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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NICHOLE KELLY, an individual,

Plaintiff,

v.

T-MOBILE USA, INC., a Delaware
corporation doing business in
California; and DOES 1 through 100,
inclusive,

Defendants.

Case No. CV 17-465-GW(GJSx)

**STIPULATED PROTECTIVE
ORDER¹**

DISCOVERY MATTER

Complaint Filed: December 20, 2016
(Los Angeles County Superior Court
Case No. BC644212)

¹ This Stipulated Protective Order is substantially based on the model protective order provided under Magistrate Judge Gail J. Standish’s Procedures.

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

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

11 **B. GOOD CAUSE STATEMENT**

12 In this employment action, Plaintiff alleges discrimination based on disability,
13 retaliation based on disability, failure to prevent discrimination, failure to provide a
14 reasonable accommodation, failure to engage in the interactive process, intentional
15 infliction of emotional distress, and wrongful termination. Discovery in this action
16 is likely to involve production of confidential, proprietary, or private information for
17 which special protection from public disclosure and from use for any purpose other
18 than prosecution of this action is warranted. Such confidential and proprietary
19 materials and information consist of, among other things, confidential medical
20 records of Plaintiff, private and/or confidential information regarding Defendant’s
21 current and/or former employees (including information implicating privacy rights
22 of third parties), business or financial information, information regarding
23 confidential business practices, or other confidential information otherwise
24 generally unavailable to the public, or which may be privileged or otherwise
25 protected from disclosure under state or federal statutes, court rules, case decisions,
26 or common law.

27 Accordingly, to expedite the flow of information, to facilitate the prompt
28 resolution of disputes over confidentiality of discovery materials, to adequately

1 protect information the parties are entitled to keep confidential, to ensure that the
2 parties are permitted reasonable necessary uses of such material in preparation for
3 and in the conduct of trial, to address their handling at the end of the litigation, and
4 serve the ends of justice, a protective order for such information is justified in this
5 matter. Good cause therefore exists for the issuance of this protective order which
6 will allow the parties to engage in discovery in the above-captioned lawsuit while
7 providing a means for limiting access to, and disclosure of, private, confidential
8 and/or trade secret information. The purpose of this protective order is to protect the
9 confidentiality of such materials as much as practical during the litigation.

10 It is the intent of the parties that information will not be designated as
11 confidential for tactical reasons and that nothing be so designated without a good
12 faith belief that it has been maintained in a confidential, non-public manner, and
13 there is good cause why it should not be part of the public record of this case.

14 **C. ACKNOWLEDGMENT OF PROCEDURE FOR FILING UNDER**
15 **SEAL**

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

21 There is a strong presumption that the public has a right of access to judicial
22 proceedings and records in civil cases. In connection with non-dispositive motions,
23 good cause must be shown to support a filing under seal. *See Kamakana v. City and*
24 *County of Honolulu*, 447 F.3d 1172, 1176 (9th Cir. 2006), *Phillips v. Gen. Motors*
25 *Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002), *Makar-Welbon v. Sony Electronics,*
26 *Inc.*, 187 F.R.D. 576, 577 (E.D. Wis. 1999) (even stipulated protective orders
27 require good cause showing), and a specific showing of good cause or compelling
28 reasons with proper evidentiary support and legal justification, must be made with

1 respect to Protected Material that a party seeks to file under seal. The parties' mere
2 designation of Disclosure or Discovery Material as CONFIDENTIAL does not—
3 without the submission of competent evidence by declaration, establishing that the
4 material sought to be filed under seal qualifies as confidential, privileged, or
5 otherwise protectable—constitute good cause.

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

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

21 **2. DEFINITIONS**

22 **2.1** “Action” means this case entitled *Nichole Kelly v. T-Mobile USA, Inc.*,
23 Case No. CV 17-465-GW(GJSx).

24 **2.2** “Attorneys Eyes Only Material” means any information contained in
25 any paper, document, database, spreadsheet, video recording, audio recording,
26 electronic record or any other electronic or hard copy format that is stamped with an
27 “Attorneys Eyes Only” designation. Attorneys Eyes Only Material may include, but
28 is not limited to: highly confidential or sensitive business information that could

1 cause financial harm to Defendant if disseminated to the public or competitors.

2 **2.3** “Challenging Party” means a Party or Non-Party that challenges the
3 designation of information or items under this Order.

4 **2.4** “Confidential Information or Items” means information (regardless of
5 how it is generated, stored or maintained) or tangible things that qualify for
6 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
7 the Good Cause Statement.

8 **2.5** “Counsel” means Outside Counsel of Record and House Counsel (as
9 well as their support staff).

10 **2.6** “Designating Party” means a Party or Non-Party that designates
11 information or items that it produces in disclosures or in responses to discovery as
12 “CONFIDENTIAL.”

