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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JUSTIN BOISVERT,
Plaintiff,
v.
CARBON IQ, INC. (D/B/A RUMBY), a
Delaware Corporation; BENJAMIN
CANTEY, an individual; and DOES 1
through 10 inclusive,
Defendants.

Case No. 2:22-cv-03303 FLA (KSx)
**STIPULATED PROTECTIVE
ORDER¹**

¹ This Stipulated Protective Order is substantially based on the model protective order provided under Magistrate Judge Karen L. Stevenson’s Procedures.

1 1. A. PURPOSES AND LIMITATIONS

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

15 B. GOOD CAUSE STATEMENT

16 This action is likely to involve trade secrets, customer and pricing lists,
17 financial and investment materials, and other valuable commercial, financial,
18 technical, and/or proprietary information, as well as private medical information, for
19 which special protection from public disclosure and from use for any purpose other
20 than prosecution of this action is warranted. As this case involves a party with a
21 technology platform engaged in proprietary business development and ongoing
22 confidential investor valuations and relationships, such confidential and proprietary
23 materials and information consist of, among other things, confidential business or
24 financial information, information regarding confidential business practices, or
25 other confidential research, development, or commercial information (including
26 information implicating privacy rights of third parties), information otherwise
27 generally unavailable to the public, or which may be privileged or otherwise
28 protected from disclosure under state or federal statutes, court rules, case decisions,

1 or common law. This case also involves claims of disability discrimination, and as
2 a result, the case is likely to involve personal and private medical information on the
3 part of plaintiff, which may be privileged or otherwise protected from disclosure
4 under the California state constitution, state or federal statutes, court rules, case
5 decisions, or common law. Accordingly, to expedite the flow of information, to
6 facilitate the prompt resolution of disputes over confidentiality of discovery
7 materials, to adequately protect information the parties are entitled to keep
8 confidential, to ensure that the parties are permitted reasonable necessary uses of
9 such material in preparation for and in the conduct of trial, to address their handling
10 at the end of the litigation, and serve the ends of justice, a protective order for such
11 information is justified in this matter. It is the intent of the parties that information
12 will not be designated as confidential for tactical reasons and that nothing be so
13 designated without a good faith belief that it has been maintained in a confidential,
14 non-public manner, and there is good cause why it should not be part of the public
15 record of this case.

16 2. DEFINITIONS

17 2.1 Action: this pending lawsuit, *Boisvert v. Carbon IQ, Inc.*, Case No.
18 2:22-cv-03303 FLA (KSx).

19 2.2 Challenging Party: a Party or Non-Party that challenges the designation
20 of information or items under this Order.

21 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
22 how it is generated, stored or maintained) or tangible things that qualify for
23 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
24 the Good Cause Statement.

25 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
26 their support staff).

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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
7 or 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 party
17 to this Action but are retained to represent or advise a party to this Action and have
18 appeared in this Action on behalf of that party or are affiliated with a law firm which
19 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 support
26 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 Material
4 from a Producing Party.

5 3. SCOPE

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

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

13 4. DURATION

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

22 5. DESIGNATING PROTECTED MATERIAL

23 5.1 Exercise of Restraint and Care in Designating Material for Protection.
24 Each Party or Non-Party that designates information or items for protection under
25 this Order must take care to limit any such designation to specific material that
26 qualifies under the appropriate standards. The Designating Party must designate for
27 protection only those parts of material, documents, items, or oral or written
28 communications that qualify so that other portions of the material, documents, items,

1 or communications for which protection is not warranted are not swept unjustifiably
2 within the ambit of this Order.

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

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

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

16 Designation in conformity with this Order requires:

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

24 A Party or Non-Party that makes original documents available for inspection
25 need not designate them for protection until after the inspecting Party has indicated
26 which documents it would like copied and produced. During the inspection and
27 before the designation, all of the material made available for inspection shall be
28 deemed "CONFIDENTIAL." After the inspecting Party has identified the

1 documents it wants copied and produced, the Producing Party must determine which
2 documents, or portions thereof, qualify for protection under this Order. Then, before
3 producing the specified documents, the Producing Party must affix the
4 “CONFIDENTIAL legend” to each page that contains Protected Material. If only a
5 portion or portions of the material on a page qualifies for protection, the Producing
6 Party also must clearly identify the protected portion(s) (e.g., by making appropriate
7 markings in the margins).

