

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

ANNETTE AGUILAR, individually  
and as personal representative for the  
estate of LORENZO AGUILAR,,

Plaintiff,

v.

CITY OF AZUSA, a local public  
entity; CITY OF IRWINDALE, a local  
public entity; CITY OF COVINA, a  
local public entity; CITY OF  
GLEN DORA, a local public entity;, and  
DOES 1-10, INCLUSIVE,

Defendants.

Case No. CV14-9183 GW (JPRx)

*[U.S. District Judge George H. Wu]  
[Magistrate Judge Jean P. Rosenbluth]*

**AMENDED PROTECTIVE ORDER  
RE CONFIDENTIAL DOCUMENTS**

Trial Date: 12/08/2015

PURSUANT TO THE STIPULATION OF THE PARTIES (“Stipulation for  
Entry of Protective Order re Confidential Documents” – herein after as  
“Stipulation”), and pursuant to the Court’s inherent and statutory authority,  
including but not limited to the Court’s authority under all applicable statutes and  
rules (including but not limited to Fed. R. Civ. P. 5.2, 7, 26, and 29, as well as U.S.  
Dist. Ct., C.D. Cal., L.R. 7-3, 37-1, and 52-4.1 ; and all applicable Federal Rules of  
Civil Procedure and/or Federal Rules of Evidence and U.S. Dist. Ct., C.D. Cal.  
Local Rules); after due consideration of all of the relevant pleadings, papers, and

1 records in this action; and upon such other evidence or argument as was presented to  
2 the Court; Good Cause appearing therefor, and in furtherance of the interests of  
3 justice,

4 IT IS HEREBY ORDERED that:

5 **1. SCOPE OF PROTECTION.**

6 1.1. The protections conferred by the parties' Stipulation and this Order  
7 cover not only Protected Material/Confidential Documents (as defined herein), but  
8 also (1) any information copied or extracted from Protected Material; (2) all copies,  
9 excerpts, summaries, or compilations of Protected Material; and (3) any testimony,  
10 conversations, or presentations by Parties or their Counsel that might reveal  
11 Protected Material. However, the protections conferred by the parties' Stipulation  
12 and this Order do *not* cover the following information: (a) any information that is in  
13 the public domain at the time of disclosure to a Receiving Party or becomes part of  
14 the public domain after its disclosure to a Receiving Party as a result of publication  
15 not involving a violation of this Order, including becoming part of the public record  
16 through trial or otherwise; and (b) any information known to the Receiving Party  
17 prior to the disclosure or obtained by the Receiving Party after the disclosure from a  
18 source who obtained the information lawfully and under no obligation of  
19 confidentiality to the Designating Party. Except to the extent specified herein (if  
20 any), any use of Protected Material at trial shall not be governed by this Order, but  
21 may be governed by a separate agreement or order. Nothing in this Order shall be  
22 construed as exempting any of the parties from the requirements specified in Central  
23 District Local Rule 79-5 for seeking leave to file documents under seal.

24 1.2. The "Definitions" of the parties' Stipulation (§ 2 thereof) are  
25 incorporated here into this Order by reference.

26 ///

27 ///

28 ///

1 **2. DURATION OF PROTECTION.**

2 2.1. Even after final disposition of this litigation, the confidentiality  
3 obligations imposed by this Order shall remain in effect until a Designating Party  
4 agrees otherwise in writing or a court order otherwise directs.

5 2.2. Final disposition shall be deemed to be the later of (1) dismissal of all  
6 claims and defenses in this action, with or without prejudice; and (2) final judgment  
7 herein after the completion and exhaustion of all appeals, rehearings, remands,  
8 trials, or reviews of this action, including the time limits for filing any motions or  
9 applications for extension of time pursuant to applicable law.

10 **3. DESIGNATION OF PROTECTED MATERIAL/CONFIDENTIAL**  
11 **DOCUMENTS.**

12 3.1. Exercise of Restraint and Care in Designating Material for Protection.

