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 7 OCWEN LOAN SERVICING, LLC

8 **UNITED STATES DISTRICT COURT**
 9 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

10 Libby Pour and Joseph Izhakpor,
 11 Plaintiffs,
 12 v.
 13 Ocwen Loan Servicing, LLC,
 14 Defendant.
 15

Case No. 2:17-cv-04141-JAK (ASx)
AMENDED STIPULATED
~~PROPOSED~~ **PROTECTIVE ORDER**

16
 17 **1. A. PURPOSES AND LIMITATIONS**

18 Discovery in this action is likely to involve production of confidential,
 19 proprietary, or private information for which special protection from public
 20 disclosure and from use for any purpose other than prosecuting this litigation may
 21 be warranted. Specifically, the Parties anticipate the production of loan and
 22 accounting documents with banking and customer information; and the Parties also
 23 anticipate the production of corporate documents that are subject to multiple
 24 privileges and are accordingly appropriate for “confidential” designation.
 25 Accordingly, the parties hereby stipulate to and petition the Court to enter the
 26 following Stipulated Protective Order. The parties acknowledge that this Order does
 27 not confer blanket protections on all disclosures or responses to discovery and that
 28

1 the protection it affords from public disclosure and use extends only to the limited
2 information or items that are entitled to confidential treatment under the applicable
3 legal principles. The parties further acknowledge, as set forth in Section 12.3,
4 below, that this Stipulated Protective Order does not entitle them to file confidential
5 information under seal; Civil Local Rule 79-5 sets forth the procedures that must be
6 followed and the standards that will be applied when a party seeks permission from
7 the court to file material under seal.

8 **B. GOOD CAUSE STATEMENT**

9 This action is likely to involve commercial, financial, technical and/or
10 proprietary information, such as accounting, loan, and consumer information, for
11 which special protection from public disclosure and from use for any purpose other
12 than prosecution of this action is warranted. Such confidential and proprietary
13 materials and information consist of, among other things, confidential business or
14 financial information in form of manuals, and operating policies and procedures,
15 information regarding confidential business practices, or other confidential
16 research, development, or commercial information (including information
17 implicating privacy rights of third parties), information otherwise generally
18 unavailable to the public, such as customer and consumer accounting, loan and
19 financial information, and that which may be privileged or otherwise protected
20 from disclosure under state or federal statutes, court rules, case decisions, or
21 common law. Accordingly, to expedite the flow of information, to facilitate the
22 prompt resolution of disputes over confidentiality of discovery materials, to
23 adequately protect information the parties are entitled to keep confidential, to
24 ensure that the parties are permitted reasonable necessary uses of such material in
25 preparation for and in the conduct of trial, to address their handling at the end of the
26 litigation, and serve the ends of justice, a protective order for such information is
27 justified in this matter. It is the intent of the parties that information will not be
28 designated as confidential for tactical reasons and that nothing be so designated

1 without a good faith belief that it has been maintained in a confidential, non-public
2 manner, and there is good cause why it should not be part of the public record of
3 this case.

4 **2. DEFINITIONS**

5 2.1 Action: Libby Pour and Joseph Izhakpor v. Ocwen Loan
6 Servicing, LLC. 2:17-cv-04141-JAK-AS.

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

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

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

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

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

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

25 2.8 House Counsel: attorneys who are employees of a party to this
26 Action. House Counsel does not include Outside Counsel of Record or any other
27 outside counsel.
28

1 2.9 Non-Party: any natural person, partnership, corporation, association, or
2 other legal entity not named as a Party to this action.

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

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

10 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
11 Discovery Material in this Action.

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

16 2.14 Protected Material: any Disclosure or Discovery Material that is
17 designated as “CONFIDENTIAL.”

18 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material
19 from a Producing Party.

20 3. **SCOPE**

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

26 Any use of Protected Material at trial shall be governed by the orders of the
27 trial judge. This Order does not govern the use of Protected Material at trial.
28

1 4. **DURATION**

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

10 5. **DESIGNATING PROTECTED MATERIAL**

11 5.1 Exercise of Restraint and Care in Designating Material for Protection.

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

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

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

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

4 Designation in conformity with this Order requires:

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

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

27 (c) for information produced in some form other than documentary and
28 for any other tangible items, that the Producing Party affix in a prominent place on

1 the exterior of the container or containers in which the information is stored the
2 legend “CONFIDENTIAL.” If only a portion or portions of the information
3 warrants protection, the Producing Party, to the extent practicable, shall identify the
4 protected portion(s).

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

11 6. **CHALLENGING CONFIDENTIALITY DESIGNATIONS**

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

15 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
16 resolution process under Local Rule 37.1 et seq.

