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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CHRISTINA GONZALEZ, an
individual IGNACIO C.
GONZALEZ, an individual,

Plaintiffs,

vs.

CAVALRY PORTFOLIO
SERVICES, LLC, a Delaware
Corporation, aka CAVALRY SPV I,
LLC; and DOES 1-10, inclusive,

Defendants.

CASE NO.: CV10-01876 MAN

**ORDER RE: STIPULATED
CONFIDENTIALITY ORDER**

Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure and based on the parties’ Stipulation Re Request for Confidentiality Order, filed on August 13, 2010, the terms of the Confidentiality Order to which the parties have agreed are adopted as a protective order of this Court.

The parties are expressly cautioned that the designation of any information, document, or thing as “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” does not, in and of itself, create any entitlement to file such information, document, or thing, in whole or in part, under seal. Accordingly, reference to this

ORDER RE: STIPULATED CONFIDENTIALITY ORDER

1 Order or to the parties' designation of any information, document, or thing as
2 "Confidential" or "Highly Confidential – Attorneys' Eyes Only" is wholly
3 insufficient to warrant a filing under seal.
4

5 There is a strong presumption that the public has a right of access to judicial
6 proceedings and records in civil cases. In connection with non-dispositive motions,
7 good cause must be shown to support a filing under seal. The parties' mere
8 designation of any information, document, or thing as "Confidential" or "Highly
9 Confidential – Attorneys' Eyes Only" does not - - without the submission of
10 competent evidence, in the form of a declaration or declarations, establishing that the
11 material sought to be filed under seal qualifies as confidential, privileged, or
12 otherwise protectible - - constitute good cause.
13

14 Further, if sealing is requested in connection with a dispositive motion or trial,
15 then compelling reasons, as opposed to good cause, for the sealing must be shown,
16 and the relief sought shall be narrowly tailored to serve the specific interest to be
17 protected. *See Pintos v. Pacific Creditors Ass'n*, 605 F.3d 665, 677-79 (9th Cir.
18 2010). For each type of information, document, or thing sought to be filed or
19 introduced under seal in connection with a dispositive motion or trial, the party
20 seeking protection must articulate compelling reasons, supported by specific facts and
21 legal justification, for the requested sealing order. Again, competent evidence
22 supporting the application to file documents under seal must be provided by
23 declaration.
24

25 Any document that is not confidential, privileged, or otherwise protectible in
26 its entirety will not be filed under seal if the confidential portions can be redacted.
27 If documents can be redacted, then a redacted version for public viewing, omitting
28 only the confidential, privileged, or otherwise protectible portions of the document,

1 shall be filed. Any application that seeks to file documents under seal in their entirety
2 should include an explanation of why redaction is not feasible.
3

4 1. PURPOSES AND LIMITATIONS
5

6 Disclosure and discovery activity in this action are likely to involve production
7 of confidential, proprietary, or private information for which special protection from
8 public disclosure and from use for any purpose other than prosecuting this litigation
9 would be warranted. This Order does not confer blanket protections on all
10 disclosures or responses to discovery and the protection that it affords extends only
11 to the limited information or items that are entitled under the applicable legal
12 principles to treatment as confidential. This Order, as set forth in Section 10, below,
13 creates no entitlement to file confidential information under seal; Civil Local Rule 79-
14 5 sets forth the procedures that must be followed and reflects the standards that will
15 be applied when a party seeks permission from the court to file material under seal.
16

17 2. DEFINITIONS
18

19 2.1 Party: any party to this action, including all of its officers,
20 directors, employees, consultants, retained experts, and outside counsel (and their
21 support staff).
22

23 2.2 Disclosure or Discovery Material: all items or information,
24 regardless of the medium or manner generated, stored, or maintained (including,
25 among other things, testimony, transcripts, or tangible things) that are produced or
26 generated in disclosures or responses to discovery in this matter.
27

28 2.3 “Confidential” Information or Items: information (regardless of

1 how generated, stored or maintained) or tangible things that qualify for protection
2 under standards developed under Fed. R. Civ. P. 26(c). Counsel shall not designate
3 discovery materials as “Confidential” without first making a good faith determination
4 that protection is warranted.
5

6 2.4 “Highly Confidential - Attorneys’ Eyes Only” Information or
7 Items: extremely sensitive “Confidential Information or Items” whose disclosure to
8 another Party or non-party would create a substantial risk of serious injury that could
9 not be avoided by less restrictive means. Counsel shall not designate discovery
10 materials as “Highly Confidential” without first making a good faith determination
11 that protection is warranted.
12

13 2.5 Receiving Party: a Party that receives Disclosure or Discovery
14 Material from a Producing Party.
15

