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*Attorneys for Defendants*

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

14 JULIO C. ALAS, ROBERT J.  
 15 BUGIELSKI and CHAD S. SIMECEK,  
 16 individually as participants in the AT&T  
 17 Retirement Savings Plan and as a  
 representatives of all persons similarly  
 situated,

18 Plaintiffs,

19 v.

20 AT&T SERVICES, INC., BENEFIT  
 21 PLAN INVESTMENT COMMITTEE,  
 22 JOHN STEPHENS, JONATHAN  
 23 KLUG, GEORGE GOEKE, PAUL  
 24 STEPHENS, DEBRA DIAL, SEAN  
 FOLEY, WILLIAM HAMMOND AND  
 MARTY WEBB,

25 Defendants.  
 26

Case No. 2:17-cv-8106-VAP-RAO

STIPULATED PROTECTIVE  
 ORDER<sup>1</sup>

27  
 28 <sup>1</sup> This Stipulated Protective Order is substantially based on the model protective  
 order provided under Magistrate Judge Rozella A. Oliver's Procedures.

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 (“Order”). The parties acknowledge  
7 that this 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           This action is likely to involve valuable commercial, financial, technical,  
13 proprietary, and/or personally identifying information for which special protection  
14 from public disclosure and from use for any purpose other than prosecution of this  
15 action is warranted. Such confidential and proprietary materials and information  
16 consist of, among other things, confidential business or financial information,  
17 information regarding confidential business practices, other confidential  
18 commercial information, personally identifying information (including dates of  
19 birth, addresses, social security numbers, phone numbers, account balances, and  
20 information otherwise protected by the Health Insurance Portability and  
21 Accountability Act of 1996 (“HIPAA”)), information implicating the privacy rights  
22 of third parties, and/or information otherwise generally unavailable to the public or  
23 which may be privileged or otherwise protected from disclosure under state or  
24 federal statutes, court rules, case decisions, or common law. Accordingly, to  
25 expedite the flow of information, to facilitate the prompt resolution of disputes over  
26 confidentiality of discovery materials, to adequately protect information the parties  
27 are entitled to keep confidential, to ensure that the parties are permitted reasonable  
28 necessary uses of such material in preparation for and in the conduct of trial, to

1 address their handling at the end of the litigation, and serve the ends of justice, a  
2 protective order for such information is justified in this matter. It is the intent of the  
3 parties that information will not be designated as confidential for tactical reasons  
4 and that nothing be so designated without a good faith belief that it has been  
5 maintained in a confidential, non-public manner, and there is good cause why it  
6 should not be part of the public record of this case.

7 C. ACKNOWLEDGMENT OF PROCEDURE FOR FILING UNDER  
8 SEAL

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

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

27 Further, if a party requests sealing related to a dispositive motion or trial,  
28 then compelling reasons, not only good cause, for the sealing must be shown, and

1 the relief sought shall be narrowly tailored to serve the specific interest to be  
2 protected. *See Pintos v. Pacific Creditors Ass'n*, 605 F.3d 665, 677-79 (9th Cir.  
3 2010). For each item or type of information, document, or thing sought to be filed  
4 or introduced under seal in connection with a dispositive motion or trial, the party  
5 seeking protection must articulate compelling reasons, supported by specific facts  
6 and legal justification, for the requested sealing order. Again, competent evidence  
7 supporting the application to file documents under seal must be provided by  
8 declaration.

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

## 15 2. DEFINITIONS

16 2.1 Action: *Alas, et al. v. AT&T Services, Inc. et al.*, Case No. 2:17-cv-  
17 8106-VAP-RAO.

18 2.2 Challenging Party: a Party or Non-Party that challenges the  
19 designation of information or items under this Order.

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

24 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as  
25 their support staff).

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

1           2.6 Disclosure or Discovery Material: all items or information, regardless  
2 of the medium or manner in which they are generated, stored, or maintained  
3 (including, among other things, testimony, transcripts, and tangible things), that are  
4 produced or generated in disclosures or responses to discovery in this matter.

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

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

11           2.9 Non-Party: any natural person, partnership, corporation, association or  
12 other legal entity not named as a Party to this action.

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

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

20           2.12 Producing Party: a Party or Non-Party that produces Disclosure or  
21 Discovery Material in this Action.

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

26           2.14 Protected Material: any Disclosure or Discovery Material that is  
27 designated as “CONFIDENTIAL.”

28           2.15 Receiving Party: a Party that receives Disclosure or Discovery

1 Material from a Producing Party.

2 3. SCOPE

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

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

10 4. DURATION

11 Once a case proceeds to trial, information that was designated as  
12 CONFIDENTIAL or maintained pursuant to this Order used or introduced as an  
13 exhibit at trial becomes public and will be presumptively available to all members  
14 of the public, including the press, unless compelling reasons supported by specific  
15 factual findings to proceed otherwise are made to the trial judge in advance of the  
16 trial. *See Kamakana*, 447 F.3d at 1180-81 (distinguishing “good cause” showing for  
17 sealing documents produced in discovery from “compelling reasons” standard when  
18 merits-related documents are part of court record). Accordingly, the terms of this  
19 Order do not extend beyond the commencement of the trial.

20 5. DESIGNATING PROTECTED MATERIAL

21 5.1 Exercise of Restraint and Care in Designating Material for Protection.

