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6
 7 UNITED STATES DISTRICT COURT
 8 CENTRAL DISTRICT OF CALIFORNIA
 9

10
 11 AMBER JUDGE, an individual, J.M., a)
 minor by and through her general guardian,)
 12 AMBER JUDGE; J.M., a minor by and)
 through her general guardian, AMBER)
 13 JUDGE; J.M., a minor by and through her)
 general guardian, AMBER JUDGE,)

14 Plaintiffs,)

15 v.)

16 ECK PROPERTIES, LP, a California)
 17 Limited Partnership, L'ABRI)
 MANAGEMENT, INC., a California)
 18 Corporation, and DOES 1 through 10,)
 Inclusive,)

19 Defendants)

No. 2:16cv05902 CBM (KSx)

STIPULATED PROTECTIVE ORDER

20
21
22 **1. A. PURPOSES AND LIMITATIONS**

23
 24 Discovery in this action is likely to involve production of confidential, proprietary or private
 25 information for which special protection from public disclosure and from use for any purpose other than
 26 prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the
 27 Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not
 28

1 confer blanket protections on all disclosures or responses to discovery and that the protection it affords
2 from public disclosure and use extends only to the limited information or items that are entitled to
3 confidential treatment under the applicable legal principles.

4
5 **B. GOOD CAUSE STATEMENT**

6 This action involves the release of tenant contact information for which special protection from
7 public disclosure and from use for any purpose other than prosecution of this action is warranted. Such
8 confidential and proprietary materials and information consist of, among other things, tenant names and
9 contact information which may be privileged or otherwise protected from disclosure under state or federal
10 statutes, court rules, case decisions, or common law. Accordingly, to expedite the flow of information, to
11 facilitate the prompt resolution of disputes over confidentiality of discovery materials, to adequately
12 protect information the parties are entitled to keep confidential, to ensure that the parties are permitted
13 reasonable necessary uses of such material in preparation for and in the conduct of trial, to address their
14 handling at the end of the litigation, and serve the ends of justice, a protective order for such information
15 is justified in this matter. It is the intent of the parties that information will not be designated as
16 confidential for tactical reasons and that nothing be so designated without a good faith belief that it has
17 been maintained in a confidential, non-public manner, and there is good cause why it should not be part
18 of the public record of this case.

19
20 **C. ACKNOWLEDGMENT OF PROCEDURE FOR FILING UNDER SEAL**

21 The parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective
22 Order does not entitle them to file confidential information under seal; Local Civil Rule 79-5 sets forth
23 the procedures that must be followed and the standards that will be applied when a party seeks permission
24 from the court to file material under seal. There is a strong presumption that the public has a right of access
25 to judicial proceedings and records in civil cases. In connection with non-dispositive motions, good cause
26 must be shown to support a filing under seal. See *Kamakana v. City and County of Honolulu*, 447 F.3d
27 1172, 1176 (9th Cir. 2006), *Phillips v. Gen. Motors Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002),
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1 Makar-Welbon v. Sony Electronics, Inc., 187 F.R.D. 576, 577 (E.D. Wis. 1999) (even stipulated protective
2 orders require good cause showing), and a specific showing of good cause or compelling reasons with
3 proper evidentiary support and legal justification, must be made with respect to Protected Material that
4 a party seeks to file under seal. The parties’ mere designation of Disclosure or Discovery Material as
5 CONFIDENTIAL does not— without the submission of competent evidence by declaration, establishing
6 that the material sought to be filed under seal qualifies as confidential, privileged, or otherwise
7 protectable—constitute good cause. Further, if a party requests sealing related to a dispositive motion or
8 trial, then compelling reasons, not only good cause, for the sealing must be shown, and the relief sought
9 shall be narrowly tailored to serve the specific interest to be protected. See *Pintos v. Pacific Creditors*
10 *Ass’n*, 605 F.3d 665, 677-79 (9th Cir. 2010). For each item or type of information, document, or thing
11 sought to be filed or introduced under seal in connection with a dispositive motion or trial, the party
12 seeking protection must articulate compelling reasons, supported by specific facts and legal justification,
13 for the requested sealing order. Again, competent evidence supporting the application to file documents
14 under seal must be provided by declaration.

