

1 Nicholas P. Roxborough, State Bar No. 113540  
 npr@rpnalaw.com  
 2 Drew E. Pomerance, State Bar No. 101239  
 dep@rpnalaw.com  
 3 Joseph C. Gjonola, State Bar No. 241955  
 jcg@rpnalaw.com  
 4 ROXBOROUGH, POMERANCE, NYE & ADREANI, LLP  
 5820 Canoga Avenue, Suite 250  
 5 Woodland Hills, California 91367  
 Telephone: (818) 992-9999  
 6 Facsimile: (818) 992-9991

7 Attorneys for Plaintiff  
 Electronic Waveform Lab, Inc.

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 9  
 10 UNITED STATES DISTRICT COURT  
 11 CENTRAL DISTRICT OF CALIFORNIA

12 ELECTRONIC WAVEFORM LAB,  
 INC., a California corporation

13 Plaintiff,

14 v.

15 EK HEALTH SERVICES, a California  
 16 corporation; JAMES LESSENGER,  
 M.D., an individual; GRANT  
 17 NUGENT, M.D., an individual;  
 ALTON WILLIS, M.D., an individual;  
 18 JOE HARTZOG, M.D., an individual;  
 PATRICIA D. PEGRAM, M.D., an  
 19 individual; SUZANNE L. SERGILE,  
 M.D., an individual; GARRETT M.  
 20 CASEY, D.C., an individual;  
 MICHAEL J. LAUBACH, D.C., an  
 21 individual; JAY V. WESTPHAL, M.D.,  
 an individual; KATHLEEN GARY,  
 22 M.D., an individual; JOHANNA  
 APPEL, D.C., an individual; and DOES  
 23 1-100, inclusive

24 Defendants.

Case No. 2:15-cv-08061DMG (RAOx)

**STIPULATED PROTECTIVE  
 ORDER**

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1 **1. A. PURPOSES AND LIMITATIONS**

2 Discovery in this action is likely to involve production of confidential,  
3 proprietary or private information for which special protection from public disclosure  
4 and from use for any purpose other than prosecuting this litigation may be warranted.  
5 Accordingly, the parties hereby stipulate to and petition the Court to enter the  
6 following Stipulated Protective Order. The parties acknowledge that this Order does  
7 not confer blanket protections on all disclosures or responses to discovery and that the  
8 protection it affords from public disclosure and use extends only to the limited  
9 information or items that are entitled to confidential and treatment under the  
10 applicable legal principles.

11 **B. GOOD CAUSE STATEMENT**

12 Electronic Waveform makes and sells the H-Wave® electrotherapy medical  
13 device (“H-Wave”) used to treat injured workers. State Fund is a workers’  
14 compensation insurer that contracts with EK Health to conduct a medical care review  
15 process called Utilization Review (“UR”). California law requires State Fund to  
16 establish a UR process to “approve, modify, delay, or deny, based in whole or in part  
17 on medical necessity to cure and relieve, treatment recommendations by  
18 physicians....” California Labor Code § 4610. Electronic Waveform contends that  
19 State Fund and EK Health improperly conducted UR to deny H-Wave requests for  
20 injured workers of employers that State Fund insured. State Fund and EK Health  
21 deny all of Electronic Waveform’s allegations.

22 The Parties agree that, during discovery, they will seek confidential medical  
23 information contained in individual claimants’ workers’ compensation claim files  
24 pertaining to H-Wave requests and UR decisions. On October 26, 2016 the court  
25 heard the parties’ motion for a protective order wherein it agreed that private medical  
26 information should be subject to the court’s standard protective order and that an  
27 “attorneys’ eyes only” provision may be included for the protection of appropriate  
28 highly confidential business information, including but not limited to trade secrets.

1  
2 **C. ACKNOWLEDGMENT OF PROCEDURE FOR FILING UNDER**  
3 **SEAL**

4 The parties further acknowledge, as set forth in Section 12.3, below, that this  
5 Stipulated Protective Order does not entitle them to file confidential information  
6 under seal; Local Civil Rule 79-5 sets forth the procedures that must be followed and  
7 the standards that will be applied when a party seeks permission from the court to file  
8 material under seal.

