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 8 CALIFORNIA BLOOD SERVICES REGION,
 erroneously sued as AMERICAN RED CROSS
 9 BLOOD SERVICES SOUTHERN
 CALIFORNIA REGION

11 UNITED STATES DISTRICT COURT
 12 CENTRAL DISTRICT OF CALIFORNIA

13 KIMBERLY WOODARD, an individual,

14 Plaintiff,

15 v.

16 AMERICAN NATIONAL RED CROSS, a
 Washington, D.C. corporation;
 17 AMERICAN RED CROSS BLOOD
 SERVICES SOUTHERN CALIFORNIA
 18 REGION, an unknown entity; and Does 1
 through 30, inclusive.

19 Defendants.
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Case No. 2:18-CV-00235 - SJO (AGR_x)

ASSIGNED FOR ALL PURPOSES
 HON. JUDGE S. JAMES OTERO

**ORDER RE STIPULATED
 PROTECTIVE ORDER AND FRE 502(D)
 AND (E) CLAWBACK ORDER**

1 GOOD CAUSE APPEARING THEREFOR, IT IS HEREBY ORDERED
2 THAT:

3 The Parties Stipulation Re Protective Order and FRE 502(D) and (E) Clawback
4 Order is hereby entered in its entirety as the order of this Court.

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7 Dated: August 30, 2018

Alicia G. Rosenberg

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HON. ALICIA G. ROSENBERG
UNITED STATES DISTRICT COURT
MAGISTRATE JUDGE

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17 UNITED STATES DISTRICT COURT
18 CENTRAL DISTRICT OF CALIFORNIA

19 KIMBERLY WOODARD, an individual,
20 Plaintiff,

21 v.

22 AMERICAN NATIONAL RED CROSS, a
Washington, D.C. corporation;
23 AMERICAN RED CROSS BLOOD
SERVICES SOUTHERN CALIFORNIA
24 REGION, an unknown entity; and Does 1
through 30, inclusive.

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26 Defendants.
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Case No. 2:18-CV-00235 - SJO (AGR_x)
ASSIGNED FOR ALL PURPOSES
HON. JUDGE S. JAMES OTERO

**STIPULATED PROTECTIVE ORDER
AND FRE 502(D) AND (E) CLAWBACK
ORDER**

1 1. A. PURPOSES AND LIMITATIONS

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

14 B. GOOD CAUSE STATEMENT

15 This action is likely to involve confidential, non-public, sensitive, and/or proprietary
16 trade secrets, business, employment, tax, financial, and personally identifiable information,
17 documents and other materials for which special protection from public disclosure and from
18 use for any purpose other than prosecution of this action is warranted. Such confidential and
19 proprietary materials and information consist of, among other things, confidential business or
20 financial information, information regarding confidential business practices, or other
21 confidential research, development, or commercial information (including information
22 implicating privacy rights of third parties), information otherwise generally unavailable to the
23 public, or which may be privileged or otherwise protected from disclosure under state or
24 federal statutes, court rules, case decisions, or common law. Accordingly, to expedite the flow
25 of information, to facilitate the prompt resolution of disputes over confidentiality of discovery
26 materials, to adequately protect information the parties are entitled to keep confidential, to
27 ensure that the parties are permitted reasonable necessary uses of such material in preparation
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1 for and in the conduct of trial, to address their handling at the end of the litigation, and serve
2 the ends of justice, a protective order for such information is justified in this matter. It is the
3 intent of the 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 maintained in a
5 confidential, non-public manner, and there is good cause why it should not be part of the public
6 record of this case.

7 **2. DEFINITIONS**

8 2.1 *Action: Kimberly Woodard v. The American National Red Cross, American Red*
9 *Cross Southern California Blood Services Region, erroneously sued as American Red Cross*
10 *Blood Services Southern California Region, and Does 1 through 30, inclusive, Case No. 2:18-*
11 *CV-00235-SJO (AGRx).*

12 2.2 Challenging Party: a Party or Non-Party that challenges the designation of
13 information or items under this Order.

