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Case No. 2:16-cv-08684-SVW-AFM

DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

<p>LUIS LORENZO VARGAS,</p> <p>Plaintiff,</p> <p>v.</p> <p>CITY OF LOS ANGELES; LOS ANGELES POLICE DEPARTMENT; COUNTY OF LOS ANGELES; OFFICE OF THE LOS ANGELES DISTRICT ATTORNEY; LOS ANGELES SHERIFF'S DEPARTMENT; MONICA QUIJANO; RICHARD TAMEZ; AND DOES 1-10 INCLUSIVE,</p> <p>Defendants.</p>

Case No. 2:16-cv-08684-SVW-AFM

STIPULATED PROTECTIVE ORDER AND ~~PROPOSED~~ ORDER¹

Magistrate Judge, Alexander F. MacKinnon

1. A. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary or private information for which special protection from public

¹ This Stipulated Protective Order is based substantially on the model protective order provided under Magistrate Judge Alexander F. MacKinnon's Procedures.

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

8 B. GOOD CAUSE STATEMENT

9 Plaintiff LUIS LORENZO VARGAS ("Plaintiff"), Defendants CITY OF
10 LOS ANGELES, ET AL. ("Defendants") (collectively "the Parties") and the Office
11 of the Los Angeles County District Attorney ("DA"), through their respective
12 attorneys, hereby stipulate, agree and request that this Court enter the following
13 Protective Order set forth below regarding (a) documents and materials from the
14 District Attorney's files that the DA provides to Plaintiff during this action; (b) any
15 related testimony provided at a deposition or an evidentiary hearing in this matter;
16 and (c) any reference to such documents or testimony in the parties' or witnesses'
17 pleadings or papers submitted to the Court:

18 1. The attorneys for Plaintiff LUIS LORENZO VARGAS issued a
19 subpoena duces tecum by serving the DA COR with a subpoena for the production,
20 inspection and copying of all DA records and files in the criminal case *People v.*
21 *Luis Lorenzo Vargas*, Case No. BA171718.

22 2. The DA will produce documents in the Los Angeles County District
23 Attorney's possession, custody or control, in compliance with the subpoena duces
24 tecum issued as noted in paragraph 1 above. Specifically, the DA will produce,
25 subject to the Protective Order as set forth below, all non-privileged documents in
26 its possession, custody or control, responsive to the subpoena duces tecum.

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1 3. The DA maintains and asserts through this stipulation and its objections
2 to the subpoena, that it has a legitimate need to limit access of information on the
3 grounds that disclosure of information in the materials requested would (a) implicate
4 the subjects' rights to privacy, (b) endanger the personal safety of the subjects, (c)
5 disclose confidential official information, (d) disclose attorney work product, (e)
6 harm and interfere with other criminal prosecutions, (f) disclose information
7 protected by the deliberative processes privilege. The DA maintains and asserts that
8 it has a legitimate need to limit access to information about internal decision making
9 for the conduct and course of prosecutions. The DA maintains and asserts that it has
10 a legitimate need to meet its obligations to maintain confidentiality and/or privacy of
11 information as required by statute and judicial decision, and to assure personal
12 safety of potential witnesses in its prosecutions.

13 4. Plaintiff and the DA have met and conferred pursuant to Local Rule 37-
14 1 and are desirous of resolving the disputes about disclosure and use of information
15 acquired by Plaintiff from the Office of the Los Angeles County District Attorney
16 and its personnel.