9 There is a strong presumption that the public has a right of access to judicial  
10 proceedings and records in civil cases. In connection with non-dispositive motions,  
11 good cause must be shown to support a filing under seal. See *Kamakana v. City and*  
12 *County of Honolulu*, 447 F.3d 1172, 1176 (9th Cir. 2006), *Phillips v. Gen. Motors*  
13 *Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002), *Makar-Welbon v. Sony Electrics, Inc.*,  
14 187 F.R.D. 576, 577 (E.D. Wis. 1999) (even stipulated protective orders require good  
15 cause showing), and a specific showing of good cause or compelling reasons with  
16 proper evidentiary support and legal justification, must be made with respect to  
17 Protected Material that a party seeks to file under seal. The parties' mere designation  
18 of Disclosure or Discovery Material as CONFIDENTIAL does not — without the  
19 submission of competent evidence by declaration, establishing that the material  
20 sought to be filed under seal qualifies as confidential, privileged, or otherwise  
21 protectable — constitute good cause.

22 Further, if a party requests sealing related to a dispositive motion or trial, then  
23 compelling reasons, not only good cause, for the sealing must be shown, and the relief  
24 sought shall be narrowly tailored to serve the specific interest to be protected. See  
25 *Pintos v. Pacific Creditors Ass'n*, 605 F.3d 665, 677-79 (9th Cir. 2010). For each item  
26 or type of information, document, or thing sought to be filed or introduced under seal  
27 in connection with a dispositive motion or trial, the party seeking protection must  
28 articulate compelling reasons, supported by specific facts and legal justification, for

1 the requested sealing order. Again, competent evidence supporting the application to  
2 file documents under seal must be provided by declaration.

3 Any document that is not confidential, privileged, or otherwise protectable in  
4 its entirety will not be filed under seal if the confidential portions can be redacted.  
5 If documents can be redacted, then a redacted version for public viewing, omitting  
6 only the confidential, privileged, or otherwise protectable portions of the document,  
7 shall be filed. Any application that seeks to file documents under seal in their  
8 entirety should include an explanation of why redaction is not feasible.

## 9 **2. DEFINITIONS**

10 2.1 “ATTORNEYS’ EYES ONLY” Information and Items: A subset of  
11 “CONFIDENTIAL” information that federal law considers so highly sensitive that its  
12 disclosure to a Party in this case would create a legally impermissible risk of injury to  
13 the Designating Party, such as trade secret or highly confidential business  
14 information.

15 2.2 Action: *Electronic Waveform Lab, Inc. v. EK Health Services, et al.*,  
16 United States District Court, Central District of California, Case No. 2:15-cv-08061-  
17 DMG-RAO.

18 2.3 Challenging Party: A Party or Non-Party that challenges the designation  
19 of information or items under this Order.

20 2.4 “CONFIDENTIAL” Information or Items: Information (regardless of  
21 how it is generated, stored or maintained) or tangible things that qualify for protection  
22 under Federal Rule of Civil Procedure 26(c), and as specified above in the Good  
23 Cause Statement.

24 2.5 Counsel: Counsel of Record and House Counsel (as well as their support  
25 staff).

26 2.6 Designating Party: A Party or Non-Party that designates information or  
27 items that it produces in disclosures or in responses to discovery as  
28 “CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY.”

1           2.7    Disclosure or Discovery Material: All items or information, regardless  
2 of the medium or manner in which it is generated, stored, or maintained (including,  
3 among other things, testimony, transcripts, and tangible things), that are produced or  
4 generated in disclosures or responses to discovery in this matter.

5           2.8    Expert: A person with specialized knowledge or experience in a matter  
6 pertinent to the litigation who has been retained by a Party or its counsel to serve as  
7 an expert witness or as a consultant in this Action.

8           2.9    House Counsel: Attorneys who are employees of a party to this Action.  
9 House Counsel does not include Counsel of Record or any other outside counsel.

10          2.10 Non-Party: Any natural person, partnership, corporation, association or  
11 other legal entity not named as a Party to this action.

12          2.11 Counsel of Record: Attorneys who have appeared in this Action on  
13 behalf of that Party or are affiliated with a law firm that has appeared on behalf of that  
14 Party, and includes support staff.

