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

MARK J. CONCIALDI, an individual,

Plaintiff,

vs.

JACOBS ENGINEERING GROUP,
EDD PAGANO, and DOES 1-100,
inclusive,

Defendants.

Case No. 2:17-cv-01068 FMO (GJSx)

**STIPULATED PROTECTIVE
ORDER**

[DISCOVERY MATTER]

*Magistrate Judge Gail Standish
Courtroom 640*

Action Filed: December 9, 2016
Trial Date: March 20, 2018

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

1 **B. GOOD CAUSE STATEMENT**

2 This action is likely to involve disclosure of information that is private and
3 personal or confidential and proprietary, including but not limited to the following:
4 personnel records, personnel employment policies, employment offers, trade
5 secrets, competitive analyses, income statements, employee, client, or customer
6 personal information (including, but not limited to medical, age, and contact
7 information), sensitive project and other business documentation showing specific
8 business practices unique to Jacobs, and confidential business or financial records
9 and statements, along with other proprietary or confidential for which special
10 protection from public disclosure and from use for any purpose other than
11 prosecuting this litigation is warranted. Accordingly, to expedite the flow of
12 information, to facilitate the prompt resolution of disputes over confidentiality of
13 discovery materials, to adequately protect information the parties are entitled to
14 keep confidential, to ensure that the parties are permitted reasonable necessary uses
15 of such material in preparation for and in the conduct of trial, to address their
16 handling at the end of the litigation, and serve the ends of justice, a protective order
17 for such information is justified in this matter. It is the intent of the parties that
18 information will not be designated as confidential for tactical reasons and that
19 nothing be so designated without a good faith belief that it has been maintained in
20 a confidential, non-public manner, and there is good cause why it should not be
21 part of the public record of this case.

22 **C. ACKNOWLEDGMENT OF PROCEDURE FOR FILING UNDER**
23 **SEAL**

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

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

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

24 Any document that is not confidential, privileged, or otherwise protectable
25 in its entirety will not be filed under seal if the confidential portions can be
26 redacted. If documents can be redacted, then a redacted version for public
27 viewing, omitting only the confidential, privileged, or otherwise protectable
28 portions of the document, shall be filed. Any application that seeks to file

1 documents under seal in their entirety should include an explanation of why
2 redaction is not feasible.

3 **2. DEFINITIONS**

4 2.1 Action: 2:17-cv-01068 FMO (GJSx), *Concialdi v. Jacobs Engineering*
5 *Group et al.*

6 2.2 Challenging Party: a Party or Non-Party that challenges the
7 designation of information or items under this Order.

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

12 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
13 their support staff).

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

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

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

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

27 2.9 Non-Party: any natural person, partnership, corporation, association
28 or other legal entity not named as a Party to this action.

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

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

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

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

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

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

18 **3. SCOPE**

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

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

26 **4. DURATION**

27 Once a case proceeds to trial, information that was designated as
28 CONFIDENTIAL or maintained pursuant to this protective order used or

1 introduced as an exhibit at trial becomes public and will be presumptively
2 available to all members of the public, including the press, unless compelling
3 reasons supported by specific factual findings to proceed otherwise are made to the
4 trial judge in advance of the trial. *See Kamakana*, 447 F.3d at 1180-81
5 (distinguishing “good cause” showing for sealing documents produced in
6 discovery from “compelling reasons” standard when merits-related documents are
7 part of court record). Accordingly, the terms of this protective order do not extend
8 beyond the commencement of the trial.

9 **5. DESIGNATING PROTECTED MATERIAL**

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

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

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

23
24 If it comes to a Designating Party’s attention that information or items that it
25 designated for protection do not qualify for protection, that Designating Party must
26 promptly notify all other Parties that it is withdrawing the inapplicable designation.

27 5.2 Manner and Timing of Designations. Except as otherwise provided in
28 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise

1 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
2 under this Order must be clearly so designated before the material is disclosed or
3 produced.

4 Designation in conformity with this Order requires:

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

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

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

28 (c) for information produced in some form other than documentary and for

1 any other tangible items, that the Producing Party affix in a prominent place on the
2 exterior of the container or containers in which the information is stored the legend
3 “CONFIDENTIAL.” If only a portion or portions of the information warrants
4 protection, the Producing Party, to the extent practicable, shall identify the
5 protected portion(s).

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

12 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

13 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
14 designation of confidentiality at any time that is consistent with the Court’s
15 Scheduling Order.

16 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
17 resolution process under Local Rule 37.1 et seq.

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

2 7.1 Basic Principles. A Receiving Party may use Protected Material that
3 is disclosed or produced by another Party or by a Non-Party in connection with this
4 Action only for prosecuting, defending or attempting to settle this Action. Such
5 Protected Material may be disclosed only to the categories of persons and under
6 the conditions described in this Order. When the Action has been terminated, a
7 Receiving Party must comply with the provisions of section 13 below (FINAL
8 DISPOSITION).

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

12 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
13 otherwise ordered by the court or permitted in writing by the Designating Party, a
14 Receiving Party may disclose any information or item designated
15 “CONFIDENTIAL” only to:

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

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

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

24 (d) the court and its personnel;

25 (e) court reporters and their staff;

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

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

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

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

16
17 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
18 **PRODUCED IN OTHER LITIGATION**

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

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

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

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

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

13 (a) The terms of this Order are applicable to information produced by a
14 Non-Party in this Action and designated as “CONFIDENTIAL.” Such information
15 produced by Non-Parties in connection with this litigation is protected by the
16 remedies and relief provided by this Order. Nothing in these provisions should be
17 construed as prohibiting a Non-Party from seeking additional protections.
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19 (b) In the event that a Party is required, by a valid discovery request, to
20 produce a Non-Party’s confidential information in its possession, and the Party is
21 subject to an agreement with the Non-Party not to produce the Non-Party’s
22 confidential information, then the Party shall:

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

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

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

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

12
13 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

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

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

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

8 **12. MISCELLANEOUS**

9
10 12.1 Right to Further Relief. Nothing in this Order abridges the right of
11 any person to seek its modification by the Court in the future.

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

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

24 **13. FINAL DISPOSITION**

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

16 **14. VIOLATION**

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

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1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

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DATED: 7/7/17

/s/ Mahru Madjidi
Carney Shegerian
Mahru Madjidi
Shegerian & Associates
Attorneys for Plaintiff

DATED: 7/7/17

/s/ Thomas Song
Vince M. Verde
Thomas B. Song
Ogletree Deakins
Attorneys for Defendant

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: July 12, 2017



GAIL J. STANDISH
UNITED STATES MAGISTRATE JUDGE

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3
4 I, _____ [print or type full name], of
5 _____ [print or type full address], declare under penalty of perjury
6 that I have read in its entirety and understand the Stipulated Protective Order that
7 was issued by the United States District Court for the Central District of California
8 on [date] in the case of _____ [**insert formal name of the case and the**
9 **number and initials assigned to it by the court**]. I agree to comply with and to
10 be bound by all the terms of this Stipulated Protective Order and I understand and
11 acknowledge that failure to so comply could expose me to sanctions and
12 punishment in the nature of contempt. I solemnly promise that I will not disclose
13 in any manner any information or item that is subject to this Stipulated Protective
14 Order to any person or entity except in strict compliance with the provisions of this
15 Order.

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

24 Date: _____

25 City and State where sworn and signed: _____

26 Printed name: _____

27
28 Signature: _____