

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO**

STACIE RAY,)	
<i>et al.</i> ,)	
)	
Plaintiffs,)	Case No. 2:18-cv-00272
)	
v.)	
)	
LANCE HIMES,)	Judge Michael Watson
<i>et al.</i> ,)	
)	Magistrate Judge Chelsey Vascura
Defendants.)	
)	

STIPULATED PROTECTIVE ORDER

IT IS HEREBY STIPULATED BY AND AMONG Plaintiffs Stacie Ray, Basil Argento, Jane Doe, and Ashley Breda (“Plaintiffs”), and Defendants Lance Himes, Karen Sorrell, and Judith Nagy (“Defendants”) (jointly with Plaintiffs, the “Parties”), for good cause shown, as follows:

1. The purpose of this Stipulated Protective Order (the “Protective Order”) is to facilitate expeditious discovery and exchange of information and documents in the above captioned action (hereinafter the “Action”) and protect the interests of all Parties’ confidential and sensitive information and documents.

2. This Protective Order shall govern the handling of documents, deposition exhibits, portions of any marked deposition transcripts, interrogatory responses, admissions, electronic data and any other information (hereinafter “information”) produced, governed or exchanged by and among any person or entity, whether a party or a nonparty (hereinafter “person”) and whether acting on its own or through counsel to the Action.

3. Information containing sensitive and confidential personal information, including without limitation birth certificates or documents containing Social Security numbers, may be designated as “Confidential.” A party may designate any other information as “Confidential” if the party believes in good faith that there is good cause to treat the information as confidential. A party may also designate information as “Attorney’s Eyes Only,” or some similar or comparable designation if the designating party deems the information to be especially sensitive.

4. The information contained or disclosed in material that has been designated as “Confidential” or “Attorney’s Eyes Only” shall be used solely for the purpose of this action (including any appeals), and not in any other litigation, and not for any business or other purpose whatsoever.

5. Confidential information shall be prominently marked “Confidential” or “Attorney’s Eyes Only” by the disclosing party prior to furnishing such information. To designate any electronic information as confidential, a party shall stamp “Confidential” or “Attorney’s Eyes Only” on the media on which the electronic information is produced, and any such designation will apply to the electronic content contained on that media.

6. If a party inadvertently fails to designate documents or information as “Confidential” or “Attorney’s Eyes Only” when that information is produced, disclosed, or otherwise provided in this litigation, the party shall give notice to the other parties of the inadvertent omission promptly upon discovery thereof. The information shall then be treated as if the designation of “Confidential” or “Attorney’s Eyes Only” had been made when the document or information was first produced, disclosed or otherwise provided in this litigation.

7. Information subject to a claim of attorney-client privilege or work product immunity inadvertently or mistakenly produced shall in no way prejudice or otherwise constitute

a waiver of, or estoppel as to, any claim of privilege or work-product immunity for such information. Any person receiving information subject to a claim of attorney-client privilege or work product immunity shall return the original and all copies of such information to the disclosing party within ten (10) days after being notified of the inadvertent or mistaken disclosure.

8. Confidential information produced by third parties may also be marked “Confidential” or “Attorney’s Eyes Only.” A party may designate documents or information produced by third parties as “Confidential” or “Attorney’s Eyes Only” by providing a log to the other Parties. The log shall identify the confidential information by Bates number, if available, or by description of the information for which it claims confidentiality under this Protective Order. The Parties will then prominently mark all such information in their possession as “Confidential” or “Attorney’s Eyes Only.” The designating party shall have thirty (30) days, which may be extended by agreement, to provide the log.

9. Counsel shall not furnish any document or disclose any information designated as “Confidential” or “Attorney’s Eyes Only” pursuant to this Protective Order except as provided herein:

- a. A party may, without any waiver of “Confidential” or “Attorney’s Eyes Only” status, disclose to any person “Confidential” or “Attorney’s Eyes Only” information of which it is the source.
- b. A party may disclose “Confidential” or “Attorney’s Eyes Only” information of which it is not the source as follows:
 - i. to take or defend testimony at any deposition, hearing or trial in this action subject to the requirements of paragraph 14.

- ii. in any oral or written argument in the case, subject to the requirements of paragraph 14. Any transcript of any oral argument referring to “Confidential” or “Attorney’s Eyes Only” information shall be made available only to persons qualified to receive “Confidential” or “Attorney’s Eyes Only” documents and information under this Protective Order.
 - iii. “Confidential” or “Attorney’s Eyes Only” information may be shown to any witness or potential witness in interviews or in preparation for any deposition, hearing, or trial, and at any deposition, hearing or trial subject to the requirements of paragraphs 10, 11, 12, and 14.
10. “Confidential” information may be disclosed to the following persons:
- a. Outside counsel subject to this Order for any party to this Action and their associates, paralegal, clerical, or service support staff;
 - b. In-house counsel for any party to this Action and their associates, paralegal, clerical, or service support staff;
 - c. Experts or consultants (including their employees and/or support staff) retained by a party to this Action;
 - d. Deponents or hearing witnesses and court reporters, in accordance with paragraph 14;
 - e. The court and its personnel;
 - f. The parties; and
 - g. Any person agreed to in writing by the parties.

