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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

TRAVELERS PROPERTY  
CASUALTY COMPANY OF  
AMERICA, a Connecticut Corporation

Plaintiff,

v.

KILROY REALTY CORPORATION,  
a Maryland corporation; *et al.*,

Defendants.

KILROY REALTY CORPORATION,  
a Maryland corporation; *et al.*,

Counterclaimants,

v.

TRAVELERS PROPERTY  
CASUALTY COMPANY OF  
AMERICA,

Counterdefendant.

///

CASE NO. 2:18-CV-01124-R-(JPRx)

**ORDER ON STIPULATED  
CONFIDENTIALITY AGREEMENT**

Complaint Served: February 28, 2018  
Trial Date: March 26, 2019

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The Court has reviewed and considered the Stipulated Confidentiality Agreement submitted by the parties, a copy of which is attached as Exhibit A.  
IT IS SO ORDERED.

Dated: July 26, 2018



---

Honorable Manuel L. Real  
United States District Court Judge

# **EXHIBIT A**

1 LATHAM & WATKINS LLP  
2 Peter K. Rosen (Bar No. 082725)  
3 *peter.rosen@lw.com*  
4 Christine G. Rolph (Bar No. 190798)  
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8 355 South Grand Avenue, Suite 100  
9 Los Angeles, California 90071-1560  
10 Telephone: (213) 485-1234  
11 Facsimile: (213) 891-8763

12 Attorneys for Defendants and Counterclaimants  
13 Kilroy Realty Corporation, Kilroy Services LLC  
14 and KR 350 Mission LLC

15 UNITED STATES DISTRICT COURT

16 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

17 TRAVELERS PROPERTY  
18 CASUALTY COMPANY OF  
19 AMERICA, a Connecticut Corporation,

20 Plaintiff,

21 v.

22 KILROY REALTY CORPORATION, a  
23 Maryland corporation; *et al.*,

24 Defendants.

25 KILROY REALTY CORPORATION,  
26 a Maryland corporation; *et al.*,

27 Counterclaimants,

28 v.

TRAVELERS PROPERTY  
CASUALTY COMPANY OF  
AMERICA,

Counterdefendant.

CASE NO. 2:18-CV-01124-R-(JPRx)

**STIPULATED CONFIDENTIALITY  
AGREEMENT**

Complaint Served: February 28, 2018  
Trial Date: March 26, 2019

1           WHEREAS, Travelers Property Casualty Company of America  
2 (“Travelers”), Plaintiff and Counterdefendant, on the one hand, and Kilroy Realty  
3 Corporation, KR 350 Mission, LLC, and Kilroy Services, LLC (referred to herein  
4 together as “Kilroy”), Defendants and Counterclaimants, on the other hand, by and  
5 through their respective counsel of record, agree that discovery in this coverage  
6 action is likely to involve production of confidential, proprietary or private  
7 information for which special protection from public disclosure and from use for  
8 any purpose other than in this litigation may be warranted;  
9

10  
11  
12           IT IS HEREBY STIPULATED by and among the Parties that in order to  
13 facilitate the exchange of information and documents which may be subject to  
14 confidentiality limitations on disclosure due to federal laws, state laws, and/or  
15 privacy rights, the Parties stipulate to the following Stipulated Confidentiality  
16 Agreement.  
17

18  
19           The following Stipulated Confidentiality Agreement shall apply to the  
20 production of all Confidential Materials, as defined below.  
21

22           1.     The following definitions shall apply:

23                   a.     “Documents” means any “Writing,” “Original” and “Duplicate”  
24 as those terms are defined by Federal Rules of Evidence Rule 1001. “Documents”  
25 shall include deposition transcripts.  
26

27                   b.     “Confidential” means any information which is in the  
28 possession of a Designating Party who believes in good faith that such information

1 is entitled to confidential treatment under applicable law.