13 Each Party or non-party that designates information or items for protection  
14 under the parties' Stipulation and this Order must take care to limit any such  
15 designation to specific material that qualifies under the appropriate standards. A  
16 Designating Party must take care to designate for protection only those parts of  
17 material, documents, items, or oral or written communications that qualify – so that  
18 other portions of the material, documents, items or communications for which  
19 protection is not warranted are not swept unjustifiably within the ambit of this  
20 Order.

21 Mass, indiscriminate, or routine designations are prohibited. Designations  
22 that are shown to be clearly unjustified, or that have been made for an improper  
23 purpose (e.g., to unnecessarily encumber or retard the case development process, or  
24 to impose unnecessary expenses and burdens on other parties), may expose the  
25 Designating Party to sanctions, at the discretion of the Court.

26 If it comes to a Party's or a non-party's attention that information or items  
27 that it designated for protection do not qualify for protection at all, or do not qualify  
28

1 for the level of protection initially asserted, that Party or non-party must promptly  
2 notify all other parties that it is withdrawing the mistaken designation.

3 3.2. Manner and Timing of Designations. Except as otherwise provided in  
4 this Order, or as otherwise stipulated or ordered, material that qualifies for  
5 protection under this Order must be clearly so designated before the material is  
6 disclosed or produced.

7 Designation in conformity with this Order requires:

8 (a) for information in documentary form (apart from transcripts of  
9 depositions or other pretrial or trial proceedings, and regardless of whether produced  
10 in hardcopy or electronic form), that the Producing Party affix the legend  
11 “CONFIDENTIAL” to each page that contains Protected Material. If only a portion  
12 or portions of the material on a page qualifies for protection, the Producing Party  
13 also must clearly identify the protected portion(s) (e.g., by making appropriate  
14 markings in the margins) and must specify, for each portion that it is  
15 “CONFIDENTIAL.” The placement of such “CONFIDENTIAL” stamp on such  
16 page(s) shall not obstruct the substance of the page’s (or pages’) text or content.

17 A Party or Non-Party that makes original documents or materials available for  
18 inspection need not designate them for protection until after the inspecting Party has  
19 indicated which material it would like copied and produced. During the inspection  
20 and before the designation, all of the material made available for inspection shall be  
21 deemed “CONFIDENTIAL.” After the inspecting Party has identified the  
22 documents it wants copied and produced, the Producing Party must determine which  
23 documents, or portions thereof, qualify for protection under this Order. Then,  
24 before producing the specified documents, the Producing Party must affix the  
25 “CONFIDENTIAL” legend to each page that contains Protected Material. If only a  
26 portion or portions of the material on a page qualifies for protection, the Producing  
27 Party also must clearly identify the protected portion(s) (e.g., by making appropriate  
28 markings in the margins).

1 (b) for testimony given in deposition or in other pretrial proceedings, that  
2 the Party or non-party offering or sponsoring the testimony identify on the record,  
3 before the close of the deposition, hearing, or other proceeding, all protected  
4 testimony, and further specify any portions of the testimony that qualify as  
5 “CONFIDENTIAL.” When it is impractical to identify separately each portion of  
6 testimony that is entitled to protection, and when it appears that substantial portions  
7 of the testimony may qualify for protection, the Producing Party may invoke on the  
8 record (before the deposition or proceeding is concluded) a right to have up to  
9 twenty (20) days to identify the specific portions of the testimony as  
10 “CONFIDENTIAL.” Only those portions of the testimony that are appropriately  
11 designated as “CONFIDENTIAL” for protection within the 20 days shall be covered  
12 by the provisions of the parties’ Stipulation and this Protective Order.

13 Transcript pages containing Protected Material must be separately bound by  
14 the court reporter, who must affix to each such page the legend “CONFIDENTIAL,”  
15 as instructed by the Producing Party. Nothing in this Order shall be construed as  
16 any restriction on evidence that may be presented at trial, where such is otherwise  
17 deemed admissible by the trial court.

18 (c) for information produced in some form other than documentary, and for  
19 any other tangible items (including but not limited to information produced on disc  
20 or electronic data storage device), that the Producing Party affix in a prominent  
21 place on the exterior of the container or containers in which the information or item  
22 is stored the legend “CONFIDENTIAL.” If only portions of the information or item  
23 warrant protection, the Producing Party, to the extent practicable, shall identify the  
24 protected portions, specifying the material as “CONFIDENTIAL.”

