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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

JOHN (BEAU) BILLINGSLEA, an  
individual and CECELIA  
BILLINGSLEA, an individual

Plaintiff,

v.

HOWARD M. SILVERSTEIN,  
individually and doing business as H.  
SILVERSTEIN AND COMPANY  
CPA; MARKARY FINANCIAL  
CORPORATION, a California  
corporation and DOES 1 through 25,  
inclusive

Defendants.

Case No. 2:21-cv-09369-DMG  
(RAOx)

PLAINTIFFS’  
PROTECTIVE ORDER<sup>1</sup>

1. A. PURPOSES AND LIMITATIONS

Post-Judgment discovery in this Action is likely to involve production of confidential, proprietary or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation

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

1 may be warranted. Plaintiffs’ counsel attempted to meet-and-confer with  
2 Defendants, but the Parties were unable to reach an agreement prior to this  
3 Honorable Court’s deadline of January 12, 2024. *See* Dkt. No. 128. Accordingly,  
4 Plaintiffs respectfully request that the Court enter the following Protective Order.  
5 Plaintiffs acknowledge that this Order does not confer blanket protections on all  
6 disclosures or responses to post-judgment discovery and that the protection it  
7 affords from public disclosure and use extends only to the limited information or  
8 items that are entitled to confidential treatment under the applicable legal principles.  
9

#### 10 B. GOOD CAUSE STATEMENT

11 On February 3, 2023, a Judgment was entered in favor of Plaintiffs and  
12 against Defendants in the amount of \$166,687.59 plus \$78,531.12 in attorneys’ fees  
13 and \$11,813.66 in costs, and post-judgment interest. *See* Dkt. No. 60.

14 On January 3, 2024, Judgment Debtor Howard Silverstein (“Silverstein”) was  
15 sworn, and the Parties proceeded with the judgment debtor examination outside the  
16 presence of the Court. Later the same day, the Court and the Parties reconvened to  
17 address objections raised by Silverstein during the examination.

18 Having heard the transcript excerpts and the Parties arguments, the Court  
19 issued the following ruling that the “former/current client lists: Judgment Debtor’s  
20 objections are **overruled.**” *See* Dkt. No. 128.

21 Silverstein was ordered to produce the names and contact information of his  
22 former and current clients. The Court agreed to hold in abeyance Judgment  
23 Creditors’ attempts at contacting Silverstein’s clients until the Court issued a  
24 protective order for confidentiality.

25 Except as may be otherwise provided by this Protective Order or by further  
26 Order of the Court or a stipulation of the Parties, the names and contact information  
27 of Silverstein’s former and current clients shall not be used or disclosed for any  
28 purpose whatsoever other than in connection with his Action.

1 Nothing in this Order shall prevent Judgment Creditors, their counsel, and/or  
2 staff or consultants/investigators, to use any of the confidential information for  
3 collection and judgment enforcement purposes at their discretion.

4 Nothing in this Order shall be construed in any way as impacting on the  
5 availability, relevance or admissibility of statements, documents, facts, or  
6 interference reasonably derivable therefrom, regardless of whether such statement,  
7 document, or fact has been deemed to be confidential information, or Judgment  
8 Creditors further right of action or claims in a Trial or Future Action which are all  
9 reserved expressly. The availability, relevance, and/or admissibility of such  
10 evidence shall be governed by Federal and California law.

#### 11 12 C. ACKNOWLEDGMENT OF PROCEDURE FOR FILING UNDER SEAL

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

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

1 material sought to be filed under seal qualifies as confidential, privileged, or  
2 otherwise protectable—constitute good cause.

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

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

18  
19 **2. DEFINITIONS**

20 2.1 Action: This pending federal lawsuit.

21 2.2 Challenging Party: a Party or Non-Party that challenges the  
22 designation of information or items under this Order.

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

27 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as  
28 their support staff).

1           2.5    Designating Party: a Party or Non-Party that designates information or  
2 items that it produces in disclosures or in responses to discovery as  
3 “CONFIDENTIAL.”

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

8           2.7    Expert: a person with specialized knowledge or experience in a matter  
9 pertinent to the litigation who has been retained by a Party or its counsel to serve as  
10 an expert witness or as a consultant in this Action.

