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NOTE CHANGES MADE BY THE COURT

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 12 PARAMOUNT PICTURES
 13 CORPORATION; METRO-GOLDWYN-
 14 MAYER STUDIOS INC.; DI
 15 BONAVENTURA PICTURES, INC.;
 16 HASBRO, INC.

NOTE CHANGES MADE BY THE COURT

15 UNITED STATES DISTRICT COURT
 16 CENTRAL DISTRICT OF CALIFORNIA

18 DAVID ELLIOT FALLAS p/k/a
 19 "DAVID ELLIOT," an individual, and
 20 PAUL LOVETT, an individual,

20 Plaintiffs,

21 v.

22 PARAMOUNT PICTURES
 23 CORPORATION, a Delaware
 24 corporation; DI BONAVENTURA
 25 PICTURES, INC., a California
 26 corporation; HASBRO, INC., a Rhode
 27 Island corporation; METRO-
 28 GOLDWYN-MAYER STUDIOS INC.,
 a Delaware corporation; and DOES 1
 through 100,

27 Defendants.

Case No. CV 13-03184-PSG (AGRx)

Hon. Philip S. Gutierrez

**[PROPOSED] STIPULATED
PROTECTIVE ORDER**

[DISCOVERY MATTER]

1 **PROTECTIVE ORDER**

2 This protective order (“Protective Order”) is issued to expedite the flow of
3 discovery materials, to facilitate the prompt resolution of disputes over
4 confidentiality of discovery materials, to adequately protect information the parties
5 are entitled to keep confidential, to ensure that only materials the parties are entitled
6 to keep confidential are subject to such treatment, and to ensure that the parties are
7 permitted reasonably necessary uses of such materials in preparation for and in the
8 conduct of trial, pursuant to Fed. R. Civ. P. 26(c) and any other applicable rule of
9 this Court. Unless modified, superseded or terminated pursuant to the terms
10 contained in this Order, this Protective Order shall remain in effect through the
11 conclusion of this litigation and thereafter as set forth below.

12 **GOOD CAUSE STATEMENT**

13 In support of this Protective Order the Court finds that good cause exists for
14 entry of this Protective Order because:

15 1. The parties anticipate that the exchange of information in this case may
16 include documents that constitute non-public, highly sensitive financial information
17 regarding revenues, expenses and profits generated in connection with the motion
18 picture works at issue, the disclosure of which could cause competitive harm to the
19 parties in this action. The parties also anticipate that the exchange of information in
20 this case will include non-public drafts of scripts, screenplays and other creative and
21 artistic material, including unreleased portions or versions of the films at issue,
22 which works, if disclosed, may cause competitive harm to the parties in this action.
23 The parties further seek to protect documents or information containing personal
24 financial information of third parties, including for example writers, producers and
25 directors that are not a party to this litigation, as well as all confidential and
26 proprietary business or commercial information or trade secrets within the meaning
27 of Fed. R. Civ. P. 26(c) or California Civil Code § 3426.1;

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1 2. The parties believe that public dissemination and disclosure of
2 confidential information could injure or damage the party or a non-party disclosing
3 or producing the confidential information and/or could place that party or non-party
4 at a competitive disadvantage; and

5 3. To protect the prospective interests of the parties and to facilitate the
6 progress of disclosure and discovery in this case, the following Protective Order
7 should issue.

8 **THEREFORE, IT IS HEREBY STIPULATED AND ORDERED AS**
9 **FOLLOWS:**

10 4. Any document, written discovery response, testimony, deposition
11 transcript, and all other materials and information (collectively hereinafter
12 “Material”) produced or furnished in connection with the above-captioned litigation
13 (the “Action”), or any portion thereof, that is reasonably believed by any party to the
14 Action to contain or constitute trade secrets, or confidential or proprietary business
15 or financial information, or personal information protected by a right of privacy, or
16 non-public drafts or unreleased versions of creative and artistic material, may be
17 designated, in whole or in part, as “Confidential” or “Confidential – Attorneys’ Eyes
18 Only.”

