

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CHARELLE LODER, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	CASE NO. 2:11-cv-979-WKW
	)	
STEVEN L. REED, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**STIPULATED PROTECTIVE ORDER**

Pursuant to the provisions of Federal Rule of Civil Procedure 26(c), the Court enters this Protective Order upon joint motion of all plaintiffs and all defendants (collectively, “Parties”), for the purpose of assuring the confidentiality of certain information disclosed by the Parties.

It is ORDERED that the following procedures will govern the production and/or use of such information in this action:

1. For the purpose of this Order, “Confidential Information” shall mean any document produced, any oral or written statement made, and/or any oral or written answer given during the course of discovery that contains, discloses, or reveals:

a. Social Security numbers, Individual Taxpayer Identification Numbers (“ITINs”), drivers’ license numbers, Alien identification numbers (“A-numbers”), passport and visa numbers, or other identifying codes or numbers assigned to persons by government agencies;

b. the immigration status, alienage, or national origin of any individual, with the exception of Charelle Loder, Jack Doe, Julie Doe, and Jonathan Doe;

c. contact information, including telephone numbers and addresses, of any individual; and

d. information regarding the identity of any Party or individual granted permission by the Court to proceed anonymously.

2. Nothing in this Order shall be construed as preventing any Party from proposing that other categories of information be included within the future coverage of this or any other protective order. Should a Party wish to add a category of information to that deemed “Confidential Information” by this Protective Order that Party shall first negotiate in good faith with the other Parties. If the Parties are unable to reach agreement on the proposed additions, or if a Party consulted has not responded to the proposing Party’s request within a reasonable amount of time dependent on the circumstances, but not to exceed ten (10) business days, the requesting Party shall have a right to seek an expanded or separate protective order from the Court relating to confidential information.

3. Any Party furnishing documents that contains or discloses Confidential Information, may designate such material as subject to this Protective Order by marking each page of the document as “Confidential.” In the event the producing Party elects to make documents available for inspection (as opposed to simply producing the documents), no marking need be made by the producing Party in advance of the initial inspection. After the

inspecting Party has selected documents or things for copying or reproducing, the producing Party may designate as “Confidential” those documents that the producing Party believes to contain Confidential Information prior to producing copies of the selected documents.

4. Regarding depositions, if any Party believes that Confidential Information is disclosed, the transcript of the deposition will be marked as “Confidential.” Counsel for any Party also shall have fourteen (14) days following the mailing of any deposition transcript to designate the transcript as “Confidential.”

5. If any Party objects to the designation of any information, material or document as “Confidential,” the objecting Party may notify the designating Party in writing at any time, but no later than thirty (30) calendar days after production or designation, whichever is later, and the objecting Party must also notify all other parties of the objection. Within ten (10) business days after service of any such notice, and after consultation and a good-faith effort to resolve the disagreement with the other parties, the designating Party may apply to the Court for a ruling that the material objected to shall be treated as “Confidential.” Notice of such application shall be provided to all other parties. Until this Court enters an order determining the status of the Confidential Information being objected to, such material shall be treated as confidential and protected as provided in this Order, unless the Parties otherwise agree by written stipulation.

6. In the event that counsel for any Party determines to file with or submit to this Court—by way of pleadings, motions, briefs, or other papers or submissions—any document

containing Confidential Information, such counsel will redact the Confidential Information prior to filing. The counsel filing documents containing Confidential Information will notify opposing counsel that the document is being filed, as well as the manner in which it is being redacted. The counsel filing the document(s) will strive to inform opposing counsel of the intended redactions at least two (2) days prior to filing, and will always notify opposing counsel no later than the day of the filing. Whenever a document with redacted Confidential Information is filed with the Court, a copy of the unredacted document will also be filed under seal.

7. Material designated “Confidential” pursuant to this Order shall be used by a Party only for purposes related to this action and for no other purpose, and under other restrictions as explained elsewhere in this Order. Under no circumstances, other than those specifically provided for in this or a subsequent Order of this Court, shall any Party disclose it to persons or entities other than the following:

a. The United States District Court for the Middle District of Alabama, and any court of competent appellate jurisdiction, as well as Court personnel, including stenographic reporters regularly employed by the Court;

b. Counsel of record for a Party to this action;

c. Parties and agents of Parties, provided counsel of record for that Party deems the disclosure reasonably necessary for the conduct of this litigation;

d. Secretarial, clerical, paralegal personnel, or other attorneys employed

fulltime or part-time by counsel of record for a Party, provided such counsel deems the disclosure reasonably necessary for the conduct of this litigation;

e. Any court reporter or other stenographic reporter who is called upon to record or transcribe deposition testimony or other testimony in this case;

f. Experts or consultants who have been retained by a Party for the purpose of assisting in the conduct of this action;

g. Fact witnesses during their deposition, or in preparation for their deposition, provided that counsel of record for a Party deems the disclosure reasonably necessary for the conduct of this litigation and that no disclosure is made to persons outside the authorization of this Order;

h. Other persons upon order of this Court or upon stipulation of the Party who designated the Confidential Information in question as “Confidential”; and

i. Any mediator who is engaged to assist the Parties in settlement negotiations on a confidential basis.

