

EXHIBIT 1

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14 UNITED STATES DISTRICT COURT
15 CENTRAL DISTRICT OF CALIFORNIA

16 RONALD LAPEKAS,

17 Plaintiff,

18 v.

19 KAISER FOUNDATION HEALTH
20 PLAN, INC., et al.,

21 Defendants.

Case No. 10 5984-VBF (FMOx)

**STIPULATION TO
CONFIDENTIALITY
PROTECTIVE ORDER**

22 The parties to this action believe that certain information that is or may be
23 sought or disclosed in discovery in this action is protected from public disclosure.
24 The parties to this action desire to establish a mechanism to prevent the improper
25 disclosure of such information whether produced by the parties or by other
26 persons.

27 FOR THESE REASONS, IT IS HEREBY STIPULATED AND AGREED
28 by the parties to this action through their respective counsel, as follows:

1. The parties agree that discovery in this action may entail the exchange
of information regarding sensitive and proprietary cost and pricing data,
confidential information regarding defendants' methods and processes for setting
the rates or premiums for insurance policies, strategic business plans and
proposals, underwriting criteria, confidential contracting information, technical

1 information and confidential business information, the disclosure of which could
2 reasonably be anticipated to cause competitive injury to the party, third party, or
3 witness producing the information, or to cause injury to the business relations of
4 that party, third party, or witness, or to breach a confidentiality obligation to any
5 party, third party or witness. In addition, discovery may entail the exchange of
6 individually identifiable health information that is subject to the Standards of
7 Privacy of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and
8 164 promulgated pursuant to the Health Insurance Portability and Accountability
9 Act of 1996 ("HIPAA"). Some parties are "covered entities," as defined under
10 HIPAA and regulations promulgated thereunder, that are statutorily required to
11 protect the privacy and security of certain health information. Accordingly, there
12 is good cause for entry of a Protective Order.

13 2. "CONFIDENTIAL MATERIAL" means contracts and agreements
14 that were designated confidential in the ordinary course of business or which
15 contain information designated as confidential by statute or regulation; documents
16 designated in such contracts as confidential; internal documents not otherwise
17 available to the public containing trade secrets as defined in California Civil Code
18 section 3426.1, sensitive and proprietary financial, cost, and pricing data,
19 confidential information regarding defendants' methods and processes for setting
20 the rates and premiums for insurance policies, unpublished marketing or
21 commercial information, confidential or proprietary strategic business plans or
22 proposals, underwriting criteria, confidential contracting information, and other
23 ~~similar technical or commercially sensitive information of a nonpublic nature,~~ the
24 disclosure of which (whether separately or in conjunction with other information
25 being produced) will cause competitive harm to a party, third party or witness or
26 give a competitive advantage to others or others with whom they do business.
27 CONFIDENTIAL MATERIAL also includes individually identifiable health
28 information that is subject to the Standards of Privacy of Individually Identifiable

1 Health Information, 45 C.F.R. Parts 160 and 164 promulgated pursuant to the
2 Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), or other
3 similar statutory or regulatory privacy protections. In addition, CONFIDENTIAL
4 MATERIAL also includes information protected from disclosure by federal and
5 state constitutional, statutory and common law, including, but not limited to, rights
6 of privacy of third parties and/or the parties to this Stipulation to a Confidentiality
7 Protective Order (hereinafter "SCO"). CONFIDENTIAL MATERIAL further
8 includes any testimony, briefing, analysis, report, memorandum, note, pleading, or
9 any writing containing or derived from the materials identified above.

10 3. The procedures outlined in this SCO shall apply to any documents,
11 things and information disclosed during pre-trial proceedings in this action,
12 including but not limited to documents, things and information produced during
13 discovery, interrogatory answers, deposition testimony, responses to other
14 discovery demands, responses to subpoenas, as well as any copies, notes, abstracts,
15 or summaries or such information; or documents, things, and information offered
16 in any court filings or court hearings. This SCO shall not govern the conduct at
17 trial. If any party or third party believes that any evidence to be introduced at trial
18 should not form part of the public record of the trial, it shall bring that situation to
19 the Court's attention no later than the final pre-trial conference for this case, and,
20 as provided in paragraph 23 below, shall make a specific proposal with respect to
21 the handling of such evidence at trial.

22 4. For purposes of this SCO, the following definitions shall apply:

23 (a) "CONFIDENTIAL MATERIAL" means and includes all information,
24 writings, and things described in paragraph 2 of this SCO. "CONFIDENTIAL"
25 means information meeting the definition of CONFIDENTIAL MATERIAL and
26 designated CONFIDENTIAL in accordance with the terms of this SCO.

