

DOE FAMILIES I–XII

Plaintiffs,

v.

CELINA INDEPENDENT SCHOOL
DISTRICT and WILLIAM CALEB
ELLIOTT

Defendants.

IN THE DISTRICT COURT

COLLIN COUNTY, TEXAS

471st JUDICIAL DISTRICT

AGREED CONFIDENTIALITY AND PROTECTIVE ORDER

The Court enters the following Confidentiality and Protective Order (the “Protective Order”) to facilitate prompt production of discovery material in the above-referenced cause (the “Suit”).

IT IS THEREFORE ORDERED, ADJUDGED, and DECREED as follows:

1. **NON-PARTIES & SERVICE PROVIDERS:** You must read this Protective Order and sign the Agreement to be Bound before you may handle information in this case.

2. **NON-PARTY WITNESS:** this Protective Order gives you certain rights and responsibilities, including to designate your testimony or documents as CONFIDENTIAL or ATTORNEY’S EYES ONLY. Only the English version is official, but you may request an unofficial Spanish translation by email to legal@herzlaw.com. Read this Order and understand it before giving testimony or evidence.

3. **TESTIGO NO PARTE DEL CASO:** este orden de protección de información le otorga ciertas derechos y responsabilidades, incluso de declarar su testimonio o documentos como CONFIDENCIAL o SOLO PARA ABOGADOS. Aunque solo el orden en inglés es oficial, puede pedir una traducción no oficial de este orden de protección de información con un email a legal@herzlaw.com. Obténgala y entiéndala antes de dar una declaración o documentos en este caso.

4. Scope. This Protective Order governs all Discovery Material within the scope of this Order, as laid out below.

5. Purpose. This Protective Order is intended to protect the integrity of these proceedings and ensure a fair jury pool; to permit the Plaintiffs to proceed, at least until the time of trial, *sub nomine* John and Jane Doe; to protect from disclosure, at least until the time of trial, their true identities; to strictly control the disclosure, exchange, or viewing, even among the Parties and their counsel, staff, or contractors, of the substance of Plaintiffs' main complaint, to wit, intimate visual material of the minor John Doe plaintiffs; to allow the Parties to protect from disclosure other material they believe to not be a matter of public concern; and to accomplish the foregoing while protecting the constitutional and procedural rights of all the Parties while abiding by our State's strong presumption of open courts. *See* Tex. Const. art. I, § 13. This Order shall be construed in favor of this overarching Purpose.

6. "Suit" includes this cause of action in the present district, or wherever it is transferred by the rules of forum, venue, docket equalization, removal, or remand; appeals, petitions, and writs to higher courts of this State or the United States; collateral attacks or equitable bills of review arising out of a judgment in this matter; post-judgment discovery in this matter; in matters severed from this matter; or claims joined hereafter to this matter by the joinder of new defendants, of necessary persons by compulsory process under Tex. R. Civ. P. 39(a), of new claims against existing parties, of third parties by impleader, of plaintiffs by intervention, or of parties previously to another suit by consolidation with this matter. "Suit" does not include civil, criminal, legislative, or administrative proceedings arising out of the same or similar facts.

7. "Discovery Material" means something that is (a) produced or disclosed by the Parties or Non-Parties through discovery in this Suit including, but not limited to: all objects of written or oral discovery, physical or digital production or inspection, medical examination,

and informal supplementation (“Discovery Material”), and (b) designated and/or labeled in accordance with the terms of this Protective Order. The Court may designate certain material or categories of material without the need for labelling, for example. The definition of Discovery Material shall also extend to any information logically derived, copied, excerpted, or summarized from Discovery Material.

8. “Party” means only an individual or entity who is a party to this Suit. Non-Party means any person who is not a party in this lawsuit but participates in discovery, for example, by giving a deposition or producing documents in response to a subpoena. The definition of Party shall expand without further Order of this Court if a new Party is joined by any means in this Suit, including the means enumerated above, even without that Party’s agreement below endorsed—they shall be bound hereby.

9. “Designating Party” means the Party or Non-Party designating the Discovery Material as belonging to a protected classification defined in this Protective Order.

10. “Receiving Party” means any Party who receives the Discovery Material and typically refers to all Parties other than the Designating Party, by the standard rules of service of responses in written discovery.

11. “Classification” refers to the category, as given below, whose name maps to a level of sensitivity and rules of disclosure, including to whom material may be disclosed, meant to be attached by Designation and Labelling to certain Discovery Material.