17 5. To comply with Plaintiff's subpoena duces tecum expeditiously, to
18 regulate the disclosure and use of information from the DA, and to meet the above
19 identified needs of DA, the following procedures and limitations shall govern the
20 use, disclosure, distribution or dissemination of all documents and other tangible
21 things, and the information contained therein (collectively referred hereinafter as
22 "The PROTECTED DOCUMENTS"), either previously or henceforth produced by
23 the DA to Plaintiff and to his counsel:

24 a. The PROTECTED DOCUMENTS shall be used solely in connection
25 with the preparation and trial of this action, Case No. CV 16-8684 SVW (AFMx), or
26 any related appellate proceeding, and not for any other purpose, including any other
27 litigation. This paragraph shall not preclude the Parties' attorneys of record in this
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1 case from indicating, in connection with discovery or a discovery motion in another
2 action, an awareness of responsive documents. In indicating such awareness in any
3 other action, the Parties' attorneys of record shall not disclose the substance of the
4 Confidential Information.

5 b. The PROTECTED DOCUMENTS shall be treated as confidential by
6 the Parties and their counsel and shall not be further disclosed, disseminated or
7 otherwise distributed except as provided in this Protective Order.

8 c. The PROTECTED DOCUMENTS, or any portion thereof, may not be
9 disclosed, distributed or disseminated except as provided in subparagraph (d) below.

10 d. The PROTECTED DOCUMENTS, or any portion thereof, may only be
11 disclosed to the following persons:

12 (1) Counsel for the Parties only and specifically not to the individual
13 parties with the exception of any recordings, written or otherwise, of any party's
14 own statements;

15 (2) All members of the Parties' legal teams, including, but not limited to,
16 paralegal, investigative, support, stenographic, clerical and secretarial and related
17 personnel regularly employed by counsel referred to in subparagraph (1) above.

18 (3) The Court and Court personnel, including stenographic reporters
19 engaged in such proceedings as are necessarily incidental to preparation for the trial
20 of this action; and

21 (4) Expert witnesses designated by the Parties' counsel solely for the
22 purpose of this litigation.

23 e. Furthermore, each person (except Court personnel) to whom disclosure
24 of The PROTECTED DOCUMENTS, or any portion thereof, is made, with the
25 exception of those identified in subparagraph d. above who are presumed to know
26 the contents of this Protective Order, shall, prior to the time of disclosure, be
27 provided a copy of this Protective Order by the person furnishing him/her such
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1 material, and shall agree on the record or in writing that he/she has read the
2 Protective Order, and that he/she understands the provisions of the Protective Order,
3 and that he/she agrees to be bound by the provisions of this Protective Order. Such
4 person (except Court personnel) also must consent in writing to be subject to the
5 jurisdiction of the United States District Court, Central District of California, with
6 respect to any proceeding relating to enforcement of this Order, including without
7 limitation, any proceeding for contempt. Unless made on the record in this
8 litigation, counsel making the disclosure to any person described above shall retain
9 the original executed copy of said agreement until final termination of this litigation.

10 f. If the PROTECTED DOCUMENTS, or any portion thereof which were
11 not part of a public filing, are filed with the Court in any form, such filing shall be
12 under seal and shall not become public record without an unsealing order by the
13 Court.

14 6. Nothing in paragraph 5 is intended to prevent officials or employees of
15 the County of Los Angeles or other authorized governmental officials from having
16 access to the PROTECTED DOCUMENTS if they would have had access in the
17 normal course of their job duties. Further, nothing in this Protective Order prevents
18 subsequent defense attorneys representing the Parties in a re-trial or other post-trial
19 proceedings from gaining access to the PROTECTED DOCUMENTS to the extent
20 they are otherwise available through ordinary discovery procedures or similar
21 means. Finally, nothing in this order precludes a witness from disclosing events or
22 activities personal to him or her; that is, a witness can disclose to others information
23 previously given to the County of Los Angeles with respect to what he or she saw,
24 heard or otherwise sensed.

25 7. The foregoing is without prejudice to the right of the Parties and the
26 DA:

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1 a. To apply to the Court for a further protective order relating to
2 confidential material or relating to discovery in this litigation; and

3 b. To apply to the Court for an order compelling production of documents
4 or modification of this protective order or for any order permitting disclosure of
5 documents or the information contained therein the terms of this protective order.