15          2.12 Party: Any party to this Action, including all of its officers, directors,  
16 employees, consultants, retained experts, and Counsel of Record (and their support  
17 staffs).

18          2.13 Producing Party: A Party or Non-Party that produces Disclosure or  
19 Discovery Material in this Action.

20          2.14 Professional Vendors: Persons or entities that provide litigation support  
21 services (e.g., photocopying, videotaping, translating, preparing exhibits or  
22 demonstrations, and organizing, storing, or retrieving data in any form or medium)  
23 and their employees and subcontractors.

24          2.15 Protected Material: Any Disclosure or Discovery Material that is  
25 designated as “CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY.”

26          2.16 Receiving Party: A Party that receives Disclosure or Discovery Material  
27 from a Producing Party.

28

1           2.17 Requesting Party: A Party that requests or serves a subpoena for  
2 disclosure or Discovery Material from a Producing Party.

3 **3. SCOPE**

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

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

11 **4. DURATION**

12           Once a case proceeds to trial, information that was designated as  
13 CONFIDENTIAL, ATTORNEYS' EYES ONLY, or maintained pursuant to this  
14 protective order used or introduced as an exhibit at trial becomes public and will be  
15 presumptively available to all members of the public, including the press, unless  
16 compelling reasons supported by specific factual findings to proceed otherwise are  
17 made to the trial judge in advance of the trial. *See Kamakana*, 447 F.3d at 1180-81  
18 (distinguishing "good cause" showing for sealing documents produced in discovery  
19 from "compelling reasons" standard when merits-related documents are part of court  
20 record). Accordingly, the terms of this protective order do not extend beyond the  
21 commencement of the trial.

22 **5. DESIGNATING PROTECTED MATERIAL**

23           5.1 Exercise of Restraint and Care in Designating Material for Protection.

24           Each Party or Non-Party that designates information or items for protection  
25 under this Order must take care to limit any such designation to specific material that  
26 qualifies under the appropriate standards. The Designating Party must designate for  
27 protection only those parts of material, documents, items or oral or written  
28 communications that qualify so that other portions of the material, documents, items

1 or communications for which protection is not warranted are not swept unjustifiably  
2 within the ambit of this Order.

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

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

11 5.2 Manner and Timing of Designations. Except as otherwise provided in  
12 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise  
13 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection  
14 under this Order must be clearly so designated before the material is disclosed or  
15 produced.

16 Designation in conformity with this Order requires:

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

25 A Party or Non-Party that makes original documents available for inspection  
26 need not designate them for protection until after the inspecting Party has indicated  
27 which documents it would like copied and produced. During the inspection and  
28 before the designation, all of the material made available for inspection shall be

1 deemed “CONFIDENTIAL.” After the inspecting Party has identified the documents  
2 it wants copied and produced, the Producing Party must determine which documents,  
3 or portions thereof, qualify for protection under this Order. Then, before producing  
4 the specified documents, the Producing Party must affix the “CONFIDENTIAL  
5 legend” or “ATTORNEYS’ EYES ONLY legend” to each page that contains  
6 Protected Material. If only a portion of the material on a page qualifies for protection,  
7 the Producing Party also must clearly identify the protected portion(s) (e.g., by  
8 making appropriate markings in the margins).

9 (b) for testimony given in depositions that the Designating Party identifies  
10 the Disclosure or Discovery Material on the record, before the close of the deposition  
11 all protected testimony.

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

18 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent  
19 failure to designate qualified information or items does not, standing alone, waive the  
20 Designating Party’s right to secure protection under this Order for such material.  
21 Upon timely correction of a designation, the Receiving Party must make reasonable  
22 efforts to assure that the material is treated in accordance with the provisions of this  
23 Order.

## 24 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

25 6.1 Timing of Challenges. Any Party or Non-Party may challenge a  
26 designation of confidentiality at any time that is consistent with the Court’s  
27 Scheduling Order.

28 6.2 Meet and Confer. The Challenging Party shall initiate the dispute



1 resolution process under Local Rule 37.1 et seq.

