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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ANDREW HOWARD,
Plaintiff,

v.

RAYTHEON COMPANY, a
Delaware Corporation, DOES 1-10,
inclusive,

Defendant.

Case No. CV09-5742 MMM (Ex)
DISCOVERY MATTER
~~PROPOSED~~ **PROTECTIVE ORDER**

[PROPOSED] ORDER

UPON STIPULATION of the Parties, and For Good Cause Shown,
IT IS HEREBY ORDERED:

1. That good cause exists for the Court to grant the Parties' Stipulation for Protective Order, filed concurrently herewith, that the parties to this action, Defendant Raytheon Company ("RAYTHEON") and Plaintiff Andrew Howard ("PLAINTIFF") (collectively "the Parties"), by their respective counsel, have stipulated and requested that the Court enter a mutual protective order pursuant to Fed. R. Civ. P. 26.

2. The Protective Order shall be entered pursuant to the Federal Rules of Civil Procedure, as follows:

1 **Recitals and Basis of Stipulation:**

2 A. The PARTIES hereto are conducting discovery, which includes the
3 production of documents, the answering of interrogatories and requests for
4 admission, the taking of testimony by oral deposition and examination, and third-
5 party subpoenas;

6 B. The PARTIES assert that certain documents and information
7 responsive to the discovery contain material non-public financial information,
8 personal employment records of non-PARTY individuals, or other private,
9 PROTECTED or proprietary or trade secret information, disclosure of which might
10 result in irreparable harm to the respective PARTIES or third parties. Although
11 propounding PARTIES may be entitled to the discovery sought, the PARTIES
12 assert that any such information should remain non-public and protected; and

13 C. The PARTIES therefore seek to reasonably limit disclosure of such
14 non-public and protected information.

15 **Stipulation:**

16 THEREFORE, IT IS HEREBY AGREED AND STIPULATED THAT:

17 1. The following definitions shall apply to this Stipulated Protective
18 Order (“Protective Order”):

19 a. The term “PROTECTED INFORMATION” shall mean and
20 include originals and copies of all documents, portions of documents, answers to
21 interrogatories, responses to requests for admission, testimony, depositions,
22 affidavits, expert reports, legal briefs or memoranda, and any other information
23 deemed by any PARTY to comprise or contain non-public, PROTECTED, trade
24 secret, proprietary information, or information protected by privacy rights
25 belonging to the PARTIES or to third parties. PROTECTED INFORMATION
26 shall also include, but is not limited to, non-public financial information, non-public
27 documents concerning Raytheon’s Reduction in Force (RIF) guidelines and
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1 procedures, personal information pertaining to individuals other than Plaintiff, and
2 any other materials deemed "Company Private."

3 Should any PARTY discover that PROTECTED INFORMATION was
4 inadvertently produced in the course of this action, the PARTY may request that
5 such information be designated as "PROTECTED," on a selective basis. The
6 PARTY seeking to designate such information as PROTECTED agrees to seek
7 permission from TRIAL COUNSEL for the PARTIES prior to designating such
8 information as PROTECTED. In the event that TRIAL COUNSEL do not agree to
9 such designation of information as PROTECTED, the designating PARTY has the
10 burden to establish that such information should, in fact, be subject to this Order
11 and shall thereafter meet and confer in good faith with the challenging PARTY(S)
12 in an attempt to resolve the dispute. If the PARTIES are unable to mutually resolve
13 said dispute within a reasonable time, the designating PARTY may file an
14 appropriately noticed motion requesting the Court to resolve whether the disputed
15 material is properly designated as PROTECTED INFORMATION. Pending the
16 outcome of any challenge, the information shall be treated by the PARTIES as
17 PROTECTED from the time of designation as such until such time as the Court
18 finds otherwise.

19 Nothing in this Protective Order is intended to affect or compromise the
20 assertion of any claim of privilege by any PARTY with respect to any documents
21 withheld from production on the basis of such privilege.

22 b. The term "DOCUMENTS" shall include all material within the
23 meaning of "writing" as defined by Federal Rule of Civil Procedure 34.

24 c. The term "PARTY" or "PARTIES" shall mean Plaintiff Andrew
25 Howard ("PLAINTIFF") and Defendant Raytheon Company ("RAYTHEON").