13 **2.7** “Disclosure or Discovery Material” means all items or information,
14 regardless of the medium or manner in which it is generated, stored, or maintained
15 (including, among other things, testimony, transcripts, and tangible things), that are
16 produced or generated in disclosures or responses to discovery in this matter.

17 **2.8** “Expert” means a person with specialized knowledge or experience in a
18 matter pertinent to the litigation who has been retained by a Party or its counsel to
19 serve as an expert witness or as a consultant in this Action.

20 **2.9** “House Counsel” means attorneys who are employees of a party to this
21 Action. House Counsel does not include Outside Counsel of Record or any other
22 outside counsel.

23 **2.10** “Non-Party” means any natural person, partnership, corporation,
24 association or other legal entity not named as a Party to this action.

25 **2.11** “Outside Counsel of Record” means attorneys who are not employees
26 of a party to this Action but are retained to represent or advise a party to this Action
27 and have appeared in this Action on behalf of that party or are affiliated with a law
28 firm that has appeared on behalf of that party, and includes support staff.

1 **2.12** “Party” means any party to this Action, including all of its officers,
2 directors, employees, consultants, retained experts, and Outside Counsel of Record
3 (and their support staffs).

4 **2.13** “Producing Party” means a Party or Non-Party that produces
5 Disclosure or Discovery Material in this Action.

6 **2.14** “Professional Vendors” means persons or entities that provide litigation
7 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
8 demonstrations, and organizing, storing, or retrieving data in any form or medium)
9 and their employees and subcontractors.

10 **2.15** “Protected Material” means any Disclosure or Discovery Material that
11 is designated as “CONFIDENTIAL.”

12 **2.16** “Receiving Party” means a Party that receives Disclosure or Discovery
13 Material from a Producing Party.

14 **3. SCOPE**

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

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

22 **4. DURATION**

23 Once a case proceeds to trial, information that was designated as
24 “Confidential” or “Attorneys’ Eyes Only” or maintained pursuant to this protective
25 order used or introduced as an exhibit at trial becomes public and will be
26 presumptively available to all members of the public, including the press, unless
27 compelling reasons supported by specific factual findings to proceed otherwise are
28 made to the trial judge in advance of the trial. *See Kamakana*, 447 F.3d at 1180-81

1 (distinguishing “good cause” showing for sealing documents produced in discovery
2 from “compelling reasons” standard when merits-related documents are part of court
3 record). Accordingly, the terms of this protective order do not extend beyond the
4 commencement of the trial.

5 **5. DESIGNATING PROTECTED MATERIAL**

6 **5.1 Exercise of Restraint and Care in Designating Material for**
7 **Protection.** Each Party or Non-Party that designates information or items for
8 protection under this Order must take care to limit any such designation to specific
9 material that qualifies under the appropriate standards. The Designating Party must
10 designate for protection only those parts of material, documents, items or oral or
11 written communications that qualify so that other portions of the material,
12 documents, items or communications for which protection is not warranted are not
13 swept unjustifiably within the ambit of this Order.

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

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

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

27 Designation in conformity with this Order requires:

- 28 (a) for information in documentary form (e.g., paper or electronic

1 documents, but excluding transcripts of depositions or other pretrial or trial
2 proceedings), that the Producing Party affix at a minimum, the legend
3 “CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY” (hereinafter
4 “CONFIDENTIAL legend” or “ATTORNEYS’ EYES ONLY legend”), to each
5 page that contains protected material. If only a portion of the material on a page
6 qualifies for protection, the Producing Party also must clearly identify the protected
7 portion(s) (e.g., by making appropriate markings in the margins).

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

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

24 (c) for information produced in some form other than documentary and
25 for any other tangible items, that the Producing Party affix in a prominent place on
26 the exterior of the container or containers in which the information is stored the
27 legend “CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY.” If only a portion or
28 portions of the information warrants protection, the Producing Party, to the extent

1 practicable, shall identify the protected portion(s).

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

8 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

9 **6.1 Timing of Challenges.** Any Party or Non-Party may challenge a
10 designation of confidentiality at any time that is consistent with the Court’s
11 Scheduling Order.

12 **6.2 Meet and Confer.** The Challenging Party shall initiate the dispute
13 resolution process under Local Rule 37.1 *et seq.*

14 6.3 The burden of persuasion in any such challenge proceeding shall be on
15 the Designating Party. Frivolous challenges, and those made for an improper
16 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
17 parties) may expose the Challenging Party to sanctions. Unless the Designating
18 Party has waived or withdrawn the confidentiality designation, all parties shall
19 continue to afford the material in question the level of protection to which it is
20 entitled under the Producing Party’s designation until the Court rules on the
21 challenge.