2           6.3     The burden of persuasion in any such challenge proceeding shall be on  
3 the Designating Party. Frivolous challenges, and those made for an improper purpose  
4 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may  
5 expose the Challenging Party to sanctions. Unless the Designating Party has waived  
6 or withdrawn the confidentiality designation, all parties shall continue to afford the  
7 material in question the level of protection to which it is entitled under the Producing  
8 Party’s designation until the Court rules on the challenge.

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

10           7.1     Basic Principles. A Receiving Party may use Protected Material that is  
11 disclosed or produced by another Party or by a Non-Party in connection with this  
12 Action only for prosecuting, defending or attempting to settle this Action. Such  
13 Protected Material may be disclosed only to the categories of persons and under the  
14 conditions described in this Order. When the Action has been terminated, a Receiving  
15 Party must comply with the provisions of section 13 below (FINAL DISPOSITION).

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

19           7.2     Disclosure of “CONFIDENTIAL” Information or Items. Unless  
20 otherwise ordered by the court or permitted in writing by the Designating Party, a  
21 Receiving Party may disclose any information or item designated  
22 “CONFIDENTIAL” only to:

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

26           (b) the officers, directors, and employees (including House Counsel) of the  
27 Receiving Party to whom disclosure is reasonably necessary for this Action;

28           (c) Experts (as defined in this Order) of the Receiving Party to whom

1 disclosure is reasonably necessary for this Action and who have signed the  
2 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

3 (d) the court and its personnel;

4 (e) court reporters and their staff;

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

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

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

18 (i) any mediator or settlement officer, and their supporting personnel,  
19 mutually agreed upon by any of the Parties engaged in settlement discussions.

20 7.3 Disclosure of “ATTORNEYS’ EYES ONLY” Information or Items.

21 Unless otherwise ordered by the court or permitted in writing by the Designating  
22 Party, a Receiving Party may disclose any information or item designated  
23 “ATTORNEYS’ EYES ONLY” only to:

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

27 (b) Experts (as defined in this Order) of the Receiving Party to whom  
28 disclosure is reasonably necessary for this Action and who have signed the

1 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

2 (c) the court and its personnel;

3 (d) court reporters and their staff;

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

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

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

17 (h) any mediator or settlement officer, and their supporting personnel,  
18 mutually agreed upon by any of the Parties engaged in settlement discussions.

19 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED**  
20 **IN OTHER LITIGATION**

21 If a Party is served with a subpoena or a court order issued in other litigation  
22 that compels disclosure of any information or items designated in this Action as  
23 “CONFIDENTIAL,” or “ATTORNEYS’ EYES ONLY,” that Party must:

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

26 (b) promptly notify in writing the party who caused the subpoena or order to  
27 issue in the other litigation that some or all of the material covered by the subpoena or  
28 order is subject to this Protective Order. Such notification shall include a copy of this

1 Stipulated Protective Order; and

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

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

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

14 (a) The terms of this Order are applicable to information produced by a Non-  
15 Party in this Action and designated as “CONFIDENTIAL” or “ATTORNEYS’ EYES  
16 ONLY.” Such information produced by Non-Parties in connection with this litigation  
17 is protected by the remedies and relief provided by this Order. Nothing in these  
18 provisions should be construed as prohibiting a Non-Party from seeking additional  
19 protections.

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

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

27 (2) promptly provide the Non-Party with a copy of the Stipulated Protective  
28 Order in this Action, the relevant discovery request(s), and a reasonably specific

1 description of the information requested; and

2 (3) make the information requested available for inspection by the Non-Party,  
3 if requested.

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

## 12 **10. 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 this  
15 Stipulated Protective Order, the Receiving Party must immediately (a) notify in  
16 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts  
17 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or  
18 persons to whom unauthorized disclosures were made of all the terms of this Order,  
19 and (d) request such person or persons to execute the "Acknowledgment and  
20 Agreement to Be Bound" that is attached hereto as Exhibit A.

## 21 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE** 22 **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). This provision is not intended to modify whatever procedure  
27 may be established in an e-discovery order that provides for production without prior  
28 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the

1 parties reach an agreement on the effect of disclosure of a communication or  
2 information covered by the attorney-client privilege or work product protection, the  
3 parties may incorporate their agreement in the stipulated protective order submitted to  
4 the court.

