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 11 *Plan Consultants, Inc.*

12 **UNITED STATES DISTRICT COURT**  
 13 **CENTRAL DISTRICT OF CALIFORNIA**

14 RICHARD STRICK, M.D., INC. PROFIT  
 15 SHARING PLAN AND RICHARD A.  
 16 STRICK,

17 Plaintiffs,

18 v.

19 UNITED RETIREMENT PLAN  
 20 CONSULTANTS, INC.,

21 Defendant.

**Case No. 2:16-CV-08206-FMO-AFM**

**STIPULATED PROTECTIVE ORDER**

Action Filed: November 3, 2016

Trial Date: March 20, 2018

1 Plaintiffs Richard Strick, M.D., Inc. Profit Sharing Plan and Richard Strick and  
2 Defendant United Retirement Plan Consultants, Inc., by and through their respective  
3 undersigned counsel of record, hereby stipulate as follows:

4 **GOOD CAUSE STATEMENT**

5 This action is likely to involve trade secrets, customer and pricing lists and  
6 other valuable research, development, commercial, financial, technical and/or  
7 proprietary information for which special protection from public disclosure and from  
8 use for any purpose other than prosecution of this action is warranted. Such  
9 confidential and proprietary materials and information consist of, among other things,  
10 confidential business or financial information, information regarding confidential  
11 business practices, or other confidential research, development, or commercial  
12 information (including information implicating privacy rights of third parties),  
13 information otherwise generally unavailable to the public, or which may be privileged  
14 or otherwise protected from disclosure under state or federal statutes, court rules, case  
15 decisions, or common law. Accordingly, to expedite the flow of information, to  
16 facilitate the prompt resolution of disputes over confidentiality of discovery  
17 materials, to adequately protect information the parties are entitled to keep  
18 confidential, to ensure that the parties are permitted reasonable necessary uses of such  
19 material in preparation for and in the conduct of trial, to address their handling at the  
20 end of the litigation, and serve the ends of justice, a protective order for such  
21 information is justified in this matter. It is the intent of the parties that information  
22 will not be designated as confidential for tactical reasons and that nothing be so  
23 designated without a good faith belief that it has been maintained in a confidential,  
24 non-public manner, and there is good cause why it should not be part of the public  
25 record of this case.

26 **SCOPE OF PROTECTION**

27 1. This Stipulated Protective Order (the “Protective Order”) shall apply to all  
28 information, materials or tangible things hereafter subject to discovery in this action,

1 including, without limitation, documents, testimony and responses produced in the  
2 course of this litigation by any party or nonparty (the “Producing Party”), which the  
3 Producing Party designates as “CONFIDENTIAL – SUBJECT TO PROTECTIVE  
4 ORDER”, referred to as “Confidential Material.”

5         2. Confidential Material shall be designated as “CONFIDENTIAL –  
6 SUBJECT TO PROTECTIVE ORDER” if the Confidential Material contains  
7 personnel and employee information or non-public financial information.

8         3. To the extent that any third party to this litigation (a “Third Party”) wishes  
9 to become a party to the Protective Order, the Third Party shall execute an  
10 undertaking in the form of Exhibit A attached hereto. The parties agree to treat any  
11 Confidential Material produced by the Third Party in accordance with the provisions  
12 of the Protective Order.

13         4. All Confidential Material produced or provided by any Producing Party in  
14 the instant matter shall be used by the party receiving or reviewing it (the “Receiving  
15 Party”) only for the purposes of preparing for and conducting the litigation or  
16 settlement of the instant action and shall not be used for any business, commercial,  
17 competitive, personal, or other purpose whatsoever.

18         5. This Protective Order is entered without prejudice to the right of any party  
19 to apply to the Court at any time for additional protection, or to relax or rescind the  
20 restrictions hereof. However, prior to any application to the Court to enlarge or  
21 reduce the restrictions of this Protective Order, the parties will confer in good faith in  
22 an effort to resolve such issues and determine by stipulation an appropriate  
23 modification of the original Protective Order.

24         6. Unless and until otherwise ordered by the Court or agreed to in writing by  
25 the parties, all Confidential Material designated as “CONFIDENTIAL – SUBJECT  
26 TO PROTECTIVE ORDER” shall be treated as such and shall not be disclosed  
27 except in accordance with the terms of this Protective Order.

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1                   **METHOD OF DESIGNATING CONFIDENTIAL INFORMATION**

2                   7. The Producing Party shall designate Confidential Material as such by  
3 marking each document, pleading, deposition, or tangible thing “CONFIDENTIAL –  
4 SUBJECT TO PROTECTIVE ORDER” directly on such material. With respect to  
5 electronic documents, a marking of “CONFIDENTIAL – SUBJECT TO  
6 PROTECTIVE ORDER” on a disk is sufficient to designate all documents contained  
7 on the disk as Confidential Material. In the alternative, the Producing Party may  
8 designate material as “CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER”  
9 without marking it directly by providing written notice that certain material is to be  
10 deemed as Confidential Material. Such notice must provide sufficient specificity.