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

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

1 DISPOSITION).

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

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

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

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

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

17 (d) the court and its personnel;

18 (e) court reporters and their staff;

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

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

24 (h) during their depositions, witnesses, and attorneys for witnesses, in the
25 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
26 requests that the witness sign the form attached as Exhibit A hereto; and (2) they
27 will not be permitted to keep any confidential information unless they sign the
28 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise

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.

5 **7.3 Disclosure of “ATTORNEYS’ EYES ONLY” Material.**

6 Attorneys’ Eyes Only Material produced or received in this action subject to
7 this protective order shall not be disclosed, revealed or disseminated by any person
8 who has received such Attorneys’ Eyes Only Material through this action except to:
9 the Court, including assigned judges, their staff, jurors and other court personnel;
10 court reporters and videographers recording or transcribing testimony in this action;
11 attorneys of record for the parties and their respective associates, paralegals, clerks,
12 and employees involved in the conduct of this litigation, and House Counsel at
13 Defendant. Notwithstanding the foregoing, the following designated persons may
14 also review Attorneys’ Eyes Only Material:

15 (a) Experts or consultants who are engaged by counsel for any party
16 to perform investigative work, factual research, or other services relating to this
17 action;

18 (b) Mediators used to try to resolve the action; and

19 (c) Any other person with the prior written consent of the
20 designating party.

21 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
22 **PRODUCED IN OTHER LITIGATION**

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

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

28 (b) promptly notify in writing the party who caused the subpoena or order

1 to issue in the other litigation that some or all of the material covered by the
2 subpoena or order is subject to this Protective Order. Such notification shall include
3 a copy of this Stipulated Protective Order; and

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

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

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

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

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

27 (1) promptly notify in writing the Requesting Party and the Non-Party
28 that some or all of the information requested is subject to a confidentiality

1 agreement with a Non-Party;

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

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

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

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

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

24 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
25 **PROTECTED MATERIAL**

26 **11.1** When a Producing Party gives notice to Receiving Parties that certain
27 inadvertently produced material is subject to a claim of privilege or other protection,
28 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil

1 Procedure 26(b)(5)(B). This provision is not intended to modify whatever
2 procedure may be established in an e-discovery order that provides for production
3 without prior privilege review.

4 **11.2** Pursuant to Federal Rule of Evidence 502(d) and (e), the parties agree
5 that documents and electronically stored information subject to a legally recognized
6 claim of protection from disclosure under the attorney-client privilege, the work-
7 product doctrine, or other applicable protection (“Protected Information”), will be
8 protected against claims of waiver (including as against third parties and in other
9 federal and state proceedings) as follows:

10 (a) The disclosure or production by a Producing Party to a Receiving
11 Party of Protected Information shall in no way constitute the voluntary disclosure of
12 such information.

13 (b) The disclosure of Protected Information in this action shall not
14 result in the waiver of any privilege, evidentiary protection or other protection
15 associated with such information, and shall not result in any waiver, including
16 subject matter waiver, of any kind.

17 (c) If, during the course of this Proceeding, a party determines that
18 any information produced by another party is Protected Information:

19 (1) The Receiving Party shall: (A) refrain from reading the
20 Protected Information any more closely than is necessary to ascertain that it is
21 privileged or otherwise protected from disclosure; (B) immediately notify the
22 Producing Party in writing that it has discovered Protected Information; (C)
23 specifically identify the Protected Information by Bates Number range or hash
24 value, and, (D) within ten (10) days of discovery by the Receiving Party, return,
25 sequester, or destroy all copies of such Protected Information, along with any notes,
26 abstracts or compilations of the content thereof. To the extent that Protected
27 Information has been loaded into a review database under the control of the
28 Receiving Party, the Receiving Party shall have all electronic copies of the Protected

1 Information extracted from the database. Where such Protected Information cannot
2 be destroyed or separated, it shall not be reviewed, disclosed, or otherwise used by
3 the Receiving Party. Notwithstanding, the Receiving Party is under no obligation to
4 search or review the Producing Party's disclosures or productions to identify
5 Protected Information.

6 (2) If the Producing Party intends to assert a claim of privilege
7 or other protection over information identified by the Receiving Party as Protected
8 Information, the Producing Party will, within ten (10) days of receiving the
9 Receiving Party's written notification described above, inform the Receiving Party
10 of such intention in writing and shall provide the Receiving Party with a log for such
11 Protected Information that is consistent with the requirements of the Federal Rules
12 of Civil Procedure, setting forth the basis for the claim of privilege or other
13 protection. In the event that any portion of the Protected Information does not
14 contain privileged or protected information, the Producing Party shall also provide
15 to the Receiving Party a redacted copy of the Protected Information that omits the
16 information that the Producing Party believes is subject to a claim of privilege or
17 other protection.

