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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

THE BURLINGTON INSURANCE
COMPANY,

Plaintiff,

v.

MINADORA HOLDINGS, LLC; et
al.,

Defendants.

Case No. 2:13-cv-05349-JAK-E
(Consolidated with
Case No. 2:14-cv-01231-JAK-E)

**STANDING PROTECTIVE ORDER
FOR CASES ASSIGNED TO
JUDGE JOHN A. KRONSTADT
(MODIFIED FOR A NON-PATENT
CASE)**

Judge: Hon. John A. Kronstadt

Trial Date: None Set

AND RELATED THIRD-PARTY
CROSS-ACTIONS.

1. PURPOSE AND LIMITS OF THIS ORDER

Discovery in this action is likely to involve confidential, proprietary or private information requiring special protection from public disclosure and from use for any purpose other than this litigation. Thus, the Court enters this Protective Order. This Order does not confer blanket protections on all disclosures or responses to discovery, and the protection it gives from public disclosure and use extends only to the specific material entitled to confidential treatment under the applicable legal principles. This Order

1 does not automatically authorize the filing under seal of material
2 designated under this Order. Instead, the parties must comply with Local
3 Rule 79-5.1 and this Order if they seek to file anything under seal. This
4 Order does not govern the use at trial of material designated under this
5 Order.

6 **2. DESIGNATING PROTECTED MATERIAL**

7 **2.1 Over-Designation Prohibited.** Any party or non-party who
8 designates information or items for protection under this Order as
9 "CONFIDENTIAL" (a "designator") must only designate specific material
10 that qualifies under the appropriate standards. To the extent practicable,
11 only those parts of documents, items or oral or written communications
12 that require protection shall be designated. Designations with a higher
13 confidentiality level when a lower level would suffice are prohibited. Mass,
14 indiscriminate, or routinized designations are prohibited. Unjustified
15 designations expose the designator to sanctions, including the Court's
16 striking all confidentiality designations made by that designator.
17 Designation under this Order is allowed only if the designation is
18 necessary to protect material that, if disclosed to persons not authorized to
19 view it, would cause competitive or other recognized harm. Material may
20 not be designated if it has been made public, or if designation is otherwise
21 unnecessary to protect a secrecy interest. If a designator learns that
22 information or items that it designated for protection do not qualify for
23 protection at all or do not qualify for the level of protection initially asserted,
24 that designator must promptly notify all parties that it is withdrawing the
25 mistaken designation.

26 **2.2 Manner and Timing of Designations.** Designation under this
27 Order requires the designator to affix the applicable legend
28 ("CONFIDENTIAL," to each page that contains protected material. For

1 testimony given in deposition or other proceeding, the designator shall
2 specify all protected testimony and the level of protection being asserted. It
3 may make that designation during the deposition or proceeding, or may
4 invoke, on the record or by written notice to all parties on or before the
5 next business day, a right to have up to 21 days from the deposition or
6 proceeding to make its designation.

7 **2.2.1** Parties shall give advance notice if they expect a deposition or
8 other proceeding to include designated material so that the other parties
9 can ensure that only authorized individuals are present at those
10 proceedings when such material is disclosed or used. The use of a
11 document as an exhibit at a deposition shall not in any way affect its
12 designation. Transcripts containing designated material shall have a
13 legend on the title page noting the presence of designated material, and
14 the title page shall be followed by a list of all pages (including line numbers
15 as appropriate) that have been designated, and the level of protection
16 being asserted. The designator shall inform the court reporter of these
17 requirements. Any transcript that is prepared before the expiration of the
18 21-day period for designation shall be treated during that period as if it had
19 been designated CONFIDENTIAL unless otherwise agreed. After the
20 expiration of the 21-day period, the transcript shall be treated only as
21 actually designated.

22 **2.3 Inadvertent Failures to Designate.** An inadvertent failure to
23 designate does not, standing alone, waive protection under this Order.
24 Upon timely assertion or correction of a designation, all recipients must
25 make reasonable efforts to ensure that the material is treated according to
26 this Order.

