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12 Attorneys for Defendants BOARD OF  
 13 TRUSTEES OF THE CALIFORNIA  
 STATE UNIVERSITY, AURORA  
 14 WOLFGANG, TERRI J. NELSON,  
 MARIA ANTONIETA GALLEGOS-  
 15 RUIZ, ARTURO FERNANDEZ-  
 GIBERT, ERI YASUHARA, RISA  
 16 DICKSON, and ANDREW BODMAN

17 (CAPTION CONTINUED ON NEXT  
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**UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

MYUNG CHOI,  
  
                    Plaintiff,  
  
          v.  
  
AURORA WOLFGANG, TERRI J.  
NELSON, MARIA ANTONIETA  
GALLEGOS-RUIZ, ARTURO  
FERNANDEZ-GIBERT, ERI  
YASUHARA, RISA DICKSON, AND  
ANDREW BODMAN, DOES 1  
THROUGH 10,  
  
                    Defendants.

Case No. 5:14 CV 01707 VAP (SHKx)  
LEAD CASE NUMBER

[Consolidated With Case No.  
2:14-cv-08337 VAP (DTBx)]

**STIPULATION AND ~~PROPOSED~~  
PROTECTIVE ORDER FOR  
CONFIDENTIAL INFORMATION**

Judge:              Hon. Virginia A. Phillips  
Mag. Judge:      Hon. Shashi Kewalramani  
Courtroom:       3, Riverside

**EXEMPT FROM FEES  
GOVT. CODE § 6103**

MYUNG CHOI,  
  
                    Plaintiff,  
  
          v.  
  
BOARD OF TRUSTEES OF THE  
CALIFORNIA STATE UNIVERSITY,  
  
                    Defendants.

1 1. A. PURPOSES AND LIMITATIONS

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

16 B. GOOD CAUSE STATEMENT

17 This action is likely to involve personal and academic review information for  
18 which special protection from public disclosure and from use for any purpose other  
19 than prosecution of this action is warranted. Such information consists of, among  
20 other things, confidential research and internal dialogue regarding performance and  
21 evaluation information related to California State University, San Bernardino,  
22 deliberative processes and tenure evaluations, confidential financial information,  
23 employee personnel files, information regarding confidential academic review  
24 practices, other information implicating privacy rights of third parties, information  
25 otherwise generally unavailable to the public, or which may be privileged or  
26 otherwise protected from disclosure under state or federal statutes, court rules, case  
27 decisions, or common law. Accordingly, to expedite the flow of information, to  
28 facilitate the prompt resolution of disputes over confidentiality of discovery

1 materials, to adequately protect information the parties are entitled to keep  
2 confidential, to ensure that the parties are permitted reasonable necessary uses of  
3 such material in preparation for and in the conduct of trial, to address their handling  
4 at the end of the litigation, and serve the ends of justice, a protective order for such  
5 information is justified in this matter. It is the intent of the parties that information  
6 will not be designated as confidential for tactical reasons and that nothing be so  
7 designated without a good faith belief that it has been maintained in a confidential,  
8 non-public manner, and there is good cause why it should not be part of the public  
9 record of this case.

10 2. DEFINITIONS

11 2.1 Action: This pending federal law suit.

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

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

18 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as  
19 their support staff).

20 2.5 Designating Party: A Party or Non-Party that designates information or  
21 items that it produces in disclosures or in responses to discovery as  
22 “CONFIDENTIAL.”

23 2.6 Disclosure or Discovery Material: All items or information, regardless  
24 of the medium or manner in which it is generated, stored, or maintained (including,  
25 among other things, testimony, transcripts, and tangible things), that are produced or  
26 generated in disclosures or responses to discovery in this matter.

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28 ///

1           2.7    Expert: A person with specialized knowledge or experience in a matter  
2 pertinent to the litigation who has been retained by a Party or its counsel to serve as  
3 an expert witness or as a consultant in this Action.

4           2.8    House Counsel: Attorneys who are employees of a party to this Action.  
5 House Counsel does not include Outside Counsel of Record or any other outside  
6 counsel.

7           2.9    Non-Party: Any natural person, partnership, corporation, association,  
8 or other legal entity not named as a Party to this action.

9           2.10 Outside Counsel of Record: Attorneys who are not employees of a  
10 party to this Action but are retained to represent or advise a party to this Action and  
11 have appeared in this Action on behalf of that party or are affiliated with a law firm  
12 which has appeared on behalf of that party, and includes support staff.

13          2.11 Party: Any party to this Action, including all of its officers, directors,  
14 employees, consultants, retained experts, and Outside Counsel of Record (and their  
15 support staffs).

16          2.12 Producing Party: A Party or Non-Party that produces Disclosure or  
17 Discovery Material in this Action.

18          2.13 Professional Vendors: Persons or entities that provide litigation  
19 support services (e.g., photocopying, videotaping, translating, preparing exhibits or  
20 demonstrations, and organizing, storing, or retrieving data in any form or medium)  
21 and their employees and subcontractors.

22          2.14 Protected Material: Any Disclosure or Discovery Material that is  
23 designated as “CONFIDENTIAL.”

24          2.15 Receiving Party: A Party that receives Disclosure or Discovery  
25 Material from a Producing Party.

26 3.    SCOPE

27           The protections conferred by this Stipulation and Protective Order cover not  
28 only Protected Material (as defined above) but also: (1) any information copied or

1 extracted from Protected Material; (2) all copies, excerpts, summaries or  
2 compilations of Protected Material; and (3) any testimony, conversations or  
3 presentations by Parties or their Counsel that might reveal Protected Material.

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

6 4. DURATION

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

15 5. DESIGNATING PROTECTED MATERIAL

16 5.1 Exercise of Restraint and Care in Designating Material for Protection.