12. “Designation” means the act of the Designating Party at the time of production or immediately thereafter, which act logically associates the Discovery Material produced with a Classification defined by this Protective Order, made known to any Receiving Party by Labelling. Discovery Material that is so Designated is ascribed the rules of the given Classification automatically, even over an objection thereto, until superseded by a ruling of

the Court, whether on the objection or otherwise, agreement of the Parties, voluntary modification of the Designation by the Designating Party.

- a. Designation severable when illegal. Although an Order of this Court may fully supersede a Designation, the supervening avoidance or illegality of a Designation in the face of a statute, regulation, ordinance, or other law of the United States, the State of Texas, Collin County, or any governmental subdivision superior to Celina ISD and the City of Celina, provided that said right or obligation shall not strip the Discovery Material of the Designation, but will allow such lawful conduct to occur notwithstanding the Designation, which is enforceable in all other respects.
- b. Over-designation discouraged. Most evidence is prejudicial to one or the other party.¹ This is not *per se* rationale for Designation pursuant to this Protective Order. Just as a party waives its meritorious objections by obscuring them by numerous unfounded objections,² a party may waive its genuine Designation of certain materials by heavy-handed boilerplate Designation of materials not meriting the protections of this Order, provided that over-designation will not unshield the core protected materials contemplated by this Order, such as the Plaintiffs' identities or the invasive visual material, if any, at issue. Designation of Material as Attorney's Eyes Only or above should be especially infrequently used, for said intimate visual material, if any, or materials closely related thereto in their substance and degree of sensitivity.
- c. No additional privilege log requirement. A Designation with nothing more does not constitute a privilege and does not create an additional requirement beyond the rules for the generation of a privilege log.
- d. Not grounds for withholding. A Designation with nothing more does not create a basis for a Designating Party to withhold Discovery Material from production to a Party covered by this Protective Order, provided that this does not abridge the right of a Party or Non-Party to seek the protection of this Court because of, e.g., the exceptional nature of the request, of the Discovery Material, or circumstances which demonstrate a risk of the violation of this Protective Order or otherwise leading to harmful disclosure.
- e. Court officer not excluded by designation. Neither the Judge of this Court, nor judges which preside over this Suit by assignment or referral to an associate judge or magistrate may be excluded from any Discovery Material by virtue of this Protective Order, but the Court has the right but not the obligation to limit access to Discovery

¹ *Casey v. State*, 215 S.W.3d 870, 883 (Tex. Crim. App. 2007).

² Tex. R. Civ. P. 193.2(e).

Material by its staff in furtherance of the purposes of this Protective Order, provided that a party may request that review be conducted *in camera* by a single, traceable physical copy of the Discovery Material at issue. Neither a referee, special master, nor appointed/agreed mediator in this Suit, may be excluded, provided that these individuals are bound to this Protective Order. This term is to be narrowly construed in favor of nondisclosure and does not naturally extend to other entities of the State or otherwise.

13. “Labelling” means the act of the Designating Party at the time of production or immediately thereafter in logically associating a Label with certain items of Discovery Material being produced, which communicates the intent to Designate such items as belonging to a certain Classification, by a means—such as words or symbols—conspicuously associated with or affixed to the Discovery Material in the form it is produced, so that any person who perceives the Discovery Material in that form can perceive the Label, and that any person who understands this Protective Order, including any Receiving Party, can reasonably relate the Label to a Classification herein, so as to understand the Designation thus made, and the rules and scope of disclosure thereby communicated.

14. Labelling—methods. Labelling can be accomplished by means not contemplated by this Protective Order if that means is conspicuous to a recipient, as described above. The following is a nonexhaustive list of common means of Labelling:

- a. Including the Label as a textual string in the filename of Discovery Material produced digitally, e.g., “CONFIDENTIAL_exmpl_0001.pdf”
- b. Stating the Label orally as part of a complete sentence on the record of a deposition or other proceeding, provided that another Party’s contemporaneous objection thereto preserves an objection to the Designation for review of Court at a later time, e.g., “Plaintiffs designate this deposition as CONFIDENTIAL.” “Defendant objects to the designation.” (*deposition continues uninterrupted*), but not simply “CONFIDENTIAL!” In this way, both parties have fulfilled their duties timely under the Protective Order without interrupting the proceeding. No party is required to suspend a proceeding such as a deposition to call the Court and obtain a contemporaneous ruling, and even in a courtroom proceeding, the Court may reserve a ruling on the objection for a later time.