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

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

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

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

14 Designation in conformity with this Order requires:

15 (a) for information in documentary form (e.g., paper or electronic  
16 documents, but excluding transcripts of depositions or other pretrial or trial  
17 proceedings), that the Producing Party affix at a minimum, the legend  
18 "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that  
19 contains protected material.

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  
23 before the designation, all of the material made available for inspection shall be  
24 deemed "CONFIDENTIAL." After the inspecting Party has identified the  
25 documents it wants copied and produced, the Producing Party must determine  
26 which documents, or portions thereof, qualify for protection under this Order. Then,  
27 before producing the specified documents, the Producing Party must affix the  
28 "CONFIDENTIAL legend" to each page that contains Protected Material.

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

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

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

## 16 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

17 6.1 Timing of Challenges. Any Party or Non-Party may challenge a  
18 designation of confidentiality at any time that is consistent with the Court's  
19 Scheduling Order.

20 6.2 Meet and Confer. The Challenging Party shall initiate the dispute  
21 resolution process under Local Civil Rule 37.1 et seq.

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

1 challenge.

2 7. ACCESS TO AND USE OF PROTECTED MATERIAL

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

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

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

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

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

23 (c) Experts (as defined in this Order) of the Receiving Party to  
24 whom disclosure is reasonably necessary for this Action and who have signed the  
25 “Acknowledgment and Agreement to Be Bound” (Exhibit A); such executed  
26 Acknowledgments and Agreements to Be Bound shall not be produced to another  
27 Party except upon a showing of good cause;

28 (d) the court and its personnel;

- 1 (e) court reporters and their staff;
- 2 (f) professional jury or trial consultants, mock jurors, and
- 3 Professional Vendors to whom disclosure is reasonably necessary for this Action
- 4 and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit
- 5 A) such executed Acknowledgments and Agreements to Be Bound shall not be
- 6 produced to another Party except upon a showing of good cause;
- 7 (g) the author or recipient of a document containing the information
- 8 or a custodian or other person who otherwise possessed or knew the information;
- 9 (h) during their depositions, witnesses, and attorneys for witnesses,
- 10 in the Action to whom disclosure is reasonably necessary. Pages of transcribed
- 11 deposition testimony or exhibits to depositions that reveal Protected Material may,
- 12 upon the request of the Designating Party, be separately bound by the court reporter
- 13 and may not be disclosed to anyone except as permitted under this Order; and
- 14 (i) any mediator or settlement officer, and their supporting
- 15 personnel, mutually agreed upon by any of the parties engaged in settlement
- 16 discussions.

17 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED

18 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
- 23 notification shall include a copy of the subpoena or court order;
- 24 (b) promptly notify in writing the party who caused the subpoena or
- 25 order to issue in the other litigation that some or all of the material covered by the
- 26 subpoena or order is subject to this Order. Such notification shall include a copy of
- 27 this Order; and
- 28 (c) cooperate with respect to all reasonable procedures sought to be

1 pursued by the Designating Party whose Protected Material may be affected.

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

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

12 (a) The terms of this Order are applicable to information produced  
13 by a Non-Party in this Action and designated as “CONFIDENTIAL.” Such  
14 information produced by Non-Parties in connection with this litigation is protected  
15 by the remedies and relief provided by this Order. Nothing in these provisions  
16 should be construed as prohibiting a Non-Party from seeking additional protections.

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

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

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

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

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

10 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

19 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE  
20 PROTECTED MATERIAL

21 When a Producing Party gives notice to Receiving Parties that certain  
22 inadvertently produced material is subject to a claim of privilege or other  
23 protection, the obligations of the Receiving Parties are those set forth in Federal  
24 Rule of Civil Procedure 26(b)(5)(B).

25 12. MISCELLANEOUS

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

28 12.2 Right to Assert Other Objections. By stipulating to the entry of this

1 Order, no Party waives any right it otherwise would have to object to disclosing or  
2 producing any information or item on any ground not addressed in this Order.

3 Similarly, no Party waives any right to object on any ground to use in evidence of  
4 any of the material covered by this Order.

5 12.3 Filing Protected Material. A Party that seeks to file under seal any  
6 Protected Material must comply with Local Civil 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 Order as

1 set forth in Section 4 (DURATION).

2 14. VIOLATION

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

5  
6 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

7 DATED: January 9, 2019

/s/ Nancy G. Ross

Nancy G. Ross (*pro hac vice*)

Brian D. Netter (*pro hac vice*)

Laura Hammargren (*pro hac vice*)

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*Attorneys for Defendants*

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1 DATED: January 9, 2019

*/s/ James A. Bloom*

Todd M. Schneider (SBN 158253)

Jason H. Kim (SBN 220279)

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*Attorneys for Plaintiffs and the  
proposed Class*

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17 **FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

18  
19 DATED: January 9, 2019

20 *Rozella A. Oliver*

21 HON. ROZELLA A. OLIVER  
22 United States Magistrate Judge

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**EXHIBIT A**

**ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

I, \_\_\_\_\_, declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order (“Order”) that was issued by the United States District Court for the Central District of California on \_\_\_\_\_, 2019 in the case of *Alas, et al. v. AT&T Services, Inc. et al.*, Case No. 2:17-cv-8106-VAP-RAO. I agree to comply with and to be bound by all the terms of this 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 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 enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

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

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

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_