16 2.6 Producing Party: a Party or non-party that produces Disclosure
17 or Discovery Material in this action.
18

19 2.7 Designating Party: a Party or non-party that designates
20 information or items that it produces in disclosures or in responses to discovery as
21 “Confidential” or “Highly Confidential - Attorneys’ Eyes Only.”
22

23 2.8 Protected Material: any Disclosure or Discovery Material that is
24 designated as “Confidential” or as “Highly Confidential - Attorneys’ Eyes Only.”
25

26 2.9 Outside Counsel: attorneys who are not employees of a Party but
27 who are retained to represent or advise a Party in this action.
28

1 2.10 House Counsel: attorneys who are employees of a Party.

2
3 2.11 Counsel: (without qualifier) Outside Counsel and House Counsel
4 (as well as their support staffs).

5
6 2.12 Expert: a person with specialized knowledge or experience in a
7 matter pertinent to the litigation who has been retained by a Party or its counsel to
8 serve as an expert witness or as a consultant in this action and who is not a past or a
9 current employee of a Party or a competitor of a Party. This definition includes a
10 professional jury or trial consultant retained in connection with this litigation.

11
12 2.13 Professional Vendors: persons or entities that provide litigation
13 support services (e.g. photocopying; videotaping; translating; class administration;
14 preparing exhibits or demonstrations; organizing, storing, retrieving data in any form
15 or medium; etc.) and their employees and subcontractors.

16
17 3. SCOPE

18
19 The protections conferred by this Order cover not only Protected Material (as
20 defined above), but also any information copied or extracted therefrom, as well as all
21 copies, excerpts, summaries, or compilations thereof, plus testimony, conversations,
22 or presentations by parties or counsel to or in court or in other settings that might
23 reveal Protected Material.

24
25 4. DURATION

26
27 Even after the termination of this litigation, the confidentiality obligations
28 imposed by this Order shall remain in effect until a Designating Party agrees

1 otherwise in writing or a court order otherwise directs.
2

3 5. DESIGNATING PROTECTED MATERIAL
4

5 5.1 Exercise of Restraint and Care in Designating Material for
6 Protection: Each Party or non-party that designates information or items for
7 protection under this Order must take care to limit any such designation to specific
8 material that qualifies under the appropriate standards. A Designating Party must
9 take care to designate for protection only those parts of material, documents, items,
10 or oral or written communications that qualify - - so that other portions of the material
11 documents, items, or communications for which protection is not warranted, are not
12 swept unjustifiably within the ambit of this Order.
13

14 Mass, indiscriminate, or routinized designations are prohibited.
15 Designations that are shown to be clearly unjustified, or that have been made for an
16 improper purpose (*e.g.* to unnecessarily encumber or retard the case development
17 process, or to impose unnecessary expenses and burdens on other parties), expose the
18 Designating Party to sanctions.
19

20 If it comes to a Party's or a non-party's attention that information or
21 items that it designated for protection do not qualify for protection at all, or do not
22 qualify for the level of protection initially asserted, that Party or non-party must
23 promptly notify all other parties that it is withdrawing the mistaken designation.
24

25 5.2 Manner and Timing of Designations: Except as otherwise
26 provided in this Order (*see, e.g.*, second paragraph of section 5.2(a), below), or as
27 otherwise stipulated or ordered, material that qualifies for protection under this Order
28 must be clearly so designated before the material is disclosed or produced.

1 Designation in conformity with this Order requires:
2

3 (a) for information in documentary form (apart from transcripts
4 of depositions or other pretrial or trial proceedings), that the Producing Party affix the
5 legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL - ATTORNEYS’ EYES
6 ONLY” at the bottom of each page that contains protected material. If only a portion
7 or portions of the material on a page qualifies for protection, the Producing Party also
8 must clearly identify the protected portion(s) (*e.g.*, by making appropriate markings
9 in the margins) and must specify, for each portion, the level of protection being
10 asserted (either “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -
11 ATTORNEYS’ EYES ONLY”).