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

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

26 7.1 Basic Principles. A Receiving Party may use Protected Material that is
27 disclosed or produced by another Party or by a Non-Party in connection with this
28 Action only for prosecuting, defending, or attempting to settle this Action. Such

1 Protected Material may be disclosed only to the categories of persons and under the
2 conditions described in this Order. When the Action has been terminated, a
3 Receiving Party must comply with the provisions of section 13 below (FINAL
4 DISPOSITION).

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

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

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

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

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

20 (d) the court and its personnel;

21 (e) court reporters and their staff;

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

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

27 (h) during their depositions, witnesses, and attorneys for witnesses, in the
28 Action to whom disclosure is reasonably necessary provided: (1) the deposing party

1 requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they
2 will not be permitted to keep any confidential information unless they sign the
3 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
4 agreed by the Designating Party or ordered by the court. Pages of transcribed
5 deposition testimony or exhibits to depositions that reveal Protected Material may
6 be separately bound by the court reporter and may not be disclosed to anyone
7 except as permitted under this Stipulated Protective Order; and

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

10 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
11 **PRODUCED IN OTHER LITIGATION**

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

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

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

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

23 If the Designating Party timely seeks a protective order, the Party served with
24 the subpoena or court order shall not produce any information designated in this
25 action as “CONFIDENTIAL” before a determination by the court from which the
26 subpoena or order issued, unless the Party has obtained the Designating Party’s
27 permission. The Designating Party shall bear the burden and expense of seeking
28 protection in that court of its confidential material and nothing in these provisions

1 should be construed as authorizing or encouraging a Receiving Party in this Action
2 to disobey a lawful directive from another court.

3 **9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE**
4 **PRODUCED IN THIS LITIGATION**

5 (a) The terms of this Order are applicable to information produced by a
6 Non-Party in this Action and designated as "CONFIDENTIAL." Such information
7 produced by Non-Parties in connection with this litigation is protected by the
8 remedies and relief provided by this Order. Nothing in these provisions should be
9 construed as prohibiting a Non-Party from seeking additional protections.

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

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

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

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

22 (c) If the Non-Party fails to seek a protective order from this court within 14
23 days of receiving the notice and accompanying information, the Receiving Party
24 may produce the Non-Party's confidential information responsive to the discovery
25 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
26 not produce any information in its possession or control that is subject to the
27 confidentiality agreement with the Non-Party before a determination by the court.
28 Absent a court order to the contrary, the Non-Party shall bear the burden and

1 expense of seeking protection in this court of its Protected Material.

2 10. **UNAUTHORIZED DISCLOSURE OF PROTECTED**
3 **MATERIAL**

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

12 11. **INADVERTENT PRODUCTION OF PRIVILEGED OR**
13 **OTHERWISE PROTECTED MATERIAL**

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

24 12. **MISCELLANEOUS**

25 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
26 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
2 this Stipulated Protective Order. Similarly, no Party waives any right to object on
3 any ground to use in evidence of any of the material covered by this Protective
4 Order.

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

11 13. **FINAL DISPOSITION**

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

1 Order as set forth in Section 4 (DURATION).

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

5

6 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

7

8 Dated: February 5, 2018

HYDE & SWIGART

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10

By: /s/ Bonnie McKnight

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Joshua B. Swigart

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Veronica E. McKnight

13

Attorneys for Plaintiffs

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LIBBY POUR and JOSEPH

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IZHAKPOR

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Dated: February 5, 2018

TROUTMAN SANDERS LLP

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By: /s/ Chad R. Fuller

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Chad R. Fuller

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Justin M. Brandt

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Attorneys for Defendant

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OCWEN LOAN SERVICING, LLC

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

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DATED: February 7, 2018

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/ s / Alka Sagar

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Honorable Alka Sagar

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United States Magistrate Judge

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address], declare under penalty
of perjury that I have read in its entirety and understand the Stipulated Protective
Order that was issued by the United States District Court for the Central District of
California on _____ in the case of *Libby Pour v. Ocwen Loan Servicing, et
al.*; Case No. Case No. 2:17-cv-04141-JAK (ASx). I agree to comply with
and to be bound by all the terms of this Stipulated Protective Order and I
understand and acknowledge that failure to so comply could expose me to
sanctions and punishment in the nature of contempt. I solemnly promise that I
will not disclose in any manner any information or item that is subject to this
Stipulated Protective Order to any person or entity except in strict compliance
with the provisions of this Order. I further agree to submit to the jurisdiction of
the United States District Court for the Central District of California for the
purpose of enforcing the terms of this Stipulated Protective Order, even if such
enforcement proceedings occur after termination of this action.

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

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____