

1 JEREMY J. GRAY (SBN 150075
 2 *jgray@zuberlaw.com*
 3 JAYESH PATEL (SBN 132939)
 4 *jpatel@zuberlaw.com*
 5 **ZUBER LAWLER & DEL DUCA LLP**
 6 777 S. Figueroa Street, 37th Floor
 7 Los Angeles, California 90017 USA
 8 Telephone: (213) 596-5620
 9 Facsimile: (213) 596-5621

10 Attorneys for Plaintiffs
 11 Haley Videckis and Layana White

12 PAULA TRIPP VICTOR (SBN 113050)
 13 *ptv@amclaw.com*
 14 PETER B. RUSTIN (SBN 181734)
 15 *pbr@amclaw.com*
 16 **ANDERSON MCPHARLIN & CONNERS LLP**
 17 707 Wilshire Boulevard, Suite 4000
 18 Los Angeles, California 90017 USA
 19 Telephone: (213) 688-0080
 20 Facsimile: (213) 622-7594

21 Attorneys for Defendant
 22 Pepperdine University

23 **UNITED STATES DISTRICT COURT**

24 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

25 **HALEY VIDECKIS and LAYANA**
 26 **WHITE, individuals,**
 27 **Plaintiffs,**

28 v.

29 **PEPPERDINE UNIVERSITY, a**
 30 **corporation doing business in**
 31 **California,**
 32 **Defendant.**

CASE NO. 2:15-CV-00298-DDP (JCx)

STIPULATED PROTECTIVE ORDER

[CHANGES MADE BY COURT TO PARAGRAPHS 1, 3, 5.2.1, 5.2.2, 5.2.4, 7.1, 7.3.3, 8.2, 11.3]

1. PURPOSE AND LIMITS OF THIS ORDER

Disclosure and discovery activity in this action may involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose, other than prosecuting this litigation or any subsequent or future litigation between the Parties, including but not limited

1 to malicious prosecution, may be warranted. Accordingly, the Parties hereby
2 stipulate to and petition the Court to enter the following Stipulated Protective Order.
3 The Parties acknowledge that this Order does not confer blanket protections on all
4 disclosures or responses to discovery and that the protection it affords from public
5 disclosure and use extends only to the limited information or items that are entitled
6 to confidential treatment under the applicable legal principles. The Parties further
7 acknowledge, as set forth in Section 11.3, below, that this Stipulated Protective
8 Order does not entitle them to file confidential information under seal. Rather,
9 when the parties seek permission from the court to file material under seal, the
10 parties must comply with Civil Local Rule 79-5 and with any pertinent orders of the
11 assigned District Judge and Magistrate Judge.

12 **2. DEFINITIONS**

13 2.1. “Challenging Party” means a Party or Non-Party that challenges the
14 designation of information or items under this Order.

15 2.2. “Counsel” means Outside Counsel of Record and House Counsel (as
16 well as their support staff).

17 2.3. “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL --
18 ATTORNEYS’ EYES ONLY” means information (regardless of how it is
19 generated, stored or maintained) or tangible things that qualify for protection under
20 Federal Rule of Civil Procedure 26(c), and specifically, medical records or sexual
21 orientation of the Parties or witnesses not previously disclosed to the public.

22 2.4. “Designating Party” means a Party or Non-Party that designates
23 information or items produced in disclosure or in responses to discovery as
24 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES
25 ONLY.”

26 2.5. “Disclosure or Discovery Material” means all items or information,
27 regardless of the medium or manner in which it is generated, stored, or maintained
28

1 (including, but not limited to, testimony, transcripts, and tangible things), that are
2 produced or generated in disclosures or responses to discovery in this matter.

3 2.6. “Expert” means a person with specialized knowledge or experience in a
4 matter pertinent to the litigation who has been retained by a Party or its Outside
5 Counsel of Record to serve as an expert witness or as a consultant in this action.

6 2.7. “House Counsel” means attorneys and staff who are employees of a
7 Party to this action and includes Thomas H. Knudsen, Marc Goodman, Ki’Jhana
8 Friday, Nancy Chase and Carly Lantrip. House Counsel does not include Outside
9 Counsel of Record or any other outside counsel.

10 2.8. “Non-Party” means any natural person, partnership, corporation,
11 association, or other legal entity not named as a Party to this action.

