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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

MIGUEL SILLAS, MARIA SILLAS,  
and JOSE SILLAS,

Plaintiffs,

v.

CITY OF LOS ANGELES, a  
municipal corporation; EDGAR  
MEJIA, an individual; MATTHEW  
MENDEZ, an individual; HAINER  
HERNANDEZ, an individual;  
MICHAEL MARINO, an individual;  
VINCENZO AVERAIMO, an  
individual; ALEX FRANCO, an  
individual; DANIEL HUGHES, an  
individual; JOSE TEJEDA, an  
individual; JOHN PADILLA, an  
individual; JEREMY MASSEY, an  
individual; DANIEL KAMINSKI, an  
individual; ARSHAVIR  
SHALDJIAN, an individual; RYAN  
SCHATZ, an individual; PATRICK  
FOREMAN, an individual;  
RODOLFO RODRIGUEZ, an  
individual; and DOES 1 through 10  
inclusive,

Defendants.

**DISCOVERY MATTER**

Case No. CV17-08691-FMO-  
(AFMx)

*Magistrate Judge Alexander F.  
MacKinnon*

**[PROPOSED] PROTECTIVE  
ORDER**

1. A. **PURPOSES AND LIMITATIONS**

ORDER

Spertus, Landes & Umhofer, LLP  
1990 SOUTH BUNDY DR., SUITE 705  
LOS ANGELES, CA 90025  
TELEPHONE 310-826-4700; FACSIMILE 310-826-4711

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

10 B. GOOD CAUSE STATEMENT

11 This action involves the City of Los Angeles, Edgar Mejia, Matthew  
12 Mendez, Hainer Hernandez, Michael Marino, Vincenzo Averaimo, Alex Franco,  
13 Daniel Hughes, Jose Tejada, John Padilla, Jeremy Massey, Daniel Kaminski,  
14 Arshavir Shaldjian, Ryan Schatz, Patrick Foreman, and Rodolfo Rodriguez  
15 (“Defendants”). Plaintiffs are seeking materials and information that Defendants  
16 City of Los Angeles and Los Angeles Police Department (“City”) maintain as  
17 confidential, such as personnel files of the police officers involved in this  
18 incident, Internal Affairs materials and information, video recordings, audio  
19 recordings, and information and other administrative materials and information  
20 currently in the possession of the City and which Defendants believe need  
21 special protection from public disclosure and from use for any purpose other  
22 than prosecuting this litigation. Plaintiffs are also seeking official information  
23 contained in the personnel files of the police officers involved in the subject  
24 incident, which the City maintains as strictly confidential and which Defendants  
25 believe need special protection from public disclosure and from use for any  
26 purpose other than prosecuting this litigation.

27 Defendants assert that the confidentiality of the materials and information  
28 sought by Plaintiffs is recognized by California and federal law, as evidenced

1 inter alia by California *Penal Code* section 832.7; *Kerr v. United States Dist. Ct.*  
2 *for N.D. Cal.*, 511 F.2d 192, 198 (9th Cir. 1975), aff'd, 426 U.S. 394 (1976).

3 The City has not publicly released the materials and information referenced  
4 above except under protective order or pursuant to a court order, if at all. These  
5 materials and information are of the type that have been used to initiate  
6 disciplinary action against Los Angeles Police Department (“LAPD”) officers,  
7 and has been used as evidence in disciplinary proceedings, where the officers’  
8 conduct was considered to be contrary to LAPD policy.

9 Defendants contend that absent a protective order delineating the  
10 responsibilities of nondisclosure on the part of the parties hereto, there is a  
11 specific risk of unnecessary and undue disclosure by one or more of the many  
12 attorneys, secretaries, law clerks, paralegals and expert witnesses involved in  
13 this case, as well as the corollary risk of embarrassment, harassment as well as  
14 professional, physical and legal harm on the part of the LAPD officers  
15 referenced in the materials and information.

16 Defendants also contend that the unfettered disclosure of the materials and  
17 information, absent a protective order, would allow the media to share this  
18 information with potential jurors in the area, impacting the rights of the  
19 Defendants herein to receive a fair trial.

20 Plaintiffs are also seeking personal financial and other documents  
21 pertaining to the individual police officer defendants involved in the subject  
22 incident, which contain identifying information that Defendants maintain as  
23 strictly confidential for their personal safety, and which Defendants believe need  
24 special protection from both public disclosure and disclosure to the individual  
25 Plaintiffs or any other party or Non-Party. Defendants assert that given the  
26 highly sensitive and personal identifying nature of these materials, and Plaintiff  
27 Miguel Sillas’ criminal history and documented ties to a dangerous organized  
28 criminal enterprise, Defendants believe that the disclosure of these materials

1 should be restricted to Plaintiffs' attorneys only, and not to the individual  
2 plaintiffs or any other party or Non-Party, unless authorized by the Court subject  
3 to Exhibit A, as such disclosure would create a substantial risk of serious harm  
4 to the individual police officer defendants and their families that could not be  
5 avoided by less restrictive means.