- c. Following the conclusion of an oral deposition, providing written notice of intent to Designate all or a portion of a deposition under this Protective Order within **72 hours of receipt** of the transcript by all Parties who attended if the Classification is ATTORNEY'S EYES ONLY, or within 20 days of receipt of the transcript by all Parties who attended if the Classification is CONFIDENTIAL, provided that, if no Designation was provided for a portion of a deposition during the deposition or by this process after its conclusion, it is treated as ATTORNEY'S EYES ONLY during the initial 72 hours following the receipt of the transcript by every Party, and then treated as CONFIDENTIAL until 20 days following the receipt, unless a designation is made.
- d. Stamping, digitally superimposing, watermarking, handwriting, or including in the footer or Bates label of print matter or photographic Discovery Material, whether physical or digital, the Label, e.g. "[CONFIDENTIAL]" (a stamp), "*CONFIDENTIAL*" (a watermark), "Plaintiff's Initial Disclosures—CONFIDENTIAL page 1 of 12" (in the footer), "CISD001-CONFIDENTIAL" (in Bates numbering).
- e. Producing the Discovery Material by means whose message includes a Label, such as production by email, or electronic service via the state electronic filing service provider (EFSP, "eService"), with a title, subject, body, or memo, as it may be, that contains, e.g., "CONFIDENTIAL."

15. Labelling—no obfuscation of text or images; no tampering with electronic data.

Notwithstanding the foregoing examples, Labelling should neither intend nor result in rendering Discovery Material less usable or effective, e.g., it should not materially obstruct the subject of a photograph or videotape or prevent the Receiving Party from extracting an unmarked original (but may, for example, comprise small text in the bottom corner, as a separable digital layer rather than edited into the bitmap of the image), it should not render written matter difficult to read or copy, nor be interlarded into the body of the text itself or by stenographic means (but may, for example, begin or end with a sentence that states the labelling, or be so titled), it should not interfere with or break prior existing digital signatures in digital Discovery Material, and it should not lead to the modification of or tampering with the integrity of electronic or magnetic data in its original form as contemplated by Civil Procedure Rule 196.4, such as by including the Label in the content of a forensic disk image

or in the body of a preexisting spreadsheet file that did not originally include it (but a Designating Party may, for example, include the Label in the filename, commonly displayed metadata, in the body of an adjoining DESIGNATION file, or in an email sent in the making of the production).

16. Suggestion—obvious labelling standard. Notwithstanding the foregoing broad and inclusive definition of Labelling, the Parties are encouraged to develop a standard visual form of Labelling that communicates to even an unintended recipient of Discovery Material that public dissemination is illegal on pain of contempt of this Court, and which links to an online copy of this Protective Order, if and when executed.

17. Classifications—defined. For the purposes of this Protective Order, information can be classified by Designation as follows, using Labels which may bear the same title as that of the Classification:

- a. **CONFIDENTIAL**—Discovery Material that contains information that to the Designating Party or its business, is not already public, but is private and not a matter of public concern, the disclosure of which would cause the Designating Party undue harassment, embarrassment, exposure, stigma, harm, injury to a pecuniary interest besides a judgment arising out of the allegations in this Suit (such as to a contract, business relationship, patent, royalty, or trade secret), or injury to a penal interest. Confidential information includes, for example only:

PII—personally identifiable information beyond that required to be set forth in the pleadings apart from the names of the Plaintiffs, such as an individual's past or present mobile or landline telephone numbers, email addresses, social media accounts, Social Security number, insurance membership numbers, driver's license or ID numbers, date of birth, home or mailing addresses, employers, educational institutions, or the identities of relatives, neighbors, or associates.

PHI—protected health information defined at least as broadly as the term is defined in the regulations of the U.S. Department of Health

and Human Services,³ but also to include the postsecondary medical records thereby excluded by reference to FERPA, 20 U.S.C. § 20 U.S.C. 1232g(a)(4)(B)(iv). It is information which relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; that identifies the individual, or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, where such individual is the Designating Party or their relative.

Financial or proprietary information—beyond that financial information which is publicly available, such as tax appraisals or other financial information required to be publicly disclosed without demand (such as S.E.C. filings) or upon demand (such as under the Public Information Act), this includes tax filings, balance sheets, bank records, bills, and financial transactions logs. Proprietary information generally means information which constitutes a business or entity’s competitive advantage by way of information asymmetry, such as the substance of nonpublic contracts, intercorporate memoranda, future goods or services, research and development, negotiations, strategies, and trade secrets.