19 5. Any Material or portion thereof that is designated as “Confidential” or
20 “Confidential – Attorneys’ Eyes Only” in accordance with the provisions for such
21 designation contained herein, including Paragraphs 4 and 6 hereof (hereinafter,
22 “Confidential Information”), shall be deemed confidential and shall be disclosed
23 only to “Qualified Persons” as defined herein and in accordance with the terms
24 hereof. The protections conferred by this Protective Order cover not only
25 Confidential Information as defined herein, but also (1) any information copied or
26 extracted from the Confidential Information; (2) all copies, excerpts, summaries, or
27 compilations of the Confidential Information; and (3) any testimony, conversations,
28 or presentations by the parties to this Action or their counsel that might reveal

1 Confidential Information. However, the protections conferred by this Protective
2 Order do not cover any information that is in the public domain at the time of
3 disclosure or becomes part of the public domain after its disclosure not involving a
4 violation of this Protective Order, including becoming part of the public record
5 through trial or otherwise. Any use of Confidential Information at trial shall be
6 governed by a separate agreement or order.

7 6. In designating Material as “Confidential – Attorneys’ Eyes Only,” the
8 designating party must have a good faith and reasonable belief that those Materials
9 contain financial information belonging to third parties, and could cause significant
10 competitive harm if disclosed to an unauthorized person.

11 7. Any Material other than deposition testimony may be designated as
12 “Confidential” or “Confidential – Attorneys’ Eyes Only” by stamping or otherwise
13 marking the document or other tangible material containing or embodying the
14 Confidential Information as follows: “Confidential – Subject to Protective Order,”
15 “Confidential” or “Confidential – Attorneys’ Eyes Only” at the time of production.

16 8. (a) Counsel for any party or non-party may designate deposition
17 testimony as “Confidential” or “Confidential – Attorneys’ Eyes Only” by indicating
18 on the record at the deposition that the testimony of the deponent is to be treated as
19 “Confidential” or “Confidential – Attorneys’ Eyes Only.” Failure of counsel to
20 designate testimony as Confidential Information on the record at the deposition,
21 however, shall not constitute a waiver of the confidentiality of the testimony, if such
22 testimony is designated as Confidential Information within thirty (30) days after the
23 receipt of the transcript of the deposition. Within thirty (30) days after receipt of the
24 transcript of the deposition, counsel for a party or non-party shall be entitled to
25 designate specific pages and lines of the deposition transcript as Confidential
26 Information by a letter addressed to all counsel in the Action that identifies all pages
27 and lines of the transcript being designated as Confidential Information.
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1 (b) To maintain the confidentiality of any deposition testimony or
2 exhibits that have been designated as “Confidential” or “Confidential – Attorneys’
3 Eyes Only” in accordance with the terms of this Protective Order, the court reporter
4 who transcribes the deposition testimony shall mark the cover page of the deposition
5 transcript to indicate that Confidential Information is contained therein. The party
6 introducing Confidential Information bears the burden of adhering to the provisions
7 of this Protective Order, and, as such, shall inform the court reporter of its
8 designation and request that the transcript be marked accordingly.

9 9. Any non-party that produces or furnishes Material in connection with
10 this Action may obtain the protections provided by this Protective Order with
11 respect to the designation of Material as “Confidential” or “Confidential –
12 Attorneys’ Eyes Only” by agreeing with the parties that this Protective Order shall
13 apply to Material produced by such non-party.

14 10. Unless otherwise expressly authorized by the provisions of this
15 Protective Order, by a written agreement of the parties executed following the
16 effective date hereof or by Court order, any Material that is designated as
17 “Confidential” in accordance with the terms hereof may be disclosed only to the
18 following “Qualified Persons”:

19 a. The named parties in this Action and their respective officers,
20 directors, partners, principals and employees who are assisting that party’s counsel
21 in this Action;

22 b. Inside or outside counsel for the parties, including members of such
23 attorneys’ staff (e.g., paralegals, legal secretaries and law clerks);

24 c. Independent consultants or experts retained by any party in this case
25 who are expected to testify at trial or employed by counsel in order to assist in
26 preparation for trial or for deposition;

27 d. Deponents in this Action (before, during and after their depositions);
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1 e. Prospective witnesses who, in the judgment of counsel for a party,
2 require access to the Confidential Information for the purpose of preparing their
3 testimony;

4 f. The Court and court personnel;

5 g. Court reporters or videographers selected by the parties; and

6 h. Any persons who authored or previously received the Confidential
7 Information.