14 2.3 “CONFIDENTIAL” Information or Items: information (regardless of how it is
15 generated, stored or maintained) or tangible things that qualify for protection under Federal
16 Rule of Civil Procedure 26(c), and as specified above in the Good Cause Statement.

17 2.4 “HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES ONLY” Information or
18 Items: extremely sensitive “CONFIDENTIAL” Information or Items, the disclosure of which
19 to another Party or Non-Party would create a substantial risk of serious harm that could not be
20 avoided by less restrictive means.

21 2.5 Counsel: Outside Counsel of Record and House Counsel (as well as their
22 support staff).

23 2.6 Designating Party: a Party or Non-Party that designates information or items that
24 it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

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

2 2.8 Expert: a person with specialized knowledge or experience in a matter pertinent
3 to the litigation who has been retained by a Party or its counsel to serve as an expert witness
4 or as a consultant in this Action.

5 2.9 House Counsel: attorneys who are employees of a party to this Action. House
6 Counsel does not include Outside Counsel of Record or any other outside counsel.

7 2.10 Non-Party: any natural person, partnership, corporation, association, or other
8 legal entity not named as a Party to this action.

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

13 2.12 Party: any party to this Action, including all of its officers, directors, employees,
14 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

15 2.13 Producing Party: a Party or Non-Party that produces Disclosure or Discovery
16 Material in this Action.

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

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

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

25 3. SCOPE

26 The protections conferred by this Stipulation and Order cover not only Protected
27 Material (as defined above), but also (1) any information copied or extracted from Protected
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1 Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3)
2 any testimony, conversations, or presentations by Parties or their Counsel that might reveal
3 Protected Material. Any use of Protected Material at trial shall be governed by the orders of
4 the trial judge. This Order does not govern the use of Protected Material at trial.

5 4. DURATION

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

13 5. DESIGNATING PROTECTED MATERIAL

14 5.1 Exercise of Restraint and Care in Designating Material for Protection.

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

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

25 If it comes to a Designating Party's attention that information or items that it designated
26 for protection does not qualify for protection, that Designating Party must promptly notify all
27 other Parties that it is withdrawing the inapplicable designation.
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1 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order
2 (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered,
3 Disclosure or Discovery Material that qualifies for protection under this Order must be clearly
4 so designated before the material is disclosed or produced.

5 Designation in conformity with this Order requires:

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

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

25 (b) For testimony given in depositions that the Designating Party identify
26 the Disclosure or Discovery Material on the record, before the close of the deposition all
27 protected testimony.
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1 (c) For information produced in some form other than documentary and for
2 any other tangible items, that the Producing Party affix in a prominent place on the exterior of
3 the container or containers in which the information is stored the legend “CONFIDENTIAL”
4 or “HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES ONLY.” If only a portion or
5 portions of the information warrants protection, the Producing Party, to the extent practicable,
6 shall identify the protected portion(s).

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

12 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

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

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

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

24 7. ACCESS TO AND USE OF PROTECTED MATERIAL

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

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

7 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise
8 ordered by the court or permitted in writing by the Designating Party, a Receiving Party may
9 disclose any information or item designated “CONFIDENTIAL” only to:

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

13 (b) the officers, directors, and House Counsel of the Receiving Party to
14 whom disclosure is reasonably necessary for this Action;

15 (c) 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 “Acknowledgment
17 and Agreement to Be Bound” (Exhibit A);

18 (d) the court and its personnel;

19 (e) court reporters and their staff;

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

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

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

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

8 7.3 Disclosure of “HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES ONLY”
9 Information or Items. Unless otherwise ordered by the court or permitted in writing by the
10 Designating Party, a 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 as
13 employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose
14 the information for this Action;

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

18 (c) the court and its personnel;

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

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

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

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

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

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

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

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

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

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

26 (a) The terms of this Order are applicable to information produced by a Non-
27 Party in this Action and designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL—
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1 ATTORNEYS' EYES ONLY." Such information produced by Non-Parties in connection with
2 this litigation is protected by the remedies and relief provided by this Order. Nothing in these
3 provisions should be construed 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 is subject to an
6 agreement with the Non-Party not to produce the Non-Party's confidential information, then
7 the Party shall:

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

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

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

23 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

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

4 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
5 PROTECTED MATERIAL

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

14 12. MISCELLANEOUS

15 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to
16 seek its modification by the Court in the future.