26 d. The term "TRIAL COUNSEL" shall mean (i) the attorneys,
27 employees and agents of the Law Offices of Bennett Rolfe and the Law Offices of
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1 John A. Futoran, Sr., attorneys for PLAINTIFF; and (ii) the attorneys, employees,
2 and agents of Burke, Williams & Sorensen, LLP, attorneys for Defendant
3 RAYTHEON. Neither TRIAL COUNSEL nor the PARTIES hereto shall disclose
4 PROTECTED INFORMATION to any substitute or additional trial counsel prior to
5 such counsel's acknowledgment in writing that it is familiar with and agrees to
6 comply with all provisions of this Protective Order.

7 2. Any PARTY may designate any documents, testimony, things, or
8 other information produced in this litigation by them, or any of them, or by any
9 third party, as PROTECTED INFORMATION in accordance with paragraph 1(a)
10 of this Protective Order. Nothing in this Protective Order shall preclude the
11 PARTIES from redacting additional privileged information on documents
12 designated as containing PROTECTED INFORMATION.

13 If any PARTY seeks to challenge any other PARTY'S designation of
14 material as PROTECTED INFORMATION, the challenging PARTY shall, within
15 a reasonable time, not to exceed fourteen (14) days, notify the PARTY whose
16 designation is being challenged, as well as all other PARTIES to this action, of the
17 material being challenged and of the specific reasons therefor. The challenging
18 PARTY and designating PARTY shall thereafter meet and confer in good faith in
19 an attempt to resolve the dispute. If the PARTIES are unable to mutually resolve
20 said dispute within a reasonable time, the challenging PARTY may file an
21 appropriately noticed motion requesting the Court to resolve whether the disputed
22 material is properly designated as PROTECTED INFORMATION.

23 3. All information designated as PROTECTED INFORMATION shall
24 not be disclosed to anyone other than the following 6 categories of people:
25 a. PARTIES and their officers, directors, members and employees;
26 b. TRIAL COUNSEL;
27 c. Independent consultants, contractors, mediators, or experts retained
28 for this litigation; or

1 d. Any person indicated on the face of the document to be its
2 originator, author, or recipient, or the subject of or mentioned in the
3 document.

4 The viewing of PROTECTED INFORMATION by any person in categories
5 3(a) through 3(d) shall not cause such PROTECTED INFORMATION to lose its
6 protected nature.

7 All persons, with the exception of categories (a), (b) and (c) above, in the
8 instant action to whom PROTECTED INFORMATION is disclosed shall read this
9 Protective Order in advance of such disclosure and agree in writing to be bound by
10 its terms, as provided in the form attached hereto as Attachment A.

11 To the extent that PROTECTED INFORMATION must be disclosed to
12 deponents and/or trial witnesses in the present action, TRIAL COUNSEL agree to
13 admonish the deponent and/or witness that a Court Order regarding PROTECTED
14 INFORMATION is in place in this matter and that the deponent/witness shall not
15 divulge any PROTECTED INFORMATION disclosed to him or her.

16 PROTECTED INFORMATION shall not be used for any purpose other than
17 as is set forth in Paragraph 12 of this Protective Order unless and until such
18 designation is removed either by agreement by the PARTIES or by order of the
19 Court. The protections conferred by this Protective Order cover not only
20 PROTECTED INFORMATION (as defined above), but also any information
21 copied or extracted therefrom, as well as all copies, excerpts, summaries, or
22 compilations thereof, plus testimony, conversations, or presentations by parties or
23 counsel to or in court or in other settings that might reveal PROTECTED
24 INFORMATION.

25 4. Whenever a deposition or examination taken on behalf of any PARTY
26 involves a disclosure of PROTECTED INFORMATION:

27 a. Said deposition or examination or portions thereof shall be
28 designated as containing PROTECTED INFORMATION subject to the provisions

1 of this Protective Order at the time the deposition or examination is taken whenever
2 possible; however, any PARTY shall have until fifteen (15) days after receipt of the
3 signed deposition or examination transcript within which to designate in writing to
4 the other PARTIES to the action those portions of the transcript designated
5 PROTECTED INFORMATION;

6 b. Any PARTY shall have the right to exclude from attendance at
7 said deposition or examination, during such time as the PROTECTED
8 INFORMATION is to be disclosed, every individual not entitled under
9 paragraph 3 of this Protective Order to receipt of the information, excluding the
10 PARTIES, the deponent, and the stenographer and/or videographer;

11 c. The originals of the portion of said deposition or examination
12 transcript that contain PROTECTED INFORMATION shall be designated by the
13 court reporter with the applicable legend, as instructed by the PARTY or non-
14 PARTY offering or sponsoring the witness or presenting the testimony, and the
15 original shall at the time of filing with the Court be sealed, identified as being
16 subject to this Protective Order, and not opened except by order of the Court or
17 agreement of the parties.

