

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

6
7 **B. GOOD CAUSE STATEMENT**

8 This action is likely to involve trade secrets and other valuable research,
9 development, commercial, financial, technical and/or proprietary information for
10 which special protection from public disclosure and from use for any purpose other
11 than prosecution of this action is warranted. Such confidential and proprietary
12 materials and information consist of, among other things, confidential business or
13 financial information, information regarding confidential business practices, or
14 other confidential research, development, or commercial information (including
15 information implicating privacy rights of third parties), information otherwise
16 generally unavailable to the public, or which may be privileged or otherwise
17 protected from disclosure under state or federal statutes, court rules, case decisions,
18 or common law. Accordingly, to expedite the flow of information, to facilitate the
19 prompt resolution of disputes over confidentiality of discovery materials, to
20 adequately protect information the parties are entitled to keep confidential, to
21 ensure that the parties are permitted reasonable necessary uses of such material in
22 preparation for and in the conduct of trial, to address their handling at the end of
23 the litigation, and serve the ends of justice, a protective order for such information
24 is justified in this matter. It is the intent of the parties that information will not be
25 designated as confidential for tactical reasons and that nothing be so designated
26 without a good faith belief that it has been maintained in a confidential, non-public
27 manner, and there is good cause why it should not be part of the public record of
28 this case.

1 **2. DEFINITIONS**

2 2.1 Action: The above-captioned pending federal law suit.

3 2.2 Challenging Party: A Party or Non-Party that challenges the
4 designation of information or items under this Order.

5 2.3 “CONFIDENTIAL” Information or Items: Information (regardless of
6 how it is generated, stored or maintained) or tangible things that qualify for
7 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
8 the Good Cause Statement.

9 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
10 their support staff).

11 2.5 Designating Party: A Party or Non-Party that designates information
12 or items that it produces in disclosures or responses to discovery as
13 “CONFIDENTIAL.”

14 2.6 Disclosure or Discovery Material: All items or information, regardless
15 of the medium or manner in which it is generated, stored or maintained (including,
16 among other things, testimony, transcripts and tangible things), that are produced
17 or generated in disclosures or responses to discovery in this matter.

18 2.7 Expert: A person with specialized knowledge or experience in a matter
19 pertinent to the litigation who has been retained by a Party or its counsel to serve
20 as an expert witness or as a consultant in this Action.

21 2.8 House Counsel: Attorneys who are employees of a party to this
22 Action. House Counsel does not include Outside Counsel of Record or any other
23 outside counsel.

24 2.9 Non-Party: Any natural person, partnership, corporation, association
25 or other legal entity not named as a Party to this Action.

26 2.10 Outside Counsel of Record: Attorneys who are not employees of a
27 Party but are retained to represent or advise a party to this Action and have
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1 appeared in this Action on behalf of that Party or are affiliated with a law firm
2 which has appeared on behalf of that Party, and includes support staff.

3 2.11 Party: Any Party to this action, including all of its officers, directors,
4 employees, consultants, retained experts and Outside Counsel of Record (and their
5 support staffs).

6 2.12 Producing Party: A Party or Non-Party that produces Disclosure or
7 Discovery Material in this Action.

8 2.13 Professional Vendors: Persons or entities that provide litigation
9 support services (*e.g.*, photocopying, videotaping, translating, preparing exhibits or
10 demonstrations and organizing, storing or retrieving data in any form or medium)
11 and their employees and subcontractors.

12 2.14 Protected Material: Any Disclosure or Discovery Material that is
13 designated as “CONFIDENTIAL.”

14 2.15 Receiving Party: A Party that receives Disclosure or Discovery
15 Material from a Producing Party.

16 17 **3. SCOPE**

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

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

25 26 **4. DURATION**

27 Even after final disposition of this litigation, the confidentiality obligations
28 imposed by this Order shall remain in effect until a Designating Party agrees

1 otherwise in writing or a court order otherwise directs. Final disposition shall be
2 deemed to be the later of (1) dismissal of all claims and defenses in this Action,
3 with or without prejudice; and (2) final judgment herein after the completion and
4 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
5 including the time limits for filing any motions or applications for extension of
6 time pursuant to applicable law.

7
8 **5. DESIGNATING PROTECTED MATERIAL**

9 **5.1 Exercise of Restraint and Care in Designating Material for Protection.**

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

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

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

25 **5.2 Manner and Timing of Designations.** Except as otherwise provided in
26 this Order (*see, e.g.*, second paragraph of section 5.2(a) below), or as otherwise
27 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
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1 under this Order must be clearly so designated before the material is disclosed or
2 produced.

3 Designation in conformity with this Order requires:

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

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

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

26 (c) for information produced in some form other than documentary and for
27 any other tangible items, that the Producing Party affix in a prominent place on the
28 exterior of the container or containers in which the information is stored the legend

1 “CONFIDENTIAL.” If only a portion or portions of the information warrants
2 protection, the Producing Party, to the extent practicable, shall identify the
3 protected portion(s).

4 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
5 failure to designate qualified information or items does not, standing alone, waive
6 the Designating Party’s right to secure protection under this Order for such
7 material. Upon timely correction of a designation, the Receiving Party must make
8 reasonable efforts to assure that the material is treated in accordance with the
9 provisions of this Order.

10
11 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

12 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
13 designation of confidentiality at any time that is consistent with the Court’s
14 Scheduling Order.

