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**Attorneys for Defendant**  
**QUEST DIAGNOSTICS INCORPORATED**

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**  
**LOS ANGELES DIVISION**

PATRICIA MURPHY,  
Plaintiff,

v.

QUEST DIAGNOSTICS  
INCORPORATED, a Delaware  
Corporation, and DOES 1 to 50,  
inclusive,  
Defendants.

) Case No.: 2:17-cv-06746-DMG (SKx)

) ~~PROPOSED~~ STIPULATED  
PROTECTIVE ORDER

) Complaint Filed: July 28, 2017

1 1. A. PURPOSES AND LIMITATIONS

2  
3 Discovery in this action is likely to involve production of confidential,  
4 proprietary, or private information for which special protection from public disclosure  
5 and from use for any purpose other than prosecuting this litigation may be warranted.  
6 Accordingly, the parties hereby stipulate to and petition the Court to enter the following  
7 Stipulated Protective Order. The parties acknowledge that this Order does not confer  
8 blanket protections on all disclosures or responses to discovery and that the protection  
9 it affords from public disclosure and use extends only to the limited information or items  
10 that are entitled to confidential treatment under the applicable legal principles. The  
11 parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated  
12 Protective Order does not entitle them to file confidential information under seal; Civil  
13 Local Rule 79-5 sets forth the procedures that must be followed and the standards that  
14 will be applied when a party seeks permission from the court to file material under seal.

15  
16 B. GOOD CAUSE STATEMENT

17  
18 This action will involve discovery of private employee personnel and payroll  
19 information, as well as possible trade secrets, customer and pricing lists and other  
20 valuable research, development, commercial, financial, technical and/or proprietary  
21 information for which special protection from public disclosure and from use for any  
22 purpose other than prosecution of this action is warranted. Such confidential and  
23 proprietary materials and information consist of, among other things, personal financial  
24 information, private employee personnel and payroll data, confidential business or  
25 financial information, information regarding confidential business practices, or other  
26 confidential research, development, or commercial information (including information  
27 implicating privacy rights of third parties), information otherwise generally unavailable  
28 to the public, or which may be privileged or otherwise protected from disclosure under

1 state or federal statutes, court rules, case decisions, or common law. Accordingly, to  
2 expedite the flow of information, to facilitate the prompt resolution of disputes over  
3 confidentiality of discovery materials, to adequately protect information the parties are  
4 entitled to keep confidential, to ensure that the parties are permitted reasonable  
5 necessary uses of such material in preparation for and in the conduct of trial, to address  
6 their handling at the end of the litigation, and serve the ends of justice, a protective order  
7 for such information is justified in this matter. It is the intent of the parties that  
8 information will not be designated as confidential for tactical reasons and that nothing  
9 be so designated without a good faith belief that it has been maintained in a confidential,  
10 non-public manner, and there is good cause why it should not be part of the public  
11 record of this case.

12  
13 2. DEFINITIONS

14 2.1 Action: *Murphy v. Quest Diagnostics Incorporated*, C.D. Cal. Case No.  
15 2:17-cv-06746-DMG-SK.

16 2.2 Challenging Party: a Party or Non-Party that challenges the designation  
17 of information or items under this Order.

18 2.3 “CONFIDENTIAL” Information or Items: information (regardless of  
19 how it is generated, stored or maintained) or tangible things that qualify for protection  
20 under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause  
21 Statement.

22 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their  
23 support staff).

24 2.5 Designating Party: a Party or Non-Party that designates information or  
25 items that it produces in disclosures or in responses to discovery as  
26 “CONFIDENTIAL.”

27 2.6 Disclosure or Discovery Material: all items or information, regardless of  
28 the medium or manner in which it is generated, stored, or maintained (including, among

1 other things, testimony, transcripts, and tangible things), that are produced or generated  
2 in disclosures or responses to discovery in this matter.

3 2.7 Expert: a person with specialized knowledge or experience in a matter  
4 pertinent to the litigation who has been retained by a Party or its counsel to serve as an  
5 expert witness or as a consultant in this Action.

6 2.8 House Counsel: attorneys who are employees of a party to this Action.  
7 House Counsel does not include Outside Counsel of Record or any other outside  
8 counsel.

9 2.9 Non-Party: any natural person, partnership, corporation, association, or  
10 other legal entity not named as a Party to this action.

11 2.10 Outside Counsel of Record: attorneys who are not employees of a party to  
12 this Action but are retained to represent or advise a party to this Action and have  
13 appeared in this Action on behalf of that party or are affiliated with a law firm which  
14 has appeared on behalf of that party, and includes support staff.