11                  8. To designate deposition testimony as Confidential Material, the party  
12 requesting the designation may state during the deposition which testimony should be  
13 treated as Confidential Material and request that the Court reporter print that portion  
14 of the transcript separately and mark it CONFIDENTIAL – SUBJECT TO  
15 PROTECTIVE ORDER. Notwithstanding the foregoing, within five (5) days of  
16 receipt of a deposition transcript from the Court reporter, any party shall have the  
17 right to designate particular deposition testimony and/or exhibits as Confidential  
18 Material, even if the party failed to designate such information as Confidential  
19 Material at the time of the deposition. Accordingly, all parties will treat any and all  
20 deposition transcripts as CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER  
21 for the first ten (10) days after the subject transcript is mailed or delivered to counsel.  
22 The party making the designation shall be responsible for ensuring that those portions  
23 of the deposition transcripts and exhibits designated CONFIDENTIAL – SUBJECT  
24 TO PROTECTIVE ORDER are stamped and bound by the reporter in the manner  
25 described herein.

26                  9. In accordance with Fed. R. Civ. Proc. 26(b)(5)(B), if a Producing Party  
27 inadvertently produces a document that otherwise is not discoverable for reasons of  
28 the attorney-client privilege or work product immunity or both, such inadvertent

1 production shall not constitute any waiver of attorney-client privilege or work  
2 product immunity and all copies of such inadvertently produced documents shall  
3 promptly be returned by the Receiving Party to the Producing Party upon demand.

4 10. If any party or nonparty required to produce materials or information in the  
5 litigation of the instant matter inadvertently produces any Confidential Material  
6 without marking it with the appropriate legend, that party may, at any time after its  
7 inadvertent disclosure, notify all other parties to this action that the material is  
8 deemed CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER and should be  
9 treated as such in accordance with the provisions of this Agreement. The Receiving  
10 Party shall not be liable or responsible for any disclosure of information prior to the  
11 party’s receipt of the Producing Party’s subsequent designation of Confidential  
12 Material, other than as specified in the foregoing paragraph. However, a Producing  
13 Party’s inadvertent or unintentional failure to designate information as  
14 “CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER” shall not be deemed a  
15 waiver in whole or in part of that Producing Party’s claim of confidentiality of the  
16 Producing Party provided the Producing Party takes prompt action after discovery of  
17 such omission to notify all parties in writing that such information constitutes  
18 “CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER” information.

19 11. Upon receipt of notice pursuant to Paragraphs 7, 8 or 10 above that a  
20 document, tangible thing, deposition transcript, or portion of deposition transcript that  
21 has been designated CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER,  
22 such material shall be treated CONFIDENTIAL – SUBJECT TO PROTECTIVE  
23 ORDER. All parties or nonparties in possession of such material shall stamp it with  
24 the appropriate designation when reproducing it pursuant to Paragraph 12.

25 **REPRODUCTION OF CONFIDENTIAL MATERIAL**

26 12. No Confidential Material shall be reproduced except as required in  
27 connection with discovery in the instant case.

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1 obligations set forth in this Protective Order – which the parties do not believe is the  
2 case – the Federal Rules of Civil Procedure, the Local Rules of the U.S. District  
3 Court for the Central District of California and any Order by this Court shall control.

4 **METHOD FOR OBJECTING TO CONFIDENTIAL DESIGNATION**

5 17. If any party objects to the designation of any Confidential Material as  
6 CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER, the objecting party may,  
7 at any time, request in writing of the designating party that such designation be  
8 removed. The written request shall specifically identify the precise material or  
9 information at issue.

10 18. The Producing Party shall respond in writing within ten (10) business days  
11 of the receipt of the written request, or within such other time as may be designated  
12 by Order of the Court or agreement of the parties. If the Producing Party refuses to  
13 remove the CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER designation,  
14 the Producing Party’s written response shall state the reasons for such refusal.  
15 Notwithstanding the foregoing, failure to provide a timely written response shall be  
16 deemed a refusal of the request.