2 c. “Confidential Materials” means all items or information  
3 produced, disclosed, or generated in connection with discovery, including but not  
4 limited to all discovery responses, deposition testimony, deposition exhibits or  
5 other documents, including electronic media, and tangible materials of any kind,  
6 however communicated, produced in this litigation that Parties to this action have  
7 designated as “Confidential” pursuant to the provisions of this Stipulated  
8 Confidentiality Agreement.  
9

10 d. “Discovery Request” means any formal request for information  
11 in the above entitled action and any disclosures required pursuant to the rules.  
12 “Discovery Request” includes: (a) any formal document request; (b) any formal  
13 interrogatory; (c) any formal request for admission; (d) any initial or supplemental  
14 disclosures, including but not limited to FRCP Rule 26 disclosures, and, (e) any  
15 subpoena or subpoena *duces tecum*.  
16

17 e. “Discovery Response” means all information produced in  
18 response to any Discovery Request made in this action. “Discovery Response”  
19 includes answers to responses provided or objections asserted in response to any  
20 Discovery Request.  
21

22 f. “Information” means the content of Documents, Testimony or  
23 Discovery Responses.

24 g. “Designating Party” means the Party that designates the  
25 Confidential Material as “Confidential.”  
26

27 h. “Party” or “Parties” means either of Travelers or Kilroy in the  
28 singular and both of Travelers and Kilroy in the plural.

1 i. "Testimony" means all depositions, declarations or other  
2 testimony taken or used in this action.

3 j. "Underlying Litigations" consists of the following actions:

4 a) Lehman v. Transbay Joint Powers Authority, filed in the  
5 Superior Court of California for the County of San  
6 Francisco, Case No. CGC-16-553758;

7 b) Buttery v. Sean Jeffries, filed in the Superior Court of  
8 California for the County of San Francisco, Case No.  
9 CGC-17-556292;

10 c) Chang v. Mission Street Development LLC, filed in the  
11 Superior Court of California for the County of San  
12 Francisco, Case No. CGC-17-556617;

13 d) Millennium Tower Association v. Mission Street  
14 Development LLC, filed in the Superior Court of  
15 California for the County of San Francisco, Case No.  
16 CGC-17-557830;

17 e) Montana v. Mission Street Development LLC, filed in  
18 the Superior Court of California for the County of San  
19 Francisco, Case No. CGC-17-558649;

20 f) Xu Ming Ying v. Transbay Joint Powers Authority, filed  
21 in the Superior Court of California for the County of San  
22 Francisco, Case No. CGC-17-559210;

23 g) Maui Peaks Corporation v. Mission Street Development  
24 LLC, filed in the Superior Court of California for the  
25  
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1 County of San Francisco, Case No. CGC-17-560322;

2 h) Any subsequently filed actions in which Kilroy is named  
3 by a combination of owners of residential condominiums  
4 or the homeowners' association of the Millennium Tower  
5 at 301 Mission Street in San Francisco as well as any  
6 other case related to the Millennium Tower in San  
7 Francisco, California where Kilroy is named as a party.

8  
9 2. All Confidential Materials shall not be Disclosed to any person or  
10 entity except in accordance with the terms, conditions and instructions of this  
11 Stipulated Confidentiality Agreement.

12  
13 3. Any Party producing Confidential Materials in connection with this  
14 action may designate any Confidential Material as "Confidential" by marking the  
15 Confidential Material with the phrase "Confidential Information" (or other  
16 language substantially the same) on each page of the Confidential Material  
17 containing confidential information. A Party receiving the Confidential  
18 Material(s) may mark it as "Confidential" within thirty (30) days of receiving the  
19 Confidential Material(s) by placing the "Confidential" marking on the Confidential  
20 Material(s) and providing copies of the Confidential Material(s) so marked to the  
21 other Party. If only portions of the Information warrant protection, the Designating  
22 Party, to the extent practicable, shall identify the "Confidential" portions.

23  
24 4. Any Party may mark any Testimony as confidential by making a  
25 statement to that effect on the record at the deposition or by marking the  
26 appropriate portion of the transcript as "Confidential" within twenty (20) days  
27 after the date the transcript of the testimony is available. If no indication on the  
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1 record is made, all materials and information disclosed during a deposition shall be  
2 deemed “Confidential” until the expiration of the twenty-day period within which  
3 any Party may designate the material or information as “Confidential.” Any  
4 “Confidential” material or information that is used in the taking of a deposition  
5 shall remain subject to the provisions of this Protective Order, along with the  
6 transcript pages of the deposition testimony that discuss the “Confidential”  
7 material or information.  
8