8 (b) for testimony given in depositions that the Designating Party
9 identify the Disclosure or Discovery Material on the record, before the close of the
10 deposition all protected testimony; or alternatively, that the Designating Party
11 provisionally designate the deposition transcript as confidential, and thereafter
12 designate in writing, within thirty (30) days after receipt of the deposition transcript
13 for which a confidentiality designation is proposed, that specific pages of the
14 transcript and/or specific responses be treated as confidential.

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

21 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
22 failure to designate qualified information or items does not, standing alone, waive
23 the Designating Party’s right to secure protection under this Order for such material.
24 Upon timely correction of a designation, the Receiving Party must make reasonable
25 efforts to assure that the material is treated in accordance with the provisions of this
26 Order.

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1 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

2 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
3 designation of confidentiality at any time that is consistent with the Court’s
4 Scheduling Order.

5 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
6 resolution process under Local Rule 37.1 et seq.

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

15 7. ACCESS TO AND USE OF PROTECTED MATERIAL

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

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

26 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
27 otherwise ordered by the court or permitted in writing by the Designating Party, a
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1 Receiving Party may disclose any information or item designated
2 “CONFIDENTIAL” only to:

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

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

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

11 (d) the court and its personnel;

12 (e) court reporters and their staff;

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

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

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

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

4 (j) any court exercising appellate jurisdiction over this dispute, and
5 its personnel; and

6 (k) any other persons as the Parties may agree to in writing or as the
7 court may, upon hearing, so direct.

8 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
9 IN OTHER LITIGATION

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

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

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

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

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

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

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

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

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

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

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

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

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

10 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
11 PROTECTED MATERIAL

12 When a Producing Party gives notice to Receiving Parties that certain
13 inadvertently produced material is subject to a claim of privilege or other protection,
14 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
15 Procedure 26(b)(5)(B). If a Party moves the Court for an order compelling
16 production of the material, said motion shall not assert as a ground for entering such
17 an order the fact or circumstance of the production of the information. Further,
18 pursuant to Federal Rule of Evidence 502(d) and (e), the inadvertent disclosure of a
19 communication or information covered by the attorney-client privilege or work
20 product protection does not constitute a waiver of the attorney-client privilege or
21 work product protection in this proceeding or any other state or federal proceeding.
22 This provision is not intended to modify whatever procedure may be established in
23 an e-discovery order that provides for production without prior privilege review.

24 12. Miscellaneous

25 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
26 person to seek its modification by the Court in the future.

27 12.2 Right to Assert Other Objections. By stipulating to the entry of this
28 Protective Order no Party waives any right it otherwise would have to object to

1 disclosing or producing any information or item on any ground not addressed in this
2 Stipulated Protective Order. Similarly, no Party waives any right to object on any
3 ground to use in evidence of any of the material covered by this Protective Order.

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

10 12.4 Non-Party Material. A Party or Non-Party may designate as
11 CONFIDENTIAL documents or discovery materials produced by a Non-Party by
12 providing written notice to all Parties of the relevant document numbers or other
13 identification within thirty (30) days after receiving such documents or discovery
14 materials.

15 12.5 Self-Disclosure. Any Party or Non-Party may voluntarily disclose to
16 others without restriction any information designated by that Party or Non-Party as
17 CONFIDENTIAL, although a document may lose its confidential status if made
18 public.

19 13. FINAL DISPOSITION

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

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

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

13 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

14
15 Dated: September 16, 2022

Respectfully submitted,

COOLEY LLP

17 By: /s/ Alexandra R. Mayhugh
18 Alexandra R. Mayhugh

19 Attorneys for Defendants
Carbon IQ, Inc. and Benjamin Cantey

20
21 Dated: September 16, 2022

Respectfully submitted,

ERVIN COHEN & JESSUP LLP

23 By: /s/ Elliot Z. Chen
24 Elliot Z. Chen

25 Attorneys for Plaintiff
Justin Boisvert

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ATTESTATION PURSUANT TO LOCAL RULE 5-4.3.4(a)(2)(i)

I, Alexandra R. Mayhugh, hereby attest that concurrence in this document's content and the filing of this document has been obtained from each of the other signatories.

DATED: September 19, 2022 BY: /s/ Alexandra R. Mayhugh
Alexandra R. Mayhugh

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: September 19, 2022


HON. KAREN L. STEVENSON
United States Magistrate Judge