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NOTE: CHANGES MADE BY THE COURT

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 17 UNITED STATES DISTRICT COURT
 18 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION
 19

20 AMUSEMENT ART, LLC,
 21 Plaintiff,
 22 vs.
 23 LIFE IS BEAUTIFUL, LLC;
 24 DOWNTOWN LAS VEGAS
 MANAGEMENT LLC; AND DOES 1-
 25 10, inclusive,
 26 Defendants.

Case No. 2-14-cv008290-DDP-JPR
**STIPULATED PROTECTIVE
 ORDER**
 Judge: Hon. Dean D. Pregerson
 Trial Date: July 19, 2016

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1 The parties hereby submit this Proposed Joint Stipulated Protective Order
2 pursuant to Federal Rule of Civil Procedure 26(c).

3 **[PROPOSED] STIPULATED PROTECTIVE ORDER**

4 1. PURPOSES AND LIMITATIONS

5 Discovery in this action will likely involve production of confidential,
6 proprietary, or private information for which special protection from public
7 disclosure and from use for any purpose other than prosecuting or defending this
8 litigation may be warranted. Accordingly, the parties hereby stipulate to and petition
9 the Court to enter this Stipulated Protective Order. This Order does not confer
10 blanket protections on all disclosures or responses to discovery, and the protection it
11 affords from public disclosure and use extends only to the limited information or
12 items that are entitled to confidential treatment under the applicable legal principles.
13 The parties acknowledge, as set forth in Section 13.3 below, that this Order does not
14 entitle them to file confidential information under seal; Civil Local Rule 79-5 sets
15 forth the procedures that must be followed and the standards that will be applied
16 when a party seeks permission from the Court to file material under seal.

17 2. GOOD CAUSE STATEMENT

18 This action is likely to involve financial, employee, and independent
19 contractor data, confidential business or financial information, and other proprietary
20 information for which special protection from public disclosure and from use for
21 any purpose other than prosecution or defense of this action is warranted. To
22 expedite the flow of information, facilitate the prompt resolution of disputes over
23 confidentiality of discovery materials, adequately protect information the parties are
24 entitled to keep confidential, ensure that the parties are permitted reasonable
25 necessary uses of such material in preparation for and in the conduct of trial, address
26 their handling at the end of the litigation, and serve the ends of justice, a protective
27 order for such information is justified. The parties agree to not designate material as
28 confidential without a good faith belief that it has been maintained in a confidential,

1 non-public manner, and there is good cause why it should not be part of the public
2 record of this case.

3 3. DEFINITIONS

4 3.1 **Action:** this pending federal law suit.

5 3.2 **Challenging Party:** a Party or Non-Party that challenges the
6 designation of information or items under this Order.

7 3.3 **“CONFIDENTIAL” Information or Items:** information (regardless
8 of how it is generated, stored or maintained) or tangible things that qualify for
9 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
10 the Good Cause Statement.

11 3.4 **Counsel:** Outside Counsel of Record and House Counsel (as well as
12 their support staff).

13 3.5 **Designating Party:** a Party or non-Party that designates information or
14 items that it produces in disclosures or in responses to discovery as
15 “CONFIDENTIAL.”

16 3.6 **Disclosure or Discovery Material:** all items or information, regardless
17 of the medium or manner in which it is generated, stored, or maintained (including,
18 among other things, testimony, transcripts, and tangible things), that are produced or
19 generated in disclosures or responses to discovery in this matter.

20 3.7 **Expert:** a person with specialized knowledge or experience in a matter
21 pertinent to the litigation who has been retained by a Party or its counsel to serve as
22 an expert witness or as a consultant in this action.

23 3.8 **House Counsel:** attorneys who are employees of a party to this Action.
24 House Counsel does not include Outside Counsel of Record or any other outside
25 Counsel.

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1 3.9 **Non-Party:** any natural person, partnership, corporation, association,
2 or their legal entity not named as a Party to this action.

3 3.10 **Outside Counsel of Record:** attorneys who are not employees of a
4 party to this Action but are retained to represent or advise a party to this Action and
5 have appeared in this Action on behalf of that party or are affiliated with a law firm
6 which has appeared on behalf of that party, and includes support staff.