- b. **ATTORNEY’S EYES ONLY**—A subset of Discovery Material that is Confidential, which is so extremely sensitive that the protections afforded Confidential Discovery Material, as given herein, cannot suffice to protect the information therein. Discovery Material may be designated Attorney’s Eyes Only if the harm of producing material as merely Confidential would outweigh the specific need of a Receiving Party in having the use of the Discovery Material with a less restrictive designation for purposes relevant to the claims and defenses in the case. Whether Discovery Material may acceptably be Designated as Attorney’s Eyes Only is factually intensive, but **automatically includes, without Designation by any party, photographs, videotapes, audio recordings, or other media which constitutes “intimate visual material” of the minor John Doe plaintiffs and others similarly situated.**

18. Classifications—restrictions. For the purposes of this Protective Order, information Designated with the above Classifications without objection and ruling of this Court is restricted in the following manners:

³ 45 C.F.R. § 160.103 at “*Protected health information*,” available at [https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-C/part-160/subpart-A/section-160.103#p-160.103\(Protected%20health%20information\)](https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-C/part-160/subpart-A/section-160.103#p-160.103(Protected%20health%20information)).

- a. **CONFIDENTIAL**—this Discovery Material may only be used for purposes of this Suit. It may be electronically served but **not electronically filed**. Instead, it may be submitted *in camera* to the Court, proffered in person to the judge in a hearing as an exhibit, or filed under seal under the rules. For example, a Motion which relies on Confidential exhibits may itself be electronically filed in compliance with Rule 21c, selecting the form option for sensitive data on the eFiling platform, and bearing the notice in the top left of the first page “NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA,” in addition to the separate Label necessary herein, without the exhibits annexed, excerpted, summated, or excessively described, and the exhibits emailed to the Court staff or otherwise as the Court may prefer. Its disclosure is limited to:
- i. the Court and its personnel, including—in this Suit—stenographers, interpreters, clerks, coordinators, interns, members of the venire, and jurors;
 - ii. attorneys of record for the Parties in this Suit, including the other attorneys and support staff employed in the firms of those attorneys of record;
 - iii. original parties to the information, i.e., in relation to the Discovery Material, the person who previously authored, received, or possessed it or the information contained therein, provided that such a person is not entitled to all information in a document merely because some information falls under this definition, but disclosure may be made by a redacted copy limited to the information hereabove;
 - iv. legal support labor such as court reporters, videographers, and exhibit assistants in depositions in this Suit, the staff of records retrieval companies in the handling of production or depositions on written question in response to subpoenas in this Suit, the staff of printers or copy shops in the manufacture of physical exhibits, demonstratives, or aids in this Suit;
 - v. consulting labor whose consultation is retained at the discretion of the attorneys in furtherance of the claims and defenses in this Suit, and whose communications are kept confidential, such as jury consultants, mediators, or other outside consultants or experts, to the express exclusion of any employees, agents, or affiliates of any Receiving Party;
 - vi. members of focus groups or mock juries provided that no such individuals have ever resided in **Celina, Texas**, recognizing the value of such litigation analysis, but weighing it against the intimate nature of the small community there;

- vii. fact witnesses in this Suit, provided that, however, this category is not an invitation to broadcast the facts of this Suit or a person's involvement in this Suit to their associates in a disproportionate and harassing manner, such as by obtaining a person's phone contacts and contacting all of them in relation to this Suit, or contacting all of a person's social media friends, neighbors, relatives, or employers and advising them incidentally of that person's involvement in this suit, even if the mere pattern of your contact with those people tends to identify that person and their involvement in this Suit;
- viii. the Parties to the Suit; and
- ix. attorneys for related complainants against the party asserting confidentiality in another case in a court of the United States or the several states, whose claims arise out of the same or similar facts, transactions, or occurrences asserted in the petitions filed in this Suit.

Provided that all categories of persons above defined, apart from in the Court and its personnel and attorneys of record, must agree to be bound by this Protective Order by executing Exhibit A, attached hereto. An attorney defined in attorneys for related complainants shall seek prior leave of this Court or the court presiding over their action, if any, and their use is limited to actions arising out of the same or similar facts, transactions, or occurrences asserted in the petitions filed in this case, and the prosecution of those actions.

- b. **ATTORNEY'S EYES ONLY**— this Discovery Material is a subset of, and at least as controlled and governed as, the Confidential Classification above but is further strictly limited to necessary purposes of this Suit and governed by more restrictive data protection requirements. As further described below, in its own form, or in a form immediately accessible from the information provided, **it may never be electronically filed or served, or tendered to the Court without the tendering Party obtaining adequate sealing or protection therefor**, except if tendered in a form that is nonpublic, such as for *in camera* review only. Its disclosure is limited to:
 - i. the Court and its personnel, as above given;
 - ii. attorneys of record **excluding** the other attorneys and support staff employed in their firms, in any event including for the defendants, and if the Material is not intimate visual material, for all the plaintiffs, or, **if the Material is intimate visual material, only the attorneys of record for the Party depicted therein, the Party depicted therein—if a minor, also their Party parents/guardians—and any person with whom the Party and, if applicable,**

parents/guardians, choose to share the intimate visual material, provided that if the intimate visual material depicts other Parties, those other Parties must first give informed written consent to the disclosure including what the material is and to whom disclosure shall be made; provided that, however, the defendants do not have standing under this provision to seek to protect intimate visual material which is intimate visual material of another person including seeking to withhold it from the person therein depicted (i.e. no offensive use);