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1 **3. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

2 All challenges to confidentiality designations shall proceed under
3 Local Rule 37-1 through Local Rule 37-4.

4 **4. ACCESS TO DESIGNATED MATERIAL**

5 **4.1 Basic Principles.** A receiving party may use designated
6 material only for this litigation. Designated material may be disclosed only
7 to the categories of persons and under the conditions described in this
8 Order.

9 **4.2 Disclosure of CONFIDENTIAL Material Without Further**
10 **Approval.** Unless otherwise ordered by the Court or permitted in writing
11 by the designator, a receiving party may disclose any material designated
12 CONFIDENTIAL only to:

13 **4.2.1** The receiving party's in-house counsel and outside counsel of
14 record in this action, and employees of in-house counsel and/or outside
15 counsel of record to whom disclosure is reasonably necessary;

16 **4.2.2** The officers, directors, and employees of the receiving party to
17 whom disclosure is reasonably necessary, and who have signed the
18 Agreement to Be Bound (Exhibit E-1);

19 **4.2.3** Experts retained by the receiving party's outside counsel of
20 record to whom disclosure is reasonably necessary, and who have signed
21 the Agreement to Be Bound (Exhibit E-1);

22 **4.2.4** The Court and its personnel;

23 **4.2.5** Outside court reporters and their staff, professional jury or trial
24 consultants, and professional vendors to whom disclosure is reasonably
25 necessary, and who have signed the Agreement to Be Bound (Exhibit E-
26 1);

1 **4.2.6** During their depositions, witnesses in the action to whom
2 disclosure is reasonably necessary and who have signed the Agreement
3 to Be Bound (Exhibit E-1); and

4 **4.2.7** The author or recipient of a document containing the material,
5 or a custodian or other person who otherwise possessed or knew the
6 information.

7 **5. PROTECTED MATERIAL SUBPOENAED OR**
8 **ORDERED PRODUCED IN OTHER LITIGATION**

9 **5.1 Subpoenas and Court Orders.** This Order in no way excuses
10 non-compliance with a lawful subpoena or court order. The purpose of the
11 duties described in this section is to alert the interested parties to the
12 existence of this Order and to give the designator an opportunity to protect
13 its confidentiality interests in the court where the subpoena or order issued.

14 **5.2 Notification Requirement.** If a party is served with a
15 subpoena or a court order issued in other litigation that compels disclosure
16 of any information or items received by that party in this action and
17 designated in this action as CONFIDENTIAL, that party must do the
18 following.

19 **5.2.1** Promptly notify the designator in writing. Such notification shall
20 include a copy of the subpoena or court order.

21 **5.2.2** Promptly notify in writing the party who caused the subpoena
22 or order to issue in the other litigation that some or all of the material
23 covered by the subpoena or order is subject to this Order. Such
24 notification shall include a copy of this Order.

25 **5.2.3** Cooperate with all reasonable procedures sought by the
26 designator whose material may be affected.

27 **5.3 Wait For Resolution of Protective Order.** If the designator
28 promptly seeks a protective order, the party served with the subpoena or

1 court order shall not produce any information designated in this action as
2 CONFIDENTIAL before a determination by the court where the subpoena
3 or order issued, unless the party has obtained the designator's permission.
4 The designator shall bear the burden and expense of seeking protection of
5 its confidential material in that court.

6 **6. UNAUTHORIZED DISCLOSURE OF DESIGNATED**
7 **MATERIAL**

8 If a receiving party learns that, by inadvertence or otherwise, it has
9 disclosed designated material to any person or in any circumstance not
10 authorized under this Order, it must immediately (1) notify in writing the
11 designator of the unauthorized disclosures, (2) use its best efforts to
12 retrieve all unauthorized copies of the designated material, (3) inform the
13 person or persons to whom unauthorized disclosures were made of all the
14 terms of this Order, and (4) use reasonable efforts to have such person or
15 persons execute the Agreement to Be Bound (Exhibit E-1).