15 2.11 Party: any party to this Action, including all of its officers, directors,  
16 employees, consultants, retained experts, and Outside Counsel of Record (and their  
17 support staffs).

18 2.12 Producing Party: a Party or Non-Party that produces Disclosure or  
19 Discovery Material in this Action.

20 2.13 Professional Vendors: persons or entities that provide litigation support  
21 services (e.g., photocopying, videotaping, translating, preparing exhibits or  
22 demonstrations, and organizing, storing, or retrieving data in any form or medium) and  
23 their employees and subcontractors.

24 2.14 Protected Material: any Disclosure or Discovery Material that is  
25 designated as “CONFIDENTIAL.”

26 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material  
27 from a Producing Party.

28

1 3. SCOPE

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

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

9  
10 4. DURATION

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

18  
19 5. DESIGNATING PROTECTED MATERIAL

20 5.1 Exercise of Restraint and Care in Designating Material for Protection.

21 Each Party or Non-Party that designates information or items for protection under this  
22 Order must take care to limit any such designation to specific material that qualifies  
23 under the appropriate standards. The Designating Party must designate for protection  
24 only those parts of material, documents, items, or oral or written communications that  
25 qualify so that other portions of the material, documents, items, or communications for  
26 which protection is not warranted are not swept unjustifiably within the ambit of this  
27 Order.

28 Mass, indiscriminate, or routinized designations are prohibited. Designations

1 that are shown to be clearly unjustified or that have been made for an improper purpose  
2 (e.g., to unnecessarily encumber the case development process or to impose  
3 unnecessary expenses and burdens on other parties) may expose the Designating Party  
4 to sanctions.

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

8 5.2 Manner and Timing of Designations. Except as otherwise provided in this  
9 Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated  
10 or ordered, Disclosure or Discovery Material that qualifies for protection under this  
11 Order must be clearly so designated before the material is disclosed or produced.

12 Designation in conformity with this Order requires:

13 (a) for information in documentary form (e.g., paper or electronic documents,  
14 but excluding transcripts of depositions or other pretrial or trial proceedings), that the  
15 Producing Party affix at a minimum, the legend "CONFIDENTIAL" (hereinafter  
16 "CONFIDENTIAL legend"), to each page that contains protected material. If only a  
17 portion or portions of the material on a page qualifies for protection, the Producing Party  
18 also must clearly identify the protected portion(s) (e.g., by making appropriate markings  
19 in the margins).

20 A Party or Non-Party that makes original documents available for inspection  
21 need not designate them for protection until after the inspecting Party has indicated  
22 which documents it would like copied and produced. During the inspection and before  
23 the designation, all of the material made available for inspection shall be deemed  
24 "CONFIDENTIAL." After the inspecting Party has identified the documents it wants  
25 copied and produced, the Producing Party must determine which documents, or portions  
26 thereof, qualify for protection under this Order. Then, before producing the specified  
27 documents, the Producing Party must affix the "CONFIDENTIAL legend" to each page  
28 that contains Protected Material. If only a portion or portions of the material on a page

1 qualifies for protection, the Producing Party also must clearly identify the protected  
2 portion(s) (e.g., by making appropriate markings in the margins).

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

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

12 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent  
13 failure to designate qualified information or items does not, standing alone, waive the  
14 Designating Party’s right to secure protection under this Order for such material. Upon  
15 timely correction of a designation, the Receiving Party must make reasonable efforts to  
16 assure that the material is treated in accordance with the provisions of this Order.

17

18 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

19 6.1 Timing of Challenges. Any Party or Non-Party may challenge a  
20 designation of confidentiality at any time up until the Court’s operative non-expert  
21 discovery cut-off or 30 days following production of the designated document(s) in  
22 question, whichever is later.

23 6.2 Meet and Confer. The Challenging Party shall initiate the dispute  
24 resolution process under Local Rule 37-1 et seq.

25 6.3 The burden of persuasion in any such challenge proceeding shall be on the  
26 Designating Party, who shall have seven days from the Pre-Filing Conference of  
27 Counsel provided for in Local Rule 37-1 to deliver its portion of the Joint Stipulation,  
28 together with all declarations and exhibits to be offered in support of the Designating

1 Party's position, as provided for in Local Rule 37-2.2, to the Challenging Party. Upon  
2 receipt, the Challenging Party shall then have seven days to deliver to the Designating  
3 Party its portion of the stipulation, together with all supporting declarations and  
4 exhibits. The Designating Party shall then file the completed stipulation by the end of  
5 the following business day, set for hearing on the soonest available hearing date unless  
6 otherwise agreed by counsel. Frivolous challenges, and those made for an improper  
7 purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties)  
8 may expose the Challenging Party to sanctions. Unless the Designating Party has  
9 waived or withdrawn the confidentiality designation, all parties shall continue to afford  
10 the material in question the level of protection to which it is entitled under the Producing  
11 Party's designation until the Court rules on the challenge. However, the challenged  
12 confidentiality designation(s) shall be deemed waived if the Designating Party fails to  
13 comply with the deadlines set forth in Local Rules 37-1 and 37-2.2.