- iii. necessary legal support labor limited to court reporters, videographers, and exhibit assistants in depositions in this Suit, provided that this material may be excluded from being broadcast over videoconferencing software, recorded by videoconference recording, or captured intentionally or incidentally on the recording of the videographer; the staff of records retrieval companies in the handling of production or depositions on written question in response to subpoenas in this Suit, only if such company and such staff is obtaining the very Designated Discovery Material itself at issue; and the staff of printers or copy shops in the manufacture of physical exhibits, demonstratives, or aids in this Suit, **provided that if the Discovery Material constitutes “intimate visual material” it may not be sent to an outside printer/copier service;**
- iv. consulting labor, as above given;
- v. attorneys for related complainants, as above given;

TO THE EXCLUSION, ABSENT UNIVERSAL AGREEMENT OR COURT ORDER, OF ANY OTHER CATEGORY NOT LISTED, and expressly excluding the Parties to the Suit, as above given, members of focus groups or mock juries, as above given, and fact witnesses in this Suit, as above given.

Data Protection of Attorney’s Eyes Only Material—every person bound to this Protective Order must exercise a heightened level of care as to the storage, viewing, or transmission of any physical or digital copies of Discovery Material Designated as Attorney’s Eyes Only in that person’s possession, custody, or control, regardless of that person’s claimed level of technological competency. The following are important guidelines demonstrating the requisite level of care for the level of sensitive information protected by this Classification:

Storage—Physical—such Material, if originating or rendered to physical form, shall be stored under lock and key. In an office, the office must possess such access control, whether cylinder lock or key

card, that only the attorney or other authorized individuals can access the Material if it is out in the open during business hours, and after hours, it shall be put away, e.g., in a locked cabinet or safe, so that individuals permitted to enter the office, but who are not under the supervision of the attorney and not permitted to access the Material, such as janitorial staff, landlords, or property management, may not intentionally or incidentally access the Material.

Storage—Digital—such Material, if originating or rendered to digital form, shall be stored, if locally, on encrypted storage media, such as hard disk drives, solid state drives, flash media, or otherwise, such that if a person accesses or connects to the device, the content is not available without further authentication or decryption; if on network drives or cloud storage services, with appropriate access controls so that only authorized individuals may access it, and that it is not publicly indexed or accessible by guessing or obtaining a link to the material, that the access control be reasonably tailored so that only persons with a “need to know” of the Material may access it, for example, if a firm routinely provides all staff with access to all case files, this Material must be set aside in a manner that it is only accessible by the necessary people; if a firm does limit access to case files to the necessary people, and this Material is within the case file, this Material must be so limited.

Transmission—Physical—such Material, if transmitted in physical form, shall be hand delivered by an authorized person to an authorized person, not through an unauthorized intermediary; or, by tracked mail or parcel service and not untracked first class mail, such that an intermediary envelope or cover page between the outer parcel and the documents therein bears the requisite Label capable of informing an uninformed person that protected information is contained within but without advertising to the world on the outside of the parcel that valuable materials are within, and without allowing the opening of the outer parcel to immediately reveal the Material itself. In the transmission of physical Material under this Classification, the Material should not be left unattended, e.g., on a print shop’s front desk while the clerk is out to lunch, or on the conference table during a deposition being held away from the firm of a party’s counsel of record.

Transmission—Digital—such Material, if transmitted in digital form, may **neither be electronically filed or served**. It may not acceptably be simply attached to unencrypted email or physically delivered on unencrypted mass media, or delivered in an acceptably access-controlled or encrypted form, but with the password or decryption key (variously, “password”) therefor provided alongside the Material, such that an unauthorized person who obtained access to the medium of delivery of the Material also would obtain knowledge of the password. Instead, in digitally transmitting the Material, an

online transmission must be made by a sufficiently-encrypted attachment which requires a password, or through a link, which may be emailed or e-served, linking to an encrypted or access-controlled file sharing service which limits the time and scope of recipients so that the link expires after a short time and validates the recipient's email once more upon opening, so that the link cannot be re-shared, further requires a password, and maintains an audit log of access. For example, properly-configured links to common services like Dropbox, Box, SharePoint, or ShareFile links can comply with these requirements, or off-the-shelf storage devices with free encryption software may accomplish the same. In digitally transmitting passwords to access Material, it is unacceptable to otherwise comply with the security requirements for digital transmission, but, e.g., send a password in the same email, or a second email—which is no better—because any person who were to compromise the mailbox would obtain sufficient information to access the Material. Instead, passwords and decryption keys shall be transmitted “out-of-band,” meaning to the same authorized person, but by a different medium that cannot be simultaneously compromised with the original Material delivery method, such as by a voice call, fax, text message, physical mail, hand delivery of print letter, or in-person communication.