9       5. If a Party disagrees that Confidential Materials designated as  
10 “Confidential” should be so designated, that Party shall confer with the  
11 Designating Party and attempt to reach agreement as to the claimed confidentiality.  
12 If the Parties are unable to resolve the matter, a Party receiving a document marked  
13 “Confidential” may move the Court to review the document on the ground that the  
14 designation is inappropriate and the materials so designated should not be subject  
15 to the protections, and request the Court to determine whether it does, in fact,  
16 contain confidential information or whether the “Confidential” designation should  
17 be removed.  
18

19       6. The Stipulated Confidentiality Agreement does not alter, waive,  
20 modify or abridge any right, privilege, or protection otherwise available to any  
21 Party with respect to discovery of matters, including but not limited to any Party’s  
22 right to assert the attorney-client, work product or any other applicable privileges  
23 or protections, or any Party’s right to contest any such assertion.  
24

25       7. All Confidential Materials, and all derivative Documents prepared  
26 therefrom, such as notes or summaries, are private and confidential, shall be used  
27 only for and in connection with the above-captioned action and shall not be  
28

1 disclosed to any person or entity except in accordance with the terms, conditions  
2 and restrictions of this Stipulated Confidentiality Agreement, or as otherwise  
3 ordered by the Court. No person other than the Designating Party shall use any  
4 Confidential Materials obtained through production from the Designating Party for  
5 any other purpose, unless that Party first obtains relief from this Stipulated  
6 Confidentiality Agreement by written agreement of the Designating Party to  
7 withdraw the designation of “Confidential” or by Order of the Court.  
8

9       8. Kilroy contends that certain Documents, Testimony, and/or  
10 Information concerning the Underlying Litigations relating to this coverage action  
11 are privileged, attorney work-product and/or Confidential Materials. Until such  
12 time as these coverage issues are finally resolved in this action, the Parties agree a  
13 common interest presumptively exists between the Parties with respect to the  
14 Underlying Litigations. Accordingly, disclosure of the Documents, Testimony,  
15 Discovery Responses or Information among the Parties or to others, including the  
16 Court, pursuant to this Stipulated Confidentiality Agreement shall not alter, waive,  
17 modify or abridge (i) the confidentiality of the Document, Testimony, Discovery  
18 Response or Information Disclosed, or (ii) any right, privilege or protection  
19 otherwise applicable to the Document, Testimony, Discovery Response or  
20 Information Disclosed, vis-à-vis third parties.  
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23       9. No Confidential Material may be Disclosed to any person without  
24 prior written consent of the Designating Party, except that the following persons  
25 are authorized to received Confidential Materials without such written consent:

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1           a. Counsel for the Parties, including but not limited to, attorneys  
2 and employees of such counsel’s law firms, to the extent reasonably necessary to  
3 render professional service in connection with this action;

4           b. Parties, to the extent necessary for such Parties to see  
5 Confidential Materials for the purpose of this action (including employees and  
6 former employees with whom it is considered in good faith necessary to consult in  
7 connection with the prosecution or defense of the case);

9           c. Experts and consultants, and their employees, retained by a  
10 Party in connection with the action;

11           d. Third party contractors (and their employees) involved in the  
12 organizing, filing, coding, converting, storing or retrieving data, including in  
13 connection with a computerized litigation support system;

15           e. Witnesses at deposition;

16           f. Qualified persons taking testimony, including court reporters  
17 and videographers; and

18           g. Court officials and personnel involved in this action, including  
19 without limitation any mediator (and support staff), settlement conference judge  
20 (and support staff) or jury. This restriction on the disclosure of Confidential  
21 Materials may be modified by court order and does not apply where the  
22 designating Party has given its written consent to the disclosure.  
23

