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 14 DONN CARPER

15 UNITED STATES DISTRICT COURT
 16 CENTRAL DISTRICT OF CALIFORNIA

17 DONN CARPER,
 18 Plaintiff,
 19 v.
 20 TRIBUNE MEDIA, a business form
 21 unknown; KTLA, LLC, a business form
 22 unknown; and DOES 1 through 100,
 inclusive,
 23 Defendants.

Case No. 2:15-CV-04259-VAP (SSx)

[Hon. Virginia A. Phillips]

**[PROPOSED] STIPULATED
 PROTECTIVE ORDER**

NOTE CHANGES MADE BY THE
 COURT

1 1. A. PURPOSES AND LIMITATIONS

2 Plaintiff has requested certain financial and budgetary documents from KTLA,
3 LLC, and is requesting that these documents be produced before a deposition
4 scheduled for March 16, 2016. Due to the confidential, proprietary and private nature
5 of these documents, the parties have agreed that special protection from public
6 disclosure should be provided and that these documents shall not be used by Plaintiff
7 for any purpose other than prosecuting this litigation. Accordingly, the parties hereby
8 stipulate to and petition the Court to enter the following Stipulated Protective Order.
9 The parties acknowledge that this Order does not confer blanket protections on all
10 disclosures or responses to discovery and that the protection it affords from public
11 disclosure and use extends only to the limited information or items that are entitled to
12 confidential treatment under the applicable legal principles. The parties further
13 acknowledge, as set forth in Section 11.3, below, that this Stipulated Protective Order
14 does not automatically entitle them to file confidential information under seal; Civil
15 Local Rule 79-5 sets forth the procedures that a Party must follow and the standards
16 that will be applied when a party seeks permission from the court to file material under
17 seal. Plaintiff hereby agrees that should he wish to file these financial and budgetary
18 documents with the Court, that he shall first seek permission to file them under seal
19 and that he will comply with the procedures set forth in Civil Local Rule 79-5.

20 B. GOOD CAUSE STATEMENT

21 Discovery in this action will include Defendant's financial and proprietary
22 information for which special protection from public disclosure and from use for any
23 purpose other than prosecution of this action is warranted. Such confidential and
24 proprietary materials and information consist of, among other things, confidential
25 business or financial information, including operating budgets, financial planning
26 documents, forecasts and related documents. Accordingly, to expedite the flow of
27 information, to facilitate the prompt resolution of disputes over confidentiality of
28 discovery materials, to adequately protect information the parties are entitled to keep

1 confidential, to ensure that the parties are permitted reasonable necessary uses of such
2 material in preparation for and in the conduct of trial, to address their handling at the
3 end of the litigation, and serve the ends of justice, a protective order for such
4 information is justified in this matter. It is the intent of the parties that information will
5 not be designated as confidential for tactical reasons and that nothing be so designated
6 without a good faith belief that it has been maintained in a confidential, non-public
7 manner, and there is good cause why it should not be part of the public record of this
8 case.

9 2. DEFINITIONS

10 2.1. Action: This pending federal law suit.

11 2.2. Challenging Party: a Party that challenges the designation of information
12 or items under this Order.

13 2.3. “CONFIDENTIAL -- Subject to Protective Order” Information or Items:
14 information (regardless of how it is generated, stored or maintained) or tangible things
15 that qualify for protection under Federal Rule of Civil Procedure 26(c), and as
16 specified above in the Good Cause Statement.

17 2.4. Counsel: Outside Counsel of Record for the parties and House Counsel
18 (as well as their support staff).

19 2.5. Designating Party: a Party that designates information or items that it
20 produces in disclosures or in responses to discovery as “CONFIDENTIAL -- Subject
21 to Protective Order.”

22 2.6. Disclosure or Discovery Material: all items or information, regardless of
23 the medium or manner in which it is generated, stored, or maintained (including,
24 among other things, testimony, transcripts, and tangible things), that are produced or
25 generated in disclosures or responses to discovery in this matter.

26 2.7. Expert: a person with specialized knowledge or experience in a matter
27 pertinent to the litigation who has been retained by a Party or its counsel to serve as an
28 expert witness or as a consultant in this Action.