27 (b) "CONFIDENTIAL DOCUMENT" means any DOCUMENT designated
28 CONFIDENTIAL in accordance with the terms of this SCO.

1 (c) "DOCUMENT" means any "writing" as defined in Rule 1001 of the
2 Federal Rules of Evidence, including without limitation any records, exhibits,
3 reports, samples, transcripts, video or audio recordings, affidavits or declarations,
4 briefs and motion papers, summaries, notes, abstracts, drawings, company records
5 and reports, written discovery responses, or databases, whether tangible or stored
6 as computer records.

7 (d) "DESIGNATING PARTY" means a party, third party or witness that
8 seeks to designate a particular DOCUMENT in accordance with the designation set
9 forth in paragraph 3 immediately below.

10 (e) "REQUESTING PARTY" means a party that seeks production of a
11 particular DOCUMENT.

12 (f) "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY means
13 any CONFIDENTIAL DOCUMENT designated as HIGHLY CONFIDENTIAL –
14 ATTORNEYS' EYES ONLY by the DESIGNATING PARTY in order to protect
15 confidential pricing information, defendants' methods and processes for setting the
16 rates or premiums for insurance policies, information regarding nonpublic present
17 and future business and marketing strategies, confidential agreements and other
18 similar commercially sensitive information relating to current or future business
19 processes, pricing or costs, the disclosure of which (whether separately or in
20 conjunction with other information being produced) will cause competitive harm to
21 a DESIGNATING PARTY or give a competitive advantage to others or others
22 with whom they do business by limiting disclosure to the other parties' outside
23 attorneys. Other than outside attorneys appearing on behalf of a party in this
24 action, documents designated "HIGHLY CONFIDENTIAL – ATTORNEYS'
25 EYES ONLY" may not be disclosed to any party to the litigation, including the
26 party's in house counsel.

27 5. Any person may affix the legend "CONFIDENTIAL" or
28 "CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER ENTERED IN

1 CASE NO. C.D.CAL CV 10-5984-VBF(FMO)" to DOCUMENTS produced,
2 filed, or otherwise disclosed in connection with this action whenever the person
3 believes the DOCUMENTS produced contain information subject to protection
4 under any state or federal law. In addition, any party can affix the legend
5 "HIGHLY CONFIDENTIAL" or "ATTORNEYS' EYES ONLY" OR "HIGHLY
6 CONFIDENTIAL – ATTORNEYS' EYES ONLY PURSUANT TO
7 PROTECTIVE ORDER ENTERED IN CASE NO. C.D.CAL CV 10-5984
8 VBF(FMO)" to such documents in order to designate them as HIGHLY
9 CONFIDENTIAL – ATTORNEYS' EYES ONLY.

10 6. Parties and non-parties need not designate DOCUMENTS before
11 producing them for inspection by the REQUESTING PARTY. However,
12 designations must be made by the DESIGNATING PARTY before copies of
13 produced documents are provided to the REQUESTING PARTY. Designations
14 will be made by affixing the appropriate legend as described in paragraph 5 above
15 on each and every page of the designated DOCUMENT wherever practical. In the
16 case of information disclosed in a non-paper medium (e.g. video tape, computer
17 disks, etc), or where a designation on each page is otherwise impractical the
18 appropriate legend shall be affixed to the outside of the medium or its container so
19 as to clearly give notice of its designation. This designation is deemed to apply
20 both to the non-paper medium itself and to its content.

21 7. CONFIDENTIAL and HIGHLY CONFIDENTIAL DOCUMENTS
22 shall not be disclosed outside this litigation and shall not be used for any purpose
23 other than the prosecution or defense of the litigation.

24 8. If any party seeks to file with the Court a DOCUMENT received from
25 any other person bearing a legend designating the documents as CONFIDENTIAL
26 or HIGHLY CONFIDENTIAL, or containing CONFIDENTIAL MATERIAL
27 obtained from any other person, that party must first obtain permission of the Court
28

1 to file the document under seal in accordance with Local Rule 79-5.1, and
2 thereafter the document shall be marked:

3 (a) "FILED UNDER SEAL" or "Contains
4 CONFIDENTIAL INFORMATION; To be Opened Only By or As Directed By
5 the Court," OR

6 (b) with such other designation as is ordered by the Court or
7 as required by the Clerk of the Court. A fully executed copy of this SCO along
8 with the Court's Order entering the SCO as an Order of the Court will be submitted
9 with any DOCUMENTS requested to be filed under seal pursuant to this
10 paragraph.

11 9. Should any party, during any pre-trial hearing before the Court,
12 determine the need to disclose CONFIDENTIAL MATERIAL, it may do so as
13 ordered by the Court or by agreement of the parties or their attorneys.