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

17 C. ACKNOWLEDGMENT OF PROCEDURE FOR FILING UNDER  
18 SEAL

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

24 There is a strong presumption that the public has a right of access to  
25 judicial proceedings and records in civil cases. In connection with non-  
26 dispositive motions, good cause must be shown to support a filing under seal.  
27 *See Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1176 (9th Cir.  
28 2006), *Phillips v. Gen. Motors Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002),

1 *Makar-Welbon v. Sony Electronics, Inc.*, 187 F.R.D. 576, 577 (E.D. Wis. 1999)  
2 (even stipulated protective orders require good cause showing), and a specific  
3 showing of good cause or compelling reasons with proper evidentiary support  
4 and legal justification, must be made with respect to Protected Material that a  
5 party seeks to file under seal. The parties' mere designation of Disclosure or  
6 Discovery Material as CONFIDENTIAL does not— without the submission of  
7 competent evidence by declaration, establishing that the material sought to be  
8 filed under seal qualifies as confidential, privileged, or otherwise protectable—  
9 constitute good cause.

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

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

27 2. DEFINITIONS

28 2.1 Action: this pending federal lawsuit.

1           2.2    Challenging Party: a Party or Non-Party that challenges the  
2 designation of information or items under this Order.

3           2.3    “CONFIDENTIAL” Information or Items: information (regardless  
4 of how it is generated, stored or maintained) or tangible things that qualify for  
5 protection under Federal Rule of Civil Procedure 26(c), and as specified above  
6 in the Good Cause Statement. This also includes (1) any information copied or  
7 extracted from the Confidential information; (2) all copies, excerpts, summaries  
8 or compilations of Confidential information; and (3) any testimony,  
9 conversations, or presentations that might reveal Confidential information.

10          2.4    “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES ONLY”  
11 Information or Items: extremely sensitive “CONFIDENTIAL” Information or  
12 Items, the disclosure of which to the individual Plaintiffs or any other Party or  
13 Non-Party other than the Parties’ attorneys, would create a substantial risk of  
14 serious harm that could not be avoided by less restrictive means.

15          2.5    Counsel: Outside Counsel of Record and House Counsel (as well as  
16 their support staff).

17          2.6    Designating Party: a Party or Non-Party that designates information  
18 or items that it produces in disclosures or in responses to discovery as  
19 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES  
20 ONLY”.

21          2.7    Disclosure or Discovery Material: all items or information,  
22 regardless of the medium or manner in which it is generated, stored, or  
23 maintained (including, among other things, testimony, transcripts, and tangible  
24 things), that are produced or generated in disclosures or responses to discovery  
25 in this matter.

26          2.8    Expert: a person with specialized knowledge or experience in a  
27 matter pertinent to the litigation who has been retained by a Party or its counsel  
28 to serve as an expert witness or as a consultant in this Action.

1           2.9    House Counsel: attorneys who are employees of a party to this  
2 Action. House Counsel does not include Outside Counsel of Record or any  
3 other outside counsel.

4           2.10 Non-Party: any natural person, partnership, corporation, association  
5 or other legal entity not named as a Party to this action.

6           2.11 Outside Counsel of Record: attorneys who are not employees of a  
7 party to this Action but are retained to represent or advise a party to this Action  
8 and have appeared in this Action on behalf of that party or are affiliated with a  
9 law firm that has appeared on behalf of that party, and includes support staff.

10          2.12 Party: any party to this Action, including all of its officers,  
11 directors, employees, consultants, retained experts, and Outside Counsel of  
12 Record (and their support staffs).

13          2.13 Producing Party: a Party or Non-Party that produces Disclosure or  
14 Discovery Material in this Action.

15          2.14 Professional Vendors: persons or entities that provide litigation  
16 support services (e.g., photocopying, videotaping, translating, preparing exhibits  
17 or demonstrations, and organizing, storing, or retrieving data in any form or  
18 medium) and their employees and subcontractors.

19          2.15 Protected Material: any Disclosure or Discovery Material that is  
20 designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL --  
21 ATTORNEYS’ EYES ONLY”.

22          2.16 Receiving Party: a Party that receives Disclosure or Discovery  
23 Material from a Producing Party.

24          2.17 Plaintiffs’ Counsel: plaintiffs’ attorneys of record, and their  
25 essential paralegals, law clerks, and administrative assistants

26 3.    SCOPE

27           The protections conferred by this Stipulation and Order cover not only  
28 Protected Material (as defined above), but also (1) any information copied or

1 extracted from Protected Material; (2) all copies, excerpts, summaries, or  
2 compilations of Protected Material; and (3) any testimony, conversations, or  
3 presentations by Parties or their Counsel that might reveal Protected Material.