25 3.3. Inadvertent Failures to Designate. If timely corrected (preferably,  
26 though not necessarily, within 30 days of production or disclosure of such material),  
27 an inadvertent failure to designate qualified information or items as  
28 “CONFIDENTIAL” does not, standing alone, waive the Designating Party’s right to

1 secure protection under the parties’ Stipulation and this Order for such material. If  
2 material is appropriately designated as “CONFIDENTIAL” *after* the material was  
3 initially produced, the Receiving Party, on timely notification of the designation,  
4 must make reasonable efforts to assure that the material is treated in accordance  
5 with the parties’ Stipulation and this Order.

6 3.4. Alteration of Confidentiality Stamp Prohibited. A Receiving Party  
7 shall not alter, edit, or modify any Protected Material so as to conceal, obscure, or  
8 remove a “CONFIDENTIAL” stamp or legend thereon; nor shall a Receiving Party  
9 take any other action so as to make it appear that Protected Material is not subject to  
10 the terms and provisions of the parties’ Stipulation and this Order. However,  
11 nothing in this section shall be construed so as to prevent a Receiving Party from  
12 challenging a confidentiality designation subject to the provisions of section 4, *infra*.

13 **4. CHALLENGING CONFIDENTIALITY DESIGNATIONS.**

14 4.1. Timing of Challenges. Any Party or Non-Party may challenge a  
15 designation of confidentiality at any time prior to the final pre-trial conference with  
16 the Court in the matter. Unless a prompt challenge to a Designating Party’s  
17 confidentiality designation is necessary to avoid foreseeable substantial unfairness,  
18 unnecessary economic burdens, or a later significant disruption or delay of the  
19 litigation, a Party does not waive its right to challenge a confidentiality designation  
20 by electing not to mount a challenge promptly after the original designation is  
21 disclosed. All such challenges and related motions shall conform to the applicable  
22 Local Rules (*e.g.*, C.D. Cal. L.R. 37-1 *et seq.*) and the Court's standing and  
23 scheduling Orders.

24 4.2. Meet and Confer. Prior to challenging a confidentiality designation, a  
25 Challenging Party shall initiate a dispute resolution process by providing written  
26 notice of each specific designation it is challenging, and describing the basis (and  
27 supporting authority or argument) for each challenge. To avoid ambiguity as to  
28 whether a challenge has been made, the written notice must recite that the challenge

1 to confidentiality is being made in accordance with this specific paragraph of this  
2 Protective Order. The parties shall attempt to resolve each challenge in good faith  
3 and must begin the process by conferring directly (in voice to voice dialogue, either  
4 in person, telephonically, or by other comparable means, but *not* by correspondence)  
5 within 10 days of the date of service of notice.

6 In conferring, the Challenging Party must explain the specific basis for its  
7 belief that the confidentiality designation was not proper and must give the  
8 Designating Party an opportunity to review the designated material, to reconsider  
9 the circumstances, and, if no change in designation is offered, to explain the basis  
10 for the chosen designation. A Challenging Party may proceed to the next stage of  
11 the challenge process only if it has engaged in this meet and confer process first or  
12 establishes that the Designating Party is unwilling to participate in the meet and  
13 confer process in a timely manner. Nothing in this paragraph shall be construed as  
14 exempting the parties from any of the requirements of the Local Rules (*e.g.*, C.D.  
15 Cal. L.R. 37-1 *et seq.*) and the Court's applicable standing and scheduling Orders.

16 4.3. Judicial Intervention. If the Parties cannot resolve a confidentiality  
17 challenge without court intervention, the Challenging Party shall file and serve a  
18 motion to remove confidentiality (under the applicable rules for filing and service of  
19 discovery motions) within 14 days of the parties agreeing that the meet and confer  
20 process will not resolve their dispute, or by the first day of trial of this matter,  
21 whichever date is earlier – unless the parties agree in writing to a longer time. Each  
22 such motion must be accompanied by a competent declaration affirming that the  
23 movant has complied with the meet and confer requirements imposed in the  
24 preceding paragraph. In addition, the Challenging Party may file a motion  
25 challenging a confidentiality designation at any time if there is good cause for doing  
26 so, including a challenge to the designation of a deposition transcript or any portions  
27 thereof. Any motion brought pursuant to this provision must be accompanied by a  
28



1 competent declaration affirming that the movant has complied with the meet and  
2 confer requirements imposed by the preceding paragraph.