1 2.8. House Counsel: attorneys who are employees of a party to this Action.
2 House Counsel does not include Outside Counsel of Record or any other outside
3 counsel.

4 2.9. Outside Counsel of Record: attorneys who are not employees of a party to
5 this Action but are retained to represent or advise a party to this Action and have
6 appeared in this Action on behalf of that party or are affiliated with a law firm which
7 has appeared on behalf of that party, and includes support staff.

8 2.10. Party: any party to this Action, including all of its officers, directors,
9 employees, consultants, retained experts, and Outside Counsel of Record (and their
10 support staffs).

11 2.11. Producing Party: a Party or Non-Party that produces Disclosure or
12 Discovery Material in this Action.

13 2.12. Professional Vendors: persons or entities that provide litigation support
14 services (e.g., photocopying, videotaping, translating, preparing exhibits or
15 demonstrations, and organizing, storing, or retrieving data in any form or medium) and
16 their employees and subcontractors.

17 2.13. Protected Material: any Disclosure or Discovery Material that is
18 designated as “CONFIDENTIAL -- Subject to Protective Order.”

19 2.14. Receiving Party: a Party that receives Disclosure or Discovery Material
20 from a Producing Party.

21 3. SCOPE

22 The protections conferred by this Stipulation and Order cover not only Protected
23 Material (as defined above), but also (1) any information copied or extracted from
24 Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected
25 Material; and (3) any testimony, conversations, or presentations by Parties or their
26 Counsel that might reveal Protected Material.

27 Any use of Protected Material at trial shall be governed by the orders of the trial
28 judge. This Order does not govern the use of Protected Material at trial.

1 4. DURATION

2 Even after final disposition of this litigation, the confidentiality obligations
3 imposed by this Order shall remain in effect until a Designating Party agrees otherwise
4 in writing or a court order otherwise directs, and subject to Local Rule 79-7. Final
5 disposition shall be deemed to be the later of (1) dismissal of all claims and defenses in
6 this Action, with or without prejudice; and (2) final judgment herein after the
7 completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this
8 Action, including the time limits for filing any motions or applications for extension of
9 time pursuant to applicable law.

10 5. DESIGNATING PROTECTED MATERIAL

11 5.1. Exercise of Restraint and Care in Designating Material for Protection.

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

18 Mass, indiscriminate, or routinized designations are prohibited. Designations
19 that are shown to be clearly unjustified or that have been made for an improper
20 purpose (*e.g.*, to unnecessarily encumber the case development process or to impose
21 unnecessary expenses and burdens on other parties) may expose the Designating Party
22 to sanctions.

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

26 5.2. Manner and Timing of Designations. Except as otherwise provided in this
27 Order (see, *e.g.*, second paragraph of section 5.2(a) below), or as otherwise stipulated
28

1 or ordered, Disclosure or Discovery Material that qualifies for protection under this
2 Order must be clearly so designated before the material is disclosed or produced.

3 Designation in conformity with this Order requires:

4 (a) for information in documentary form (e.g., paper or electronic
5 documents, but excluding transcripts of depositions or other pretrial or trial
6 proceedings), that the Producing Party affix at a minimum, the legend
7 “CONFIDENTIAL -- Subject to Protective Order” (hereinafter “CONFIDENTIAL
8 legend”), to each page that contains protected material. If only a portion or portions of
9 the material on a page qualifies for protection, the Producing Party also must clearly
10 identify the protected portion(s) (e.g., by making appropriate markings in the 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 all protected testimony.

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

20 5.3. Inadvertent Failures to Designate. An inadvertent failure to designate
21 qualified information or items does not, standing alone, waive the Designating Party’s
22 right to secure protection under this Order for such material. Upon correction of a
23 designation, the Receiving Party must make reasonable efforts to assure that the
24 material is treated in accordance with the provisions of this Order.

25 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

26 6.1. Timing of Challenges. Any Party may challenge a designation of
27 confidentiality at any time that is consistent with the Court’s Scheduling Order.
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1 6.2. Meet and Confer. The Challenging Party shall initiate the dispute
2 resolution process under Local Rule 37.1 *et seq.*

3 6.3. The burden of persuasion in any such challenge proceeding shall be on the
4 Designating Party. Frivolous challenges, and those made for an improper purpose
5 (*e.g.*, to harass or impose unnecessary expenses and burdens on other parties) may
6 expose the Challenging Party to sanctions. Unless the Designating Party has waived or
7 withdrawn the confidentiality designation, all parties shall continue to afford the
8 material in question the level of protection to which it is entitled under the Producing
9 Party's designation until the Court rules on the challenge.