8 11. Unless otherwise expressly authorized by the provisions of this
9 Protective Order, by a written agreement of the parties or by Court order, any
10 Material that is designated as “Confidential – Attorneys’ Eyes Only” in accordance
11 with the terms hereof may be disclosed only to the following “Qualified Persons”:

12 a. Any persons who authored or previously received the Confidential
13 Information

14 b. Outside counsel for the parties and in-house counsel directly
15 assisting that party’s outside counsel in the defense of this Action, including
16 members of such attorneys’ staff (e.g., paralegals, legal secretaries and law clerks);

17 c. Independent consultants or experts retained by any party in this case
18 who are expected to testify at trial or employed by counsel in order to assist in
19 preparation for trial or for deposition, and who are not competitors of any party or
20 employed by a competitor of any party;

21 d. Non-party witnesses during the course of their depositions, provided
22 that (1) counsel for the designating party shall be informed that the witness will be
23 shown Confidential Information before the designated information is shown to the
24 witness, to give counsel for the designating party an opportunity to object, and (2) if
25 an objection to showing the witness is made, the designated Material shall not be
26 shown to the witness until the Court rules on the objection;

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1 e. Prospective witnesses who, in the judgment of counsel for a party,
2 require access to the Confidential Information for the purpose of preparing their
3 testimony;

4 f. The Court and court personnel;

5 g. Court reporters or videographers selected by the parties.

6 Copies may be made by or for the foregoing persons, provided that all
7 copies are appropriately marked.

8 12. Before counsel for a party may disclose Confidential Information to
9 any Qualified Person other than those Qualified Persons identified in subparagraphs
10 (b), (f) and (g) of Paragraph 10 hereof or subparagraphs (f) and (g) of Paragraph 11
11 hereof, the disclosing counsel shall obtain from the Qualified Person who is to
12 receive such Confidential Information, an executed copy of a Non-Disclosure
13 Certificate in the form attached hereto as Exhibit "A." Counsel shall be responsible
14 for obtaining signatures of all such Qualified Persons, and for advising all such
15 Qualified Persons that they are not permitted to disclose Confidential Information to
16 any person other than Qualified Persons as set forth herein.

17 13. Except for the deponent, no person shall attend those portions of any
18 deposition at which Material that has been designated as "Confidential" or
19 "Confidential – Attorneys' Eyes Only" is discussed or used as an exhibit, unless
20 such person is a Qualified Person authorized to view such material and, if required
21 to do so, has executed a copy of the Non-Disclosure Certificate in the form attached
22 as Exhibit "A" hereto.

23 14. If original documents or materials are made available for inspection,
24 such documents or materials need not be designated for protection until after the
25 inspecting party has indicated which material it would like copied and produced.
26 During the inspection and before the designation, all of the material made available
27 for inspection shall be deemed Confidential Information.
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1 15. All Material produced or furnished in this Action (including but not
2 limited to material not marked Confidential or Confidential – Attorneys’ Eyes Only)
3 including deposition transcripts and deposition videos, shall be used only in
4 connection with this Action and shall not be otherwise disclosed except as agreed to
5 by the parties, as required by any court, judicial tribunal, administrative agency,
6 taxing body or other governmental unit or entity, or as otherwise required by law.
7 All Material, including such deposition transcripts or videos, produced or furnished
8 in this Action shall not be used or disclosed for any business, commercial or
9 competitive purpose and, furthermore, shall not be used in connection with the
10 media or in connection with materials for public dissemination of any kind or type,
11 including but not limited to dissemination of such Material to the public via the
12 internet, social media or any other means now or hereafter known.

13 16. The parties acknowledge that this Protective Order does not entitle
14 them to file Confidential Information under seal. Any party or non-party must seek
15 permission to file Confidential Information under seal in accordance with the
16 Federal Rules of Civil Procedure and the Local Rules of this Court. No Confidential
17 Information shall be publicly filed with the Court absent agreement of the producing
18 party or Order of the Court.