14 10. This SCO shall be without prejudice to the right of any party to
15 question whether any particular DOCUMENT or the information in that document
16 is "CONFIDENTIAL" or whether its use should be restricted to disclosure to
17 persons or entities designated in paragraph 14 below. This SCO shall also be
18 without prejudice to the right of any party to present a motion pursuant to Rule
19 26(c) of the Federal Rules of Civil Procedure for a separate protective order as to
20 any particular document or information, including restrictions differing from those
21 as specified herein. This SCO shall not be deemed to prejudice any party from
22 seeking to modify this SCO. This SCO shall not be deemed an order to produce
23 any document, thing, information or response.

24 11. Should a dispute arise relating to this SCO, such as the designation of
25 CONFIDENTIAL or HIGHLY CONFIDENTIAL DOCUMENTS, any party may
26 seek appropriate relief from this Court, and must follow all of the procedures
27 outlined in Central District Civil Local Rule 37. On any motion challenging the
28 designation of any particular DOCUMENT or its content as "CONFIDENTIAL"

1 or "HIGHLY CONFIDENTIAL," the party seeking to maintain a document as
2 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" shall bear the burden of
3 establishing that specific prejudice or harm will result if no protective order is
4 granted. An opposing party shall not be obligated to challenge the propriety of a
5 designation at the time made, and failure to do so shall not preclude subsequent
6 challenge.

7 12. With respect to any DOCUMENT bearing the designation set forth in
8 paragraph 5 above, the DESIGNATING PARTY shall produce a clean (i.e.,
9 undesignated) copy of that DOCUMENT within twenty (20) calendar days from
10 any of the following occurrences: (a) the DESIGNATING PARTY'S withdrawal
11 of its designation of that DOCUMENT; or (b) notice of entry by the Court of an
12 order nullifying the designation with respect to that DOCUMENT (unless a
13 response period longer than twenty (20) calendar days is set by the Court).

14 13. Testimony given at any deposition may be designated as
15 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" by making a statement to
16 that effect on the record at the deposition, or hearing. Arrangements shall be made
17 with the court reporter taking and transcribing such proceeding to separately bind
18 such portions of the transcript containing information designated as
19 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL," and to label such portions
20 appropriately.

21 14. Any DOCUMENT designated as "CONFIDENTIAL" by a
22 DESIGNATING PARTY, and its content, may only be disclosed to the parties to
23 this action, their present and former officers, directors or employees, so designated
24 by any party to aid in the prosecution, defense or settlement of this action, their in-
25 house or outside counsel (together with their paralegal assistants, clerical and
26 secretarial staffs), the Court (including Court personnel and jurors), court
27 reporter(s) employed in this action and any experts or consultants (together with
28 their clerical staff) retained by the parties and/or their counsel for assistance in the

1 prosecution, defense or settlement of the litigation, but, with the sole exception of
2 the Court, only after they have been informed of this SCO, have agreed to be
3 bound by it and have executed a nondisclosure agreement in the form of
4 Attachment A affixed hereto. A copy of the executed Attachment A shall be
5 provided to the DESIGNATING PARTY, if the identity of the person to whom the
6 CONFIDENTIAL MATERIAL is being disclosed is not confidential or privileged.
7 Disclosure shall be made to such persons only as is necessary for the prosecution,
8 defense or settlement of this litigation. Any DOCUMENT further designated as
9 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" are subject to the
10 further limitation that they may not be disclosed, without the permission of the
11 DESIGNATING PARTY, to the other parties to this action (other than their
12 outside counsel).

13 15. Nothing in this SCO shall be construed as an agreement or admission
14 by any party that any designated material is in fact confidential, contains trade
15 secrets, or is relevant, admissible or material, nor shall anything in this SCO alter
16 any existing obligation of any party.

17 16. Within 30 days after the conclusion of this litigation, all materials
18 designated CONFIDENTIAL or HIGHLY CONFIDENTIAL under this SCO, and
19 any and all copies of those materials, except for documents or copies that are
20 lodged or filed with the Court, shall be returned to the counsel for the
21 DESIGNATING PARTY, or, with prior approval of the DESIGNATING PARTY,
22 shall be destroyed, with written confirmation of such destruction.

23 17. Nothing in this SCO shall preclude any party from disclosing or using,
24 in any manner or for any purpose, any DOCUMENT which was lawfully in its
25 possession prior to this litigation or was obtained from a third party having the
26 apparent right to disclose that DOCUMENT.

