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Attorneys for Defendants
WASTE MANAGEMENT, INC. and USA WASTE OF CALIFORNIA, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ROBERT RICCI

Plaintiff,

vs.

WASTE MANAGEMENT, INC., a
corporation; USA WASTE OF
CALIFORNIA, INC., a corporation;
and DOES 1through 25, inclusive,

Defendants.

Case No. 2:16-CV-01359-RGK-FFM

DISCOVERY MATTER

**[PROPOSED] ORDER RE:
STIPULATED PROTECTIVE
ORDER**

Complaint Filed: January 13, 2016
Trial Date: March 28, 2017

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9 CENTRAL DISTRICT OF CALIFORNIA
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11 ROBERT RICCI

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13 vs.

14 WASTE MANAGEMENT, INC., a
15 corporation; USA WASTE OF
16 CALIFORNIA, INC., a corporation;
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19 1. A. **PURPOSES AND LIMITATIONS**
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21 Discovery in this action is likely to involve production of confidential,
22 proprietary, or private information for which special protection from public
23 disclosure and from use for any purpose other than prosecuting this litigation may
24 be warranted. Accordingly, the parties hereby stipulate to and petition the Court
25 to enter the following Stipulated Protective Order. The parties acknowledge that
26 this Order does not confer blanket protections on all disclosures or responses to
27 discovery and that the protection it affords from public disclosure and use extends
28 only to the limited information or items that are entitled to confidential treatment

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

6 B. GOOD CAUSE STATEMENT

7 USA WASTE OF CALIFORNIA, INC. (“USA WASTE”) contends that
8 this action is likely to involve private employee information for which special
9 protection from public disclosure and from use for any purpose other than
10 prosecution of this action is warranted. Such confidential material and
11 information consists of, among other things, confidential employee information
12 (including information implicating privacy rights of third parties) concerning past
13 or current employees of USA WASTE or any related entities, and information
14 otherwise generally unavailable to the public, or which may be privileged or
15 otherwise protected from disclosure under state or federal statutes, court rules,
16 case decisions, or common law. Accordingly, to expedite the flow of
17 information, to facilitate the prompt resolution of disputes over confidentiality of
18 discovery materials, to adequately protect information the parties are entitled to
19 keep confidential, to ensure that the parties are permitted reasonable necessary
20 uses of such material in preparation for and in the conduct of trial, to address their
21 handling at the end of the litigation, and serve the ends of justice, a protective
22 order for such information is justified in this matter. It is the intent of the parties
23 that information will not be designated as confidential for tactical reasons and that
24 nothing be so designated without a good faith belief that it has been maintained in
25 a confidential, non-public manner, and there is good cause why it should not be
26 part of the public record of this case.

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2 2. DEFINITIONS

3 2.1 Action: this pending federal law suit.

4 2.2 Challenging Party: a Party or Non-Party that challenges the
5 designation of information or items under this Order.

6 2.3 “CONFIDENTIAL” Information or Items: information (regardless
7 of how it is generated, stored or maintained) or tangible things that qualify for
8 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
9 the Good Cause Statement.

10 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
11 their support staff).

12 2.5 Designating Party: a Party or Non-Party that designates information
13 or items that it produces in disclosures or in responses to discovery as
14 “CONFIDENTIAL.”

15 2.6 Disclosure or Discovery Material: all items or information,
16 regardless of the medium or manner in which it is generated, stored, or
17 maintained (including, among other things, testimony, transcripts, and tangible
18 things), that are produced or generated in disclosures or responses to discovery in
19 this matter.

20 2.7 Expert: a person with specialized knowledge or experience in a
21 matter pertinent to the litigation who has been retained by a Party or its counsel to
22 serve as an expert witness or as a consultant in this Action.

23 2.8 House Counsel: attorneys who are employees of a party to this
24 Action. House Counsel does not include Outside Counsel of Record or any other
25 outside counsel.

26 2.9 Non-Party: any natural person, partnership, corporation, association,
27 or other legal entity not named as a Party to this action.
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1 2.10 Outside Counsel of Record: attorneys who are not employees of a
2 party to this Action but are retained to represent or advise a party to this Action
3 and have appeared in this Action on behalf of that party or are affiliated with a
4 law firm which has appeared on behalf of that party, and includes support staff.

5 2.11 Party: any party to this Action, including all of its officers, directors,
6 employees, consultants, retained experts, and Outside Counsel of Record (and
7 their support staffs).

8 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
9 Discovery Material in this Action.

10 2.13 Professional Vendors: persons or entities that provide litigation
11 support services (e.g., photocopying, videotaping, translating, preparing exhibits
12 or demonstrations, and organizing, storing, or retrieving data in any form or
13 medium) and their employees and subcontractors.

14 2.14 Protected Material: any Disclosure or Discovery Material that is
15 designated as "CONFIDENTIAL."

16 2.15 Receiving Party: a Party that receives Disclosure or Discovery
17 Material from a Producing Party.