3       The burden of persuasion in any such challenge proceeding shall be on the  
4 Designating Party, regardless of whether the Designating Party is the moving party  
5 or whether such Party sought or opposes judicial intervention. Frivolous challenges,  
6 and those made for an improper purpose (e.g., to harass or impose unnecessary  
7 expenses and burdens on other parties) may expose the Challenging Party to  
8 sanctions. Unless the Designating Party has waived the confidentiality designation  
9 by failing to oppose a motion to remove confidentiality as described above, all  
10 parties shall continue to afford the material in question the level of protection to  
11 which it is entitled under the Producing Party’s designation until the court rules on  
12 the challenge. Nothing in this paragraph shall be construed as exempting the parties  
13 from any of the requirements of the Local Rules (e.g., C.D. Cal. L.R. 37-1 *et seq.*)  
14 and the Court’s applicable standing and scheduling Orders.

15       4.4. Withdrawal of “CONFIDENTIAL” Designation. At its discretion, a  
16 Designating Party may remove Protected Material/Confidential Documents from  
17 some or all of the protections and provisions of the parties’ Stipulation and this  
18 Order at any time by any of the following methods:

19       (a) Express Written Withdrawal. A Designating Party may withdraw a  
20 “CONFIDENTIAL” designation made to any specified Protected  
21 Material/Confidential Documents from some or all of the protections of the parties’  
22 Stipulation and this Order by an express withdrawal in a writing signed by such  
23 Party (or such Party’s Counsel, but not including staff of such Counsel) that  
24 specifies and itemizes the Disclosure or Discovery Material previously designated as  
25 Protected Material/Confidential Documents that shall no longer be subject to all or  
26 some of the provisions of the parties’ Stipulation and Order. Such express  
27 withdrawal shall be effective when transmitted or served upon the Receiving Party.  
28 If a Designating Party is withdrawing Protected Material from only some of the



1 provisions/protections of the parties' Stipulation and this Order, such Party must  
2 state which specific provisions are no longer to be enforced as to the specified  
3 material for which confidentiality protection hereunder is withdrawn: otherwise,  
4 such withdrawal shall be construed as a withdrawal of such material from all of the  
5 protections/provisions of the parties' Stipulation and this Order;

6 (b) Express Withdrawal on the Record. A Designating Party may  
7 withdraw a "CONFIDENTIAL" designation made to any specified Protected  
8 Material/Confidential Documents from all of the provisions/protections of the  
9 parties' Stipulation and this Order by verbally consenting in court proceedings on  
10 the record to such withdrawal – provided that such withdrawal specifies the  
11 Disclosure or Discovery Material previously designated as Protected  
12 Material/Confidential Documents that shall no longer be subject to any of the  
13 provisions of the parties' Stipulation and this Order. A Designating Party is not  
14 permitted to withdraw Protected Material from only some of the protections/  
15 provisions of the parties' Stipulation and this Order by this method;

16 (c) Implicit Withdrawal by Publication or Failure to Oppose Challenge. A  
17 Designating Party shall be construed to have withdrawn a "CONFIDENTIAL"  
18 designation made to any specified Protected Material/Confidential Documents from  
19 all of the provisions/protections of the parties' Stipulation and this Order by either  
20 (1) making such Protected Material/Confidential Records part of the public record –  
21 including but not limited to attaching such as exhibits to any filing with the court  
22 without moving, prior to such filing, for the court to seal such records; or (2) failing  
23 to timely oppose a Challenging Party's motion to remove a "CONFIDENTIAL"  
24 designation to specified Protected Material/Confidential Documents. Nothing in the  
25 parties' Stipulation and this Order shall be construed so as to require any Party to  
26 file Protected Material/Confidential Documents under seal, unless expressly  
27 specified herein.

