

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 – WESTERN DIVISION

JOSEPH DANIEL LASICA, an	)	Case No. 2:15-CV-04230-GW (FFMx)
individual,	)	
	)	<b>ORDER GOVERNING USE AND</b>
Plaintiff,	)	<b>DISSEMINATION OF</b>
vs.	)	<b>CONFIDENTIAL INFORMATION</b>
	)	
AOL Inc., a Delaware corporation,	)	
	)	
Defendant.	)	
	)	

---

1 Pursuant to the Stipulation to Entry of Order Governing Use and  
2 Dissemination of Confidential Information filed by Plaintiff Joseph Daniel Lasica  
3 and Defendant AOL Inc. (each a “Party,” and collectively the “Parties”), the Court  
4 hereby enters this Protective Order (the “Order”) to protect confidential information  
5 and material that may be produced or otherwise disclosed by the parties or third  
6 parties during the course of discovery in this case and in order to facilitate the  
7 exchange of information and documents that may be subject to confidentiality  
8 limitations on disclosure due to federal laws, state laws, and privacy rights.

9 IT IS HEREBY ORDERED that:

10 1. No person subject to this Order may disclose information of any kind  
11 produced or disclosed in the course of discovery or settlement discussions in this  
12 action (hereinafter “Discovery Material”) which a Party has designated as  
13 “Confidential” or “Confidential Attorneys Eyes Only” (hereinafter “Confidential  
14 AEO”) pursuant to this Order to anyone else except as this Order expressly permits.

15 2. The Party or person producing or disclosing Discovery Material  
16 (hereinafter “Producing Party”) may designate as “Confidential” only the portion of  
17 such material that it reasonably and in good faith believes consists of:

- 18 (a) previously non-disclosed financial information (including  
19 without limitation profitability reports or estimates, percentage  
20 fees, royalty rates, minimum guarantee payments, sales reports,  
21 advertising sales data and sale margins);
- 22 (b) previously non-disclosed material relating to ownership or  
23 control of any non-public company;
- 24 (c) previously non-disclosed business plans, product-development  
25 information, or marketing plans;
- 26 (d) any information of a personal or intimate nature regarding any  
27 individual;

- 1 (e) information related to previously non-disclosed and/or sensitive  
2 information regarding advertisers, licensees, suppliers, or other  
3 entities with whom either Party has business relations;
- 4 (f) any information that any Party reasonably and in good faith  
5 believes would give a direct competitor an unfair business  
6 advantage by virtue of disclosure of that information; or
- 7 (g) any other category of information this Court subsequently affords  
8 confidential status.

9 3. A Producing Party may designate as “Confidential AEO” only the  
10 portion of Discovery Material that it reasonably and in good faith believes consists  
11 of highly sensitive and/or commercially competitive Discovery Material.

12 4. A Producing Party or its counsel may designate the confidential portion  
13 of any Discovery Material other than deposition transcripts and exhibits as  
14 “Confidential” or “Confidential AEO” by stamping or otherwise clearly marking as  
15 “Confidential” or “Confidential AEO” the protected portion in a manner that will not  
16 interfere with legibility or audibility.

17 5. A Producing Party or its counsel may designate deposition exhibits or  
18 portions of deposition transcripts as Confidential Discovery Material or Confidential  
19 AEO Discovery Material either by: (a) indicating on the record during the  
20 deposition that a question calls for Confidential or Confidential AEO information, in  
21 which case the reporter will bind the transcript of the designated testimony in a  
22 separate volume and mark it as “Confidential” or “Confidential AEO” and will  
23 indicate “Information Governed by Protective Order” or (b) notifying the reporter  
24 and all counsel of record, in writing, within this thirty (30) days after receiving a  
25 transcript of the deposition, of the specific pages and lines of the transcript that are  
26 to be designated “Confidential” or “Confidential AEO,” in which case all counsel  
27 receiving the transcript will be responsible for marking the copies of the designated  
28 transcript in their possession or under their control as directed by the Producing

1 Party or that person’s counsel. During the thirty (30) day period following the  
2 Parties’ receipt of transcripts of the deposition, all Parties will treat the entire  
3 deposition transcript as if it had been designated “Confidential.”

4         6. If at any time before the trial of this action a Producing Party realizes  
5 that it should have designated as “Confidential” or “Confidential AEO” some  
6 portion or portion(s) of Discovery Material that it previously produced without  
7 limitation, the Producing Party may so designate such material by so apprising all  
8 prior recipients in writing. Thereafter, all persons subject to this Order will treat  
9 such designated portion(s) of the Discovery Material as “Confidential” or  
10 “Confidential AEO.”