6 c. The Parties do not waive any right to assert, inter alia, that the DA does
7 not have a legitimate interest or need to limit access to documents reflecting and/or
8 related to its internal decision making process regarding the above-referenced
9 criminal case and do not waive their rights seeking discovery of these documents.
10 The Parties do not waive their rights to seek disclosure of any and all documents in
11 the possession of the DA relating to the District Attorney files for the cases
12 subpoenaed and identified above on any and all applicable grounds, including but
13 not limited to his rights and guarantees afforded under the Fifth, Sixth, Eighth and
14 Fourteenth Amendments to the United States Constitution.

15 8. Once the Protective Order issues, the following schedule will take
16 effect, subject to extraordinary circumstances or by mutual agreement of the Parties
17 and the DA:

18 a. Within twenty-one (21) days of the notice to counsel for the DA of the
19 Court's entry of the Protective Order, the DA will make available, for inspection
20 and/or photocopying all subpoenaed documents including all electronic documents
21 in its custody or control, which are responsive to the above-referenced subpoena
22 duces tecum. Plaintiff will bear the cost of duplicating the materials.

23 b. The Parties shall place a stamp on each PROTECTED DOCUMENT
24 marked "Confidential-Subject to Protective Order" on only the hard (paper) copies
25 of documents printed and used from the electronic disk or obtained via hard copy
26 and used in the course of this litigation. If through its inadvertence, surprise or
27 neglect, the Parties do not label a PROTECTED DOCUMENT as indicated, counsel
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1 for the Parties shall so notify the DA and shall place the phrase "Confidential–
2 subject to Protective Order," on the PROTECTED DOCUMENT.

3 c. Within Thirty (30) days after the date that an Order terminating this
4 litigation becomes no longer subject to judicial review, counsel for the Parties shall
5 promptly destroy or return to the DA all copies of the PROTECTED DOCUMENTS
6 and shall certify it has not retained any such documents, or portions thereof except
7 as required by the Court.

8 9. This Protective Order, when entered into by the Court, shall be
9 retroactive to the date of the initial disclosure of any documents made by the DA in
10 this matter.

11 10. This Protective Order is entered into without prejudice to the right of
12 any party and/or the DA to file any motion for relief from the Court from any
13 restriction hereof or for any other or further restriction on the production, exchange,
14 or use of any documents, testimony, or other information produced, given, or
15 exchanged in the course of discovery in this action. This Order may be modified,
16 amended, or vacated by further Order of the Court. The DA will not will not file a
17 motion to quash/modify the subpoenas at issue.

18 C. ACKNOWLEDGMENT OF PROCEDURE FOR FILING UNDER
19 SEAL

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

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

11 Further, if a party requests sealing related to a dispositive motion or trial, then
12 compelling reasons, not only good cause, for the sealing must be shown, and the
13 relief sought shall be narrowly tailored to serve the specific interest to be protected.
14 *See Pintos v. Pacific Creditors Ass'n.*, 605 F.3d 665, 677-79 (9th Cir. 2010). For
15 each item or type of information, document, or thing sought to be filed or introduced
16 under seal in connection with a dispositive motion or trial, the party seeking
17 protection must articulate compelling reasons, supported by specific facts and legal
18 justification, for the requested sealing order. Again, competent evidence supporting
19 the application to file documents under seal must be provided by declaration.

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

26 2. DEFINITIONS

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1 2.1 Action: Luis Vargas v. City of Los Angeles, et al., 2:16-CV-08684-SVW
2 (AFMx)2.2 Challenging Party: a Party or Non-Party that challenges the
3 designation of information or items under this Order.

4 2.3 “CONFIDENTIAL” Information or Items: information (regardless of how
5 it is generated, stored or maintained) or tangible things that qualify for protection
6 under Federal Rule of Civil Procedure 26(c), and as specified above in the Good
7 Cause Statement.

8 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
9 their support staff).