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

6 4. DURATION

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

17 As for information designed as HIGHLY CONFIDENTIAL –  
18 ATTORNEYS’ EYES ONLY, even after final disposition of this litigation, the  
19 confidentiality obligations imposed by this Order shall remain in effect until a  
20 Designating Party agrees otherwise in writing or a court order otherwise directs.  
21 Final disposition shall be deemed to be the later of (1) dismissal of all claims  
22 and defenses in this Action, with or without prejudice; and (2) final judgment  
23 herein after the completion and exhaustion of all appeals, rehearings, remands,  
24 trials, or reviews of this Action, including the time limits for filing any motions  
25 or applications for extension of time pursuant to applicable law.

26 5. DESIGNATING PROTECTED MATERIAL

27 5.1 Exercise of Restraint and Care in Designating Material for  
28 Protection. Each Party or Non-Party that designates information or items for



1 protection under this Order must take care to limit any such designation to  
2 specific material that qualifies under the appropriate standards. The Designating  
3 Party must designate for protection only those parts of material, documents,  
4 items or oral or written communications that qualify so that other portions of the  
5 material, documents, items or communications for which protection is not  
6 warranted are not swept unjustifiably within the ambit of this Order.

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

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

16 5.2 Manner and Timing of Designations. Except as otherwise provided  
17 in this Order (see, e.g., second paragraph of section 5.2(a) below), or as  
18 otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies  
19 for protection under this Order must be clearly so designated before the material  
20 is disclosed or produced.

21 Designation in conformity with this Order requires:

22 (a) for information in documentary form (e.g., paper or electronic  
23 documents, but excluding transcripts of depositions or other pretrial or trial  
24 proceedings), that the Producing Party affix at a minimum, the legend  
25 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
26 ONLY" (hereinafter "CONFIDENTIAL legend"), to each page that contains  
27 protected material. If only a portion of the material on a page qualifies for  
28

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

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

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

19 (c) for information produced in some form other than documentary and  
20 for any other tangible items, that the Producing Party affix in a prominent place  
21 on the exterior of the container or containers in which the information is stored  
22 the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –  
23 ATTORNEYS’ EYES ONLY”. If only a portion or portions of the information  
24 warrants protection, the Producing Party, to the extent practicable, shall identify  
25 the protected portion(s).

26 5.3 Inadvertent Failures to Designate. If timely corrected, an  
27 inadvertent failure to designate qualified information or items does not, standing  
28 alone, waive the Designating Party’s right to secure protection under this Order

1 for such material. Upon timely correction of a designation, the Receiving Party  
2 must make reasonable efforts to assure that the material is treated in accordance  
3 with the provisions of this Order.

4 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

5 6.1 Timing of Challenges. Any Party or Non-Party may challenge a  
6 designation of confidentiality at any time that is consistent with the Court's  
7 Scheduling Order.

8 6.2 Meet and Confer. The Challenging Party shall initiate the dispute  
9 resolution process under Local Rule 37-1 et seq.

10 6.3 Joint Stipulation. Any challenge submitted to the Court shall be via  
11 a joint stipulation pursuant to Local Rule 37-2.

12 6.4 The burden of persuasion in any such challenge proceeding shall be  
13 on the Designating Party. Frivolous challenges, and those made for an improper  
14 purpose (e.g., to harass or impose unnecessary expenses and burdens on other  
15 parties) may expose the Challenging Party to sanctions. Unless the Designating  
16 Party has waived or withdrawn the confidentiality designation, all parties shall  
17 continue to afford the material in question the level of protection to which it is  
18 entitled under the Producing Party's designation until the Court rules on the  
19 challenge.

20 7. ACCESS TO AND USE OF PROTECTED MATERIAL

21 7.1 Basic Principles. A Receiving Party may use Protected Material  
22 that is disclosed or produced by another Party or by a Non-Party in connection  
23 with this Action only for prosecuting, defending or attempting to settle this  
24 Action. Such Protected Material may be disclosed only to the categories of  
25 persons and under the conditions described in this Order. When the Action has  
26 been terminated, a Receiving Party must comply with the provisions of section  
27 13 below (FINAL DISPOSITION). Protected Material must be stored and  
28

1 maintained by a Receiving Party at a location and in a secure manner that  
2 ensures that access is limited to the persons authorized under this Order.