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 in connection with this Action only for
13 prosecuting, defending, or attempting to settle this Action. Such Protected Material
14 may be disclosed only to the categories of persons and under the conditions described
15 in this Order. When the Action has been terminated, a Receiving Party must comply
16 with the provisions of paragraph 12 below (FINAL DISPOSITION).

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

20 7.2. Disclosure of "CONFIDENTIAL -- Subject to Protective Order"
21 Information or Items. Unless otherwise ordered by the court or permitted in writing by
22 the Designating Party, a Receiving Party may disclose any information or item
23 designated "CONFIDENTIAL -- Subject to Protective Order" only to:

24 (a) the Receiving Party's Outside Counsel of Record in this Action, as
25 well as employees of said Outside Counsel of Record to whom it is reasonably
26 necessary to disclose the information for this Action;

1 (b) Experts (as defined in this Order) of the Receiving Party to whom
2 disclosure is reasonably necessary for this Action and who have signed the
3 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

4 (c) the court and its personnel;

5 (d) court reporters and their staff;

6 (e) professional jury or trial consultants, mock jurors, and Professional
7 Vendors to whom disclosure is reasonably necessary for this Action and who have
8 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

9 (f) the author or recipient of a document containing the information or
10 a custodian or other person who otherwise possessed or knew the information;

11 (g) during their depositions, witnesses and attorneys for witnesses, in
12 the Action to whom disclosure is reasonably necessary provided: (1) the deposing
13 party requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they
14 will not be permitted to keep any confidential information unless they sign the
15 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed
16 by the Designating Party or ordered by the court. Pages of transcribed deposition
17 testimony or exhibits to depositions that reveal Protected Material may be separately
18 bound by the court reporter and may not be disclosed to anyone except as permitted
19 under this Stipulated Protective Order; and

20 (h) any mediator or settlement officer, and their supporting personnel,
21 mutually agreed upon by any of the parties engaged in settlement discussions.

22 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
23 OTHER LITIGATION

24 If a Party is served with a subpoena or a court order issued in other litigation that
25 compels disclosure of any information or items designated in this Action as
26 “CONFIDENTIAL -- Subject to Protective Order,” that Party must:

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

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

5 (c) cooperate with respect to all reasonable procedures sought to be
6 pursued by the Designating Party whose Protected Material may be affected.

7 If the Designating Party timely seeks a protective order, the Party served with
8 the subpoena or court order shall not produce any information designated in this action
9 as “CONFIDENTIAL -- Subject to Protective Order” before a determination by the
10 court from which the subpoena or order issued, unless the Party has obtained the
11 Designating Party’s permission. The Designating Party shall bear the burden and
12 expense of seeking protection in that court of its confidential material and nothing in
13 these provisions should be construed as authorizing or encouraging a Receiving Party
14 in this Action to disobey a lawful directive from another court.

15 9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

16 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
17 Protected Material to any person or in any circumstance not authorized under this
18 Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing
19 the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve
20 all unauthorized copies of the Protected Material, (c) inform the person or persons to
21 whom unauthorized disclosures were made of all the terms of this Order, and (d)
22 request such person or persons to execute the “Acknowledgment and Agreement to Be
23 Bound” that is attached hereto as Exhibit A.

24 10. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
25 PROTECTED MATERIAL

26 When a Producing Party gives notice to Receiving Parties that certain
27 inadvertently produced material is subject to a claim of privilege or other protection,
28 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil

1 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
2 may be established in an e-discovery order that provides for production without prior
3 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
4 parties reach an agreement on the effect of disclosure of a communication or
5 information covered by the attorney-client privilege or work product protection, the
6 parties may incorporate their agreement in the stipulated protective order submitted to
7 the court.

8 11. MISCELLANEOUS

9 11.1. **Right to Further Relief.** Nothing in this Order abridges the right of any
10 person to seek its modification by the Court in the future.