28 ///

Magistrate Judge  
Theresa M. Kelly, Eastern District of Virginia

1 **5. ACCESS TO AND USE OF PROTECTED MATERIAL.**

2 5.1. Basic Principles. A Receiving Party may use Protected Material that is  
3 disclosed or produced by another Party or by a non-party in connection with this  
4 case only for preparing, prosecuting, defending, or attempting to settle this litigation  
5 – up to and including final disposition of the above-entitled action – and not for any  
6 other purpose, including any other litigation or dispute outside the scope of this  
7 action. Such Protected Material may be disclosed only to the categories of persons  
8 and under the conditions described in the parties’ Stipulation and this Order. When  
9 the above entitled litigation has been terminated, a Receiving Party must comply  
10 with the provisions of section 10, below (FINAL DISPOSITION).

11 Protected Material must be stored and maintained by a Receiving Party at a  
12 location and in a secure manner that ensures that access is limited to the persons  
13 authorized under the parties’ Stipulation and its Order.

14 5.2. Disclosure of “CONFIDENTIAL” Information or Items. Unless  
15 otherwise ordered by the Court or permitted in writing by the Designating Party, a  
16 Receiving Party may disclose any information or item designated CONFIDENTIAL  
17 only to:

18 (a) the Receiving Party’s Outside Counsel of record in this action, as well  
19 as employees of such Counsel to whom it is reasonably necessary to disclose the  
20 information for this litigation;

21 (b) the officers, directors, and employees (including House Counsel) of the  
22 Receiving Party to whom disclosure is reasonably necessary for this litigation – each  
23 of whom, by accepting receipt of such Protected Material, thereby agree to be bound  
24 by the parties’ Stipulation and this Order;

25 (c) Experts (as defined in the parties’ Stipulation and this Order) of the  
26 Receiving Party to whom disclosure is reasonably necessary for this litigation – each  
27 of whom, by accepting receipt of such Protected Material, thereby agree to be bound  
28 by the parties’ Stipulation and this Order;

Document 8 Filed  
11/10/14 Page 11 of 11

1 (d) the Court and its personnel;

2 (e) court reporters, their staffs, and Professional Vendors to whom  
3 disclosure is reasonably necessary for this litigation – each of whom, by accepting  
4 receipt of such Protected Material, thereby agree to be bound by the parties’  
5 Stipulation and this Order;

6 (f) during their depositions, witnesses in the action to whom disclosure is  
7 reasonably necessary – each of whom, by accepting receipt of such Protected  
8 Material, thereby agree to be bound by the parties’ Stipulation and this Order. Pages  
9 of transcribed deposition testimony or exhibits to depositions that reveal Protected  
10 Material must be separately bound by the court reporter and may not be disclosed to  
11 anyone except as permitted under the parties’ Stipulation and this Protective Order.

12 (g) the author or custodian of a document containing the information that  
13 constitutes Protected Material, or other person who otherwise possessed or knew the  
14 information.

15 This Order shall only bind court reporters, experts, witnesses, and other  
16 individuals who are not employed by parties to the action or employed by their  
17 counsel if such persons who are not employed by parties to the action or employed  
18 by their counsel affirmatively agree to be bound by such Stipulation/Order.

19 5.3. Notice of Confidentiality. Prior to producing or disclosing Protected  
20 Material/Confidential Documents to persons to whom the parties’ Stipulation and  
21 this Order permits disclosure or production (see section 5.2, *supra*), a Receiving  
22 Party shall provide a copy of the parties’ Stipulation and Order to such persons so as  
23 to put such persons on notice as to the restrictions imposed upon them herein: except  
24 that, for court reporters, Professional Vendors, and for witnesses being provided  
25 with Protected Material during a deposition, it shall be sufficient notice for Counsel  
26 for the Receiving Party to give the witness a verbal admonition (on the record, for  
27 witnesses) regarding the provisions of the parties’ Stipulation and this Order and  
28 such provisions’ applicability to specified Protected Material at issue. This Order

1 shall only bind court reporters, experts, witnesses, and other individuals who are not  
2 employed by parties to the action or employed by their counsel if such persons who  
3 are not employed by parties to the action or employed by their counsel affirmatively  
4 agree to be bound by such Stipulation/Order.