27 18. Nothing in this SCO shall preclude any DESIGNATING PARTY
28 from disclosing the content of any DOCUMENT (or the DOCUMENT itself)

1 which that party previously designated as a CONFIDENTIAL or HIGHLY
2 CONFIDENTIAL DOCUMENT.

3 19. If a DOCUMENT contains privacy information related to non-parties
4 and/or non-discoverable or non-responsive financial, proprietary, or competitively
5 sensitive information, the parties may redact that information.

6 20. If a DOCUMENT subject to a claim of attorney-client privilege or
7 work product immunity is inadvertently produced, such production shall in no way
8 prejudice or otherwise constitute a waiver of, or estoppel as to, any claim of
9 privilege or work product immunity for that DOCUMENT. If a party has
10 inadvertently produced a DOCUMENT subject to a claim of immunity or
11 privilege, the other party upon request shall promptly return all copies of that
12 DOCUMENT and shall destroy any newly created DOCUMENT containing a
13 summary of or comment regarding the inadvertently produced DOCUMENT.

14 21. The parties intend that this SCO be binding upon them and
15 enforceable as an Order of the Court. The parties seek the Court's approval and
16 entry of the terms of this SCO as an Order of the Court. Prior to entry, however,
17 this Stipulation shall be binding upon the parties to this action and all parties with
18 notice of it, to whom disclosure of CONFIDENTIAL or HIGHLY
19 CONFIDENTIAL DOCUMENTS or their content has been made under its terms,
20 and such parties or persons agree that the Court may impose such sanctions for
21 violation of the Stipulation as would be appropriate had the SCO been filed and
22 entered as an Order of the Court at the time of the violation.

23 22. Any other party that is not an original signatory to this SCO may at
24 any time enter into this SCO, at which time the terms and conditions set forth in
25 this SCO will have the same force and effect to subsequent parties as it does to the
26 original parties. All parties to this Stipulation specifically reserve, without
27 limitation, any and all discovery objections made to any discovery request served
28 in this action and agree that this SCO does not constitute a waiver of any rights or

1 objections whatsoever that the parties have asserted or may assert throughout the
2 continuation of this action. Nothing in this SCO shall be construed to prohibit any
3 party from asserting that the SCO does not adequately protect the rights and
4 interest of a party or any third parties in a document or information that has been
5 sought in discovery and objected to in this action.

6 23. Prior to a hearing and/or trial of this matter, the parties shall confer in
7 good faith in an effort to reach agreement concerning a joint proposal to the Court
8 with respect to the handling of CONFIDENTIAL MATERIAL at a hearing and/or
9 trial. With respect to handling of CONFIDENTIAL MATERIAL at trial, the
10 parties shall make such proposal no later than the final pretrial conference in this
11 case. If the parties are unable to reach agreement on this subject, each party may
12 make its own submission to the Court no later than the final pre-trial conference.

13 DATED: May 17, 2011 LAW OFFICE OF GARY L. TYSCH

14
15 By: /s/ Gary L. Tysch
16 Attorney for Plaintiff Ronald Lapekas

17 DATED: May 17, 2011 GUTIERREZ, PRECIADO, & HOUSE LLP

18
19 By: /s/ Arthur C. Preciado
20 Arthur C. Preciado
21 Clifton A. Baker
22 Ann D. Wu
23 Attorney for Defendant Los Angeles Unified School District

24 DATED: May 17, 2011 MARIONS INN LLP

25
26 By: /s/ Yvonne M. Pierrou
27 Yvonne M. Pierrou
28 Attorneys for Defendant Kaiser Foundation Health Plan, Inc., Kaiser Foundation Hospitals

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DATED: May 17, 2011

GROOM LAW GROUP, CHTD.

By: /s/ Julie E. Zuckerman

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DATED: May 17, 2011

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By: /s/ Susan Allison

Susan Allison
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DATED: May 17, 2011

CROWELL & MORING LLP

By: /s/ Michael Cypers

Michael Cypers
Kathleen Balderrama
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Attorneys for Defendant Anthem Blue Cross Life
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APPENDIX A

Viewing Record and Agreement

The undersigned hereby acknowledges:

1. I have received a copy of the Stipulated Protective Order for Production of Documents entered into in the matters of *Ronald Lapekas v. Kaiser Foundation Health Plan, Inc. et al*, United States District Court Case No. CV 10-5984-VBF (FMOx).

2. I have been provided temporary custody and/or viewing privileges to **CONFIDENTIAL DOCUMENTS** as defined in the SCO, and in consideration thereof, I agree to be bound by the terms and conditions of the SCO.

3. I hereby submit to the jurisdiction of this Court for the purpose of enforcement of the SCO in this case.

4. I certify under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: _____

[Signature]

[Print Name/Company]

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