17 19. If the Producing Party fails to respond to a request or refuses to remove the  
18 CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER designation, the  
19 objecting party shall have twenty (20) days from the date the Producing Party refuses  
20 to remove the CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER  
21 designation (or, in the case of failure to respond, twenty (20) days from the date such  
22 response would have been due) to file an appropriate motion raising the issue of  
23 designation with the Court. It shall be the burden of the objecting party under such  
24 circumstances to establish that the information so designated is not CONFIDENTIAL  
25 – SUBJECT TO PROTECTIVE ORDER within the meaning of this Agreement. In  
26 the event of such a motion, the material at issue may be submitted to the Court for an  
27 in camera inspection. Until the objecting party files an appropriate motion seeking to  
28 remove the CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER designation

1 and obtains relief from the court (or until the Producing Party consents to the removal  
2 of the designation), the material to which the objecting party objected shall remain  
3 CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER.

4 **PERSONS QUALIFIED TO RECEIVE OR REVIEW CONFIDENTIAL**  
5 **MATERIAL**

6 20. Confidential Material marked “CONFIDENTIAL – SUBJECT TO  
7 PROTECTIVE ORDER,” and any documents or things derived therefrom or based  
8 thereon, may only be disclosed or made available to “Qualified Persons,” who are  
9 defined to consist of:

- 10 a. The Court and employees of the Court;
- 11 b. Outside Counsel to the parties in this case, including clerical, secretarial  
12 and paralegal staff employed by such counsel;
- 13 c. Deponents in their deposition or in preparing for their deposition;
- 14 d. Jurors or witnesses testifying at trial or in other court proceedings in this  
15 case;
- 16 e. Experts or consultants and their staff assisting in the prosecution or  
17 defense of this case;
- 18 f. Parties and representatives or employees of parties (officers, directors,  
19 employees, trustees, etc.) on a need-to-know basis;
- 20 g. Any person who authored or previously received the Confidential  
21 Material, or who has knowledge of the specific facts identified in such  
22 materials;
- 23 h. Court reporters and other persons involved in recording deposition  
24 testimony in this action by any means;
- 25 i. Commercial photocopying services ordinarily used by counsel for the  
26 purposes of photocopying, if such services are deemed reasonably  
27 necessary under the circumstances;
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- 1           j. Graphics or design services retained by counsel for a party for purposes
- 2           of preparing demonstrative or other exhibits for deposition, trial or other
- 3           court proceedings;
- 4           k. Jury or trial consulting services retained by counsel for a party; and
- 5           l. Any other person to whom the Producing Party agrees in writing or to
- 6           whom the court authorizes disclosure.

7           21. Prior to reviewing or receiving Confidential Material in any manner, all  
8 Qualified Persons under Paragraph 20(k) hereof shall execute an undertaking in the  
9 form of Exhibit B hereto. Counsel for the party providing Confidential Material to  
10 such Qualified Person(s) shall maintain a complete record of every original signed  
11 undertaking obtained from any person pursuant to this paragraph, and shall provide  
12 the Producing Party's counsel with a copy of such signed certificate at least thirty  
13 (30) days after the conclusion of all proceedings, whether by settlement, dismissal,  
14 judgment or otherwise, and after all appeals have been exhausted. In addition, if the  
15 identity of outside jury consultants must be disclosed pursuant to Court order, statute  
16 or otherwise, a copy of all undertakings executed by such consultants shall be  
17 furnished to the Producing Party upon request.

18           22. No Confidential Material shall be disclosed to any persons other than  
19 Qualified Persons. However, nothing contained herein shall (a) prevent any party  
20 from disclosing or employing its own Confidential Material as it deems appropriate in  
21 its sole discretion, or (b) be deemed to impose any restriction on the use or disclosure  
22 by a party or witness of materials or information obtained independently of the  
23 discovery proceedings in the instant matter.

24           23. In the event that any Qualified Person to whom Confidential Material is  
25 disclosed ceases his or her involvement in the instant action, his or her access to  
26 Confidential Material shall be terminated immediately. The provisions of this  
27 Agreement shall remain in full force and effect as to any such person.

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1           24. If any Confidential Material in the possession of a Receiving Party or  
2 Qualified Person is subpoenaed by any Court, administrative or legislative body, or  
3 by any other person purporting to have authority to subpoena such materials or  
4 information, upon becoming aware of the existence of the subpoena, the parties to  
5 this case shall immediately give notice of the subpoena and deliver of a copy thereof  
6 to the attorneys for the Producing Party.

7           25. Counsel for the parties shall take reasonable precautions to prevent the  
8 unauthorized disclosure of Confidential Material.

9                                   **USE OF CONFIDENTIAL MATERIAL AT TRIAL**

10           26. The Protective Order shall not govern the use of Confidential Material at  
11 trial. Use of Confidential Material at trial shall be governed by orders of the trial  
12 judge.