5       5.4. Reservation of Rights. Nothing in the parties’ Stipulation and this  
6 Order shall be construed so as to require any Producing Party to designate any  
7 records or materials as “CONFIDENTIAL.” Nothing in the parties’ Stipulation or  
8 this Order shall be construed so as to prevent the admission of Protected Material  
9 into evidence at the trial of this action, or in any appellate proceedings for this  
10 action, solely on the basis that such Disclosure or Discovery Material has been  
11 designated as Protected Material/Confidential Documents. Notwithstanding the  
12 foregoing, nothing in the parties’ Stipulation or this Order shall be construed as a  
13 waiver of any privileges or of any rights to object to the use or admission into  
14 evidence of any Protected Material in any proceeding; nor shall anything herein be  
15 construed as a concession that any privileges asserted or objections made are valid  
16 or applicable. Nothing in the parties’ Stipulation or this Order shall be construed so  
17 as to prevent the Designating Party (or its Counsel or custodian of records) from  
18 having access to and using Protected Material designated by that Party in the  
19 manner in which such persons or entities would typically use such materials in the  
20 normal course of their duties or profession – except that the waiver of  
21 confidentiality provisions shall apply (see section 4.4(c), *supra*).

22       5.5. Requirement to File Confidential Documents Under Seal. Confidential  
23 Documents may be submitted in all law and motion proceedings before the Court if  
24 done so under seal pursuant to Central District of California Local Rules 79-5.1 and  
25 79-5.2 (as applicable) and pursuant to the provisions of the parties’ Stipulation and  
26 this Order. If any Receiving Party attaches any Confidential Documents to any  
27 pleading, motion, or other paper to be filed, lodged, or otherwise submitted to the  
28 Court, such Confidential Document(s) shall be filed/lodged under seal pursuant to

1 Central District of California Local Rules 79-5.1 and 79-5.2, to the extent  
2 applicable.

3       However, this paragraph (§ 5.5) shall not be construed so as to prevent a  
4 Designating Party or counsel from submitting, filing, lodging, or publishing any  
5 document it has previously designated as a Confidential Document without  
6 compliance with this paragraph’s requirement to do so under seal (i.e., a producing-  
7 disclosing party or counsel may submit or publish its own Confidential Documents  
8 without being in violation of the terms of the parties’ Stipulation and this Protective  
9 Order).

10       Furthermore, a Receiving Party shall be exempted from the requirements of  
11 this paragraph as to any specifically identified Confidential Document(s) where –  
12 prior to the submission or publication of the Confidential Document(s) at issue – the  
13 Designating Party of such specifically identified Confidential Document(s) has  
14 waived/withdrawn the protections of the parties’ Stipulation and this Order  
15 (pursuant to paragraph 4.4, *supra*).

16       A Receiving Party shall also be exempt from the sealing requirements of this  
17 paragraph (§ 5.5) where the Confidential Documents/Protected Material at issue  
18 is/are **not** documents, records, or information regarding:

19       (1) private, personal information contained in peace officer personnel files  
20 (such as social security numbers, driver’s license numbers or comparable personal  
21 government identification numbers, residential addresses, compensation or pension  
22 or personal property information, credit card numbers or credit information, dates of  
23 birth, tax records and information, information related to the identity of an officer’s  
24 family members or co-residents, and comparable personal information about the  
25 officer or his family);

26       (2) any internal affairs or comparable investigation by any law  
27 enforcement agency into alleged officer misconduct; and/or  
28

1 (3) the medical records or records of psychiatric or psychological treatment  
2 of any peace officer or party to this action.

3 Nothing in this paragraph shall be construed to bind the Court so as to limit or  
4 prevent the publication of any Confidential Documents to the jury or factfinder, at  
5 the time of trial of this matter, where the Court has deemed such Confidential  
6 Documents to be admissible into evidence.