12 A Party or non-party that makes original documents or materials
13 available for inspection need not designate them for protection until after the
14 inspecting Party has indicated which material it would like copied and produced.
15 During the inspection and before the designation, all of the material made available
16 for inspection shall be deemed “HIGHLY CONFIDENTIAL - ATTORNEYS’ EYES
17 ONLY.” After the inspecting Party has identified the document it wants copied and
18 produced, the Producing Party must determine which documents, or portions thereof,
19 qualify for protection under this Order, then, before producing the specified
20 documents, the Producing Party must affix the appropriate legend
21 (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL - ATTORNEYS’ EYES
22 ONLY”) at the bottom of each page that contains Protected Material. If only a
23 portion or portions of the material on a page qualifies for protection, the Producing
24 Party also must clearly identify the protected portion(s) (*e.g.*, by making appropriate
25 markings in the margins) and must specify, for each portion, the level of protection
26 being asserted (either “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -
27 ATTORNEYS’ EYES ONLY”).
28

1 (b) for testimony given in deposition or in other pretrial or trial
2 proceedings, that the Party or non-party offering or sponsoring the testimony identify
3 on the record, before the close of the deposition, hearing, or other proceeding, all
4 protected testimony, and further specify any portions of the testimony that qualify as
5 “HIGHLY CONFIDENTIAL - ATTORNEYS’ EYES ONLY.” When it is
6 impractical to identify separately each portion of testimony that is entitled to
7 protection, and when it appears that substantial portions of the testimony may qualify
8 for protection, the Party or non-party that sponsors, offers, or gives the testimony may
9 invoke on the record (before the deposition or proceeding is concluded) a right to
10 have up to 20 days from the date of receipt of the transcript to identify the specific
11 portions of the testimony as to which protection is sought and to specify that level of
12 protection being asserted (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -
13 ATTORNEYS’ EYES ONLY”). Only those portions of the testimony that are
14 appropriately designated for protection within the 20 days shall be covered by the
15 provisions of this Protective Order.

16 Transcript pages containing Protected Material must be separately
17 bound by the court reporter, who must affix to the top of each such page the legend
18 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL - ATTORNEYS’ EYES
19 ONLY,” as instructed by the Party or non-party offering or sponsoring the witness or
20 presenting the testimony.

21 (c) for information produced in some form other than
22 documentary, and for any other tangible items, that the Producing Party affix in a
23 prominent place on the exterior of the container or containers in which the
24 information or item is stored the legend “CONFIDENTIAL” or “HIGHLY
25 CONFIDENTIAL - ATTORNEYS’ EYES ONLY.” If only portions of the
26 information or item warrant protection, the Producing Party, to the extent practicable,
27 shall identify the protected portions, specifying whether they qualify as
28 “Confidential” or as “Highly Confidential - Attorneys’ Eyes Only.”

1 5.3 Inadvertent Failures to Designate: If timely corrected, an
2 inadvertent failure to designate qualified information or items as “Confidential” or
3 “Highly Confidential - Attorneys’ Eyes Only” does not, standing alone, waive the
4 Designating Party’s right to secure protection under this Order for such material. If
5 material is appropriately designated as “Confidential” or “Highly Confidential -
6 Attorneys’ Eyes Only” after the material was initially produced, the Receiving Party,
7 on timely notification of the designation, must make reasonable efforts to assure that
8 the material is treated in accordance with the provisions of this Order.
9

10 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS
11

12 6.1 Timing of Challenges: Unless a prompt challenge to a Designating
13 Party’s confidentiality designation is necessary to avoid foreseeable substantial
14 unfairness, unnecessary economic burdens, or a later significant disruption or delay
15 of the litigation, a Party does not waive its right to challenge a confidentiality
16 designation by electing not to mount a challenge promptly after the original
17 designation is disclosed.
18

19 6.2 Meet and Confer: A Party that elects to initiate a challenge to a
20 Designating Party’s confidentiality designation must do so in good faith and must
21 begin the process by conferring directly or in writing with counsel for the Designating
22 Party. In conferring, the challenging Party must explain the basis for its belief that
23 the confidentiality designation was not proper and must give the Designating Party
24 an opportunity to review the designated material, to reconsider the circumstances,
25 and, if no change in designation is offered, to explain the basis for the chosen
26 designation. A challenging Party may proceed to the next stage of the challenge
27 process only if it has engaged in this meet and confer process first.
28

1 6.3 Judicial Intervention: A party that elects to press a challenge to a
2 confidentiality designation after considering the justification offered by the
3 Designating Party may file and serve a motion under Civil Local Rule 37 (and in
4 compliance with Civil Local Rule 79-5, if applicable) that identifies the challenged
5 material and sets forth in detail the basis for the challenge. Each such motion must
6 be accompanied by a competent declaration that affirms that the movant has complied
7 with the meet and confer requirements imposed in the preceding paragraph and that
8 sets forth with specificity the justification for the confidentiality designation that was
9 given by the Designating Party in the meet and confer dialogue.
10

11 The burden of persuasion in any such challenge proceeding shall be on the
12 Designating Party. Until the court rules on the challenge, all parties shall continue
13 to afford the material in question the level of protection to which it is entitled under
14 the Designating Party’s designation.
15

16 To allow the challenging party adequate space to respond to the arguments
17 posed by the Designating Party in opposition to any such motion, the challenging
18 party’s Reply Brief may consist of up to 25 pages in length.
19

20 7. ACCESS TO AND USE OF PROTECTED MATERIAL
21

22 7.1 Basic Principles: A Receiving Party may use Protected Material
23 that is disclosed or produced by another Party or by a non-party in connection with
24 this case only for prosecuting, defending, or attempting to settle this litigation. Such
25 Protected Material may be disclosed only to the categories of persons and under the
26 conditions described in this Order. When the litigation has been terminated, a
27 Receiving Party must comply with the provisions of section 11, below (FINAL
28 DISPOSITION).