Before any materials subject to this Protective Order are disclosed to a Party, all counsel of record for that Party shall sign and serve the “Acknowledgment of Protective Order,” attached to this Protective Order as Exhibit A, on all counsel of record for all Parties. Unless otherwise specified by a counsel of record for a Party, service of the signed “Acknowledgment of Protective Order” may be completed by e-mail or fax.

Prior to disclosing materials subject to the Protective Order to any other individuals

designated in subsections (c) - (h), counsel for a Party must have these individuals sign the “Acknowledgment of Protective Order,” attached to this Protective Order as Exhibit A. The original signed “Acknowledgment of Protective Order” completed by any individual designated in subsections (c) - (h) shall be retained by counsel seeking to disclose materials to such individual until the conclusion of this litigation (as that point in time is defined in paragraph 11 below).

8. Each person given access to material designated as “Confidential” is hereby advised that such material and/or information is being disclosed pursuant and subject to the terms of this Order; may not be disclosed other than pursuant to the terms hereof; and may be used only for purposes related to this action and for no other purposes. Materials designated “Confidential” may be disclosed to and discussed with a person identified in subparagraphs 7(c) - (h) only after such person has executed a copy of Exhibit A, attached hereto.

9. No one subject to this Order shall give, show, disclose, make available, or communicate Confidential Information to any person, firm, agency, corporation, or other entity not expressly authorized by this Order to receive such Confidential Information. No one subject to this Order shall use Confidential Information outside of the context of this case or for any purpose other than the litigation of this case. No one subject to this Order shall use Confidential Information obtained in this litigation to retaliate against, intimidate, discriminate against, or harass any individual. No one subject to this Order shall use Confidential Information obtained in this litigation to report or refer an individual to any

governmental authorities. Nothing contained in this Order, however, shall be construed as restricting or limiting any Party with respect to that Party's own designation of Confidential Information.

10. Confidential Information shall not be disclosed to any law enforcement agency, including, but not limited to, the Department of Homeland Security and Immigration and Customs Enforcement.

11. Within three (3) months of the conclusion of this litigation (commencing from the date on which the time for filing an appeal from entry of judgment has expired with no Party taking an appeal, or in the event an appeal is taken, from the date of exhaustion of any and all appeals), all materials designated as "Confidential" and all copies thereof shall either be returned to the disclosing Party or destroyed. A Party who elects to destroy the copies shall submit a certification to the disclosing Party, attesting that all copies were destroyed, within fourteen (14) days of the destruction of the copies. All documents shall be kept in the possession of the Party to whom the document was produced, except in the limited circumstances described above.

12. The inadvertent or unintentional disclosure of any Confidential Information by any Party shall not be construed to be a waiver, in whole or in part, of that Party's claims of confidentiality either as to the specific Confidential Information disclosed or as to any other related information.

13. This Order shall not: (a) prejudice in any way the right of a Party to object to the

production of documents it considers not subject to discovery; or (b) prejudice in any way the right of a Party to seek a Court determination (i) whether discovery material should be produced, or (ii) if produced whether such material should be subject to the terms of this Order; or (c) prejudice in any way the right of a Party to apply to the Court for a further protective order relating to any confidential material or information or for any other purpose.

14. This Order may be modified if the Parties to this Order agree to such modification or if such modification is ordered by the Court. Any Party may at any time move, on notice to all Parties, for modification of, or other relief from, this Order.

15. Neither the termination of this litigation, nor the termination of the employment, engagement, or agency of any person who had access to any protected information or protected documents covered by this Order, shall relieve any person from the obligation of maintaining both the confidentiality and the restrictions on use of the protected information and/or documents.

16. The Parties consent to jurisdiction of this Court for purposes of enforcement of this Order, and the Court shall retain jurisdiction to enforce the terms of this Order.

Done this 3rd day of June, 2013.

/s/ Wallace Capel, Jr.  
WALLACE CAPEL, JR.  
UNITED STATES MAGISTRATE JUDGE



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**ACKNOWLEDGMENT OF PROTECTIVE ORDER**

I, \_\_\_\_\_, hereby acknowledge, under penalty of perjury, that I have read or have had read to me the Stipulated Protective Order entered by this Court on \_\_\_\_\_, 2013. I am familiar with the specific terms of the Order and agree to be bound by its terms. I further understand that by agreeing to be bound by its terms, I have consented to this Court exercising jurisdiction over me for the purpose of enforcing the Order; and understand that I am subject to the contempt powers of this Court if I am found to have violated the Order.

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_