19 17. The failure of a party or non-party to file a motion or application to seal
20 in accordance with the applicable rules shall not operate as or result in a waiver of
21 the right of such party or non-party to designate or seek to have the Confidential
22 Information at issue treated as Confidential Information for other purposes.

23 18. If Material that a party or non-party intends to designate as Confidential
24 Information is inadvertently disclosed without being marked as Confidential
25 Information in accordance with the provisions of this Protective Order, the failure so
26 to designate such Material shall not be deemed a waiver of its confidentiality. The
27 disclosing party shall be permitted to correct its error and provide notice of the
28 confidentiality of the Materials. Such correction and notice thereof shall be made in

1 writing, accompanied by substitute copies of any document(s) or response(s)
2 appropriately marked as Confidential Information. At such time as the Material is
3 designated as Confidential Information, it shall be treated as Confidential
4 Information in accordance with this Protective Order. Within ten (10) days of
5 receipt of the substitute copies, the receiving party shall return or destroy the
6 previously-unmarked items and all copies thereof.

7 19. In the event that Confidential Information is, either intentionally or
8 inadvertently, disclosed to someone not authorized to receive such Information
9 under this Protective Order or, if a person so authorized breaches any of its
10 obligations under this Protective Order, counsel of record for any party who is
11 involved in or aware of such disclosure shall immediately give written notice of
12 such unauthorized disclosure or breach to counsel for the party or non-party that
13 initially produced the subject Confidential Information and/or requested the
14 confidentiality designation, and also shall disclose the circumstances of the
15 unauthorized disclosure or breach. The responsible party shall also take all
16 reasonable measures promptly to ensure that no further or greater unauthorized
17 disclosure of Confidential Information is made by anyone.

18 20. The acceptance by a party of documents designated as Confidential
19 Information shall not constitute an agreement, admission or concession, or permit an
20 inference, that the Material(s) are in fact properly the subject for protection under
21 Fed. R. Civ. P. 26(c), or some other basis. Documents designated as Confidential
22 Information shall be treated in accordance with the provisions of this Protective
23 Order, except that any party may at any time seek an Order from the Court
24 determining that specified information or categories of information are not properly
25 designated as Confidential Information, provided that prior to making such a motion
26 the parties shall meet and confer in good faith to resolve any differences over the
27 designation. A party shall not be obligated to challenge the propriety of a
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1 designation of Confidential Information at the time made, and failure to do so shall
2 not preclude subsequent challenge.

3 21. Notwithstanding the pendency of any challenge to the designation of
4 Material as Confidential Information, all Material so designated shall be treated as
5 such and shall be subject to the provisions hereof unless and until one of the
6 following occurs: (a) the party or non-party who claims that the Material is
7 Confidential Information withdraws such designation in writing; or (b) the Court
8 rules that the Material is not Confidential Information.

9 22. In the event that a Qualified Person: (a) is served with a subpoena in
10 another action, (b) is served with a demand in another action to which the Qualified
11 Person is a party, or (c) is served with any other legal process that seeks
12 Confidential Information that was produced or designated as such by someone other
13 than the Qualified Person who receives the subpoena, demand or other legal process,
14 such Qualified Person shall give prompt written notice of the receipt of such
15 subpoena, demand or other written notice to the party or non-party who produced or
16 designated the Material as Confidential Information, and shall object to its
17 production. Should the person seeking access to the Confidential Information take
18 action to enforce the subpoena, demand or other legal process against the Qualified
19 Person from whom the Confidential Information is sought, the Qualified Person
20 shall cooperate with the party or non-party to this Action who produced or
21 designated the Material as Confidential Information in resisting any efforts by such
22 other parties to obtain such Confidential Information from the Qualified Person.
23 Nothing herein shall be construed as requiring the Qualified Person from whom the
24 Confidential Information is sought, or anyone else subject to this Protective Order,
25 to challenge or appeal any court order requiring production of the Confidential
26 Information, or to subject himself or herself to any penalties for noncompliance with
27 any legal process or order, or to seek any relief from this Court.