11          2.8    House Counsel: attorneys who are employees of a party to this Action.  
12 House Counsel does not include Outside Counsel of Record or any other outside  
13 counsel.

14          2.9    Non-Party: any natural person, partnership, corporation, association or  
15 other legal entity not named as a Party to this action.

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

20          2.11 Party: any party to this Action, including all of its officers, directors,  
21 employees, consultants, retained experts, and Outside Counsel of Record (and their  
22 support staffs).

23          2.12 Producing Party: a Party or Non-Party that produces Disclosure or  
24 Discovery Material in this Action.

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

1           2.14 Protected Material: any Disclosure or Discovery Material that is  
2 designated as “CONFIDENTIAL.”

3           2.15 Receiving Party: a Party that receives Disclosure or Discovery  
4 Material from a Producing Party.

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6       3.     SCOPE

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

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

14  
15       4.     DURATION

16           The terms of this protective order do not extend beyond the filing of a  
17 Satisfaction of Judgment.

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19       5.     DESIGNATING PROTECTED MATERIAL

20           5.1 Exercise of Restraint and Care in Designating Material for Protection.

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

28

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

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

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

14 Designation in conformity with this Order requires:

15 (a) for information in documentary form (*e.g.*, paper or electronic  
16 documents, but excluding transcripts of depositions or other pretrial or trial  
17 proceedings), that the Producing Party affix at a minimum, the legend  
18 "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that  
19 contains protected material. If only a portion of the material on a page qualifies for  
20 protection, the Producing Party also must clearly identify the protected portion(s)  
21 (*e.g.*, by making appropriate markings in the margins).

22 A Party or Non-Party that makes original documents available for inspection  
23 need not designate them for protection until after the inspecting Party has indicated  
24 which documents it would like copied and produced. During the inspection and  
25 before the designation, all of the material made available for inspection shall be  
26 deemed "CONFIDENTIAL." After the inspecting Party has identified the  
27 documents it wants copied and produced, the Producing Party must determine which  
28 documents, or portions thereof, qualify for protection under this Order. Then,

1 before producing the specified documents, the Producing Party must affix the  
2 “CONFIDENTIAL legend” to each page that contains Protected Material. If only a  
3 portion of the material on a page qualifies for protection, the Producing Party also  
4 must clearly identify the protected portion(s) (e.g., by making appropriate markings  
5 in the margins).

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

9 (c) for information produced in some form other than documentary and  
10 for any other tangible items, that the Producing Party affix in a prominent place on  
11 the exterior of the container or containers in which the information is stored the  
12 legend “CONFIDENTIAL.” If only a portion or portions of the information  
13 warrants protection, the Producing Party, to the extent practicable, shall identify the  
14 protected portion(s).

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

21  
22 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

23 6.1 Timing of Challenges. Any Party or Non-Party may challenge a  
24 designation of confidentiality at any time that is consistent with the Court’s  
25 Scheduling Order.

26 6.2 Meet and Confer. The Challenging Party shall initiate the dispute  
27 resolution process under Local Rule 37.1 et seq.  
28



1           6.3    The burden of persuasion in any such challenge proceeding shall be on  
2 the Designating Party. Frivolous challenges, and those made for an improper  
3 purpose (e.g., to harass or impose unnecessary expenses and burdens on other  
4 parties) may expose the Challenging Party to sanctions. Unless the Designating  
5 Party has waived or withdrawn the confidentiality designation, all parties shall  
6 continue to afford the material in question the level of protection to which it is  
7 entitled under the Producing Party’s designation until the Court rules on the  
8 challenge.

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10       7.     ACCESS TO AND USE OF PROTECTED MATERIAL

11           7.1    Basic Principles. A Receiving Party may use Protected Material that is  
12 disclosed or produced by another Party or by a Non-Party in connection with this  
13 Action only for prosecuting, defending or attempting to settle this Action. Such  
14 Protected Material may be disclosed only to the categories of persons and under the  
15 conditions described in this Order. When the Action has been terminated, a  
16 Receiving Party must comply with the provisions of section 13 below (FINAL  
17 DISPOSITION).