7 3.11 **Party:** any party to this action, including all of its officers, directors,
8 employees, consultants, retained experts, and Outside Counsel of Record (and their
9 support staffs).

10 3.12 **Producing Party:** a Party or non-Party that produces Disclosure or
11 Discovery Material in this action.

12 3.13 **Professional Vendors:** persons or entities that provide litigation
13 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
14 demonstrations, and organizing, storing, or retrieving data in any form or medium)
15 and their employees and subcontractors.

16 3.14 **Protected Material:** any Disclosure or Discovery Material that is
17 designated as “CONFIDENTIAL.”

18 3.15 **Receiving Party:** a Party that receives Disclosure or Discovery
19 Material from a Producing Party.

20 4. SCOPE

21 The protections conferred by this Stipulation and Order cover not only
22 Protected Material (as defined above), but also (1) any information copied or
23 extracted from Protected Material; (2) all copies, excerpts, summaries, or
24 compilations of Protected Material; and (3) any testimony, conversations, or
25 presentations by Parties or their counsel that might reveal Protected Material.
26 However, the protections conferred by this Stipulation and Order do not cover the
27 following information: (a) any information that is in the public domain at the time of
28 disclosure to a Receiving Party or becomes part of the public domain after its

1 disclosure to a Receiving Party as a result of publication not involving a violation of
2 this Order, including becoming part of the public record through trial or otherwise;
3 and (b) any information known to the Receiving Party prior to the disclosure or
4 obtained by the Receiving Party after the disclosure from a source who obtained the
5 information lawfully and under no obligation of confidentiality to the Designating
6 Party. Any use of Protected Material at trial shall be governed by a separate
7 agreement or order.

8 5. DURATION

9 Even after final disposition of this litigation, the confidentiality obligations
10 imposed by this Order shall remain in effect until a Designating Party agrees
11 otherwise in writing or a court order otherwise directs. Final disposition shall be
12 deemed to be the later of (1) dismissal of all claims and defenses in this action, with
13 or without prejudice; and (2) final judgment herein after the completion and
14 exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,
15 including the time limits for filing any motions or applications for extension of time
16 pursuant to applicable law.

17 6. DESIGNATING PROTECTED MATERIAL

18 6.1 **Exercise of Restraint and Care in Designating Material for**
19 **Protection.** Each Party or Non-Party that designates information or items for
20 protection under this Order must take care to limit any such designation to specific
21 material that qualifies under the appropriate standards. The Designating Party must
22 designate for protection only those parts of material, documents, items, or oral or
23 written communications that qualify – so that other portions of the material,
24 documents, items, or communications for which protection is not warranted are not
25 swept unjustifiably within the ambit of this Order.

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1 Mass, indiscriminate, or routinized designations are prohibited. Designations
2 that are shown to be clearly unjustified or that have been made for an improper
3 purpose (e.g., to unnecessarily encumber or retard the case development process or
4 to impose unnecessary expenses and burdens on other parties) expose the
5 Designating Party to sanctions.

6 If it comes to a Designating Party's attention that information or items that it
7 designated for protection do not qualify for protection, that Designating Party must
8 promptly notify all other Parties that it is withdrawing the mistaken designation.

9 **6.2 Manner and Timing of Designations.** Except as otherwise provided in
10 this Order (e.g., second paragraph of section 6.2(a) below), or as otherwise
11 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
12 under this Order must be clearly so designated before the material is disclosed or
13 produced.

14 Designation in conformity with this Order requires:

15 (a) for information in documentary form (e.g., paper or electronic
16 documents, but excluding transcripts of depositions or other pretrial or trial
17 proceedings), that the Producing Party affix at a minimum, the legend
18 "CONFIDENTIAL," to each page that contains protected material. If only a portion
19 or portions of the material on a page qualifies for protection, the Producing Party
20 also must clearly identify the protected portion(s) (e.g., by making appropriate
21 markings in the margins).

22 A Party or non-Party that makes original documents available for inspection
23 need not designate them for protection until after the inspecting Party has indicated
24 which documents it would like copied and produced. During the inspection and
25 before the designation, all of the material made available for inspection shall be
26 deemed "CONFIDENTIAL." After the inspecting Party has identified the
27 documents it wants copied and produced, the Producing Party must determine which
28 documents, or portions thereof, qualify for protection under this Order. Then, before

1 producing the specified documents, the Producing Party must affix the
2 “CONFIDENTIAL” legend to each page that contains Protected Material if so
3 feasible.