Viewing—Physical or Digital—such Material shall not be viewed in a public place or a conspicuous manner by a person bound to this Protective Order, such as in a coffeeshop or an airport, or in the home in the perception of others, or on a large display which can be seen by passersby through a window from the street or an adjoining building, or similarly otherwise.

The same requirements as to the signing of Exhibit A as for Confidential information apply to Attorney's Eyes Only information.

19. No general gag order. The protections afforded in this Protective Order are not intended to broadly compel the silence of or “gag” the criminal complainants who are parties to this Suit, either publicly, in the administrative proceedings of the independent school district, in the criminal courts, or in their voluntary cooperation, if any, with law enforcement, based on their independent or preexisting personal knowledge. **The wholesale public disclosure of Discovery Material or one's personal knowledge which originated entirely therefrom**, however, may be proscribed by this Order, enforceable against all Parties equally, to protect the integrity of these proceedings.

20. Order not confidential or sealed. This Protective Order is not, in itself, a protected, confidential, or sealed document, because some dissemination of this Order is necessary to educate authorized recipients and the public of the existence and strictures of this Order. For the purposes of filing, this document **does not contain sensitive material**. The disclosure of this Order, its nature, or the fact of its existence are permissible and matters of public record.

21. Case not sealed; open proceedings. Civil Procedure Rule 76a governs this Suit and this Protective Order. No portion of the proceedings or the papers of this Suit are presumed sealed or closed to the public unless otherwise provided and ordered in conformity with the law. However, as Rule 76a provides, discovery material, *in camera* documents, and other documents restricted by law, including the requirements of Tex. Civ. Prac. & Rem. Code § 30.013, protecting information concerning minors and their parents in sexual assault cases, and Tex. R. Civ. P. 21c, defining sensitive data as including the birth date, home address, and name of any person who was a minor at the time suit was filed; as well as any government ID numbers or payment account numbers.

22. Trial. The Parties are notified that, at or before the time of trial in this Suit, for the purposes of trial, it will become necessary to remove some or all of the limitations of this Protective Order, to the extent that witnesses cannot be confidential, evidence cannot be secret, and trials cannot occur behind closed doors, provided that, at such time, the Court may still make further Orders within its discretion and inherent powers, not inconsistent with the law or trial procedure of this State, to protect the privacy of the victims herein.

23. Filings—Designation not a substitute for redaction, marking as containing sensitive data, or as needed, sealing. The procedures herein, as to Designating Discovery Material as belonging to a certain Classification by Labelling, is not a substitute for the requirements of the Rules of Civil Procedure, Rule 21c, and the Local Rules of this Court, *see*

Collin Cnty. L.R. 2.5, which require Sensitive Information to be either not included in a filing, or, if required, redacted, and the document to be labeled in the electronic filing system as sensitive, by checkbox or dropdown, or if filed physically, bear the label, in the top left of the first page, the phrase “NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA.” These are not intended to be new requirements but a restatement of the existing rules applicable to all cases.

24. Remedies cumulative. The protections afforded in this Protective Order are cumulative to those already existing. This Protective Order strengthens but does not in any respect reduce or replace the protections and penalties already existing for the harmful disclosure of sensitive material under the Rules of Civil Procedure, the Disciplinary Rules of Professional Conduct (duty of confidentiality &c.), the inherent authority of this Court to sanction, or otherwise.

25. No waiver. Participation in or compliance with the procedures of this Protective Order by a person does not effect a waiver of that person’s rights, if any, to move for exclusion, protection, to compel, for sanctions, for an order to show cause, to modify/interpret/amend/enforce this Protective Order, or otherwise, in relation to Discovery Material covered by this Protective Order, nor does receiving or exchanging discovery material or continuing in a deposition or discovery waive a party’s properly-made or yet unmade but timely objection to or motion to strike a Designation, nor will any conduct including moving to strike a designation constitute an admission that Material is entitled to Designation under the new Classification.

