

1 DAVID ELDER (SBN 171510)
 2 DANNY Y. YOO (SBN 251574)
 3 SARA P. KUNKEL (SBN 260240)
 4 520 S. Virgil Ave., Suite 400
 5 Los Angeles, CA 90020
 6 TEL: (213) 387-8400 ext. 33
 7 FAX: (213) 381-8555

Attorneys for Plaintiffs

8 **UNITED STATES DISTRICT COURT**
 9 **CENTRAL DISTRICT OF CALIFORNIA**

10 KEITH DAVIS, et al.,
 11 Plaintiffs,

12 vs.

13 MOON-JOHNSON LIVING TRUST,
 14 et al.;
 15 Defendants.

Case No.: CV11-3728 DSF (JCx)

PROTECTIVE ORDER

[CHANGES MADE BY COURT]

17
 18 The Parties, having entered into a Stipulation for the entry of a Protective
 19 Order to govern the disclosure, dissemination, and use of “Confidential
 20 Information” produced by the parties in this action, and the Court having reviewed
 21 the Stipulation and finding good cause for the entry of such an order with the
 22 modifications contained herein, hereby orders that the following Protective Order
 23 (“the Order”) shall apply to any information designated as “Confidential” pursuant
 24 to agreement of the parties or order of the Court.

1. Confidential Information.

25
 26 Plaintiff Housing Rights Center, Inc. (HRC) contends that information
 27 regarding the investigative techniques employed by HRC staff and information
 28

1 relating to any investigation carried out by the HRC is confidential and the public
2 disclosure of such information would jeopardize ongoing and future testing of
3 other property owners' practices in Los Angeles County and would tax the
4 limited resources of the HRC by requiring them to continually find and employ
5 new anonymous testers and new investigative techniques. Therefore, Plaintiff
6 HRC seeks to keep documents related to its testers and investigative techniques
7 as confidential. *See Shammouh v. Karp*, 1996 WL 637804, *1 (E.D. Pa. Nov. 4,
8 1996) (holding good cause exists to treat as confidential information regarding
9 the identities of testers and the investigative techniques employed by such
10 testers).

11 Any documents or things produced in discovery that contain or reveal
12 Confidential Information or that are designated as Confidential Information under
13 the terms of the Order, and all copies, recordings, abstracts, excerpts, analyses,
14 court filings, or other writings that contain, reflect, reveal, suggest, or otherwise
15 disclose such Confidential Information shall be deemed to be Confidential
16 Information. The Parties shall designate as Confidential Information only
17 documents or things or other information related to HRC's testers and
18 investigative techniques.

19 The provisions of the Order shall not apply to information which can be
20 shown by competent evidence to be: (1) in the public domain at the time of
21 disclosure or, through no fault of the Receiving Party, in the public domain after
22 the time of disclosure; (2) known to or developed by the Receiving Party prior to
23 the time of disclosure; or (3) obtained from a third party having no obligation to
24 protect such information from disclosure.

25 **2. Parties.**

26 A "Disclosing Party" is the party who produces or discloses Confidential
27 Information, or on whose behalf such information is disclosed, to a receiving
28

1 party's attorneys. A "Receiving Party" is any party (either Plaintiff or a
2 Defendant) that receives or is permitted to receive Confidential Information from
3 the Disclosing Party under the Order.

4 **3. Service Bureau.**

5 A Service Bureau is a person, agency, or organization engaged by counsel
6 or any party to perform clerical document handling, stenographic, computer data
7 entry, or other services in support of litigation, whose participation is reasonably
8 necessary for the litigation, who has received a fully executed copy of the Order,
9 and whose owner or legal representative has executed an agreement to be bound
10 by the terms of the Order.

11 **4. Limited Use.**

12 Confidential Information disclosed by a Disclosing Party under the Order
13 shall be used by the Receiving Party only for purposes of this litigation and not for
14 any business, commercial, scientific, competitive, or other purpose whatsoever.

15 **5. Identification.**

16 A. Confidential Information may be designated by a Disclosing
17 Party as "Confidential" by marking it as "Confidential" or by designating the
18 information as "Confidential" by any separate writing sufficient to identify the
19 information which is provided to the Receiving Party. The Parties shall designate
20 as Confidential Information only documents or things or other information related
21 to HRC's testers and investigative techniques.