10 2.5 Designating Party: a Party or Non-Party that designates information or
11 items that it produces in disclosures or in responses to discovery as
12 “CONFIDENTIAL.”

13 2.6 Disclosure or Discovery Material: all items or information, regardless
14 of the medium or manner in which it is generated, stored, or maintained (including,
15 among other things, testimony, transcripts, and tangible things), that are produced or
16 generated in disclosures or responses to discovery in this matter.

17 2.7 Expert: a person with specialized knowledge or experience in a matter
18 pertinent to the litigation who has been retained by a Party or its counsel to serve as
19 an expert witness or as a consultant in this Action.

20 2.8 House Counsel: attorneys who are employees of a party to this Action.
21 House Counsel does not include Outside Counsel of Record or any other outside
22 counsel.

23 2.9 Non-Party: any natural person, partnership, corporation, association or
24 other legal entity not named as a Party to this action.

25 2.10 Outside Counsel of Record: attorneys who are not employees of a party
26 to this Action but are retained to represent or advise a party to this Action and have
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1 appeared in this Action on behalf of that party or are affiliated with a law firm that
2 has appeared on behalf of that party, and includes support staff.

3 2.11 Party: any party to this Action, including all of its officers, directors,
4 employees, consultants, retained experts, and Outside Counsel of Record (and their
5 support staffs).

6 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
7 Discovery Material in this Action.

8 2.13 Professional Vendors: persons or entities that provide litigation support
9 services (e.g., photocopying, videotaping, translating, preparing exhibits or
10 demonstrations, and organizing, storing, or retrieving data in any form or medium)
11 and their employees and subcontractors.

12 2.14 Protected Material: any Disclosure or Discovery Material that is
13 designated as “CONFIDENTIAL.”

14 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material
15 from a Producing Party.

16 3. SCOPE

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

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

24 4. DURATION

25 This Protective Order shall survive the final determination for this action and
26 shall remain in full force and effect after conclusion of all proceedings herein, and
27 the court shall have continuing jurisdiction to enforce its terms.

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1 5. DESIGNATING PROTECTED MATERIAL

2 5.1 Exercise of Restraint and Care in Designating Material for Protection.

3 Each Party or Non-Party that designates information or items for protection under
4 this Order must take care to limit any such designation to specific material that
5 qualifies under the appropriate standards. The Designating Party must designate for
6 protection only those parts of material, documents, items or oral or written
7 communications that qualify so that other portions of the material, documents, items
8 or communications for which protection is not warranted are not swept unjustifiably
9 within the ambit of this Order.

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

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

18 5.2 Manner and Timing of Designations. Except as otherwise provided in
19 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
20 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
21 under this Order must be clearly so designated before the material is disclosed or
22 produced.

23 Designation in conformity with this Order requires:

24 (a) for information in documentary form (e.g., paper or electronic
25 documents, but excluding transcripts of depositions or other pretrial or trial
26 proceedings), that the Producing Party affix at a minimum, the legend
27 "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that
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1 contains protected material. If only a portion of the material on a page qualifies for
2 protection, the Producing Party also must clearly identify the protected portion(s)
3 (e.g., by making appropriate markings in the margins).

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

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

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

25 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
26 failure to designate qualified information or items does not, standing alone, waive
27 the Designating Party’s right to secure protection under this Order for such material.
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1 Upon timely correction of a designation, the Receiving Party must make reasonable
2 efforts to assure that the material is treated in accordance with the provisions of this
3 Order.

4 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

5 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
6 designation of confidentiality at any time that is consistent with the Court's
7 Scheduling Order.

8 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
9 resolution process under Local Rule 37-1 et seq.

10 6.3 Joint Stipulation. Any challenge submitted to the Court shall be via a
11 joint stipulation pursuant to Local Rule 37-2.