11 11.2. **Right to Assert Other Objections.** By stipulating to the entry of this
12 Protective Order no Party waives any right it otherwise would have to object to
13 disclosing or producing any information or item on any ground not addressed in this
14 Stipulated Protective Order. Similarly, no Party waives any right to object on any
15 ground to use in evidence of any of the material covered by this Protective Order.

16 11.3. **Filing Protected Material.** A Receiving Party that seeks to file any
17 Protected Material with the court must first make a motion to file the Protected
18 Material under seal and comply with the requirements of Civil Local Rule 79-5, unless
19 the Designating Party consents in writing that the Receiving Party may file the
20 Protected Material in the public record. A Designating Party may also seek to file
21 Protected Material under seal by bringing a motion to file Protected Material under
22 seal and complying with the requirements of Civil Local Rule 79-5. The parties
23 understand that Protected Material may only be filed under seal pursuant to a court
24 order authorizing the sealing of the specific Protected Material at issue. If a Party's
25 request to file Protected Material under seal is denied by the court, then the Party may
26 file the information in the public record unless otherwise instructed by the court.

1 12. FINAL DISPOSITION

2 After the final disposition of this Action, as defined in paragraph 4, within 60
3 days of a written request by the Designating Party, each Receiving Party must return
4 all Protected Material to the Producing Party or destroy such material. As used in this
5 subdivision, "all Protected Material" includes all copies, abstracts, compilations,
6 summaries, and any other format reproducing or capturing any of the Protected
7 Material. Whether the Protected Material is returned or destroyed, the Receiving Party
8 must submit a written certification to the Producing Party (and, if not the same person
9 or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by
10 category, where appropriate) all the Protected Material that was returned or destroyed
11 and (2) affirms that the Receiving Party has not retained any copies, abstracts,
12 compilations, summaries or any other format reproducing or capturing any of the
13 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an
14 archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts,
15 legal memoranda, correspondence, deposition and trial exhibits, expert reports,
16 attorney 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 paragraph 4
19 (DURATION).

20 13. Any violation of this Order may be punished by any and all appropriate
21 measures including, without limitation, contempt proceedings and/or monetary
22 sanctions.

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24 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.
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DATED: March 11, 2016

LAW OFFICES OF VICTOR GEORGE

BY: /s/ Elvis Tran
Victor L. George
Wayne C. Smith
Elvis Tran
Attorneys for Plaintiff,
DONN CARPER
SEYFARTH SHAW

DATED: March 11, 2016

BY: /s/ Lorraine H. O'Hara
Lorraine H. O'Hara
Myra Villamor
Attorneys for Defendants,
TRIBUNE MEDIA COMPANY and
KTLA, LLC

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: March 17, 2016

/S/
Suzanne Segal
United States Magistrate Judge

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3
4 I, _____ [print or type full name], of
5 _____ [print or type full address], declare under penalty
6 of perjury that I have read in its entirety and understand the Stipulated Protective Order
7 that was issued by the United States District Court for the Central District of California
8 on [date] in the case of *DONN CARPER, Plaintiff, v. TRIBUNE MEDIA, a business*
9 *form unknown; KTLA, LLC, a business form unknown; and DOES 1 through 100,*
10 *inclusive, Defendants.* U.S. District Court, Central District of California, Case No.
11 2:15-CV-04259-VAP (SSx). I agree to comply with and to be bound by all the terms
12 of this Stipulated Protective Order and I understand and acknowledge that failure to so
13 comply could expose me to sanctions and punishment in the nature of contempt. I
14 solemnly promise that I will not disclose in any manner any information or item that is
15 subject to this Stipulated Protective Order to any person or entity except in strict
16 compliance with the provisions of this Order.

17 I further agree to submit to the jurisdiction of the United States District Court for
18 the Central District of California for the purpose of enforcing the terms of this
19 Stipulated Protective Order, even if such enforcement proceedings occur after
20 termination of this action. I hereby appoint _____ [print
21 or type full name] of _____ [print or type full
22 address and telephone number] as my California agent for service of process in
23 connection with this action or any proceedings related to enforcement of this
24 Stipulated Protective Order.

25 Date: _____

26 City and State where sworn and signed: _____

27 Printed name: _____

28 Signature: _____