18 5. Except as otherwise provided in this Order or as otherwise stipulated or
19 ordered, material that qualifies for protection under this Order must be clearly so
20 designated before the material is disclosed or produced.

21 Designation in conformity with this Order requires:

22 a. for information in documentary form (apart from transcripts of
23 depositions or other pretrial or trial proceedings), that the Producing PARTY affix
24 the legend "PROTECTED" at the bottom of each page that contains protected
25 material. If only a portion or portions of the material on a page qualifies for
26 protection, the Producing PARTY also must clearly identify the protected
27 portion(s) (e.g., by making appropriate markings in the margins).

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1 A PARTY or non-PARTY that makes original documents or materials
2 available for inspection need not designate them for protection until after the
3 inspecting PARTY has indicated which material it would like copied and produced.
4 During the inspection and before the designation, all of the material made available
5 for inspection shall be deemed PROTECTED. After the inspecting PARTY has
6 identified the documents it wants copied and produced, the Producing PARTY must
7 determine which documents, or portions thereof, qualify for protection under this
8 Order, then, before producing the specified documents, the Producing PARTY must
9 affix the legend "PROTECTED" at the bottom of each page that contains
10 PROTECTED INFORMATION in accordance with paragraph 5(a) herein.

11 b. for information produced in other than documentary form or
12 deposition testimony, that the Producing PARTY affix in a prominent place on the
13 exterior of the container or containers in which the information or item is stored the
14 legend "PROTECTED." If only portions of the information or item warrant
15 protection, the Producing PARTY, to the extent practicable, shall identify the
16 protected portions, specifying whether they qualify as "PROTECTED."

17 If timely corrected, an inadvertent failure to designate qualified information
18 or items as "PROTECTED" does not, standing alone, waive the Designating
19 PARTY's right to secure protection under this Order for such material. If material
20 is appropriately designated as "PROTECTED" after the material was initially
21 produced, the Receiving PARTY, on timely notification of the designation, must
22 make reasonable efforts to assure that the material is treated in accordance with the
23 provisions of this Order.

24 6. A PARTY may not file with the Court any PROTECTED
25 INFORMATION with without first obtaining written permission from the
26 Designating PARTY, or attempting to file such information under seal, in
27 compliance with Federal Rule of Civil Procedure 5.2.

28 7. In the event that any PROTECTED INFORMATION is used in any

1 Court proceeding in connection with this litigation, it shall not lose its
2 PROTECTED status through such use, and the PARTIES shall take all steps
3 reasonably required to protect its PROTECTEDity during such use.

4 8. Nothing in this Protective Order shall bar or otherwise restrict TRIAL
5 COUNSEL from rendering legal advice to the attorney's PARTY-client with
6 respect to this action, and in the course thereof, relying upon an examination of
7 PROTECTED INFORMATION.

8 9. The designation of information as PROTECTED INFORMATION
9 pursuant to this Protective Order shall not be construed as a concession by any
10 PARTY that such information is relevant, material, or admissible as to any issue.
11 Nothing in this Protective Order shall be construed as waiving any objection to the
12 production of evidence or to discovery requests or subpoenas, nor shall this
13 Protective Order be construed to require the production of any particular testimony,
14 documents, evidence, or other information.

15 10. The termination of proceedings in this action shall not thereafter
16 relieve any person to whom PROTECTED INFORMATION was disclosed from
17 the obligation of maintaining the PROTECTEDity of such information in
18 accordance with the provisions of this Protective Order. Within thirty (30) days of
19 termination of this action (whether by judgment, settlement, or otherwise), the
20 PARTIES and their TRIAL COUNSEL shall either: 1) assemble and return to the
21 Producing PARTIES all PROTECTED INFORMATION, including all copies
22 thereof (with the exception of attorney work product, pleadings, correspondence,
23 and deposition transcripts ("Retained Materials")); or 2) destroy all PROTECTED
24 INFORMATION, including all copies thereof (with the exception of Retained
25 Materials).