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1 23. The provisions of this Protective Order may be modified at any time by
2 stipulation of the parties approved by order of the Court. In addition, a party may at
3 any time apply to the Court for modification of this Protective Order pursuant to a
4 motion brought on in accordance with the rules of the Court. The parties consent to
5 an expedited hearing upon any such application, provided that reasonable time for
6 response is allowed.

7 24. Nothing herein shall prevent any of the parties from using Confidential
8 Information in any trial in this litigation or from seeking further protection with
9 respect to the use of any Confidential Information in any trial in this litigation.
10 Means to preserve the confidentiality of Confidential Information presented at any
11 trial shall be considered ~~and implemented~~ in advance of such trial.

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12 25. By stipulating to the entry of this Protective Order, no party waives any
13 right it otherwise would have to object to disclosing or producing any information or
14 item on any ground not addressed in this Protective Order. Similarly, no party
15 waives any right to object on any ground to use in evidence of any of the material
16 covered by this Protective Order.

17 26. Within thirty (30) days of the final determination of this Action,
18 whether by judgment, settlement or otherwise, and including any appeal from a final
19 judgment, any person who is in possession of physical copies of documents that
20 have been designated as Confidential Information shall return such copies to the
21 person who produced it or the person's counsel, or shall destroy them, except that
22 this paragraph shall not apply to work product of counsel, or to counsels' copies of
23 pleadings, briefs or declarations ("counsels' pleadings files"). Written confirmation
24 of such return or destruction shall be forwarded to the person producing such
25 Confidential Information or the person's counsel.

26 27. This Protective Order shall survive the final conclusion of this Action
27 and shall continue in full force and effect. The Court shall retain jurisdiction over
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1 the parties and any other person bound by this Protective Order in order to enforce
2 the provisions contained herein.

3 28. By affixing their signatures below, the parties agree to abide by the
4 terms of this Stipulation until this Protective Order or a further protective order is
5 entered by the Court.

6 **IT IS SO STIPULATED.**

7 Dated: May 6, 2014

LOEB & LOEB LLP
JONATHAN ZAVIN
DAVID GROSSMAN
ERIC SCHWARTZ
JENNIFER JASON

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11 By: /s/ David Grossman

David Grossman
Attorneys for Defendants
PARAMOUNT PICTURES
CORPORATION; METRO-GOLDWYN-
MAYER STUDIOS INC.; DI
BONAVENTURA PICTURES, INC.;
HASBRO, INC.

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16 Dated: May 6, 2014

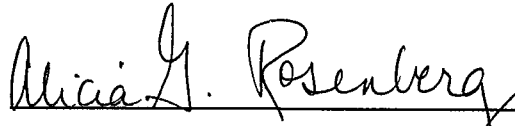
GRADSTEIN & MARZANO, P.C.
HENRY GRADSTEIN

17
18 By: /s/ Henry Gradstein

Henry Gradstein
Attorneys for Plaintiffs
DAVID ELLIOT FALLAS p/k/a
"DAVID ELLIOT," and PAUL LOVETT.

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22 **IT IS SO ORDERED.**

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24 Dated: May 28, 2014



HONORABLE ALICIA G. ROSENBERG
United States Magistrate Judge

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EXHIBIT A

NON-DISCLOSURE CERTIFICATE

I, _____, declare under penalty of perjury
that my address is _____

I have read in its entirety and understand the Protective Order that was issued
by the United States District Court for the Central District of California on
_____, 2014, in the case of *Fallas, et al. v. Paramount Pictures
Corporation, et al.*, Case No. CV 13-03184-PSG (AGRx).

I agree to comply with and to be bound by all the terms of the 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 will hold all Confidential Information and any duplicates, notes, abstracts or
summaries thereof in confidence, will not disclose such information to anyone not
specifically entitled to access under the Protective order, and will use the
Confidential Information solely for purposes of this litigation, except as provided by
the Protective Order.

At the conclusion of this litigation, I will return or destroy all Confidential
Information and any duplicates, notes, abstracts or summaries thereof, whether
prepared by me or to anyone else, to counsel for the party by whom I am employed
or retained.

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

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1 I hereby swear and affirm under the penalties of perjury that the foregoing is
2 true and correct.

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Date: _____
City and State where sworn and signed: _____
Printed name: _____
Signature: _____