4 If the document is produced in native format or is otherwise unamenable to
5 having the “CONFIDENTIAL” legend affixed to each page, the designating party
6 shall take reasonable steps, such as including the word “CONFIDENTIAL” in the
7 title of the document, to convey its protected status. If only a portion or portions of
8 the material on a page qualifies for protection, the Producing Party also must clearly
9 identify the protected portion(s) (e.g., by making appropriate markings in the
10 margins).

11 (b) for testimony given in depositions, that the Designating Party
12 identify the Disclosure or Discovery Material on the record, before the close of the
13 deposition or shortly thereafter by contacting the court reporter.

14 (c) for information produced in some form other than documentary
15 and for any other tangible items, that the Producing Party affix in a prominent place
16 on the exterior of the container or containers in which the information is stored the
17 legend “CONFIDENTIAL.” If only a portion or portions of the information
18 warrants protection, the Producing Party, to the extent practicable, shall identify the
19 protected portion(s).

20 **6.3 Inadvertent Failure to Designate.** If timely corrected, an inadvertent
21 failure to designate qualified information or items does not, standing alone, waive
22 the Designating Party’s right to secure protection under this Order for such material.
23 Upon timely correction of a designation, the Receiving Party must make reasonable
24 efforts to assure that the material is treated in accordance with the provisions of this
25 Order.

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1 7. CHALLENGING CONFIDENTIALITY DESIGNATIONS

2 7.1 **Timing of Challenges.** Any Party or Non-Party may challenge a
3 designation of confidentiality at any time that is consistent with the Court’s
4 Scheduling Order and Local Rule 37. Unless a prompt challenge to a Designating
5 Party’s confidentiality designation is necessary to avoid foreseeable, substantial
6 unfairness, unnecessary economic burdens, or a significant disruption or delay of the
7 litigation, a Party does not waive its right to challenge a confidentiality designation
8 by electing not to mount a challenge promptly after the original designation is
9 disclosed.

10 7.2 **Meet and Confer.** The Challenging Party shall initiate the dispute
11 resolution process under Local Rule 37.1 et seq.

12 7.3 The burden of persuasion in any such challenge proceeding shall be on
13 Designating Party. Frivolous challenges, and those made for an improper purpose
14 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
15 expose the Challenging Party to sanctions. Unless the Designating Party has waived
16 or withdrawn the confidentiality designation, all parties shall continue to afford the
17 material in question the level of protection to which it is entitled under the
18 Producing Party’s designation until the Court rules on the challenge.

19 8. ACCESS TO AND USE OF PROTECTED MATERIAL

20 8.1 **Basic Principles.** A Receiving Party may use Protected Material that is
21 disclosed or produced by another Party or by a non-Party in connection with this
22 action only for prosecuting, defending, or attempting to settle this action. Such
23 Protected Material may be disclosed only to the categories of persons and under the
24 conditions described in this Order. When the action has been terminated, a
25 Receiving Party must comply with the provisions of section 14 below (FINAL
26 DISPOSITION).

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

4 8.2 **Disclosure of “CONFIDENTIAL” Information or Items.** Unless
5 otherwise ordered by the Court or permitted in writing by the Designating Party, a
6 Receiving Party may disclose any information or item designated
7 “CONFIDENTIAL” only to:

8 (a) the Receiving Party’s Outside Counsel of Record in this action,
9 as well as employees of said Outside Counsel of Record to whom it is reasonably
10 necessary to disclose the information for this action and who have been advised of
11 the provisions of this protective agreement and have agreed to abide by them;

12 (b) the officers, directors, and employees of the Receiving Party to
13 whom disclosure is reasonably necessary for this action and who have been advised
14 of the provisions of this protective agreement and have agreed to abide by them;

15 (c) Experts (as defined in this Order) of the Receiving Party to
16 whom disclosure is reasonably necessary for this action and who have been advised
17 of the provisions of this protective agreement and have agreed to abide by them;

18 (d) the Court and its personnel;

19 (e) court reporters and their staff;