13                                   **NO PROBATIVE VALUE**

14           27. This Protective Order shall not abrogate or diminish any contractual,  
15 statutory, or other legal obligation or right of any Party or person with respect to any  
16 Confidential Material. The fact that information is marked with a confidentiality  
17 designation under the Protective Order shall not be deemed to be determinative of  
18 what a trier of fact may determine to be confidential or proprietary or a trade secret.  
19 The fact that any information is disclosed, used, or produced in any court proceeding  
20 in this action with a confidentiality designation shall not be offered in any action or  
21 proceeding before any court, agency, or tribunal as evidence of or concerning  
22 whether or not such information is admissible, confidential, or proprietary.

23                                   **RIGHT TO ASSERT OTHER OBJECTIONS**

24           28. This Protective Order shall not be construed as waiving any right to assert a  
25 claim of privilege, relevance, or other grounds for not producing Discovery Material.

26                                   **CONCLUSION OF THE LITIGATION**

27           29. Upon the written request of the Producing Party made within sixty (60)  
28 days of the final disposition of this action, all Confidential Material, and all copies or

1 extracts thereof, shall be returned to the Producing Party within thirty (30) days of  
2 such request or, at the Producing Party's option, shall promptly be destroyed, except  
3 that depositions, deposition exhibits, discovery responses, briefs and other court  
4 papers prepared for use in the instant matter need not be returned or destroyed but  
5 shall be kept confidential by all counsel for the parties.

6 30. The binding effect of this Protective Order shall survive termination of this  
7 action, and the Court shall retain jurisdiction to enforce the Protective Order.

8 31. The provisions of this Protective Order shall be effective and binding as  
9 between the parties, counsel, and any Third Parties as of the date of the execution of  
10 Exhibit "A" hereto.

11 32. The provisions of this Protective Order shall be effective and binding as  
12 between the parties, counsel, and any Qualified Person as of the date of the execution  
13 of Exhibit "B" hereto.

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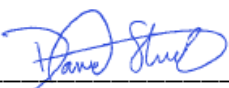
**SURVIVAL OF OBLIGATIONS**

33. The obligations created by this Protective Order shall survive the termination of this action unless otherwise modified by the Court. The Court shall retain jurisdiction, even after termination of this action, to enforce this Protective Order and to make such amendments and modifications to this Protective Order as may be appropriate.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

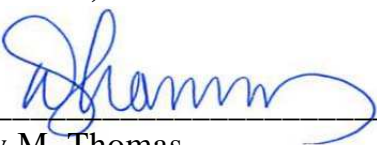
Dated: May 22, 2017

**LUCAS & CAVALIER, LLC**

By:   
Daniel S. Strick  
*Attorneys for Plaintiffs Richard Strick, M.D., Inc. Profit Sharing Plan and Richard Strick*

Dated: May 22, 2017

**MARKUN ZUSMAN FRENIERE & COMPTON, LLP**

By:   
Wendy M. Thomas  
*Attorneys for Defendant United Retirement Plan Consultants, Inc.*

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: 5/22/2017



ALEXANDER F. MacKINNON  
United States Magistrate Judge

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**EXHIBIT A**

**THIRD PARTY'S AGREEMENT  
TO BE BOUND  
BY STIPULATED PROTECTIVE ORDER**

*Richard Strick, M.D., Inc. Profit Sharing Plan et al. v. United Retirement  
Plan Consultants, Inc.*

U.S. District Court for the Central District of California, Los Angeles Division Civil  
Action No. CV 2:16-CV-08206-FMO-AFM

\_\_\_\_\_ is a third party to the litigation between named  
Plaintiffs Richard Strick, M.D., Inc. Profit Sharing Plan and Richard Strick and  
Defendant United Retirement Plan Consultants, Inc. and has received a copy of the  
foregoing Stipulated Protective Order, and wishes to become a party thereto.  
Pursuant to paragraph 3 of the Protective Order, \_\_\_\_\_ agrees to  
be bound by the provisions of the Protective Order and \_\_\_\_\_  
agrees to treat any Confidential Material in accordance with the terms of the  
Protective Order.

\_\_\_\_\_  
(Name)  
Date: \_\_\_\_\_

**EXHIBIT B**

**AGREEMENT TO BE BOUND BY STIPULATED PROTECTIVE ORDER**

*Richard Strick, M.D., Inc. Profit Sharing Plan et al. v. United Retirement  
Plan Consultants, Inc.*

U.S. District Court for the Central District of California, Los Angeles Division Civil  
Action No. CV 2:16-CV-08206-FMO-AFM

I, the undersigned, hereby acknowledge that I have received a copy of the  
foregoing Stipulated Protective Order, have read same and agree to be bound by all  
provisions thereof. I irrevocably submit myself to the jurisdiction of the United  
States District Court for the Central District of California, for enforcement of this  
Agreement to be Bound. I understand that if I violate the terms of the Protective  
Order, I may be subject to an order holding me in contempt of court.

DATED: \_\_\_\_\_