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

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

12 (a) promptly notify in writing the Designating Party, preferably (though not  
13 necessarily) by facsimile or electronic mail. Such notification shall include a copy  
14 of the subpoena or court order at issue;

15 (b) promptly notify in writing the party who caused the subpoena or order to  
16 issue in the other litigation that some or all of the material covered by the subpoena  
17 or order is subject to the parties’ Stipulation and this Protective Order. Such  
18 notification shall include a copy of the parties’ Stipulation and this Protective Order;  
19 and

20 (c) cooperate with respect to all reasonable procedures sought to be pursued  
21 by all sides in any such situation, while adhering to the terms of the parties’  
22 Stipulation and this Order.

23 If the Designating Party timely seeks a protective order, the Party served with  
24 the subpoena or court order shall not produce any information designated in this  
25 action as “CONFIDENTIAL” before a determination by the court from which the  
26 subpoena or order issued, unless the Party has obtained the Designating Party’s  
27 permission. The Designating Party shall bear the burden and expense of seeking  
28 protection in that court of its confidential material – and nothing in these provisions

Approved For  
Filing, Reading, Printing

1 should be construed as authorizing or encouraging a Receiving Party in this action  
2 to disobey a lawful directive from another court. Nothing in this Stipulation or is  
3 Order shall be construed as any limitation on the power provided under Federal Rule  
4 of Civil Procedure 45 or otherwise to a non-issuing court to enforce a protective  
5 order against a subpoena issued by a another court.

6 The purpose of this section is to ensure that the affected Party has a  
7 meaningful opportunity to preserve its confidentiality interests in the court from  
8 which the subpoena or court order issued.

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

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

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

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

24 (2) promptly provide the Requesting Party a copy of the  
25 confidentiality agreement between the Party and Non-Party;

26 (3) promptly provide the Non-Party with a copy of the Stipulation  
27 and this Order in this litigation, the relevant discovery request(s), and a reasonably  
28 specific description of the information requested; and



1 (4) make the information requested available for inspection by the  
2 Non-Party.

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

11 **8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL.**

12 8.1. Unauthorized Disclosure of Protected Material.

13 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
14 Protected Material to any person or in any circumstance not authorized under the  
15 parties' Stipulation and this Order, the Receiving Party must immediately:

- 16 (a) notify in writing the Designating Party of the unauthorized disclosures;  
17 (b) use its best efforts to retrieve all copies of the Protected Material;  
18 (c) inform the person or persons to whom unauthorized disclosures were  
19 made of all the terms of this Order; and  
20 (d) request such person or persons consent to be bound by the Stipulation  
21 and this Order.

22 8.2. Inadvertent Production of Privileged or Otherwise Protected Material.

23 When a Producing Party gives notice to Receiving Parties that certain  
24 inadvertently produced material is subject to a claim of privilege or other protection,  
25 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil  
26 Procedure 26(b)(5)(B). [*See also* Cal. Code Civ. Proc. § 2031.240(c); Federal Rule  
27 of Civil Procedure 26(b)(5)(B).] This provision is not intended to modify whatever  
28 procedure may be established in an e-discovery order that provides for production

1 without prior privilege review. Pursuant to all applicable laws [*e.g.*, Federal Rule of  
2 Evidence 502(d) and (e)], insofar as the parties reach an agreement on the effect of  
3 disclosure of a communication or information covered by the attorney-client  
4 privilege or work product protection, the parties may incorporate their agreement in  
5 the stipulated protective order submitted to the court.

6 **9. PUBLICATION OF PROTECTED MATERIAL PROHIBITED.**

7 9.1. Filing of Protected Material.

8 Without advance written permission from the Designating Party, or a court  
9 order secured after appropriate notice to all interested persons, a Receiving Party  
10 may not file in the public record in this action any Protected Material. A Party that  
11 seeks to file under seal any Protected Material must comply with the applicable  
12 Federal and Local Rules and Orders of the Court.

13 9.2. Public Dissemination of Protected Material.

14 A Receiving Party shall not publish, release, post, or disseminate Protected  
15 Material to any persons except those specifically delineated and authorized by the  
16 parties' Stipulation and this Order (see section 5, *supra*); nor shall a Receiving Party  
17 publish, release, leak, post, or disseminate Protected Material/Confidential  
18 Documents to any news media, member of the press, website, or public forum  
19 (except as permitted under section 12.1, *infra*, regarding filings with the court in this  
20 action and under seal).