11         7. Nothing contained in this Order will be construed as: (a) a waiver by a  
12 Party or person of its right to object to any discovery request; (b) a waiver of any  
13 privilege or protection; or (c) a ruling regarding the admissibility at trial of any  
14 document, testimony or other evidence.

15         8. Where a Producing Party has designated Discovery Material as  
16 “Confidential,” other persons subject to this Order may disclose such information  
17 only to the following persons:

- 18             (a) the Parties to this action, their insurers, and counsel to their  
19                 insurers;
- 20             (b) counsel retained specifically for this action, including any  
21                 paralegal, clerical, or other assistant that such outside counsel  
22                 employs and assigns to this matter;
- 23             (c) outside vendors or service providers (such as copy service  
24                 providers and document management consultants) that counsel  
25                 hire and assign to this matter, provided such persons or entities  
26                 have first been notified of this Confidentiality Agreement and  
27                 Protective Order;

- 1 (d) any mediator or arbitrator that the Parties engage in this matter or  
2 that this Court appoints, provided such person has first executed a  
3 Nondisclosure Agreement in form attached hereto as Attachment  
4 A;
- 5 (e) as to any document, its author, its addressee, and any other  
6 person indicated on the face of the document as having received a  
7 copy;
- 8 (f) any witness who counsel for a Party in good faith believes may  
9 be called to testify at trial or deposition in this action, provided  
10 such person has first executed a Nondisclosure Agreement in  
11 form attached hereto as Attachment A;
- 12 (g) any person a Party retains to serve as an expert witness or to  
13 otherwise provide specialized advice to counsel or a Party in  
14 connection with this action and/or settlement of this action  
15 (through a potential business arrangement or otherwise),  
16 including but not limited to outside counsel, consultants,  
17 accountants and other financial professionals, provided such  
18 person has first executed a Nondisclosure Agreement in form  
19 attached hereto as Attachment A;
- 20 (h) stenographers engaged to transcribe depositions the Parties  
21 conduct in this action; and
- 22 (i) this Court, including any appellate court, its support personnel,  
23 and court reporters.

24 9. Where a Producing Party has designated Discovery Material as  
25 “Confidential AEO,” other persons subject to this Order may disclose such  
26 information only to the following persons:

- 27 (a) a Parties’ in-house or inside legal counsel;
- 28

- 1 (b) counsel retained specifically for this action, including any  
2 paralegal;
- 3 (c) outside vendors or service providers (such as copy service  
4 providers and document management consultants) that counsel  
5 hire and assign to this matter, provided such persons or entities  
6 have first been notified of this Confidentiality Agreement and  
7 Protective Order;
- 8 (d) any mediator or arbitrator that the Parties engage in this matter or  
9 that this Court appoints, provided such person has first executed a  
10 Nondisclosure Agreement in the form attached hereto as  
11 Attachment A;
- 12 (e) as to any document, its author, its addressee, and any other  
13 person indicated on the face of the document as having received a  
14 copy;
- 15 (f) any person a Party retains to serve as an expert witness or to  
16 otherwise provide specialized advice to counsel or a Party in  
17 connection with this action and/or settlement of this action  
18 (through a potential business arrangement or otherwise),  
19 including but not limited to outside counsel, consultants,  
20 accountants and other financial professionals, provided such  
21 person has first executed a Nondisclosure Agreement;
- 22 (g) stenographers engaged to transcribe depositions the Parties  
23 conduct in this action; and
- 24 (h) this Court, including any appellate court, its support personnel,  
25 and court reporters.

26 10. Before disclosing any “Confidential” or “Confidential AEO” Discovery  
27 Material to any person referred to in subparagraphs 8(d), (f), or (g), or 9(d) or (f),  
28 counsel must provide a copy of this Order to such person, who must sign the

1 Nondisclosure Agreement attached hereto as Exhibit “A” stating that he or she has  
2 read this Order and agrees to be bound by its terms. Said counsel must retain each  
3 signed Nondisclosure Agreement, hold it in escrow, and produce it to opposing  
4 counsel either before such person is permitted to testify (at deposition or trial) or at  
5 the conclusion of the case, whichever comes first.

6 11. This Court retains discretion as to whether to afford confidential  
7 treatment to any Discovery Material designated as “Confidential” or “Confidential  
8 AEO” and submitted to the Court in connection with any motion, application, or  
9 proceeding that may result in an order and/or decision by the Court.