12 2.9. “Outside Counsel of Record” means attorneys who are not employees
13 of a Party to this action but are retained to represent or advise a Party to this action
14 and have appeared in this action on behalf of that Party or are affiliated with a law
15 firm which has appeared on behalf of that Party.

16 2.10. “Party” means any party to this action, including all of its officers,
17 directors, employees, consultants, retained experts, and Outside Counsel of Record
18 (and their support staffs).

19 2.11. “Producing Party” means a Party or Non-Party that produces
20 Disclosure or Discovery Material in this action.

21 2.12. “Professional Vendors” means persons or entities that provide litigation
22 support services (*e.g.*, photocopying, videotaping, translating, preparing exhibits or
23 demonstrations, and organizing, storing, or retrieving data in any form or medium)
24 and their employees and subcontractors.

25 2.13. “Protected Material” means any Disclosure or Discovery Material that
26 is designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL --
27 ATTORNEYS’ EYES ONLY.”

28

1 2.14. “Receiving Party” means a Party that receives Disclosure or Discovery
2 Material from a Producing Party.

3 **3. SCOPE**

4 The protections conferred by this Order cover not only Protected Material (as
5 defined above), but also (1) any information copied or extracted from Protected
6 Material; (2) all copies, excerpts, summaries, or compilations of Protected Material;
7 and (3) any deposition testimony, conversations, or presentations by Parties or their
8 Counsel that might reveal Protected Material, other than during a court hearing or at
9 trial. The protections conferred by this Order also do not cover the following
10 information: (a) any information that is in the public domain at the time of
11 disclosure to a Receiving Party or becomes part of the public domain after its
12 disclosure to a Receiving Party as a result of publication not involving a violation of
13 this Order, including becoming part of the public record through trial or otherwise;
14 and (b) any information known to the Receiving Party prior to the disclosure or
15 obtained by the Receiving Party after the disclosure from a source who obtained the
16 information lawfully and under no obligation of confidentiality to the Designating
17 Party. Any use of Protected Material during a court hearing or at trial shall be
18 governed by the orders of the presiding judge. This Order does not govern the use
19 of Protected Material during a court hearing or at trial.

20 **4. DURATION**

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

1 **5. DESIGNATING PROTECTED MATERIAL**

2 5.1. Exercise of Restraint and Care in Designating Material for Protection.

3 Each Party or Non-Party that designates information or items for protection under
4 this Order must take care to limit any such designation to specific material that
5 qualifies under the appropriate standards. The Designating Party must designate for
6 protection only those parts of material, documents, items, or oral or written
7 communications that qualify – so that other portions of the material, documents,
8 items, or communications for which protection is not warranted are not swept
9 unjustifiably within the ambit of this Order.

10 5.2. Manner and Timing of Designations. Except as otherwise provided in
11 this Order (*see, e.g.*, Section 5.2.1 below), or as otherwise stipulated or ordered,
12 Disclosure or Discovery Material that qualifies for protection under this Order must
13 be clearly so designated before the material is disclosed or produced. Designation in
14 conformity with this Order requires:

15 5.2.1. for information in documentary form (*e.g.*, paper or electronic
16 documents, but excluding transcripts of depositions), that the Producing Party affix
17 the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -- ATTORNEYS’
18 EYES ONLY” to each page that contains protected material. If only a portion or
19 portions of the material on a page qualifies for protection, the Producing Party also
20 must clearly identify the protected portion(s) (*e.g.*, by making appropriate markings
21 in the margins). A Party or Non-Party that makes original documents or materials
22 available for inspection need not designate them for protection until after the
23 inspecting Party has indicated which material it would like copied and produced.
24 During the inspection and before the designation, all of the material made available
25 for inspection shall be deemed “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL
26 -- ATTORNEYS’ EYES ONLY.” 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,

1 before producing the specified documents, the Producing Party must affix the
2 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES
3 ONLY” legend to each page that contains Protected Material. If only a portion or
4 portions of the material on a page qualifies for protection, the Producing Party also
5 must clearly identify the protected portion(s) (e.g., by making appropriate markings
6 in the margins).

7 5.2.2. for testimony given in deposition, that the Designating Party
8 identify on the record all protected testimony and the level of protection being
9 asserted. The Designating Party may make that designation during the deposition
10 or may invoke, on the record or by written notice to all parties on or before the
11 second business day, a right to have up to 21 days from the deposition to make its
12 designation.