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

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

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

18 14. CLAWBACK AGREEMENT

19 Pursuant to FRE 502(d) and (e), the Parties agree to and the Court orders protection of
20 privileged and otherwise protected Documents against claims of waiver (including as against
21 third parties and in other federal and state proceedings) as follows:

- 22 (a) The disclosure or production of Documents by a Producing Party subject
23 to a legally recognized claim of privilege, including without limitation
24 the attorney-client privilege and the work-product doctrine, to a
25 Receiving Party, shall in no way constitute the voluntary disclosure of
26 such Document.
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- (b) The inadvertent disclosure or production of any Document in this action shall not result in the waiver of any privilege, evidentiary protection or other protection associated with such Document as to the Receiving Party or any third parties, and shall not result in any waiver, including subject matter waiver, of any kind.
- (c) If, during the course of this litigation, a party determines that any Document produced by another party is or may reasonably be subject to a legally recognizable privilege or evidentiary protection (“Protected Document”):
- i. the Receiving Party shall: (A) refrain from reading the Protected Document any more closely than is necessary to ascertain that it is privileged or otherwise protected from disclosure; (B) immediately notify the Producing Party in writing that it has discovered Documents believed to be privileged or protected; (C) specifically identify the Protected Documents by Bates number range or hash value; and, (D) within ten (10) days of discovery by the Receiving Party, return, sequester, or destroy all copies of such Protected Documents, along with any notes, abstracts or compilations of the content thereof. To the extent that a Protected Document has been loaded into a litigation review database under the control of the Receiving Party, the Receiving Party shall have all electronic copies of the Protected Document extracted from the database. Where such Protected Documents cannot be destroyed or separated, they shall not be reviewed, disclosed, or otherwise used by the Receiving Party. Notwithstanding, the Receiving Party is under no obligation to search or review the Producing

1 Party's Documents to identify potentially privileged or work
2 product Protected Documents.

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4 ii. If the Producing Party intends to assert a claim of privilege or other
5 protection over Documents identified by the Receiving Party as
6 Protected Documents, the Producing Party will, within ten (10)
7 days of receiving the Receiving Party's written notification
8 described above, inform the Receiving Party of such intention in
9 writing and shall provide the Receiving Party with a log for such
10 Protected Documents that is consistent with the requirements of
11 the Federal Rules of Civil Procedure, setting forth the basis for the
12 claim of privilege or other protection. In the event that any portion
13 of a Protected Document does not contain privileged or protected
14 information, the Producing Party shall also provide to the
15 Receiving Party a redacted copy of the document that omits the
16 information that the Producing Party believes is subject to a claim
17 of privilege or other protection.

18 (d) If, during the course of this litigation, a party determines it has produced
19 a Protected Document:

20 i. the Producing Party may notify the Receiving Party of such
21 inadvertent production in writing, and demand the return of such
22 documents. Such notice shall be in writing, however, it may be
23 delivered orally on the record at a deposition, promptly followed
24 up in writing. The Producing Party's written notice will identify
25 the Protected Document inadvertently produced by bates number
26 range or hash value, the privilege or protection claimed, and the
27 basis for the assertion of the privilege and shall provide the
28 Receiving Party with a log for such Protected Documents that is

1 consistent with the requirements of the Federal Rules of Civil
2 Procedure, setting forth the basis for the claim of privilege or other
3 protection. In the event that any portion of the Protected
4 Document does not contain privileged or protected information,
5 the Producing Party shall also provide to the Receiving Party a
6 redacted copy of the Document that omits the information that the
7 Producing Party believes is subject to a claim of privilege or other
8 protection.