20 (f) professional jury or trial consultants, mock jurors, and
21 Professional Vendors to whom disclosure is reasonably necessary for this action and
22 who have been advised of the provisions of this protective agreement and have
23 agreed to abide by them;

24 (g) the author or recipient of a document containing the information
25 or a custodian or other person who otherwise possessed or knew the information;
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1 (h) during their depositions, witnesses, and attorneys for witnesses,
2 in the action to whom disclosure is reasonably necessary provided: (1) the deposing
3 party requests that the witness is advised of the provisions of this protective order
4 and has agreed to abide by them; and (2) they will not be permitted to keep any
5 confidential information unless they have been advised of the provisions of this
6 protective agreement and have agreed to abide by them, unless otherwise agreed by
7 the Designating Party or ordered by the Court. Pages of transcribed deposition
8 testimony or exhibits to depositions that reveal Protected Material may be separately
9 bound by the court reporter and may not be disclosed to anyone except as permitted
10 under this Stipulated Protective Order; and

11 (i) any mediator or settlement officer, and their supporting
12 personnel, mutually agreed upon by any of the Parties engaged in settlement
13 discussions or as ordered by the Court.

14 9. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
15 IN OTHER LITIGATION

16 If a Party is served with a subpoena or a court order issued in other litigation
17 that compels disclosure of any information or items designated in this action as
18 “CONFIDENTIAL,” that Party must:

19 (a) promptly notify in writing the Designating Party. Such
20 notification shall include a copy of the subpoena or court order;

21 (b) promptly notify in writing the party who caused the subpoena or
22 order to issue in the other litigation that some or all of the material covered by the
23 subpoena or order is subject to this Protective Order. Such notification shall include
24 a copy of this Stipulated Protective Order; and

25 (c) cooperate with respect to all reasonable procedures sought to be
26 pursued by the Designating Party whose Protected Material may be affected.
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1 If the Designating Party timely seeks a protective order, the Party served with
2 the subpoena or court order shall not produce any information designated in this
3 action as “CONFIDENTIAL” before a determination by the court considering the
4 request for protective order, unless the Party has obtained the Designating Party’s
5 permission. The Designating Party shall bear the burden and expense of seeking
6 protection in that court of its confidential material and nothing in these provisions
7 should be construed as authorizing or encouraging a Receiving Party in this action
8 to disobey a lawful directive from another court.

9 10. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
10 PRODUCED IN THIS LITIGATION

11 (a) The terms of this Order are applicable to information produced
12 by a non-Party in this action and designated as “CONFIDENTIAL.” Such
13 information produced by non-Parties in connection with this litigation is protected
14 by the remedies and relief provided by this Order. Nothing in these provisions
15 should be construed as prohibiting a non-Party from seeking additional protections.

16 (b) In the event that a Party is required, by a valid discovery request,
17 to produce a Non-Party’s confidential information in its possession, and the Party is
18 subject to an agreement with the non-Party not to produce the non-Party’s
19 confidential information, then the Party shall:

20 (1) promptly notify in writing the Requesting Party and the
21 non-Party that some or all of the information requested is subject to a confidentiality
22 agreement with a non-Party;

23 (2) promptly provide the non-Party with a copy of the
24 Stipulated Protective Order in this action, the relevant discovery request(s), and a
25 reasonably specific description of the information requested; and
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1 (3) make the information requested available for inspection by
2 the non-Party, if requested.

3 (c) If the non-Party fails to seek a protective order from this Court
4 within 14 days of receiving the notice and accompanying information, the Receiving
5 Party may produce the non-Party's confidential information responsive to the
6 discovery request. If the non-Party timely seeks a protective order, the Receiving
7 Party shall not produce any information in its possession or control that is subject to
8 the confidentiality agreement with the non-Party before a determination by the
9 Court. Absent a Court order to the contrary, the non-Party shall bear the burden and
10 expense of seeking protection in this Court of its Protected Material.

11 11. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

12 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
13 Protected Material to any person or in any circumstance not authorized under this
14 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
15 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
16 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or
17 persons to whom unauthorized disclosures were made of all the terms of this Order,
18 and (d) request that such person or persons agree to abide by the terms of this Order.