12 6.4 The burden of persuasion in any such challenge proceeding shall be
13 on the Designating Party. Frivolous challenges, and those made for an improper
14 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
15 parties) may expose the Challenging Party to sanctions. Unless the Designating
16 Party has waived or withdrawn the confidentiality designation, all parties shall
17 continue to afford the material in question the level of protection to which it is
18 entitled under the Producing Party's designation until the Court rules on the
19 challenge.

20 7. ACCESS TO AND USE OF PROTECTED MATERIAL

21 7.1 Basic Principles. A Receiving Party may use Protected Material that is
22 disclosed or produced by another Party or by a Non-Party in connection with this
23 Action only for prosecuting, defending or attempting to settle this Action. Such
24 Protected Material may be disclosed only to the categories of persons and under the
25 conditions described in this Order. When the Action has been terminated, a
26 Receiving Party must comply with the provisions of section 13 below (FINAL
27 DISPOSITION).

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

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

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

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

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

16 (d) the court and its personnel;

17 (e) court reporters and their staff;

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

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

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

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

7 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
8 OTHER LITIGATION

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

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

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

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

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

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1 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

10 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
11 PROTECTED MATERIAL

12 When a Producing Party gives notice to Receiving Parties that certain
13 inadvertently produced material is subject to a claim of privilege or other
14 protection, the obligations of the Receiving Parties are those set forth in Federal
15 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
16 whatever procedure may be established in an e-discovery order that provides for
17 production without prior privilege review. Pursuant to Federal Rule of Evidence
18 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure
19 of a communication or information covered by the attorney-client privilege or
20 work product protection, the parties may incorporate their agreement in the
21 stipulated protective order submitted to the court.

22 12. MISCELLANEOUS

23 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
24 person to seek its modification by the Court in the future.

25 12.2 Right to Assert Other Objections. By stipulating to the entry of this
26 Protective Order, no Party waives any right it otherwise would have to object to
27 disclosing or producing any information or item on any ground not addressed in this
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1 Stipulated Protective Order. Similarly, no Party waives any right to object on any
2 ground to use in evidence of any of the material covered by this Protective Order.

3 12.3 Filing Protected Material. A Party that seeks to file under seal any
4 Protected Material must comply with Local Civil Rule 79-5. Protected Material may
5 only be filed under seal pursuant to a court order authorizing the sealing of the
6 specific Protected Material at issue. If a Party's request to file Protected Material
7 under seal is denied by the court, then the Receiving Party may file the information
8 in the public record unless otherwise instructed by the court.

9 13. FINAL DISPOSITION

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

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1 14. VIOLATION

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

4 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

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6 DATED: October 11, 2017

MARY C. WICKHAM
County Counsel

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8

By /s/ Lana Choi

LANA CHOI
Deputy County Counsel

9

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Attorneys for Los Angeles County
District Attorney's Custodian of
Records

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12

13

14 DATED: October 11, 2017

CRAIG BENNER
Benner & Boon, LLP

15

16

By /s/ Craig S. Benner

CRAIG BENNER

17

Attorneys for PLAINTIFF

18

19

DATED: October 11, 2017

By /s/ Surekha Pessis

Attorney for DEFENDANTS

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23 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

24 DATED: 10/17/2017

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27 ALEXANDER F. MacKINNON

28 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 was
6 issued by the United States District Court for the Central District of California on [date]
7 in the case of _____ [**insert formal name of the case and the number**
8 **and initials assigned to it by the court**]. I agree to comply with and to be bound by all
9 the terms of this Stipulated Protective Order and I understand and acknowledge that
10 failure to so comply could expose me to sanctions and punishment in the nature of
11 contempt. I solemnly promise that I will not disclose in any manner any information or
12 item that is subject to this Stipulated Protective Order to any person or entity except in
13 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
15 Central District of California for enforcing the terms of this Stipulated Protective Order,
16 even if such 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
20 this action or any proceedings related to enforcement of this Stipulated Protective
21 Order.

22 Date: _____

23 City and State where sworn and signed: _____

24
25 Printed Name: _____

26 Signature _____