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

20

21 **2. DEFINITIONS**

22 2.1 Action: This pending federal lawsuit, as designated in the above-referenced caption.

23 2.2 Challenging Party: a Party or Non-Party that challenges the designation of information or
24 items under this Order.

25 2.3 “CONFIDENTIAL”: Information or Items: information (regardless of how it is generated,
26 stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure
27 26©, and as specified above in the Good Cause Statement.

1 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their support staff).

2 2.5 Designating Party: a Party or Non-Party that designates information or items that it
3 produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

4 2.6 Disclosure or Discovery Material: all items or information, regardless of the medium or
5 manner in which it is generated, stored, or maintained (including, among other things, testimony,
6 transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery
7 in this matter.

8 2.7 Expert: a person with specialized knowledge or experience in a matter pertinent to the
9 litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant
10 in this Action.

11 2.8 House Counsel: attorneys who are employees of a party to this Action. House Counsel does
12 not include Outside Counsel of Record or any other outside counsel.

13 2.9 Non-Party: any natural person, partnership, corporation, association or other legal entity
14 not named as a Party to this action.

15 2.10 Outside Counsel of Record: attorneys who are not employees of a party to this Action but
16 are retained to represent or advise a party to this Action and have appeared in this Action on behalf of that
17 party or are affiliated with a law firm that has appeared on behalf of that party, and includes support staff.

18 2.11 Party: any party to this Action, including all of its officers, directors, employees,
19 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

20 2.12 Producing Party: a Party or Non-Party that produces Disclosure or Discovery Material in
21 this Action.

22 2.13 Professional Vendors: persons or entities that provide litigation support services (e.g.,
23 photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or
24 retrieving data in any form or medium) and their employees and subcontractors.

25 2.14 Protected Material: any Disclosure or Discovery Material that is designated as
26 “CONFIDENTIAL.”

27 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material from a Producing
28

1 Party.

2
3 **3. SCOPE**

4 The protections conferred by this Stipulation and Order cover not only Protected Material (as
5 defined above), but also (1) any information copied or extracted from Protected Material; (2) all copies,
6 excerpts, summaries, or compilations of Protected Material; and (3) any testimony, conversations, or
7 presentations by Parties or their Counsel that might reveal Protected Material. Any use of Protected
8 Material at trial shall be governed by the orders of the trial judge. This Order does not govern the use of
9 Protected Material at trial.

10
11 **4. DURATION**

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

18
19 **5. DESIGNATING PROTECTED MATERIAL**

20 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party or
21 Non-Party that designates information or items for protection under this Order must take care to limit any
22 such designation to specific material that qualifies under the appropriate standards. The Designating Party
23 must designate for protection only those parts of material, documents, items or oral or written
24 communications that qualify so that other portions of the material, documents, items or communications
25 for which protection is not warranted are not swept unjustifiably within the ambit of this Order. Mass,
26 indiscriminate or routinized designations are prohibited. Designations that are shown to be clearly
27 unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber the case
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1 development process or to impose unnecessary expenses and burdens on other parties) may expose the
2 Designating Party to sanctions. If it comes to a Designating Party's attention that information or items that
3 it designated for protection do not qualify for protection, that Designating Party must promptly notify all
4 other Parties that it is withdrawing the inapplicable designation.

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

9 Designation in conformity with this Order requires:

10 (a) for information in documentary form (e.g., paper or electronic documents, but excluding
11 transcripts of depositions or other pretrial or trial proceedings), that the Producing Party affix at a
12 minimum, the legend "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that
13 contains protected material. If only a portion of the material on a page qualifies for protection, the
14 Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings
15 in the margins). A Party or Non-Party that makes original documents available for inspection need not
16 designate them for protection until after the inspecting Party has indicated which documents it would like
17 copied and produced. During the inspection and before the designation, all of the material made available
18 for inspection shall be deemed "CONFIDENTIAL." After the inspecting Party has identified the
19 documents it wants copied and produced, the Producing Party must determine which documents, or
20 portions thereof, qualify for protection under this Order. Then, before producing the specified documents,
21 the Producing Party must affix the "CONFIDENTIAL legend" to each page that contains Protected
22 Material. If only a portion of the material on a page qualifies for protection, the Producing Party also must
23 clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

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

26 © for information produced in some form other than documentary and for any other
27 tangible items, that the Producing Party affix in a prominent place on the exterior of the container or
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1 containers in which the information is stored the legend “CONFIDENTIAL.” If only a portion or portions
2 of the information warrants protection, the Producing Party, to the extent practicable, shall identify the
3 protected portion(s).

