption assistance  
19 services [45 C.F.R. 205.50];

20           (e) Medical data concerning particular individual applicants for or  
21 recipients of child welfare, foster care, or adoption assistance services [45 C.F.R.  
22 205.50]; and

23           (f) All records of child abuse reports and all information obtained in  
24 investigating reports of child abuse and neglect [45 C.F.R. 1340.14; Nev. Rev. Stat.  
25 Ann. § 432B.280].

26           (g) The parties also acknowledge that all files or documents of any child  
27 who has been or is in DFS custody shall come within the provisions and protections  
28 of this Order.

1       5. Further, the privacy of Roderick Devon Arrington, Jr. and other  
2 students who are not parties to the Litigation is protected under federal law,  
3 including the Family Educational Rights and Privacy Act (hereinafter “FERPA”).  
4 The parties acknowledge that Documents and Information reasonably likely to lead  
5 to admissible evidence in this Litigation could contain information that is protected  
6 by FERPA (hereinafter “FERPA Records”). Notwithstanding anything to the  
7 contrary herein, if any party requests Documents or Information subject to FERPA,  
8 the parties acknowledge that a court order requiring the disclosure of such specific  
9 Document or Information must first be obtained, except as it relates to Roderick  
10 Devon Arrington, Jr., in whose case this Stipulation and Protective Order shall  
11 constitute both the requisite written consent and court order. If such an order is  
12 obtained authorizing the disclosure of personally identifying information of any  
13 student other than Roderick Devon Arrington, Jr., the disclosed Documents or  
14 Information shall be deemed as CONFIDENTIAL, as defined herein. Alternatively,  
15 CCSD may redact all personally identifying information regarding any student other  
16 than Roderick Devon Arrington, Jr. prior to the disclosure of any requested  
17 Document or Information subject to FERPA.

18       6. The parties agree that any Document or Information may be designated  
19 by the producing party as “CONFIDENTIAL” under the terms of this Stipulation  
20 and Protective Order (hereinafter “Order”) and any such designated Document or  
21 Information shall not be provided to or made available to third parties except as  
22 permitted by, and in accordance with, the provisions of this Order.

23       7. Confidential Documents shall be so designated by marking or stamping  
24 each page of the Document produced to or received from a party with the legend  
25 “CONFIDENTIAL” and the document and information contained therein shall be  
26 deemed to be a Confidential Document or Information pursuant to this Order.

27       8. Testimony taken at a deposition may be designated as  
28 CONFIDENTIAL by any party making a statement to that effect on the record at the

1 deposition or within ten (10) business days of receipt of the transcript. The party  
2 designating any portion or the entirety of the deposition testimony as  
3 CONFIDENTIAL shall make arrangements with the court reporter to separately  
4 bind such portions of the transcript and deposition exhibits containing Information  
5 designated as CONFIDENTIAL, and to label such portions appropriately.

6       9. Confidential Documents and Information shall be maintained in strict  
7 confidence by the parties who receive such Documents and Information, shall only  
8 be used for the purpose of prosecution, defense, or settlement of this action, and for  
9 no other purpose, and shall not be disclosed to any person except:

- 10       (a) to the Court, including any appellate Court, under seal;
- 11       (b) to the attorneys of record in this Litigation (and other assisting  
12 attorneys in the same firm) and paralegal, clerical, and secretarial staff employed by  
13 such counsel;
- 14       (c) a party, or an officer, director, agent, or employee of a party deemed  
15 necessary by counsel to aid in the prosecution, defense, or settlement of this action;
- 16       (d) experts or consultants (and their clerical staff) consulted and/or retained  
17 by such counsel to assist in the prosecution, defense, or settlement of this action;
- 18       (e) court reporter(s) employed in this action; or
- 19       (f) a witness at any deposition or court proceeding in this action; provided,  
20 however, that if an objection is made regarding disclosure of the Confidential  
21 Documents and/or Information, no disclosure shall be made pending resolution of  
22 the objection. If the objection regards DFS Records or FERPA Records, the  
23 objection can only be resolved by stipulation of the parties or court order which, in  
24 the case of FERPA Records, allows CCSD no less than 30 days' notice to the  
25 parents of the children that may be implicated by any disclosure.

26       10. Any person other than a party, counsel for a party, or a direct employee  
27 of such counsel, having access to information pursuant to paragraph 9, shall be  
28 provided a copy of this Order by the party providing access to the Document or

1 Information. Such persons shall be bound by this Order and shall not disclose the  
2 Document or Information to any persons not authorized under state or federal law or  
3 order of this Court to receive such Document or Information. Furthermore, any such  
4 person shall sign a statement of confidentiality prior to being furnished with any  
5 such Document or Information.

6 11. All designations of Documents and Information as CONFIDENTIAL  
7 must be made in good faith.

8 12. If any party or non-party includes in papers to be filed with the Court:  
9 (i) a Document or Information designated as CONFIDENTIAL, or (ii) information  
10 derived from a Document or Information designated as CONFIDENTIAL, such  
11 papers, or the confidential portion thereof, shall be filed under seal in accordance  
12 with Local Rule 10-5(b) and the Ninth Circuit's decision in *Kamakana v. City and*  
13 *County of Honolulu*, 447 F.3d 1172 (9<sup>th</sup> Cir. 2006). Hard copies shall be submitted  
14 to the parties in accordance with Local Rule 10-5 and local e-filing instructions.  
15 Parties and nonparties shall also comply with all requirements of Fed. R. Civ. P. 5.2  
16 with regard to all documents that are filed with the court, except that reference can  
17 be made to Roderick Devon Arrington, Jr., by his name, instead of initials.

18 13. This Order does not affect access to CONFIDENTIAL Documents or  
19 Information by individuals, including employees of Clark County or the CCSD, who  
20 are otherwise authorized under state law or regulation to have such access.