13 5.2.3. for information produced in some form other than documentary
14 and for any other tangible items, that the Producing Party affix in a prominent place
15 on the exterior of the container or containers in which the information or item is
16 stored the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL --
17 ATTORNEYS’ EYES ONLY.” If only a portion or portions of the information or
18 item warrant protection, the Producing Party, to the extent practicable, shall identify
19 the protected portion(s).

20 5.2.4. Parties shall give advance notice if they expect a deposition or
21 other proceeding to include Protected Material so that the other Parties can
22 (a) as to a deposition, ensure that only authorized individuals are present when such
23 material is disclosed or used; or (b) as to a proceeding, make any appropriate request
24 to the presiding judicial officer. The use of a document as an exhibit at a deposition
25 shall not in any way affect its designation. Deposition transcripts containing
26 Protected Material shall have a legend on the title page noting the presence of
27 Protected Material.

28 ///

1 5.3. Inadvertent Failures to Designate. If timely corrected, an inadvertent
2 failure to designate qualified information or items does not, standing alone, waive
3 the Designating Party’s right to secure protection under this Order for such material.
4 Upon timely correction of a designation, the Receiving Party must make reasonable
5 efforts to assure that the material is treated in accordance with the provisions of this
6 Order.

7 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

8 All challenges to confidentiality designations shall proceed under L.R. 37-1
9 through L.R. 37-4.

10 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

11 7.1. Basic Principles. A Receiving Party may use Protected Material that is
12 disclosed or produced by another Party or by a Non-Party in connection with this
13 case only for, (1) prosecuting, defending, or attempting to settle this litigation, or
14 (2) prosecuting, defending, or attempting to settle subsequent or future litigation
15 between the Parties, including but not limited to malicious prosecution. Such
16 Protected Material may be disclosed only to the categories of persons and under the
17 conditions described in this Order. When the litigation has been terminated, a
18 Receiving Party must comply with the provisions of Section 12 below (FINAL
19 DISPOSITION). Protected Material must be stored and maintained by a Receiving
20 Party at a location and in a secure manner that ensures that access is limited to the
21 persons authorized under this Order.

22 7.2. Disclosure of “CONFIDENTIAL” Information or Items. Unless
23 otherwise ordered by the Court or permitted in writing by the Designating Party, a
24 Receiving Party may disclose any information or item designated
25 “CONFIDENTIAL” only to:

26 7.2.1. the Receiving Party’s Outside Counsel of Record in this action,
27 as well as employees of said Outside Counsel of Record to whom it is reasonably
28 necessary to disclose the information for this litigation;

1 7.2.2. the officers, directors, and employees (including House Counsel)
2 of the Receiving Party to whom disclosure is reasonably necessary and who have
3 signed the “Acknowledgment and Agreement to Be Bound” form (Exhibit A
4 attached hereto);

5 7.2.3. Experts of the Receiving Party to whom disclosure is reasonably
6 necessary and who have signed the “Acknowledgment and Agreement to Be
7 Bound” form (Exhibit A attached hereto);

8 7.2.4. the Court and its personnel;

9 7.2.5. outside court reporters and their staff, professional jury or trial
10 consultants, mock jurors, and Professional Vendors to whom disclosure is
11 reasonably necessary and who have signed the “Acknowledgment and Agreement to
12 Be Bound” form (Exhibit A attached hereto);

13 7.2.6 during their depositions, witnesses in the action to whom
14 disclosure is reasonably necessary and who have signed the “Acknowledgment and
15 Agreement to Be Bound” form (Exhibit A attached hereto);

16 7.2.7 the author or recipient of a document containing the information
17 or a custodian or other person who otherwise possessed or knew the information.

18 7.3. Disclosure of “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES
19 ONLY” Information or Items. Unless otherwise permitted in writing by the
20 Designating Party, a Receiving Party may disclose any information or item
21 designated “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES ONLY” only to:

22 7.3.1. the Receiving Party’s Outside Counsel of Record in this action,
23 employees of said Outside Counsel of Record to whom it is reasonably necessary to
24 disclose the information, as well as Thomas H. Knudsen, Marc Goodman, Ki’Jhana
25 Friday, in their capacity as House Counsel for Pepperdine University, and Nancy
26 Chase and Carly Lantrip, in their capacity as staff members in Pepperdine
27 University’s House Counsel’s office.