22 B. Where such designation is made by stamping or similar means,
23 it shall be made by placing notice on the document, thing, response to discovery,
24 deposition or court transcript or record, information, or document stored on
25 diskette or otherwise in computer usable form, or tangible thing or object, in such
26 a manner as will not interfere with the legibility or accessibility of the
27 Confidential Information.
28

1 C. Information and documents designated as “Confidential
2 Information” shall be subject to the disclosure restrictions of the Order. Any
3 Receiving Party or other person who agrees in writing to be bound by this
4 Protective Order who receives a document so designated is subject to this
5 Protective Order and the jurisdiction of the Central District of California for
6 enforcement of the Order.

7 **6. Inadvertent Failure to Designate.**

8 In the event that a party discovers after they have produced information that
9 they have inadvertently failed to designate as “Confidential Information,” that was
10 not designated as Confidential, the disclosing party may designate the information
11 as Confidential by a subsequent notice in writing identifying the information and
12 furnishing the correct designation, in which event the parties shall henceforth treat
13 such information as provided in the Order, and shall undertake a best effort to
14 retrieve any disclosure, dissemination, or use of such information prior to re-
15 designation.

16 **7. Disclosure to Court.**

17 Confidential Information may be filed with the Court under seal only by
18 following the requirements set forth in Local Rule 79-5 and Paragraph 6 of the
19 Standing Order for Cases Assigned to Judge Dale S. Fischer issued on May 3,
20 2011 in this action (Docket No. 27).

21 **8. Disclosure to Counsel.**

22 Except as otherwise provided in this Order, Confidential Information shall
23 be produced only to the legal counsel of the Receiving Parties and to their experts
24 or consultants retained in this action. Confidential Information shall also be
25 available to counsel's employees or independent contractors provided they execute
26 a copy of the Order agreeing to be bound.
27
28

1 **9. Disclosure to Others.**

2 A. Any party to this proceeding and the party's representative
3 having a need for access to the Confidential Information shall be entitled to
4 receive all information designated hereunder as Confidential Information subject
5 to the terms and restrictions set forth in the Order. Except as otherwise provided
6 in this Order, Confidential Information may not be disclosed to any other persons
7 or entities except under the following circumstances:

8 (1) Upon written permission of the Producing Party;

9 (2) By Order of the Court;

10 (3) By a disclosure to a Service Bureau who has agreed to be
11 bound by the terms of the Order, and executed an agreement to do so.

12 B. Each receiving Party may provide its expert(s)/consultant(s)
13 with Confidential Information only after such expert/consultant has been given a
14 fully executed copy of the Order and has agreed to be bound by it by executing an
15 agreement to do so.

16 C. No Confidential Information may be disclosed to persons
17 under Paragraph 9, other than the parties hereto and their counsel, unless prior to
18 such disclosure, the persons to whom disclosure is intended to be made, read an
19 executed copy of the Order, agree to be bound by it, and sign an agreement to do
20 so.

21 D. Counsel for each Receiving Party shall prepare and maintain a
22 log of all persons to whom it discloses the Confidential Information of each party
23 and the specific Confidential Information disclosed.

24 **10. Return of Documents.**

25 Within 90 days of either settlement or final judgment that is not appealed or
26 subject to further legal proceedings, each Receiving Party or other person who has
27 agreed in writing to be bound by this Order and is in possession or control of
28

1 Confidential Information shall be obligated to return to any Disclosing Party all
2 Confidential Information, and all copies thereof.

3 **11. Continuing Jurisdiction.**

4 This Order shall survive the final conclusion of this action.

5 **12. Applicability of Order.**

6 The Order shall bind and apply to the Receiving Parties and all other
7 persons who agree in writing to be bound by this Order and receive Confidential
8 Information.

9 The Order shall not apply at trial in the event of trial.

10 **13. Disputes**

11 Any disputes regarding the Protective Order are subject to Local Rule 37.

12
13 IT IS SO ORDERED.

14
15
16
17 Dated: September 1, 2011

_____/s/_____
18 Honorable Jacqueline Chooljian
19 United States Magistrate Judge
20
21
22
23
24
25
26
27
28