## 5 **12. MISCELLANEOUS**

6 12.1 Right to Further Relief. Nothing in this Order abridges the right of any  
7 person to seek its modification by the Court in the future.

8 12.2 Right to Assert Other Objections. By stipulating to the entry of this  
9 Protective Order, no Party waives any right it otherwise would have to object to  
10 disclosing or producing any information or item on any ground not addressed in this  
11 Stipulated Protective Order. Similarly, no Party waives any right to object on any  
12 ground to use in evidence of any of the material covered by this Protective Order.

13 12.3 Filing Protected Material. A Party that seeks to file under seal any  
14 Protected Material must comply with Local Civil Rule 79-5. Protected Material may  
15 only be filed under seal pursuant to a court order authorizing the sealing of the  
16 specific Protected Material at issue. If a Party's request to file Protected Material  
17 under seal is denied by the court, then the Receiving Party may file the information in  
18 the public record unless otherwise instructed by the court.

19 12.4 Storage and Transmission of Protected Material. The Parties agree to  
20 encrypt, as defined by California Civil Code § 1798.29(h)(4), all computerized data,  
21 information and documents designated as containing CONFIDENTIAL Information  
22 or ATTORNEYS' EYES ONLY Information for storage and during transportation,  
23 transfer, or transmission.

## 24 **13. FINAL DISPOSITION**

25 After the final disposition of this Action, as defined in paragraph 4, within 60  
26 days of a written request by the Designating Party, each Receiving Party must return  
27 all Protected Material to the Producing Party or destroy such material. As used in this  
28 subdivision, "all Protected Material" includes all copies, abstracts, compilations,

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

15 **14. VIOLATION**

16 Any violation of this Order may be punished by appropriate measures  
17 including, without limitation, contempt proceedings and/or monetary sanctions.

18  
19 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

20  
21 Dated: November 8, 2016

ROXBOROUGH, POMERANCE, NYE &  
ADREANI, LLP

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By: /s/ Joseph C. Gjonola  
NICHOLAS P. ROXBOROUGH  
DREW E. POMERANCE  
JOSEPH C. GJONOLA  
Attorneys for Plaintiff  
ELECTRONIC WAVEFORM LAB, INC.

1 Dated: November 8, 2016

LECLAIR RYAN, LLP

2 By: /s/ Brian C. Vanderhoof

3 JAMES C. POTEPAN  
4 BRIAN C. VANDERHOOF  
5 Attorneys for Defendants  
6 EK HEALTH SERVICES; JAMES  
7 LESSENGER, M.D.; GRANT  
8 NUGENT, M.D.; ALTON WILLS,  
9 M.D.; JOE HARTZOG, M.D.;  
10 PATRICIA D. PEGRAM, M.D.;  
11 SUZANNE L. SERGILE, M.D.;  
12 GARRETT M. CASEY, D.C.;  
13 MICHAEL J. LAUBACH, D.C.; JAY  
14 V. WESTPHAL, M.D.; KATHLEEN  
15 GRAY, M.D.; JOHANNA APPEL,  
16 D.C., RICHARD THOMPSON, M.D.,  
17 JANET O'BRIEN, M.D., and DAVID  
18 EHRENFELD, M.D.

11 DATED: November 8, 2016

BETTY R. QUARLES,  
Assistant Chief Counsel

14 By: /s/ Brandon R. Creel

15 NOAH GRAFF  
16 BRANDON R. CREEL  
17 Attorneys for Defendant  
18 STATE COMPENSATION INSURANCE  
19 FUND

19 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

20 DATED: November 9, 2016

21 Rozella A. Oliver

22 HON. ROZELLA A. OLIVER  
23 United States Magistrate Judge



**EXHIBIT A**

**ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

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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 [date] in the case of *Electronic  
Waveform Lab, Inc. v. EK Health Services, et al.*, United States District Court, Central  
District of California, Case No. 2:15-cv-08061-DMG-RAO. 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  
in the nature of 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 the provisions of this Order. I further agree to submit  
to the jurisdiction of the United States District Court for the Central District of  
California for enforcing the terms of this Protective 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 Protective Order.

Date: \_\_\_\_\_  
City and State where sworn and signed: \_\_\_\_\_  
Printed name: \_\_\_\_\_  
Signature: \_\_\_\_\_