1 Protected Material must be stored and maintained by a Receiving Party
2 at a location and in a secure manner that ensures that access is limited to the persons
3 authorized under this Order.
4

5 7.2 Disclosure of “CONFIDENTIAL” Information or Items: Unless
6 otherwise ordered by the court or permitted in writing by the Designating Party, a
7 Receiving Party may disclose any information or item designated CONFIDENTIAL
8 only to:

9 (a) the Receiving Party’s Outside Counsel of record in this action,
10 as well as employees of said Counsel to whom it is reasonably necessary to disclose
11 the information for this litigation and who have signed the “Agreement to Be Bound
12 by Protective Order” that is attached hereto as Exhibit A;

13 (b) the officers, directors, and employees (including House
14 Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this
15 litigation and who signed the “Agreement to Be Bound by Protective Order” (Exhibit
16 A);

17 (c) experts (as defined in this Order) of the Receiving Party to
18 whom disclosure is reasonably necessary for this litigation and who have signed the
19 “Agreement To Be Bound by Protective Order” (Exhibit A);

20 (d) the Court and its personnel;

21 (e) court reporters, their staffs, and professional vendors to whom
22 disclosure is reasonably necessary for this litigation and who have signed the
23 “Agreement To Be Bound by Protective Order” (Exhibit A);

24 (f) during their depositions, witnesses in the action to whom
25 disclosure is reasonably necessary and who have signed the “Agreement To Be
26 Bound by Protective Order” (Exhibit A). Pages of transcribed deposition testimony
27 or exhibits to depositions that reveal Protected Material must be separately bound by
28 the court reporter and may not be disclosed to anyone except as permitted under this

1 Protective Order.

2 (g) the author of the document or the original source of the
3 information.

4
5 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’
6 EYES ONLY” Information or Items: Unless otherwise ordered by the court or
7 permitted in writing by the Designating Party, a Receiving Party may disclose any
8 information or item designated HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
9 ONLY only to:

10 (a) the Receiving Party’s Outside Counsel of record in this action,
11 as well as employees of said Counsel to whom it is reasonably necessary to disclose
12 the information for this litigation and who have signed the “Agreement to Be Bound
13 by Protective Order” that is attached hereto as Exhibit A;

14 (b) experts (as defined in this Order) of the Receiving Party to
15 whom disclosure is reasonably necessary for this litigation and who have signed the
16 “Agreement to Be Bound by Protective Order” (Exhibit A);

17 (c) the Court and its personnel;

18 (d) court reporters, their staffs, and professional vendors to whom
19 disclosure is reasonably necessary for this litigation and who have signed the
20 “Agreement to Be Bound by Protective Order” (Exhibit A);

21 (e) during their depositions, witnesses in the action to whom
22 disclosure is reasonably necessary and who have signed the “Agreement to be Bound
23 by Protective Order” (Exhibit A). Pages of transcribed deposition testimony or
24 exhibits to depositions that reveal Protected Material must be separately bound by the
25 court reporter and may not be disclosed to anyone except as permitted under this
26 Protective Order.

27 (f) the author of the document or the original source of the
28 information.

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8. PROTECTED MATERIAL SUBPOENAED OR ORDERED
PRODUCED IN OTHER LITIGATION

If a Receiving Party is served with a subpoena or an order issued in other litigation that would compel disclosure of any information or items designated in this action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL - ATTORNEYS’ EYES ONLY,” the Receiving Party must so notify the Designating Party, in writing (by fax, if possible) immediately and in no event more than three court days after receiving the subpoena or order. Such notification must include a copy of the subpoena or court order.

The Receiving Party also must immediately inform in writing the Party who caused the subpoena or order to issue in the other litigation that some or all the material covered by the subpoena or order is the subject of this Protective Order. In addition, the Receiving Party must deliver a copy of this Protective Order promptly to the Party in the other action that caused the subpoena or order to issue.