26. Survival; continuing jurisdiction. The rights and responsibilities of this Protective Order shall survive the termination of this lawsuit. The Court retains continuing jurisdiction to modify, amend, enforce, interpret, or rescind this Protective Order, and *in*

personam over any individual bound to this Protective Order as to any after-arising dispute relating to improper use.

27. No presumption or prior restraint. Except for the very narrow automatic designation of intimate visual material described herein, the Court does not presume *ex ante* that any particular Designation is valid or invalid by making this Protective Order. The examples given herein of material which may tend to fall within a given Classification are instructive and generally open except where expressly closed to alternatives.

28. Common sense prevails; factors favoring pre-disclosure conference and sanctions for wrongful disclosure without conference. The Parties are encouraged to not have this Order substitute their common sense. The Parties shall meaningfully confer before any dispute under this Order is brought before the Court except in emergency circumstances, where the delay caused by attempting to confer might reasonably allow an irreversibly damaging disclosure. The Parties *should* confer before one Party makes a disclosure of material under this Protective Order which disclosure goes beyond the apparent permissible scope of this Protective Order or where a genuine disagreement exists as to whether the disclosure goes beyond the permissible scope of this Protective Order, and the nature of the disclosure will weigh towards pre-disclosure conference if it is (1) more sensitive in substance, inherently or by designation, (2) broader in dissemination, such as to the general public or a large group, (3) less necessary to the prosecution or defense of the Suit, and (4) objectively obvious in its tendency to offend the Designating Party. These factors also weigh towards sanctions of this Court should a party make such a wrongful, intentional disclosure without prior conference, other than to a permissible recipient that is not the general public, based on the material's designation under the Protective Order, to be superseded by particular Order of this Court or mandatory law.

29. Good Faith. A Designating Party's Designation of Discovery Material under this Protective Order is a factual representation to the tribunal that the Party or their attorney has analyzed the information or material at issue, or are familiar with or understand its substance, and have thereby determined in good faith that the information or material falls within or nearest to the Classification given, based on the definitions and examples thereof in this Protective Order.

30. Data Security. Each Party's Counsel, and any entity bound by this Protective Order, is responsible for maintaining Discovery Material covered by this Protective Order in a secure, identifiable, and limited access manner, whether in physical or digital form, to prevent unauthorized access or disclosure, including but not limited to the particular procedures herein described.

31. Inadvertent Disclosure. A Designating Party does not waive in any respect its right to Designate and thereby protect Discovery Material if it inadvertently or unintentionally discloses or acquiesces to the access of that material in the course of this lawsuit, having failed to Designate it as CONFIDENTIAL or ATTORNEY'S EYES ONLY, provided that, within one week of the Designating Party learning of the mistake, it makes the desired designation. At such time, each Receiving Party must then further restrict access to the Discovery Material at issue in compliance with the designation thereafter given, including clawing back the Material from thereafter-unauthorized parties within the Receiving Party's control or to whom the Receiving Party otherwise made a disclosure. However, any use or disclosure made prior to such notification shall not violate this Protective Order, **unless the Discovery Material is intimate visual material, which is automatically designated under this Protective Order.**

32. Objection to Designation; Designating Party's Burden; Notice and Foreclosure.⁴ A Party may object at any time to the Designation of particular Discovery Material, as described in "Designation." and the Material will maintain its Designation until a ruling is had. The standard for ruling upon an objection to a designation will be that the Court shall reclassify the Material with the appropriate designation, or strip it of its designation, unless the Designating Party carries its burden to establish the need for the Classification to protect the Material, as compared against a lesser protection, how it fits with the definition of the Classification herein and the Purpose stated in this Protective Order, balanced against the needs of the challenging party. As described above, the parties must meaningfully confer before engaging in this procedure, including considering a lesser designation or a variance in use by agreement. A Designating Party may foreclose upon the right of another Party to object to a designation by serving all Parties by electronic service with a document titled a Notice of Designation, which is a succinct document bearing the style of this case, warning the parties that "after thirty days from the service of this document, namely, *(date)*, these Designations will be presumed valid," and listing Designations made prior to that time for which the Designating Party seeks this presumption, by reasonably describing and pointing out the Designated Material, not by category unless it is a well-understood and closed category, but preferably by name of documents/depositions/things, Bates number if any, filenames, document dates, etc. Parties filing these Notices should not do so with such frequency as to overwhelm or subvert the responding Parties but should do so in periodic sweeps if they choose to do so. Parties should not use these Notices as substitutes for Designation by Labelling on the original Material

⁴ Unlike standard procedures in most Protective Orders, this procedure is intended to avoid unintentional injury to any party's procedural rights and is modeled loosely after the rules of Responsible Third Parties.

prior to and apart from promulgating these Notices. Parties receiving this Notice will then have thirty further days to object as described herein, although a hearing on those objections may be had after this period, for the Designating Party to be made to carry its burden under this provision. After this time, the following procedure governs.