24           10. Before any consultants, experts, mediators, or non-Party witnesses,  
25 including any former employees, in this litigation receive or review materials or  
26 information designated as “Confidential,” counsel for the Party making the  
27 disclosure shall explain to each person to whom the Confidential Materials are to  
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1 be disclosed that the Confidential Materials are Confidential and are subject to this  
2 Stipulated Confidentiality Agreement. Counsel for the Party making the disclosure  
3 shall then provide to the person to whom disclosure is planned or proposed a copy  
4 of the declaration in the form attached as Exhibit “A” to this Protective Order and  
5 obtain the person’s signature. Counsel for the disclosing Party shall maintain a  
6 complete and current file of declarations so executed for at least two (2) years after  
7 this litigation is finally terminated and shall be made available to counsel for any  
8 other Party upon a showing that this Protective Order has been violated or may  
9 have been violated. This paragraph does not apply when showing or providing  
10 materials designated “Confidential” to witnesses at a hearing, trial or deposition, or  
11 to any person who, as shown on the face of the document, was an author,  
12 addressee, or recipient of the document, including a recipient of a copy. Where the  
13 Confidential Materials are being disclosed to a business or firm, such as to an  
14 expert, counsel need only discuss the Stipulated Confidentiality Agreement with  
15 (and obtain an executed declaration from) one responsible person from the  
16 business or firm who shall agree to maintain the Confidential Materials as  
17 confidential on behalf of his or her business or firm.

21 11. Nothing contained in this Protective Order bars or restricts the Parties’  
22 attorneys from rendering advice to their respective clients with respect to this  
23 litigation. This Protective Order shall not prevent the use of Confidential Materials  
24 in connection with a motion, at a hearing, at trial, or at a deposition, provided that  
25 the materials shall be disclosed or displayed only upon the implementation of  
26 reasonable safeguards to preserve their confidential status. The Parties are bound  
27 by all requirements for the submission of Confidential Materials contained in Local  
28

1 Rule 79-5.2.2. Any Party submitting evidence designated “Confidential” in  
2 connection with a motion in this litigation shall lodge such evidence with the Court  
3 conditionally for filing under seal, publicly file redacted versions of their papers  
4 which redact any Confidential Materials, and serve on the Parties the redacted and  
5 non-redacted version of the papers. As required by Local Rule 79-5.2.2(b), (i)  
6 three (3) days prior to lodging any Confidential Materials conditionally under seal,  
7 the Party intending to lodge the Confidential Materials will contact the Party that  
8 designated the Materials as “Confidential” to confirm that the Party requires that  
9 the materials be conditionally filed under seal; and (ii) any Party seeking to have  
10 any part of the filing maintained under seal shall have the burden of making the  
11 requisite showing, and shall file any supporting materials with the Court, including  
12 but not limited to a motion pursuant to Local Rule 79-5.2.2, within four (4) days of  
13 the moving Party’s notice of lodgment. If no such showing is made, or the Court  
14 deems that the attempted showing was insufficient, the moving Party may file the  
15 evidence and unredacted papers with the Court as part of public record. In the  
16 event that the Party that designated the Confidential Materials as “Confidential”  
17 agrees in writing that it does not require the Materials to be filed under seal, the  
18 Party filing the motion may file the motion and supporting material without sealing  
19 the Confidential Materials.  
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23 12. The inadvertent production of Confidential Materials without a  
24 “Confidential” designation by any of the undersigned Parties or non-Parties to this  
25 Stipulated Confidentiality Agreement during discovery in this action shall be  
26 without prejudice to any claim that such item is Confidential and such Party or  
27 non-Party shall not be held to have waived any rights by such inadvertent  
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1 production. In the event that any Confidential Materials are inadvertently  
2 produced without such designation, the Party or non-Party that inadvertently  
3 produced the document shall give written notice of such inadvertent production  
4 within twenty (20) days of discovery of the inadvertent production, together with a  
5 further copy of the subject Confidential Materials (the “Inadvertent Production  
6 Notice”). Upon receipt of such Inadvertent Production Notice, the Party that  
7 received the inadvertently produced Confidential Materials shall promptly  
8 segregate and maintain as “Confidential” the inadvertently produced Confidential  
9 Materials and all copies thereof. This provision is not intended to apply to any  
10 production of any Confidential Materials protected by attorney-client, work  
11 product or any other applicable privileges. In the event that this provision conflicts  
12 with any applicable law regarding waiver of confidentiality through the inadvertent  
13 production of Confidential Materials, such law shall govern.  
14  
15

16 13. Nothing in this Stipulated Confidentiality Agreement shall prohibit a  
17 Party from seeking modification of any of the terms of this Stipulated  
18 Confidentiality Agreement, either by stipulation or by application to the court.  
19

20 14. Nothing in this Stipulated Confidentiality Agreement precludes any  
21 Party from asserting in good faith that certain Documents, Testimony, Discovery  
22 Requests or Information require additional protection. The Parties shall meet and  
23 confer to agree upon the terms of the additional protection.  
24

25 15. This Stipulated Confidentiality Agreement is entered into without  
26 prejudice to the Designating Party’s right to waive any protection it otherwise may  
27 claim.  
28

1           16. This Stipulated Confidentiality Agreement shall continue to be  
2 binding after the conclusion of this action and all proceedings arising therefrom.