18 (d) If, during the course of this Proceeding, a party determines it has
19 produced Protected Information:

20 (1) The Producing Party may notify the Receiving Party of
21 such production in writing, and demand the return of such information. Such notice
22 shall be in writing, however, it may be delivered orally on the record at a deposition
23 or at court proceeding, promptly followed up in writing. The Producing Party's
24 written notice will identify the Protected Information produced by Bates Number
25 range or hash value, the privilege or other protection claimed, and the basis for the
26 assertion of the privilege or other protection and shall provide the Receiving Party
27 with a log for such Protected Information that is consistent with the requirements of
28 the Federal Rules of Civil Procedure, setting forth the basis for the claim of

1 privilege or other protection. In the event that any portion of the identified
2 information does not contain Protected Information, the Producing Party shall also
3 provide to the Receiving Party a redacted copy of the Protected Information that
4 omits the information that the Producing Party believes is subject to a claim of
5 privilege or other protection.

6 (2) The Receiving Party must, within ten (10) days of
7 receiving the Producing Party's written notification described above, return,
8 sequester, or destroy the Protected Information and any copies, along with any
9 notes, abstracts or compilations of the content thereof. To the extent that Protected
10 Information has been loaded into a review database under the control of the
11 Receiving Party, the Receiving Party shall have all electronic copies of the Protected
12 Information extracted from the database.

13 (e) To the extent that Protected Information has already been used in
14 or described in other information generated or maintained by the Receiving Party
15 prior to the date of receipt of written notice by the Producing Party as set forth in
16 Sub-paragraphs (c)(2) and d(1), the Receiving Party shall sequester such other
17 information until the claim has been resolved. If the Receiving Party disclosed the
18 Protected Information before receiving notice pursuant to this Paragraph, the
19 Receiving Party must take reasonable steps to retrieve the Protected Information.

20 (f) The Receiving Party's return, sequestering or destruction of
21 Protected Information as provided herein will not act as a waiver of the Requesting
22 Party's right to move for the production of the returned, sequestered or destroyed
23 information on the grounds that the information is not, in fact, subject to a viable
24 claim of privilege or protection. However, the Receiving Party is prohibited and
25 estopped from arguing that:

26 (1) The disclosure or production of the Protected Information
27 acts as a waiver of an applicable privilege or evidentiary protection;
28

1 (2) The disclosure of the Protected Information was not
2 inadvertent;

3 (3) The Producing Party did not take reasonable steps to
4 prevent the disclosure of the Protected Information; and

5 (4) The Producing Party failed to take reasonable or timely
6 steps to rectify the error pursuant to Federal Rule of Civil Procedure 26(b)(5)(B), or
7 otherwise.

8 (g) Either party may submit Protected Information to the Court
9 under seal for a determination of the claim of privilege or other protection, provided
10 that the party complies with the requirements of Central District Local Rule 79-5 for
11 filing documents under seal. The Producing Party shall preserve the Protected
12 Information until such claim is resolved. The Receiving Party may not use the
13 Protected Information for any purpose absent an Order from the Court.

14 (h) Upon a determination by the Court that the Protected
15 Information is protected by the applicable privilege or evidentiary protection, and if
16 the Protected Information has been sequestered rather than returned or destroyed by
17 the Receiving Party, the Protected Information shall be returned or destroyed within
18 ten (10) days of the Court's Order.

19 (i) Nothing contained herein is intended to, or shall serve to limit a
20 party's right to conduct a review of information (including metadata where
21 applicable), whether stored in electronic, paper, or other tangible form, for relevance
22 and responsiveness, and for the segregation of Protected Information before such
23 information is produced to another party.

24 **12. MISCELLANEOUS**

25 **12.1 Right to Further Relief.** Nothing in this Order abridges the right of
26 any person to seek its modification by the Court in the future.

27 **12.2 Right to Assert Other Objections.** By stipulating to the entry of this
28 Protective Order, no Party waives any right it otherwise would have to object to

1 disclosing or producing any information or item on any ground not addressed in this
2 Stipulated Protective Order. Similarly, no Party waives any right to object on any
3 ground to use in evidence of any of the material covered by this Protective Order.

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

10 **13. FINAL DISPOSITION**

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

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14. VIOLATION

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

FOR GOOD CAUSE SHOWN AND PURSUANT TO THE PARTIES' STIPULATION, IT IS SO ORDERED.

DATED: August 31, 2017



HON. GAIL J. STANDISH
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 California
7 on [date] in the case of _____ [**insert formal name of the case and the**
8 **number and initials assigned to it by the court**]. I agree to comply with and to be
9 bound by all the terms of this Stipulated Protective Order and I understand and
10 acknowledge that failure to so comply could expose me to sanctions and punishment
11 in the nature of contempt. I solemnly promise that I will not disclose in any manner
12 any information or item that is subject to this Stipulated Protective Order to any
13 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
15 Central District of California for enforcing the terms of this Stipulated Protective
16 Order, 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
27 Signature: _____

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