16 **7. INADVERTENT PRODUCTION OF PRIVILEGED OR**
17 **OTHERWISE PROTECTED MATERIAL**

18 When a producing party gives notice that certain inadvertently
19 produced material is subject to a claim of privilege or other protection, the
20 obligations of the receiving parties are those set forth in Fed. R. Civ. P.
21 26(b)(5)(B). This provision is not intended to modify whatever procedure
22 may be established in an e-discovery order that provides for production
23 without prior privilege review pursuant to Fed. R. Evid. 502(d) and (e).

24 **8. FILING UNDER SEAL**

25 Without written permission from the designator or a Court order, a
26 party may not file in the public record in this action any designated material.
27 A party seeking to file under seal any designated material must comply
28 with Local Rule 79-5 and this Court's Standing Order with respect to the

1 filing of under seal documents. Filings may be made under seal only
2 pursuant to a court order authorizing the sealing of the specific material at
3 issue. The fact that a document has been designated under this Order is
4 insufficient to justify filing under seal. Instead, parties must explain the
5 basis for confidentiality of each document sought to be filed under seal.
6 Because a party other than the designator will often be seeking to file
7 designated material, cooperation between the parties in preparing, and in
8 reducing the number and extent of, requests for under seal filing is
9 essential. Accordingly, counsel are ordered to meet and confer in person
10 or by telephone at least seven (7) calendar days prior to the filing of an
11 application wherein the basis for the sealing is that it has been deemed
12 confidential by the other party. Not later than two (2) calendar days after
13 the meet and confer process, the opposing party shall confirm whether
14 such information shall be designated as confidential or whether it can be
15 made available to the public. Such an application shall contain the dates
16 and method by which the parties met and conferred otherwise it will be
17 denied without prejudice to an amended application being filed after
18 counsel have completed this process. If **a receiving party's** request to file
19 designated material under seal pursuant to Local Rule 79-5.1 is denied by
20 the Court, then the receiving party **may file the material in the public**
21 **record** unless (1) **the designator** seeks reconsideration within four (4)
22 days of the denial, or (2) as otherwise instructed by the Court. See supra
23 11., p. 18.

24 **9. FINAL DISPOSITION**

25 Within 60 days after the final disposition of this action, each party
26 shall return all designated material to the designator or destroy such
27 material, including all copies, abstracts, compilations, summaries and any
28 other format reproducing or capturing any designated material. The

1 receiving party must submit a written certification to the designator by the
2 60-day deadline that (1) identifies (by category, where appropriate) all the
3 designated material that was returned or destroyed, and (2) affirms that
4 the receiving party has not retained any copies, abstracts, compilations,
5 summaries or any other format reproducing or capturing any of the
6 designated material. This provision shall not prevent counsel from
7 retaining an archival copy of all pleadings, motion papers, trial, deposition
8 and hearing transcripts, legal memoranda, correspondence, deposition
9 and trial exhibits, expert reports, attorney work product, and consultant
10 and expert work product, even if such materials contain designated
11 material. Any such archival copies remain subject to this Order.

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IT IS SO ORDERED:

Dated: 11/30/17

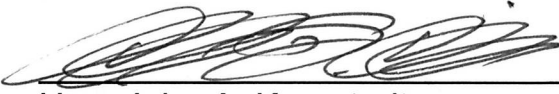

Hon. ~~John A. Kronstadt~~
Charles F. Eick
United States Magistrate Judge

EXHIBIT E-1: AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____ [print or type full address], declare under penalty of perjury that 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 [date] in the case of *The Burlington Insurance Company v. Minadora Holdings, LLC, et al.*, Case No. 2:13-cv-05349-JAK-E (Consolidated with Case No. 2:14-cv-01231-JAK-E). I agree to comply with and to be bound by all the terms of this Protective Order, and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment for contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Protective Order to any person or entity except in strict compliance with this Order.

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 this 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 Order.

Date: _____

City and State where sworn and signed: _____

Printed Name: _____

Signature: _____