33. Motion to Strike Designation. After the period described above has expired to object to certain Discovery Material, a Party may move to strike the designation, suggesting a lesser designation or its complete removal, wherein the Designated Material is presumed to be properly designated, subject to the discretion of this Court to reconsider the designation *sua sponte* considering its duty to keep open the courts, and the movant bears the burden of overcoming the presumption by showing that (1) the movant has an identifiable need, not for the information in the Material alone, which it already has, but to use the information beyond the restrictions of its current Designation; (2) the movant's need is directly related to the prosecution of its claims or the making out of its defenses; (3) the striking or reduction of the designation will not *unfairly* prejudice the Designating Party, or the movant's need outweighs the harm; and (4) the presentation of the merits of the action, the general public health or safety, or the administration or operation of government or public office will be subserved thereby; OR that the Designation is illegal, unenforceable, unconstitutional, or void as against public policy, including because the movant has a lawful/mandatory legal duty to disclose the Material.

34. No fees or costs. Objecting to a designation or moving to strike a designation as described above shall not in itself lead to a grant of fees or costs for or against the movant, the nonmovant, the prevailing party, or the non-prevailing party. This does not abolish the ability to move for sanctions against abusive conduct.

35. Motion to Modify. Any Party, at any time, upon a showing of good cause, may move the Court for modification of this Protective Order.

36. Agreement to be Bound. As described above, Exhibit A is an Agreement to be Bound. The undersigned counsel represent that all categories of people given above, except those expressly excluded from having to sign, i.e., the Court and its personnel and attorneys of record, have received, read, understood, and agreed to abide by the terms of this Protective Order, not only the Agreement itself. The undersigned counsel are under a continuing duty to provide this Protective Order and the Agreement in Exhibit A to all such people, as well as to producing Non-Parties, before such people engage in the handling or production of Discovery Material that is subject to this Protective Order. Counsel shall retain signed copies from said people.

SO ORDERED this _____ day of _____, 2026.

JUDGE PRESIDING

AGREED FOR ENTRY BY COURT AND, PRIOR TO, AS RULE 11 AGREEMENT:



Paul Herz
HERZ LAW
Attorney for Plaintiffs
Doe Families I–XII
Date: January 6, 2026.

GREGG M. GIBBS

Gregg M. Gibbs
GIBBS NOLTE CAMPOS, PLLC
Attorney for Defendant
William Caleb Elliott
Date: January 7, 2026.
Charles J Crawford

Charles J. Crawford
ABERNATHY, ROEDER, BOYD & HULLETT, P.C.
Attorney for Defendant
Celina Independent School District
Date: January 6, 2026.

EXHIBIT A

**AGREEMENT
TO BE BOUND**

CAUSE NO. 471-08453-2025

DOE FAMILIES I–XII

Plaintiffs,

v.

**CELINA INDEPENDENT SCHOOL
DISTRICT and WILLIAM CALEB
ELLIOTT**

Defendants.

IN THE DISTRICT COURT

COLLIN COUNTY, TEXAS

471st JUDICIAL DISTRICT

AGREEMENT TO BE BOUND

I, _____, declare:

1. I have read the Protective Order in the above-styled Suit.
2. I understand that information, including documents, testimony, and things, may be designated as CONFIDENTIAL or ATTORNEY'S EYES ONLY by labelling them as such, and that I may receive such information under the Protective Order.
3. I agree to comply with and to be bound by the Protective Order. Specifically, I agree not to use any protected information, that is, Discovery Material protected by the Protective Order, except for the purposes of the above-styled Suit.
4. I further agree not to disclose any protected information to people not authorized under the Protective Order for that Classification of information, which may be most people.
5. For as long as I have the protected information, I understand that I have to store it and transmit it in a secure manner, and keep it in my personal custody, until the end of my duties in this Suit, at which time I will return it and all copies or writings containing it to the attorney who first gave the information to me, so that I no longer have any access.
6. I hereby submit to the jurisdiction of this Court for enforcement of the Order.

JURAT

My name is _____, my date of birth is _____ (*month*)
_____ (*day*), _____ (*year*), and my address is _____ (*street*),
_____ (*city*), _____ (*state*), _____ (*ZIP*), and _____ (*country*).

I declare under penalty of perjury that the foregoing is within my personal knowledge and true and correct.

Executed in _____ County, State of _____, on the _____ day of _____,
_____.

Declarant