10 12. In filing “Confidential” or “Confidential AEO” Discovery Material  
11 with this Court, or filing portions of any pleadings, motions, or other papers that  
12 disclose such “Confidential” or “Confidential AEO” Discovery Material  
13 (“Confidential Court Submission”), the Parties shall publicly file a redacted copy of  
14 the Confidential Court Submission via the Electronic Case Filing System. The  
15 Parties shall file an application to file the papers under seal, which application must  
16 demonstrate good cause for the under seal filing. Only if and to the extent the  
17 application is granted, the Parties may then file an unredacted copy of the  
18 Confidential Court Submission under seal with the Clerk of this Court. The Parties  
19 shall serve this Court and opposing counsel with unredacted courtesy copies of the  
20 Confidential Court Submission.

21 13. Any Party who objects to any designation of confidentiality may at any  
22 time within the discovery period established by the District Judge to which this  
23 action is assigned, serve upon counsel for the Producing Party a written notice  
24 stating with particularity the grounds of the objection. If the Parties cannot reach  
25 agreement promptly, counsel for all affected Parties will address their dispute to this  
26 Court pursuant to the procedure set forth in Central District of California Local Rule  
27 37.  
28

1           14. Recipients of “Confidential” or “Confidential AEO” Discovery  
2 Material under this Order may use such material solely for the prosecution and  
3 defense of this action and any appeals thereto, and for the purpose of assessing  
4 settlement of this action, and not for any business, commercial, or competitive  
5 propose or in any other litigation proceeding. Nothing contained in this Order,  
6 however, will affect or restrict the rights of any Party with respect to its own  
7 documents or information produced in this action.

8           15. Nothing in this Order will prevent any Party from producing any  
9 “Confidential” or “Confidential AEO” Discovery Material in its possession in  
10 response to a lawful subpoena or other compulsory process, or if required to  
11 produce it by law or by any government agency having jurisdiction, provided  
12 that such Party gives written notice to the Producing Party as soon as  
13 reasonably possible, and if permitted by the time allowed under the request, at  
14 least ten (10) days before any disclosure. Upon receiving such notice, the  
15 Producing Party will bear the burden to oppose compliance with the subpoena,  
16 other compulsory process, or other legal notice if the Producing Party deems it  
17 appropriate to do so.

18           16. Each person who has access to Discovery Material designated as  
19 “Confidential” or “Confidential AEO” pursuant to this Order must take all due  
20 precautions to prevent the unauthorized or in advertent disclosure of such  
21 material.

22           17. Within sixty (60) days of the final disposition of this action -  
23 including all appeals- all recipients of “Confidential” or “Confidential AEO”  
24 Discovery Material must either return the material – including all copies  
25 thereof-to the Producing Party, or, upon permission of the Producing Party,  
26 destroy such material-including all copies thereof, and provide evidence of  
27 such destruction to the Producing Party. In either event, by the sixty (60) day  
28 deadline, the recipient must certify its return or destruction by submitting a





1 **Attachment "A"**

2 **NONDISCLOSURE AGREEMENT**

3 I, \_\_\_\_\_, state that:

4 1. My address is

5 \_\_\_\_\_

6 2. My present employer is

7 \_\_\_\_\_

8 3. My present occupation or job description is

9 \_\_\_\_\_

10 4. I have received a copy of the Protective Order entered in the case of  
11 *Joseph Daniel Lasica v. AOL Inc.*, United States District Court – Central District of  
12 California Case No. 2:15-cv-04230 GW (FFMx).

13 5. I have read and understand the Order Governing Use and Dissemination  
14 of Confidential Information (the "Order"). I hereby agree to comply with all of the  
15 terms of the Order, including holding in confidence and not disclosing to any  
16 unqualified person all documents, things, or information designated  
17 "CONFIDENTIAL" or "CONFIDENTIAL ATTORNEYS EYES ONLY."

18 6. I hereby expressly covenant that I will only use the documents, things,  
19 or information designated as "CONFIDENTIAL" or "CONFIDENTIAL  
20 ATTORNEYS EYES ONLY" in connection with the above-referenced litigation  
21 and that I will not use such documents, things, or information for any other purpose.  
22 Further, I expressly covenant that I will not use such documents, things, or  
23 information for the benefit of myself or any other person or entity.

24 7. Within sixty (60) days of notice by any Party that this litigation is over,  
25 or that my involvement is no longer deemed necessary, I expressly covenant that I  
26 will return all information and materials provided to me with the designation of  
27 "CONFIDENTIAL" or "CONFIDENTIAL ATTORNEYS EYES ONLY." I will  
28

1 also provide a Declaration, submitted under penalty of perjury, which identifies by  
2 Bates Number, the information and materials that I am returning.

3 8. I hereby consent to the jurisdiction of the United States District Court –  
4 Central District of California – Western Division for the purpose of enforcing the  
5 Order and this agreement to be bound thereby.

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

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name