The purpose of imposing these duties is to alert the interested parties to the existence of this Protective Order to afford the Designating Party in this case an opportunity to try to protect its confidentiality interests in the court from which the subpoena or order issued. The Designating Party shall bear the burdens and the expenses of seeking protection in that court of its confidential material - - and nothing in these provisions should be construed as authorizing or encouraging a Receiving Party in this action to disobey a lawful directive from another court.

9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

1 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
2 Protected Material to any person or in any circumstance not authorized under this
3 Protective Order, the Receiving Party must immediately (a) notify in writing the
4 Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve
5 all copies of the Protected Material, (c) inform the person or persons to whom
6 unauthorized disclosures were made of all the terms of this Order, and (d) request
7 such person or persons to execute the “Agreement To Be Bound” by Protective Order
8 that is attached hereto as Exhibit A.
9

10 10. FILING PROTECTED MATERIAL
11

12 Without written permission from the Designating Party or a court order secured
13 after appropriate notice to all interested persons, a Party may not file in the public
14 record in this action any Protected Material. A Party that seeks to file under seal any
15 Protected Material must comply with Civil Local Rule 79-5. The documents shall be
16 submitted in an appropriate envelope conforming to the requirements of Civil Local
17 Rules 79-5.1, labeled with the case name and number and bearing instructions that
18 the document is filed pursuant to the Stipulated Protective Order and that the
19 envelope is not to be opened absent further order of the Court.
20

21 11. FINAL DISPOSITION
22

23 Unless otherwise ordered or agreed in writing by the Producing Party, within
24 sixty (60) days after the final termination of this action, each Receiving Party must
25 return all Protected material to the Producing Party. As used in this subdivision, “all
26 Protected Material” includes all copies, abstracts, compilations, summaries, or any
27 other form of reproducing or capturing any of the Protected Material. With
28 permission in writing from the Designating Party, the Receiving Party may destroy

1 some or all of the Protected Material instead of returning it. Whether the Protected
2 Material is returned or destroyed, the Receiving Party must submit a written
3 certification to the Producing Party (and, if not the same person or entity, to the
4 Designating Party) by the sixty day deadline that identifies (by category, where
5 appropriate) all the Protected material that was returned or destroyed and that affirms
6 that the Receiving Party has not retained any copies, abstracts, compilations,
7 summaries, or other forms of reproducing or capturing any of the Protected Material.
8 Notwithstanding this provision, Counsel are entitled to retain any archival copy of all
9 pleadings, motion papers, transcripts, legal memoranda, correspondence, or attorney
10 work product, even if such materials contain Protected Material. Any such archival
11 copies that contain or constitute Protected Material remain subject to this Protective
12 Order as set forth in Section 4 (DURATION), above.

13
14 12. MISCELLANEOUS

15
16 12.1 Right to Further Relief: Nothing in this Order abridges the right
17 of any person to seek its modification by the Court in the future.

18
19 12.2 Right to Assert Other Objections: The entry of this Order does not
20 affect any Party's right to object to disclosing or producing any information or item
21 on any ground not addressed in this Protective Order. Similarly, no party waives any
22 right to object on any ground to use in evidence of any of the material covered by this
23 Protective Order.

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IT IS SO ORDERED.

DATED: October 6, 2010

Margaret A. Nagle

Margaret A. Nagle
United States Magistrate Judge

1
2 EXHIBIT A

3 AGREEMENT TO BE BOUND BY PROTECTIVE ORDER

4 I, _____ (print or type full name), of _____
5 (print or type full address), declare under penalty of perjury that I have read in its
6 entirety and understand the Confidentiality Order that was issued by the United States
7 District Court for the Central District of California on _____ (date) in the
8 case of *Christina Gonzalez et al. v. Cavalry Portfolio Services, LLC*, Case No. CV10-
9 1876 MAN. I agree to comply with and to be bound by all the terms of this
10 Confidentiality Order and I understand and acknowledge that failure to so comply
11 could expose me to sanctions and punishment in the nature of contempt. I solemnly
12 promise that I will not disclose in any manner any information or item that is subject
13 to this Confidentiality Order to any person or entity except in strict compliance with
14 the provisions of this Order.

15 I further agree to submit to the jurisdiction of the United States District Court
16 for the Central District of California for the purpose of enforcing the terms of this
17 Confidentiality Order, even if such enforcement proceedings occur after termination
18 of this action.

19 I hereby appoint _____ (print or type full
20 name) of _____ (print or type full address and tel.
21 number) as my California agent for service of process in connection with this action
22 or any proceedings related to enforcement of this Confidentiality Order.

23 Date: _____

24 City and State where sworn and signed: _____

25 Printed Name: _____

26
27 Signature: _____
28