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

21           7.2    Disclosure of “CONFIDENTIAL” Information or Items. Unless  
22 otherwise ordered by the court or permitted in writing by the Designating Party, a  
23 Receiving Party may disclose any information or item designated  
24 “CONFIDENTIAL” only to:

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

28               (b) the officers, directors, and employees (including House Counsel) of

1 the Receiving Party to whom disclosure is reasonably necessary for this Action;

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

5 (d) the court and its personnel;

6 (e) court reporters and their staff;

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

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

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

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

23  
24 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED  
25 IN OTHER LITIGATION

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

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

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

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

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

17  
18 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE  
19 PRODUCED IN THIS LITIGATION

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

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

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

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

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

9 (c) If the Non-Party fails to seek a protective order from this court within  
10 14 days of receiving the notice and accompanying information, the Receiving Party  
11 may produce the Non-Party's confidential information responsive to the discovery  
12 request. If the Non-Party timely seeks a protective order, the Receiving Party shall  
13 not produce any information in its possession or control that is subject to the  
14 confidentiality agreement with the Non-Party before a determination by the court.  
15 Absent a court order to the contrary, the Non-Party shall bear the burden and  
16 expense of seeking protection in this court of its Protected Material.

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18 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

27  
28 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE

1           PROTECTED MATERIAL

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

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13       12.   MISCELLANEOUS

14           12.1 Right to Further Relief. Nothing in this Order abridges the right of any  
15 person to seek its modification by the Court in the future.

16           12.2 Right to Assert Other Objections. By stipulating to the entry of this  
17 Protective Order, no Party waives any right it otherwise would have to object to  
18 disclosing or producing any information or item on any ground not addressed in this  
19 Protective Order. Similarly, no Party waives any right to object on any ground to  
20 use in evidence of any of the material covered by this Protective Order.

21           12.3 Filing Protected Material. A Party that seeks to file under seal any  
22 Protected Material must comply with Local Civil Rule 79-5. Protected Material  
23 may only be filed under seal pursuant to a court order authorizing the sealing of the  
24 specific Protected Material at issue. If a Party's request to file Protected Material  
25 under seal is denied by the court, then the Receiving Party may file the information  
26 in the public record unless otherwise instructed by the court.

1     13.     FINAL DISPOSITION

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

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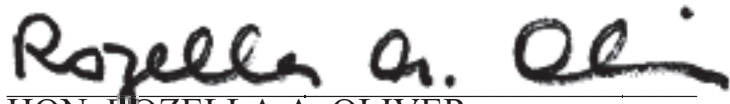
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14. VIOLATION

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

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: February 5, 2024

  
\_\_\_\_\_  
HON. ROZELLA A. OLIVER  
United States Magistrate Judge

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3  
4 I, \_\_\_\_\_ [print or type full name], of  
5 \_\_\_\_\_ [print or type full address], declare under penalty of perjury  
6 that I have read in its entirety and understand the Protective Order that was issued  
7 by the United States District Court for the Central District of California on [date] in  
8 the case of John Beau Billingslea et al v. Howard M. Silverstein et in Case No. 2:21-  
9 cv-09369-DMG-RAO. I agree to comply with and to be bound by all the terms of  
10 this Protective Order and I understand and acknowledge that failure to so comply  
11 could expose me to sanctions and punishment in the nature of contempt. I solemnly  
12 promise that I will not disclose in any manner any information or item that is subject  
13 to this Protective Order to any person or entity except in strict compliance with the  
14 provisions of this Order.

15 I further agree to submit to the jurisdiction of the United States District Court for the  
16 Central District of California for enforcing the terms of this Protective Order, even if  
17 such enforcement proceedings occur after termination of this action. I hereby  
18 appoint \_\_\_\_\_ [print or type full name] of  
19 \_\_\_\_\_ [print or type full address and  
20 telephone number] as my California agent for service of process in connection with  
21 this action or any proceedings related to enforcement of this Protective Order.

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

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

24  
25 Printed name: \_\_\_\_\_

26  
27 Signature: \_\_\_\_\_

28