11. “Attorney’s Eyes Only” information may be disclosed to the following persons:
 - a. Outside counsel subject to this Order for any party to this Action and their associates, paralegal, clerical, or service support staff;
 - b. In-house counsel for any party to this Action and their associates, paralegal, clerical, or service support staff;
 - c. Experts or consultants (including their employees and/or support staff) retained by a party to this Action;
 - d. The court and its personnel; and
 - e. Any person agreed to in writing by the parties.

12. Except as otherwise provided in this Protective Order, any disclosure or dissemination of information designated “Confidential” or “Attorney’s Eyes Only” to individuals or entities described in paragraphs 10(c), 10(g), 11(c), or 11(e) shall be preceded by execution of a declaration in a form substantially similar to the Declaration attached as “Exhibit A.” Each executed Declaration shall be kept on file by counsel who obtained that Declaration and shall be available for inspection by the Court or a party’s counsel upon good cause shown. Counsel of record shall exchange the signed Declarations upon request at the conclusion of litigation.

13. If it becomes necessary for a party to file information designated “Confidential” or “Attorney’s Eyes Only” with the Court, either directly or as a part of another paper, the party shall obtain the Court’s leave to file the documents under seal and file the documents according to Rule 5.2.1 of the Local Rules of the Southern District of Ohio.

14. If a person or entity believes that information designated “Confidential” or “Attorney’s Eyes Only” belonging to it has been or may be disclosed in the course of any deposition (whether through any question, answer, colloquy and/or exhibit), then such person

may designate the deposition, portion thereof, or exhibit as “Confidential” or “Attorney’s Eyes Only” by (1) stating on the record of the deposition that such deposition, portion thereof, or exhibit is “Confidential” or by (2) stating in a writing served on counsel for the other party, up to thirty (30) days after receipt of such deposition transcript by the designating person, that such deposition, portion thereof, or exhibit is “Confidential” or “Attorney’s Eyes Only.” The deposition transcript and exhibits shall be treated as “Confidential” or “Attorney’s Eyes Only” in accordance with the provisions of this Protective Order until written designation is made or the time within which to make such designation has expired. When a claim of confidentiality is made at any deposition, all persons in attendance who, by virtue of the terms of this Protective Order, do not have access to such information designated “Confidential” or “Attorney’s Eyes Only” shall be excluded from attendance at the portion or portions of the deposition at which such information will be or might be disclosed. If any deposition, portions thereof, or exhibits are identified as “Confidential” or “Attorney’s Eyes Only” then all originals, copies, and synopses thereof shall be marked in accordance with this Protective Order. If all or part of a videotaped deposition is designated as confidential, the video media shall be labeled “Confidential” or “Attorney’s Eyes Only.” Nothing in this Protective Order shall be construed to limit the right of the producing person to use its confidential information for any purpose.

15. The “Confidential” or “Attorney’s Eyes Only” status of any document or information so designated shall survive the conclusion of this litigation. At the conclusion of this litigation, everyone shall destroy any and all electronic or physical copies of confidential information, return any and all original versions to the designating party, or upon request by the designating party, return any and all copies. A designating party shall pay any shipping costs incurred in returning all information (and all copies of that information, where requested) at the

conclusion of this Action. Upon request, counsel of record shall certify in writing that they have complied with this paragraph. Persons other than counsel of record to whom confidential information has been disclosed also shall certify in writing that they have complied with this paragraph upon request by the designating party.

16. Nothing in this Protective Order shall affect the right of any party to seek greater protection than that provided for herein for any information including, but not limited to, defenses or objections to the discovery or production of information, and to the use or admissibility at trial of any evidence, whether or not comprise of information governed by this Protective Order. A party may seek relief from any of these provisions or challenge the designation of confidentiality of any information by motion to this Court with notice and an opportunity to be heard provided to all parties, and any third party producing such information.

17. If a party objects to another party's designation of "Confidential" or "Attorney's Eyes Only" information, it shall advise the designating party in writing of the reasons for the objection, and the designating party shall have fifteen (15) days to review the matter. The party objecting shall attach a copy of the "Confidential" or "Attorney's Eyes Only" information subject to challenge or shall identify such information by production number or other appropriate designation and shall set forth in detail the reason for the objection. If the designating party decides to retain the "Confidential" or "Attorney's Eyes Only" designation, the objecting party may move for an order to remove the designation. The information at issue shall be treated as "Confidential" or "Attorney's Eyes Only" until the Court rules on any such motion. For good cause shown, the objecting party may ask the Court to shorten the time periods allowed by this Paragraph.

18. This Protective Order shall be binding on any future party to this litigation who executes it.

19. This Protective Order shall continue in force after the completion of this litigation including, without limitation, any appeal therefrom.