3           In the event that 1) any Party is served with a subpoena for the production of  
4 Confidential Materials in this litigation and 2) the subpoena was issued by any  
5 person or entity that is a party in the Underlying Litigations, it shall be presumed  
6 that such Confidential Materials are protected from disclosure. This presumption  
7 is limited to any Confidential Materials regarding the defense of Kilroy in the  
8 Underlying Litigations. Within 60 days of settlement or final resolution of the  
9 action, including any appeal therefrom, all Confidential Material shall be returned  
10 to the Party who produced it or destroyed. If the Confidential Materials are  
11 destroyed and not returned, counsel for the non-Designating Party shall attest to  
12 such destruction in writing based on personal knowledge. This provision shall not  
13 apply to copies of the pleadings or other court filings, working files, litigation files,  
14 or similar material maintained by a Party or its counsel in the ordinary course of  
15 maintaining and preserving files related to this litigation and shall not apply to  
16 prevent counsel from retaining Confidential Materials necessary to comply with  
17 the rules of professional conduct.  
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1 A Party may also maintain copies of Confidential Materials pursuant to the  
2 express written agreement of the Party that designated the Materials as  
3 “Confidential.”  
4

5 Dated: July 19, 2018  
6

LATHAM & WATKINS LLP  
7

8  
9 By /s/ Peter K. Rosen  
Peter K. Rosen  
10 Attorneys for Defendants and  
Counterclaimants  
11 KILROY REALTY  
CORPORATION, KR 350 MISSION,  
12 LLC and KILROY SERVICES, LLC  
13

14 Dated: July 19, 2018  
15

THE AGUILERA LAW GROUP, APLC  
16

17 By /s/ Jason Y. Chao  
18 Jason Y. Chao, Esq.  
Attorneys for Plaintiff and  
19 Counterdefendant  
TRAVELERS PROPERTY  
20 CASUALTY COMPANY OF  
21 AMERICA  
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ATTESTATION REGARDING ELECTRONICALLY FILED SIGNATURES

Pursuant to L.R. 5-4.3.4(a)(2), I hereby attest that all other signatories listed, and on whose behalf the filing is submitted, concur in the filing’s content and have authorized the filing herein.

By  /s/ Peter K. Rosen  
Peter K. Rosen

# **EXHIBIT A**

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**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

TRAVELERS PROPERTY CASUALTY ) Case No. 2:18-cv-01124  
COMPANY OF AMERICA, a )  
Connecticut corporation; ) **DECLARATION REGARDING**  
 ) **CONFIDENTIALITY**  
Plaintiff, )  
 )  
v. )  
 )  
KILROY REALTY CORPORATION, a )  
Maryland corporation; et al., )  
 )  
Defendants. ) Date Action Filed: February 9, 2018  
 ) Trial Date: March 26, 2019

---

15 I hereby declare that:

16 1. I have been provided with a copy of the Protective Order for the case of  
17 Travelers Property Casualty Company of America v. Kilroy Realty Corporation,  
18 bearing the case number of 2:18-cv-01124 for the United States District Court for the  
19 Central District of California. I have read the Protective Order, understand the terms  
20 of the Protective Order, and agree to be bound by the terms of the Protective Order.

21 2. As required by the terms of the Protective Order, I will not make or retain  
22 possession of copies of any Materials or Information designated “Confidential” and I  
23 will not use, disclose, make available, or otherwise communicate Confidential  
24 Materials or Information in any manner except for the purpose of my acting as an  
25 expert, consultant, and/or witness in the above-entitled litigation.

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3. I acknowledge that my failure to abide by the terms of the Protective Order and this Declaration may subject me to penalties if I am found to be in contempt of Court.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.

\_\_\_\_\_  
(Date of Signature)

\_\_\_\_\_  
(City, State where Signed)

\_\_\_\_\_  
(Signature of Declarant)

\_\_\_\_\_  
(Print Name of Declarant)