9
10 ii. The Receiving Party must, within ten (10) days of receiving the
11 Producing Party's written notification described above, return,
12 sequester, or destroy the Protected Document and any copies,
13 along with any notes, abstracts or compilations of the content
14 thereof. To the extent that a Protected Document has been loaded
15 into a litigation review database under the control of the Receiving
16 Party, the Receiving Party shall have all electronic copies of the
17 Protected Document extracted from the database.

18 (e) To the extent that the information contained in a Protected Document has
19 already been used in or described in other documents generated or
20 maintained by the Receiving Party prior to the date of receipt of written
21 notice by the Producing Party as set forth in paragraphs 14(c)(ii) and
22 14(d)(i), then the Receiving Party shall sequester such documents until
23 the claim has been resolved. If the Receiving Party disclosed the
24 Protected Document before being notified of its inadvertent production,
25 it must take reasonable steps to retrieve it.

26 (f) The Receiving Party's return, sequestering, or destruction of Protected
27 Documents as provided herein will not act as a waiver of the Requesting
28 Party's right to move for the production of the returned, sequestered, or

1 destroyed documents on the grounds that the documents are not, in fact,
2 subject to a viable claim of privilege or protection. However, the
3 Receiving Party is prohibited and estopped from arguing that:

- 4 i. the disclosure or production of the Protected Documents acts as a
5 waiver of an applicable privilege or evidentiary protection;
- 6 ii. the disclosure of the Protected Documents was not inadvertent;
- 7 iii. the Producing Party did not take reasonable steps to prevent the
8 disclosure of the Protected Documents; or
- 9 iv. the Producing Party failed to take reasonable or timely steps to
10 rectify the error pursuant to Federal Rule of Civil Procedure
11 26(b)(5)(B), or otherwise.

12 (g) Either party may submit Protected Documents to the Court under seal for
13 a determination of the claim of privilege or other protection. The
14 Producing Party shall preserve the Protected Documents until such claim
15 is resolved. The Receiving Party may not use the Protected Documents
16 for any purpose absent this Court's order.

17 (h) Upon a determination by the Court that the Protected Documents are
18 protected by the applicable privilege or evidentiary protection, and if the
19 Protected Documents have been sequestered rather than returned or
20 destroyed by the Receiving Party, the Protected Documents shall be
21 returned or destroyed within 10 (ten) days of the Court's order. The Court
22 may also order the identification by the Receiving Party of Protected
23 Documents by search terms or other means.

24 (i) Nothing contained herein is intended to, or shall serve to limit a party's
25 right to conduct a review of documents, data (including electronically
26 stored information) and other information, including without limitation,
27 metadata, for relevance, responsiveness, and/or the segregation of
28

1 privileged and/or protected information before such information is
2 produced to another party.

3 (j) By operation of the Parties' agreement and Court Order, the Parties are
4 specifically afforded the protections of FRE 502(d) and (e).

5 15. VIOLATION

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

8 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

9 DATED: August 14, 2018

BERENJI LAW FIRM, APC

10
11 By: 
12 Shadie L. Berenji
Attorney for Plaintiff Kimberly Woodard

13 DATED: August 14, 2018

LITTLER MENDELSON, P.C.

14
15 By: /s/ Monica M. Quinn
16 Monica M. Quinn
17 Margaret A. Parker
18 Attorneys for Defendants
19 The American National Red Cross, American
20 Red Cross Southern California Blood
21 Services Region, Erroneously Sued As
22 American Red Cross Blood Services Southern
23 California Region
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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
*Kimberly Woodard v. The American National Red Cross, American Red Cross Southern
California Blood Services Region, erroneously sued as American Red Cross Blood Services
Southern California Region, and Does 1 through 30, inclusive*, Case No. 2:18-CV-00235-SJO
(AGRx). 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 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: _____

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