26 11. Nothing in the foregoing provisions of this Protective Order shall be
27 deemed to preclude any PARTY from seeking and obtaining, on an appropriate
28 showing, additional protection with respect to the PROTECTEDity or relief from

1 this Protective Order regarding matter designated as containing PROTECTED
2 INFORMATION.

3 12. PROTECTED INFORMATION subject to this Protective Order shall
4 be used solely and exclusively for purposes of pretrial discovery, trial, and post-trial
5 proceedings, if any, in the above-captioned case, subject to the limitations
6 contained herein. All persons to whom PROTECTED INFORMATION is
7 disclosed, including TRIAL COUNSEL, are hereby enjoined from using said
8 information for any personal, commercial, business, competitive, or other purpose
9 whatsoever, including, but not limited to, trading on such information, or from
10 using copies of documents obtained in this case, containing said information, in any
11 other cases, proceedings, or disputes.

12 13. Subject to rules of evidence, information designated PROTECTED
13 INFORMATION may be offered in evidence at any hearing in this case. Any
14 PARTY may move the Court orally or in writing for an order that the evidence be
15 received *in camera* at the hearing or under other conditions to prevent unnecessary
16 disclosure. The Court then will determine what protections shall be afforded to
17 such information at the hearing or trial.

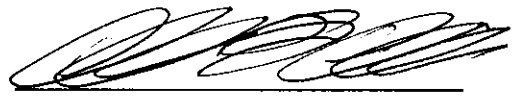
18 14. If any PARTY or other person authorized under this Protective Order
19 to receive information designated as PROTECTED INFORMATION receives a
20 subpoena or other document request from a non-PARTY to this Protective Order,
21 seeking production or other disclosure of such information, that PARTY or person
22 shall promptly give written notice to counsel for producing PARTY identifying the
23 information requested and enclosing a copy of the subpoena or document request
24 before responding to such subpoena, to allow Producing PARTY to object to the
25 production of PROTECTED INFORMATION. If the Producing PARTY opposes
26 production of the information sought by the subpoena, then Producing PARTY may
27 undertake such actions as it deems appropriate to enforce this Protective Order or
28 oppose enforcement of the subpoena or document request.

1 15. Any PARTY may apply to the Court for a modification of this Order,
2 and nothing in the order shall be deemed to prejudice their rights to seek
3 modification.

4 16. In the event any PARTY or non-PARTY shall violate or threaten to
5 violate the terms of this Protective Order, any PARTY may immediately apply to
6 obtain injunctive relief against any such person violating, or threatening to violate
7 any of the terms of this Protective Order. The PARTIES and any other person
8 subject to the terms of this Protective Order stipulate that this Court shall retain
9 jurisdiction over it and them for the purpose of enforcing this Protective Order, and
10 further agree that the Protective Order may also be enforced in any other Court with
11 competent jurisdiction.

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Dated: 11/12/09



Honorable Charles F. Eick
Magistrate Judge of the United States
District Court in the Central District of
California

EXHIBIT A

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ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____, of _____,
declare under penalty of perjury that I have read in its entirety and understand the
Stipulated Protective Order that was issued by the United States District Court for
the Central District of California, Western Division, on _____, in
the case of RONALD CARMICHAEL vs. RAYTHEON COMPANY, Case No.
CV09-3089 GAF (Ex).

I agree to comply with and to be bound by all the terms of this Stipulated
Protective Order and I understand and acknowledge that failure to so comply could
expose me to sanctions and punishment in the nature of contempt. I solemnly
promise that I will not disclose in any manner any information or item that is
subject to this Stipulated Protective Order to any person or entity except in strict
compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court
for the Central District of California, Western Division, for the purpose of
enforcing the terms of this Stipulated Protective Order, even if such enforcement
proceedings occur after termination of this action.

I hereby appoint _____ [print or type full name] of
_____ [print or type full address and
telephone number] as my California agent for service of process in connection with
this action or any proceedings related to enforcement of this Stipulated Protective
Order.

Date: _____
City and State where sworn and signed: _____
Print Name: _____
Signature: _____