14  
15 7. ACCESS TO AND USE OF PROTECTED MATERIAL

16 7.1 Basic Principles. A Receiving Party may use Protected Material that is  
17 disclosed or produced by another Party or by a Non-Party in connection with this Action  
18 only for prosecuting, defending, or attempting to settle this Action. Such Protected  
19 Material may be disclosed only to the categories of persons and under the conditions  
20 described in this Order. When the Action has been terminated, a Receiving Party must  
21 comply with the provisions of section 13 below (FINAL DISPOSITION).

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

25 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise  
26 ordered by the court or permitted in writing by the Designating Party, a Receiving Party  
27 may disclose any information or item designated "CONFIDENTIAL" only to:  
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1 (a) the Receiving Party's Outside Counsel of Record in this Action, as well as  
2 employees of said Outside Counsel of Record to whom it is reasonably necessary to  
3 disclose the information for this Action;

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

6 (c) Experts (as defined in this Order) of the Receiving Party to whom  
7 disclosure is reasonably necessary for this Action and who have signed the  
8 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

9 (d) the court and its personnel;

10 (e) court reporters and their staff;

11 (f) professional jury or trial consultants, mock jurors, and Professional  
12 Vendors to whom disclosure is reasonably necessary for this Action and who have  
13 signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

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

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

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

1 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN  
2 OTHER LITIGATION

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

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

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

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

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

22  
23 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED  
24 IN THIS LITIGATION

25 (a) The terms of this Order are applicable to information produced by a Non-  
26 Party in this Action and designated as “CONFIDENTIAL.” Such information produced  
27 by Non-Parties in connection with this litigation is protected by the remedies and relief  
28

1 provided by this Order. Nothing in these provisions should be construed as prohibiting  
2 a Non-Party from seeking additional protections.

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

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

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

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

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

23  
24 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

25 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
26 Protected Material to any person or in any circumstance not authorized under this  
27 Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing  
28 the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve

1 all unauthorized copies of the Protected Material, (c) inform the person or persons to  
2 whom unauthorized disclosures were made of all the terms of this Order, and (d) request  
3 such person or persons to execute the “Acknowledgment and Agreement to Be Bound”  
4 that is attached hereto as Exhibit A.

5  
6 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE  
7 PROTECTED MATERIAL

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

18  
19 12. MISCELLANEOUS

20 12.1 Right to Further Relief. Nothing in this Order abridges the right of any  
21 person to seek its modification by the Court in the future.

22 12.2 Right to Assert Other Objections. By stipulating to the entry of this  
23 Protective Order no Party waives any right it otherwise would have to object to  
24 disclosing or producing any information or item on any ground not addressed in this  
25 Stipulated Protective Order. Similarly, no Party waives any right to object on any  
26 ground to use in evidence of any of the material covered by this Protective Order.

27 12.3 Filing Protected Material. A Party that seeks to file under seal any  
28 Protected Material must comply with Civil Local Rule 79-5. Protected Material may

1 only be filed under seal pursuant to a court order authorizing the sealing of the specific  
2 Protected Material at issue. If a Party's request to file Protected Material under seal is  
3 denied by the court, then the Receiving Party may file the information in the public  
4 record unless otherwise instructed by the court.

5  
6 13. FINAL DISPOSITION

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

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

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28 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

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DATED \_\_\_\_\_

PARKER, MILLIKEN, CLARK, O'HARA & SAMUELIAN

\_\_\_\_\_  
Michael B. Mellema  
Attorneys for Plaintiff

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

Max C. Fischer  
Jennifer B. Zargarof  
Eric B. Schwartz  
Ethan Feng  
Attorneys for Defendant  
Quest Diagnostics Incorporated

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: February 21, 2018

  
\_\_\_\_\_

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

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

22 Date: \_\_\_\_\_

23 City and State where sworn and signed: \_\_\_\_\_

24  
25 Printed name: \_\_\_\_\_

26  
27 Signature: \_\_\_\_\_