28

1 7.3.2. Experts consulted or retained by the Designating Party or
2 Receiving Party when reasonably necessary to disclose the information, where such
3 experts acknowledge the “Acknowledgment and Agreement to Be Bound” form
4 (Exhibit A attached hereto);

5 7.3.3. the Court and its personnel.

6 7.3.4. Notwithstanding its designation, information deemed “HIGHLY
7 CONFIDENTIAL -- ATTORNEYS’ EYES ONLY” may be used without limitation
8 in legal briefs and arguments by Outside Counsel of Record when filed under seal
9 pursuant to Section 11.3.

10 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED TO BE**
11 **PRODUCED IN OTHER LITIGATION**

12 8.1. This Order in no way excuses non-compliance with a lawful subpoena
13 or court order. The purpose of the duties described in this Section is to alert the
14 interested parties to the existence of this Order and to give the Designating Party an
15 opportunity to protect its confidentiality interests in the court where the subpoena or
16 order issued. If a Party is served with a subpoena or a court order issued in other
17 litigation that compels disclosure of any information or items designated in this
18 action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -- ATTORNEYS’
19 EYES ONLY,” that Party must promptly notify in writing the Designating Party.
20 Such notification shall include a copy of the subpoena or court order.

21 8.2. If the Designating Party timely seeks a protective order, the Party
22 served with the subpoena or court order shall not produce any information
23 designated in this action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL --
24 ATTORNEYS’ EYES ONLY” before a determination by the court from which the
25 subpoena or order issued, unless the Party has obtained the Designating Party’s
26 permission or unless otherwise required by law or court order. The Designating
27 Party shall bear the burden and expense of seeking protection in that court of its
28 confidential material – and nothing in these provisions should be construed as

1 authorizing or encouraging a Receiving Party in this action to disobey a lawful
2 directive from another court.

3 **9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

4 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
5 Protected Material to any person or in any circumstance not authorized under this
6 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
7 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
8 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or
9 persons to whom unauthorized disclosures were made of all the terms of this Order,
10 and (d) request such person or persons to execute the “Acknowledgment and
11 Agreement to Be Bound” form (Exhibit A attached hereto).

12 **10. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
13 **PROTECTED MATERIAL**

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

24 **11. MISCELLANEOUS**

25 11.1. Right to Further Relief. Nothing in this Order abridges the right of any
26 person to seek its modification by the Court in the future.

27 11.2. Right to Assert Other Objections. By stipulating to the entry of this
28 Protective Order, no Party waives any right it otherwise would have to object to

1 disclosing or producing any information or item on any ground not addressed in this
2 Stipulated Protective Order. Similarly, no Party waives any right to object on any
3 ground to use in evidence any of the material covered by this Protective Order.

4 11.3. Filing Protected Material. A Party seeking to file under seal any
5 Protected Material must comply with Civil Local Rule 79-5 and with any pertinent
6 orders of the assigned District Judge and Magistrate Judge.

7 **12. FINAL DISPOSITION**

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

26 ///

27 ///

28 ///

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

**IT IS SO STIPULATED, AND RESPECTFULLY SUBMITTED, BY
AND THROUGH COUNSEL OF RECORD:**

Dated: February 24, 2017

ZUBER LAWLER & DEL DUCA LLP
JEREMY J. GRAY
JAYESH PATEL

By: /s/Jayesh Patel
Attorneys for Plaintiffs Haley Videckis and
Layana White

Dated: February 23, 2017

Respectfully submitted:

**ANDERSON MCPHARLIN &
CONNERS LLP**
PAULA TRIPP VICTOR
PETER B. RUSTIN

By: /s/ Paula Tripp Victor
Attorneys for Defendant Pepperdine
University

Dated: February 15, 2017

THOMAS KNUDSEN

By: /s/ Thomas Knudsen
Attorneys for Defendant Pepperdine
University

Dated: February 15, 2017

MARC GOODMAN

By: /s/ Marc Goodman
Attorneys for Defendant Pepperdine
University

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

EXHIBIT A

ACKNOWLEDGMENT AND 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 March 21, 2017 in the case of *Videckis, et
al. v. Pepperdine University*, Case No. 2:15-CV-00298-DDP (JCx). 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: _____

Signature: _____

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