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

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

25
26 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

27 7.1 Basic Principles. A Receiving Party may use Protected Material that is
28 disclosed or produced by another Party or by a Non-Party in connection with this

1 case only for prosecuting, defending or attempting to settle this litigation. Such
2 Protected Material may be disclosed only to the categories of persons and under
3 the conditions described in this Order. When the litigation has been terminated, a
4 Receiving Party must comply with the provisions of section 13 below (FINAL
5 DISPOSITION).

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

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

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

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

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

21 (d) the Court and its personnel;

22 (e) Court reporters and their staff;

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

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

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

12
13 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
14 **PRODUCED IN OTHER LITIGATION**

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

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

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

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

26 If the Designating Party timely seeks a protective order, the Party served
27 with the subpoena or court order shall not produce any information designated in
28 this Action as “CONFIDENTIAL” before a determination by the court from which

1 the subpoena or order issued, unless the Party has obtained the Designating Party's
2 permission. The Designating Party shall bear the burden and expense of seeking
3 protection in that court of its confidential material and nothing in these provisions
4 should be construed as authorizing or encouraging a Receiving Party in this Action
5 to disobey a lawful directive from another court.

6
7 **9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE**
8 **PRODUCED IN THIS LITIGATION**

9 (a) The terms of this Order are applicable to information produced by a Non-
10 Party in this Action and designated as "CONFIDENTIAL." Such information
11 produced by Non-Parties in connection with this litigation is protected by the
12 remedies and relief provided by this Order. Nothing herein should be construed as
13 prohibiting a Non-Party from seeking additional protections.

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

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

21 (2) promptly provide the Non-Party with a copy of the Stipulated
22 Protective Order in this litigation, the relevant discovery request(s) and a
23 reasonably specific description of the information requested; and

24 (3) make the information requested available for inspection by the
25 Non-Party.

26 (c) If the Non-Party fails to seek a protective order from this Court within
27 14 days of receiving the notice and accompanying information, the Receiving
28 Party may produce the Non-Party's confidential information responsive to the

1 discovery request. If the Non-Party timely seeks a protective order, the Receiving
2 Party shall not produce any information in its possession or control that is subject
3 to the confidentiality agreement with the Non-Party before a determination by the
4 court. Absent a Court Order to the contrary, the Non-Party shall bear the burden
5 and expense of seeking protection in this court of its Protected Material.

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7 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED**
8 **MATERIAL**

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

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18 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR**
19 **OTHERWISE PROTECTED MATERIAL**

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

3
4 **12. MISCELLANEOUS**

5 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
6 person to seek its modification by the Court in the future.

7 12.2 Right to Assert Other Objections. By stipulating to the entry of this
8 Protective Order no Party waives any right it otherwise would have to object to
9 disclosing or producing any information or item on any ground not addressed in
10 this Stipulated Protective Order. Similarly, no Party waives any right to object on
11 any ground to use in evidence of any of the material covered by this Protective
12 Order.

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

19 **13. FINAL DISPOSITION**

20 After the final disposition of this Action, as defined in paragraph 4, within
21 60 days of a written request by the Designating Party, each Receiving Party must
22 return all Protected Material to the Producing Party or destroy such material. As
23 used in this subdivision, "all Protected Material" includes all copies, abstracts,
24 compilations, summaries, and any other format reproducing or capturing any of the
25 Protected Material. Whether the Protected Material is returned or destroyed, the
26 Receiving Party must submit a written certification to the Producing Party (and, if
27 not the same person or entity, to the Designating Party) by the 60 day deadline that
28 (1) identifies (by category, where appropriate) all the Protected Material that was

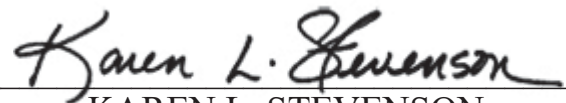
1 returned or destroyed and (2) affirms that the Receiving Party has not retained any
2 copies, abstracts, compilations, summaries or any other format reproducing or
3 capturing any of the Protected Material. Notwithstanding this provision, Counsel
4 are entitled to retain an archival copy of all pleadings, motion papers, trial,
5 deposition, and hearing transcripts, legal memoranda, correspondence, deposition
6 and trial exhibits, expert reports, attorney work product, and consultant and expert
7 work product, even if such materials contain Protected Material. Any such archival
8 copies that contain or constitute Protected Material remain subject to this
9 Protective Order as set forth in Section 4.

10
11 **14. VIOLATIONS**

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

15
16 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

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18 DATED: October 1, 2018

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21 KAREN L. STEVENSON
22 UNITED STATES MAGISTRATE JUDGE
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EXHIBIT A
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 Protective Order that was issued
by the United States District Court for the Central District of California on October
1, 2018 in the case of *TWO DETECTIVES AND A KILLER, LLC, v. HISCOX*
INSURANCE COMPANY, INC., et al. Case No. 2:18-cv-3084 CAS (KSx). I agree
to comply with and to be bound by all the terms of this Protective Order, and I
understand and acknowledge that failure to so comply could expose me to
sanctions and punishment for contempt. I solemnly promise that I will not disclose
in any manner any information or item that is subject to this Protective Order to
any person or entity except in strict compliance with this Order.

I further agree to submit to the jurisdiction of the United States District
Court for the Central District of California for the purpose of enforcing this 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 Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____