18 3. SCOPE

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

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

26 4. DURATION

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

9 **5. DESIGNATING PROTECTED MATERIAL**

10 **5.1 Exercise of Restraint and Care in Designating Material for**
11 **Protection.**

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

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

24 If it comes to a Designating Party's attention that information or items that
25 it designated for protection do not qualify for protection, that Designating Party
26 must promptly notify all other Parties that it is withdrawing the inapplicable
27 designation.
28

1 5.2 Manner and Timing of Designations. Except as otherwise provided
2 in this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
3 stipulated or ordered, Disclosure or Discovery Material that qualifies for
4 protection under this Order must be clearly so designated before the material is
5 disclosed or produced.

6 Designation in conformity with this Order requires:

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

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

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1 (b) for testimony given in depositions that the Designating Party identify
2 the Disclosure or Discovery Material on the record, before the close of the
3 deposition all protected testimony.

4 (c) for information produced in some form other than documentary and
5 for any other tangible items, that the Producing Party affix in a prominent place
6 on the exterior of the container or containers in which the information is stored
7 the legend "CONFIDENTIAL." If only a portion or portions of the information
8 warrants protection, the Producing Party, to the extent practicable, shall identify
9 the protected portion(s).

10 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
11 failure to designate qualified information or items does not, standing alone, waive
12 the Designating Party's right to secure protection under this Order for such
13 material. Upon timely correction of a designation, the Receiving Party must make
14 reasonable efforts to assure that the material is treated in accordance with the
15 provisions of this Order.

16 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

17 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
18 designation of confidentiality at any time that is consistent with the Court's
19 Scheduling Order.

20 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
21 resolution process under Local Rule 37.1 et seq.

22 6.3 The burden of persuasion in any such challenge proceeding shall be
23 on the Designating Party. Frivolous challenges, and those made for an improper
24 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
25 parties) may expose the Challenging Party to sanctions. Unless the Designating
26 Party has waived or withdrawn the confidentiality designation, all parties shall
27 continue to afford the material in question the level of protection to which it is
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entitled under the Producing Party's designation until the Court rules on the challenge.

7. ACCESS TO AND USE OF PROTECTED MATERIAL

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

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

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

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

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

(c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this Action and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

(d) the court and its personnel;

(e) court reporters and their staff;

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

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

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

15 (i) any mediator or settlement officer, and their supporting personnel,
16 mutually agreed upon by any of the parties engaged in settlement discussions.

17 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
18 IN OTHER LITIGATION

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

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

24 (b) promptly notify in writing the party who caused the subpoena or
25 order to issue in the other litigation that some or all of the material covered by the
26 subpoena or order is subject to this Protective Order. Such notification shall
27 include a copy of this Stipulated Protective Order; and
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1 (c) cooperate with respect to all reasonable procedures sought to be
2 pursued by the Designating Party whose Protected Material may be affected.

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

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

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

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

23 (1) promptly notify in writing the Requesting Party and the Non-
24 Party that some or all of the information requested is subject to a
25 confidentiality agreement with a Non-Party;
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1 (2) promptly provide the Non-Party with a copy of the Stipulated
2 Protective Order in this Action, the relevant discovery request(s), and a
3 reasonably specific description of the information requested; and

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

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14 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

24 11. 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
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1 protection, the obligations of the Receiving Parties are those set forth in Federal
2 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
3 whatever procedure may be established in an e-discovery order that provides for
4 production without prior privilege review. Pursuant to Federal Rule of Evidence
5 502(d) and (e), insofar as the parties reach an agreement on the effect of
6 disclosure of a communication or information covered by the attorney-client
7 privilege or work product protection, the parties may incorporate their agreement
8 in the stipulated protective order submitted to the court.

9 **12. MISCELLANEOUS**

10 12.1 Right to Further Relief. Nothing in this Order abridges the right of a
11 person to seek its modification by the Court in the future.

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

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

24 12.4 Confidential Nature of Documents Prior to Court's Order. Any
25 documents produced by the Responding Party from October 24, 2016 until the
26 Court executes this Order shall be deemed confidential pursuant to the terms of
27 this agreement.
28

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

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

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

Dated: November 29, 2016

/S/FREDERICK F. MUMM
The Hon. Frederick F. Mumm
United States Magistrate Judge

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [print or type full name], of
4 _____ [print or type full address], declare under penalty of perjury
5 that I have read in its entirety and understand the Stipulated Protective Order that
6 was issued by the United States District Court for the Central District of
7 California on _____ [date] in the case of Robert Ricci vs. Waste
8 Management, Inc., et al., **2:16-CV-01359-RGK-FFM**. I agree to comply with
9 and to be bound by all the terms of this Stipulated Protective Order and I
10 understand and acknowledge that failure to so comply could expose me to
11 sanctions and punishment in the nature of contempt. I solemnly promise that I
12 will not disclose in any manner any information or item that is subject to this
13 Stipulated Protective Order to any person or entity except in strict compliance
14 with the provisions of this Order.

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

23
24 Date: _____

25 City and State where sworn and signed: _____

26 Printed name: _____

27 Signature: _____
28