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

9
10 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

11 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of
12 confidentiality at any time that is consistent with the Court’s Scheduling Order.

13 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process under
14 Local Rule 37.1 et seq.

15 6.3 The burden of persuasion in any such challenge proceeding shall be on the Designating
16 Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose
17 unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless
18 the Designating Party has waived or withdrawn the confidentiality designation, all parties shall continue
19 to afford the material in question the level of protection to which it is entitled under the Producing Party’s
20 designation until the Court rules on the challenge.

21
22 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

23 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or
24 produced by another Party or by a Non-Party in connection with this Action only for prosecuting,
25 defending or attempting to settle this Action. Such Protected Material may be disclosed only to the
26 categories of persons and under the conditions described in this Order. When the Action has been
27 terminated, a Receiving Party must comply with the provisions of section 13 below (FINAL
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1 DISPOSITION).

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

4 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered by the
5 court or permitted in writing by the Designating Party, a Receiving Party may disclose any information
6 or item designated “CONFIDENTIAL” only to:

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

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

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

15 (d) the court and its personnel;

16 (e) court reporters and their staff;

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

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

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

2 (I) any mediator or settlement officer, and their supporting personnel, mutually agreed upon
3 by any of the parties engaged in settlement discussions.

4
5 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER**
6 **LITIGATION**

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

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

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

14 © cooperate with respect to all reasonable procedures sought to be pursued by the Designating
15 Party whose Protected Material may be affected. If the Designating Party timely seeks a protective order,
16 the Party served with the subpoena or court order shall not produce any information designated in this
17 action as “CONFIDENTIAL” before a determination by the court from which the subpoena or order
18 issued, unless the Party has obtained the Designating Party’s permission. The Designating Party shall bear
19 the burden and expense of seeking protection in that court of its confidential material and nothing in these
20 provisions should be construed as authorizing or encouraging a Receiving Party in this Action
21 to disobey a lawful directive from another court.

22
23 **9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS**
24 **LITIGATION**

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

2 (b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party's
3 confidential information in its possession, and the Party is subject to an agreement with the Non-Party not
4 to produce the Non-Party's confidential information, then the Party shall:

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

7 (2) promptly provide the Non-Party with a copy of the Stipulated Protective Order in this
8 Action, the relevant discovery request(s), and a reasonably specific description of the information
9 requested; and

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

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

18

19 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

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

1 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED**
2 **MATERIAL**

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

11
12 **12. MISCELLANEOUS**

13 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its
14 modification by the Court in the future.

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

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

24
25 **13. FINAL DISPOSITION**

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

13
14 **14. VIOLATION**

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

17
18 **FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

19
20 DATED: March 1, 2017

21 

22
23 _____
24 HON. KAREN L. STEVENSON

25 United States Magistrate Judge
26
27
28

1 EXHIBIT A

2
3 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

4
5 I, _____ [print or type full name], of _____
6 [print or type full address], declare under penalty of perjury that I have read in its entirety and
7 understand the Stipulated Protective Order that was issued by the United States District Court for the
8 Central District of California on _____ [date] in the case of *Amber Judge, et. al. v. Eck*
9 *Properties, L.P., et. al.*, Case No. 2:16-cv-05902 KS (m). I agree to comply with and to be bound by
10 all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so
11 comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise
12 that I will not disclose in any manner any information or item that is subject to this Stipulated
13 Protective Order to any person or entity except in strict compliance with the provisions of this Order.

14 I further agree to submit to the jurisdiction of the United States District Court for the Central
15 District of California for enforcing the terms of this Stipulated Protective Order, even if such
16 enforcement proceedings occur after termination of this action.

17 I hereby appoint _____ [print or type full name] of
18 _____ [print or type full address and
19 telephone number] as my California agent for service of process in connection with this action or any
20 proceedings related to enforcement of this Stipulated Protective Order.

21 Date: _____

22 City and State where sworn and signed: _____

23 Printed name: _____

24 Signature: _____

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