21 14. The disclosure of CONFIDENTIAL Documents and Information under  
22 the terms of this Order does not conflict with Nev. Rev. Stat. §§ 127.200, 179A.110,  
23 432B.280, 432B.290, 432B.407, 432B.513 or Nev. Admin. Code provisions  
24 127.200 or 424.485, or FERPA. This Order shall be without prejudice to the right  
25 of the parties (i) to bring before the Court at any time the question of whether any  
26 particular Document or Information is, in fact, CONFIDENTIAL or whether its use  
27 should be restricted in any manner whatsoever; or (ii) to present a motion to the  
28 Court for a separate protective order as to any particular Document or Information,

1 including restrictions differing from those specified herein.

2       15. If a party, through inadvertence, produces any CONFIDENTIAL  
3 Document or Information without designating it as such in accordance with the  
4 provisions of this Order, the producing party may, promptly upon discovery, furnish  
5 a substitute copy properly designated along with written notice to all parties (or  
6 written notice alone as to non-documentary Information) that such Document or  
7 Information is deemed CONFIDENTIAL and should be treated as such in  
8 accordance with the provisions of this Order. Each receiving person must thereafter  
9 treat such Document and Information as CONFIDENTIAL in accordance with the  
10 notice. Disclosure of such Confidential Document or Information prior to the  
11 receipt of such notice shall not be deemed a violation of this Stipulation and  
12 Protective Order.

13       16. This Order shall be without prejudice to any party to claim that a  
14 Document that a party marked as containing Confidential Information is also  
15 protected by the attorney-client privilege, work product doctrine, or any other  
16 privilege or limitation recognized under state or federal law. Determinations of  
17 confidentiality and privilege are separate, and nothing in this Order constitutes a  
18 waiver of privilege. Nothing in this Order shall be construed as an admission or  
19 agreement that any specific Document or Information is or is not Confidential,  
20 subject to discovery, relevant, or admissible in evidence in this or any future  
21 proceeding.

22       17. At the conclusion of this Litigation, including by way of settlement, all  
23 discovery material made CONFIDENTIAL pursuant to this Order, or another court  
24 order, all Documents reflecting such material, and all copies thereof (including  
25 without limitation, copies provided to testifying or consulting experts or consultants)  
26 shall be returned to the person or party that produced the CONFIDENTIAL material,  
27 or, in the alternative, destroyed and certified in writing to the person or party that  
28 produced the confidential material to have been destroyed. Notwithstanding the

1 foregoing, counsel may retain CONFIDENTIAL Documents and Information solely  
2 for archival purposes, provided that such CONFIDENTIAL Documents and  
3 Information are prominently marked with the statement:

4 **CONFIDENTIAL**

5 **This envelope contains documents that are subject to a Protective Order**  
6 **entered by the Court in this action governing the use of confidential discovery**  
7 **material.**

8 or some substantially similar statement. The provisions of this Order shall continue  
9 to apply to all Confidential materials not returned or destroyed in accordance with  
10 this paragraph.

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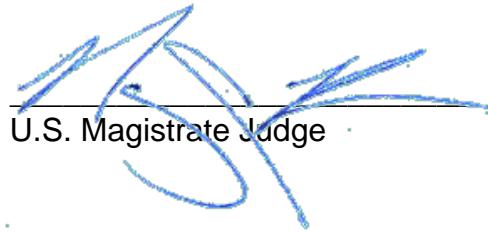
14 **IT IS SO ORDERED.**

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U.S. Magistrate Judge

1           18. This Order shall not be deemed to prejudice the parties in any way in  
2 any future application for modification of this Order.

3           DATED this 11 day of August, 2013.

4           LEWIS BRISBOIS BISGAARD & SMITH LLP

5           By

6             
MARGARET G. FOLEY (Bar No. 7703)

7           6385 S. Rainbow Boulevard, Suite 600

8           Las Vegas, Nevada 89118

9           Tel. 702.893.3383

10           *Attorneys for Defendants, Clark County, Clark  
County Department of Family Services, and  
Clark County Child Protective Services*

11           CALLISTER & ASSOCIATES

12           By

13             
MATTHEW Q. CALLISTER (Bar No. 1396)

14           823 Las Vegas Blvd. South, 5<sup>th</sup> Floor

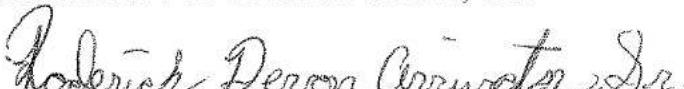
15           Las Vegas, NV 89101

16           Tel. 702.385.3343

17           *Attorneys for Plaintiff*

18           RODERICK DEVON ARRINGTON, SR.

19           By

20             
RODERICK DEVON ARRINGTON, SR.

21           *Plaintiff*

22           LEWIS & ROCA LLP

23           By

24             
DAN R. WAITE (Bar No. 4078)

25           3993 Howard Hughes Pkwy., Ste. 600

26           Las Vegas, Nevada 89169

27           Tel. 702.949.8200

28           *Attorneys for Defendant Clark County School  
District*

**CERTIFICATE OF SERVICE**

2 Pursuant to Fed. R. Civ. P. 5(b), I hereby certify that I am an employee of  
3 LEWIS BRISBOIS BISGAARD & SMITH LLP and that on this 11<sup>th</sup> day of  
4 October, 2013, I did cause a true and correct copy of the foregoing **STIPULATION**  
5 **AND [PROPOSED] PROTECTIVE ORDER** to be served via the CM/ECF filing  
6 system to all parties on the service list.

By     + *Eggie Brulles*  
An Employee of  
LEWIS BRISBOIS BISGAARD & SMITH LLP