21 **10. FINAL DISPOSITION.**

22 10.1. Unless otherwise ordered or agreed in writing by the Producing Party,  
23 within thirty (30) days after the final termination of this action (defined as the  
24 dismissal or entry of judgment by the above named court, or if an appeal is filed, the  
25 disposition of the appeal), upon written request by the Producing Party, each  
26 Receiving Party must return all Protected Material to the Producing Party – whether  
27 retained by the Receiving Party or its Counsel, Experts, Professional Vendors,  
28 agents, or any non-party to whom the Receiving Party produced or shared such

1 records or information. As used in this subdivision, “all Protected Material”  
2 includes all copies, abstracts, compilations, summaries or any other form of  
3 reproducing or capturing any of the Protected Material, regardless of the medium  
4 (hardcopy, electronic, or otherwise) in which such Protected Material is stored or  
5 retained.

6 In the alternative, at the discretion of the Receiving Party, the Receiving Party  
7 may destroy some or all of the Protected Material instead of returning it – unless  
8 such Protected Material is an original, in which case, the Receiving Party must  
9 obtain the Producing Party’s written consent before destroying such original  
10 Protected Material.

11 10.2. Whether the Protected Material is returned or destroyed, the Receiving  
12 Party must submit a written certification to the Producing Party (and, if not the same  
13 person or entity, to the Designating Party) within thirty (30) days of the  
14 aforementioned written request by the Designating Party that specifically identifies  
15 (by category, where appropriate) all the Protected Material that was returned or  
16 destroyed and that affirms that the Receiving Party has not retained any copies,  
17 abstracts, compilations, summaries or other forms of reproducing or capturing any  
18 of the Protected material (in any medium, including but not limited to any hardcopy,  
19 electronic or digital copy, or otherwise).

20 Notwithstanding this provision, Counsel are entitled to retain an archival copy  
21 of all pleadings, motion papers, transcripts, legal memoranda filed with the court in  
22 this action, as well as any correspondence or attorney work product prepared by  
23 Counsel for the Receiving Party, even if such materials contain Protected Material;  
24 however, any such archival copies that contain or constitute Protected Material  
25 remain subject to this Protective Order as set forth in Section 2, above. This court  
26 shall retain jurisdiction in the event that a Designating Party elects to seek court  
27 sanctions for violation of the parties’ Stipulation and this Order.

28 ///

1 **11. MISCELLANEOUS.**

2 11.1. Right to Further Relief. Nothing in the parties' Stipulation or this  
3 Order abridges the right of any person to seek its modification by the Court in the  
4 future.

5 11.2. Right to Assert Other Objections. By stipulating to the entry of this  
6 Protective Order pursuant to the parties' Stipulation, no Party waives any right it  
7 otherwise would have to object to disclosing or producing any information or item  
8 on any ground not addressed in the parties' Stipulation or this Order. Similarly, no  
9 Party waives any right to object on any ground to use in evidence any of the material  
10 covered by the parties' Stipulation and this Protective Order.

11 11.3. The provisions of the parties' Stipulation and this Protective Order  
12 shall be in effect until further Order of the Court.

13 **IT IS SO ORDERED.**

14  
15 Dated: May 5, 2015



16 UNITED STATES MAGISTRATE JUDGE

1 Respectfully Submitted By:  
2 Mildred K.O'Linn, Esq. (State Bar No. 159055)  
3 Tony M. Sain, Esq. (State Bar No. 251626)  
4 **MANNING & KASS**  
5 **ELLROD, RAMIREZ, TRESTER LLP**  
6 801 South Figueroa Street  
7 15th Floor at 801 Tower  
8 Los Angeles, CA 90017  
9 Telephone: (213) 624-6900  
10 Facsimile: (213) 624-6999  
11 mko@manningllp.com and tms@manningllp.com  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
Attorneys for Defendant,  
CITY OF AZUSA

Manning & Kass  
Ellrod, Ramirez, Trestler LLP