19 12. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
20 PROTECTED MATERIAL

21 When a Producing Party gives notice to Receiving Parties that certain
22 inadvertently produced material is subject to a claim of privilege or other protection,
23 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
24 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
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1 may be established in an e-discovery order that provides for production without
2 prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar
3 as the parties reach an agreement on the effect of disclosure of a communication or
4 information covered by the attorney-client privilege or work product protection, the
5 parties may request the Court's permission to incorporate their agreement in the
6 stipulated protective order submitted to the Court.

7 If a Receiving Party encounters any discovery material produced by another
8 Party or non-party that the Receiving Party believes may be privileged or protected
9 from discovery, and may have been produced inadvertently, that Receiving Party
10 must immediately cease any review of such material, sequester it, and promptly
11 notify the Producing Party in writing of the possibility that such material may be
12 privileged and may have been inadvertently produced. The Producing Party shall
13 promptly advise the Receiving Party as to whether, in fact, such material was
14 inadvertently produced.

15 **13. MISCELLANEOUS**

16 **13.1 Right to Further Relief.** Nothing in this Order abridges the right of
17 any person to seek its modification by the Court in the future.

18 **13.2 Right to Assert Other Objections.** By stipulating to the entry of this
19 Protective Order no Party waives any right it otherwise would have to object to
20 disclosing or producing any information or item on any ground not addressed in this
21 Stipulated Protective Order. Similarly, no Party waives any right to object on any
22 ground to use in evidence of any of the material covered by this Protective Order.

23 **13.3 Filing Protected Material.** A Party that seeks to file under seal any
24 Protected Material must comply with Civil Local Rule 79-5 and Judge Rosenbluth's
25 practices and procedures. Protected Material may only be filed under seal pursuant
26 to a court order authorizing the sealing of the specific Protected Material at issue. If
27 a Party's request to file Protected Material under seal is denied by the Court, then
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1 the Receiving Party may file the information in the public record unless otherwise
2 instructed by the Court.

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1 14. FINAL DISPOSITION

2 Within 60 days after the final disposition of this action, as defined in
3 paragraph 4, each Receiving Party must return all Protected Material to the
4 Producing Party or destroy such material. As used in this subdivision, “all Protected
5 Material” includes all copies, abstracts, compilations, summaries, and any other
6 format reproducing or capturing any of the Protected Material. Whether the
7 Protected Material is returned or destroyed, the Receiving Party must submit a
8 written certification to the Producing Party (and, if not the same person or entity, to
9 the Designating Party) by the 20-day deadline that (1) identifies (by category, where
10 appropriate) all the Protected Material that was returned or destroyed and (2) affirms
11 that the Receiving Party has not retained any copies, abstracts, compilations,
12 summaries, or any other format reproducing or capturing any of the Protected
13 Material. Notwithstanding this provision, counsel are entitled to retain an archival
14 copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal
15 memoranda, correspondence, deposition and trial exhibits, expert reports, attorney
16 work product, and consultant and expert work product, even if such materials
17 contain Protected Material. Any such archival copies that contain or constitute
18 Protected Material remain subject to this Protective Order as set forth in Section 5
19 (DURATION).

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1 15. Any violation of this Order may be punished by any and all appropriate
2 measures including, without limitation, contempt proceedings or monetary
3 sanctions.

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5 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

6 DATED: July 1, 2015

MUNGER, TOLLES & OLSON LLP

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9 By: /s/ Samuel T. Boyd

10 SAMUEL T. BOYD

11 Attorneys for Defendants

12 LIFE IS BEAUTIFUL, LLC, and

13 DOWNTOWN LAS VEGAS MANAGEMENT
14 LLC

15 DATED: July 1, 2015

NOVIAN & NOVIAN LLP

16 By: /s/ Sharon Raminfard

17 SHARON RAMINFARD

18 Attorneys for Plaintiff

19 AMUSEMENT ART, LLC

20 **FILER'S ATTESTATION**

21 Pursuant to Local Rule 5-4.3.4(2)(i), regarding signatures, I attest that
22 concurrence in the filing of the document has been obtained from the other
23 signatories listed above.

24 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

25 DATED: July 28, 2015

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27 _____
28 Jean P. Rosenbluth
Magistrate Judge