3 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless  
4 otherwise ordered by the court or permitted in writing by the Designating Party,  
5 a Receiving Party may disclose any information or item designated  
6 “CONFIDENTIAL” only to:

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

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

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

15 (d) the court and its personnel;

16 (e) court reporters and their staff;

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

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

22 (h) during their depositions, witnesses, and attorneys for witnesses, in the  
23 Action to whom disclosure is reasonably necessary provided: (1) the deposing  
24 party requests that the witness sign the form attached as Exhibit 1 hereto; and  
25 (2) they will not be permitted to keep any confidential information unless they  
26 sign the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless  
27 otherwise agreed by the Designating Party or ordered by the court. Pages of  
28 transcribed deposition testimony or exhibits to depositions that reveal Protected

1 Material may be separately bound by the court reporter and may not be disclosed  
2 to anyone except as permitted under this Stipulated Protective Order; and

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

5 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’  
6 EYES ONLY” Information or Items. The Parties’ attorneys will maintain and  
7 keep safe and secure any items and any information contained in such items  
8 marked HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY. The  
9 parties’ attorneys will not disclose or allow any individual Plaintiffs, any other  
10 Party or Non-Party access to any items and any information contained in such  
11 items marked HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.  
12 Unless otherwise ordered by the court or permitted in writing by the Designating  
13 Party, a Receiving Party may disclose any information or item designated  
14 “HIGHLY CONFIDENTIAL” only to:

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

18 (b) the court and its personnel;

19 (c) private court reporters and their staff to whom disclosure is reasonably  
20 necessary for this Action and who have signed the “Acknowledgment and  
21 Agreement to Be Bound” (Exhibit A);

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

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

27 (f) any mediator or settlement officer, and their supporting personnel,  
28 mutually agreed upon by any of the parties engaged in settlement discussions.

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

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

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

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

13 (c) cooperate with respect to all reasonable procedures sought to be  
14 pursued by the Designating Party whose Protected Material may be affected. If  
15 the Designating Party timely seeks a protective order, the Party served with the  
16 subpoena or court order shall not produce any information designated in this  
17 action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –  
18 ATTORNEYS’ EYES ONLY” before a determination by the court from which  
19 the subpoena or order issued, unless the Party has obtained the Designating  
20 Party’s permission. The Designating Party shall bear the burden and expense of  
21 seeking protection in that court of its confidential material and nothing in these  
22 provisions should be construed as authorizing or encouraging a Receiving Party  
23 in this Action to disobey a lawful directive from another court.

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

26 (a) The terms of this Order are applicable to information produced by a  
27 Non-Party in this Action and designated as “CONFIDENTIAL” or “HIGHLY  
28 CONFIDENTIAL – ATTORNEYS’ EYES ONLY”. Such information produced

1 by Non-Parties in connection with this litigation is protected by the remedies and  
2 relief provided by this Order. Nothing in these provisions should be construed  
3 as prohibiting a Non-Party from seeking additional protections.

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

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

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

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

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

25 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

26 If a Receiving Party learns that, by inadvertence or otherwise, it has  
27 disclosed Protected Material to any person or in any circumstance not authorized  
28 under this Stipulated Protective Order, the Receiving Party must immediately (a)

1 notify in writing the Designating Party of the unauthorized disclosures, (b) use  
2 its best efforts to retrieve all unauthorized copies of the Protected Material, (c)  
3 inform the person or persons to whom unauthorized disclosures were made of all  
4 the terms of this Order, and (d) request such person or persons to execute the  
5 “Acknowledgment and Agreement to Be Bound” that is attached hereto as  
6 Exhibit A.

7 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE  
8 PROTECTED MATERIAL

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

19 12. MISCELLANEOUS

20 12.1 Right to Further Relief. Nothing in this Order abridges the right of  
21 any 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  
25 this Stipulated Protective Order. Similarly, no Party waives any right to object  
26 on any ground to use in evidence of any of the material covered by this  
27 Protective Order.



1           12.3 Filing Protected Material. A Party that seeks to file under seal any  
2 Protected Material must comply with Local Civil Rule 79-5. Protected Material  
3 may only be filed under seal pursuant to a court order authorizing the sealing of  
4 the specific Protected Material at issue. If a Party’s request to file Protected  
5 Material under seal is denied by the court, then the Receiving Party may file the  
6 information in the public record unless otherwise instructed by the court.

7   13.   FINAL DISPOSITION

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

27   14.   VIOLATION

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

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4 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

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6 DATED: 9/27/2018

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9 ALEXANDER F. MacKINNON  
10 United States Magistrate Judge

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Spertus, Landes & Umhofer, LLP  
1990 SOUTH BUNDY DR., SUITE 705  
LOS ANGELES, CA 90025  
TELEPHONE 310-826-4700; FACSIMILE 310-826-4711

1 **EXHIBIT A**

2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

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

15 I further agree to submit to the jurisdiction of the United States District  
16 Court for the Central District of California for enforcing the terms of this  
17 Stipulated Protective Order, even if such enforcement proceedings occur after  
18 termination of this action.

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

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

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

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

27  
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