20. In entering into this Protective Order, the parties preserve all rights and objections they may have in this lawsuit to the use of “Confidential” information.

21. The provisions of this Protective Order may be modified upon written agreement of the parties or upon application to this Court for good cause shown.

IT IS SO ORDERED.

/s/ Chelsey M. Vascura
Hon. Chelsey Vascura
United States Magistrate Judge

SO STIPULATED:

Dated: December 3, 2018

Respectfully submitted,

/s/ Freda J Levenson

Freda J. Levenson, Trial Attorney (0045916)
Susan Becker (0010205)
Elizabeth Bonham (0093733)
ACLU of Ohio
4506 Chester Ave.
Cleveland, OH 44103
Phone: 216-472-2220
Facsimile: 216-472-2210
Email: flevenson@acluohio.org
Email: sbecker@acluohio.org
Email: ebonham@acluohio.org

David J. Carey (0088787)
ACLU of Ohio
1108 City Park Avenue, Suite 203
Columbus, OH 43206
Phone: 614-586-1972
Facsimile: 614-586-1974
Email: dcarey@acluohio.org

Kara Ingelhart (Illinois Bar No. 6321949)
Lambda Legal Defense and Education Fund, Inc.
105 W. Adams St., 26th Fl.
Chicago, IL 60603
Telephone: (312) 663-4413
Facsimile: (312) 663-4307
Email: kingelhart@lambdalegal.org

Peter C. Renn (California Bar No. 247633)
Lambda Legal Defense and Education Fund, Inc.
4221 Wilshire Blvd., Suite 280
Los Angeles, CA 90010
Telephone: (213) 382-7600
Facsimile: (213) 351-6050
Email: prenn@lambdalegal.org

/s/ Kimberly Moses

Kimberly Moses (0029601)
Albert J. Lucas (0007676)
Jason J. Blake (0087692)
CALFEE, HALTER & GRISWOLD LLP
1200 Huntington Center
41 S. High Street
Columbus, Ohio 43215
Telephone: (614) 621-1500
Fax: (614) 621-0100
kmoses@calfee.com
alucas@calfee.com
jblake@calfee.com

Attorneys for Defendants

John Knight (Illinois Bar No. 6201433)
American Civil Liberties Union of Illinois
180 N. Michigan Ave., Suite 2300
Chicago, IL 60601
Telephone: (312) 201-9740
Facsimile: (312) 288-5225
Email: jknight@aclu-il.org

Gabriel Arkles (New York Bar No. 4391918)
American Civil Liberties Union Foundation
125 Broad St.
New York, NY 10004
Telephone: (212) 549-2569
Facsimile: (212) 549-2650
Email: garkles@aclu.org

Jennifer S. Roach (0074143)
Thompson Hine LLP
127 Public Square, Suite 3900
Cleveland, OH 44114
Telephone: 216-566-5885
Facsimile: 216-566-5800
Email: Jennifer.Roach@thompsonhine.com

Attorneys for Plaintiffs

EXHIBIT A

DECLARATION AND NON-DISCLOSURE AGREEMENT

By signing below, I acknowledge and agree as follows:

1. I have received and read a copy of the Protective Order entered by the United States District Court for the Southern District of Ohio in Case No. 2:18-cv-00272, *Ray et al. v. Himes et al.* (the “Action”).

2. I agree to be bound by the terms of the Protective Order. I understand that documents and information which are to be disclosed to me by counsel of record for _____ (name of party) have been designated “Confidential” and/or “Attorney’s Eyes Only” and are to be used by me solely to assist such counsel in prosecution or defense of claims involved in the Action.

3. I further understand that a Protective Order entered by the Court, a copy of which has been shown to me and which I have read, prohibits me from either using such documents and information for any other purpose or disclosing such documents and information to any person other than counsel of record for _____ (name of party) or person assisting them, or to the Court via report, deposition and/or testimony.

4. In accepting disclosure of documents to me, I agree to be bound by that Protective Order and submit to the jurisdiction of the Court for the purposes of its enforcement. At the conclusion of the case, or my involvement in the case, should that occur sooner, I will return all “Confidential/Attorney’s Eyes Only” information I have to the attorney who provided it to me. Upon request, I will confirm in writing that I have complied with the terms of the aforementioned Protective Order.

5. I submit to the jurisdiction of the United States District Court for the Southern District of Ohio, for purposes of enforcement of this Non-Disclosure agreement and the Protective Order.

Dated this ____ day of _____, 20__

Signature _____

Printed Name _____

Address _____

CERTIFICATE OF SERVICE

I hereby certify that on **DATE**, 2018, I electronically filed the foregoing with the Clerk of the Court for the for the U.S. District Court for the Southern District of Ohio using the CM/ECF system and a copy was made available electronically to all electronic filing participants.

Respectfully submitted,

/s/ Freda Levenson

Freda Levenson (0045916)