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

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

1 If it comes to a Designating Party’s attention that information or items that it  
2 designated for protection do not qualify for protection, that Designating Party must  
3 promptly notify all other Parties that it is withdrawing the mistaken designation.

4 5.2 Manner and Timing of Designations. Except as otherwise provided in  
5 this Order (*see, e.g.*, second paragraph of section 5.2(a) below), or as otherwise  
6 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection  
7 under this Order must be clearly so designated before the material is disclosed or  
8 produced.

9 Designation in conformity with this Order requires:

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

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

28 b. for testimony given in deposition or in other pretrial proceedings,

1 that the Designating Party identify on the record, before the close of the deposition,  
2 hearing or other proceeding, all protected testimony.

3 c. for information produced in some form other than documentary  
4 and for any other tangible items, that the Producing Party affix in a prominent place  
5 on the exterior of the container or containers in which the information or item is  
6 stored the legend “CONFIDENTIAL.” If only a portion or portions of the  
7 information or item warrant protection, the Producing Party, to the extent  
8 practicable, shall identify the protected portion(s).

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

15 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

16 6.1 Timing of Challenges. Any Party or Non-Party may challenge a  
17 designation of confidentiality at any time that is consistent with the Court’s  
18 Scheduling Order.

19 6.2 Meet and Confer. The Challenging Party shall initiate the dispute  
20 resolution process under Local Rule 37.1, *et seq.*

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



1 7. ACCESS TO AND USE OF PROTECTED MATERIAL

2 7.1 Basic Principles. A Receiving Party may use Protected Material that is  
3 disclosed or produced by another Party or by a Non-Party in connection with this  
4 case only for prosecuting, defending or attempting to settle this litigation or the  
5 related state court litigation, *Choi v. Board of Trustees of the California State*  
6 *University*, California Superior Court Case No. BC554054. Such Protected Material  
7 may be disclosed only to the categories of persons and under the conditions  
8 described in this Order. When the litigation has been terminated, a Receiving Party  
9 must comply with the provisions of section 13 below (FINAL DISPOSITION).

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

13 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless  
14 otherwise ordered by the Court or permitted in writing by the Designating Party, a  
15 Receiving Party may disclose any information or item designated  
16 “CONFIDENTIAL” only to:

- 17 a. the Receiving Party’s Outside Counsel of Record in this action,  
18 as well as employees of said Outside Counsel of Record to whom it is reasonably  
19 necessary to disclose the information for this litigation;
- 20 b. the officers, directors and employees (including House Counsel)  
21 of the Receiving Party to whom disclosure is reasonably necessary for this litigation;
- 22 c. Experts (as defined in this Order) of the Receiving Party to  
23 whom disclosure is reasonably necessary for this litigation and who have signed the  
24 “Acknowledgment and Agreement to Be Bound” (Exhibit A);
- 25 d. the Court and its personnel;
- 26 e. court reporters and their staff;
- 27 f. professional jury or trial consultants, mock jurors, and  
28 Professional Vendors to whom disclosure is reasonably necessary for this litigation

1 and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit  
2 A);

3 g. the author or recipient of a document containing the information  
4 or a custodian or other person who otherwise possessed or knew the information;

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

14 i. any mediator or settlement officer, and their supporting  
15 personnel, mutually agreed upon by any of the parties engaged in settlement  
16 discussions.

17 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED  
18 IN OTHER LITIGATION

19 If a Party is served with a subpoena or a court order issued in other litigation  
20 that compels disclosure of any information or items designated in this action as  
21 “CONFIDENTIAL,” that Party must:

22 a. promptly notify in writing the Designating Party. Such  
23 notification shall include a copy of the subpoena or court order;

24 b. promptly notify in writing the party who caused the subpoena or  
25 order to issue in the other litigation that some or all of the material covered by the  
26 subpoena or order is subject to this Protective Order. Such notification shall include  
27 a copy of this Stipulated Protective Order; and

28 c. cooperate with respect to all reasonable procedures sought to be

1 pursued by the Designating Party whose Protected Material may be affected.

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

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

12 a. The terms of this Order are applicable to information produced  
13 by a Non-Party in this action and designated as “CONFIDENTIAL.” Such  
14 information produced by Non-Parties in connection with this litigation is protected  
15 by the remedies and relief provided by this Order. Nothing in these provisions  
16 should be construed as prohibiting a Non-Party from seeking additional protections.

17 b. In the event that a Party is required, by a valid discovery request,  
18 to produce a Non-Party’s confidential information in its possession, and the Party is  
19 subject to an agreement with the Non-Party not to produce the Non-Party’s  
20 confidential information, then the Party shall:

21 i. promptly notify in writing the Requesting Party and the  
22 Non-Party that some or all of the information requested is subject to a  
23 confidentiality agreement with a Non-Party;

24 ii. promptly provide the Non-Party with a copy of the  
25 Stipulated Protective Order in this action, the relevant discovery request(s), and a  
26 reasonably specific description of the information requested; and

27 iii. make the information requested available for inspection by  
28 the Non-Party, if requested.

1 c. If the Non-Party fails to seek a protective order from this Court  
2 within 14 days of receiving the notice and accompanying information, the Receiving  
3 Party may produce the Non-Party's confidential information responsive to the  
4 discovery request. If the Non-Party timely seeks a protective order, the Receiving  
5 Party shall not produce any information in its possession or control that is subject to  
6 the confidentiality agreement with the Non-Party before a determination by the  
7 Court. Absent a court order to the contrary, the Non-Party shall bear the burden and  
8 expense of seeking protection in this Court of its Protected Material.

9 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

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

20 When a Producing Party gives notice to Receiving Parties that certain  
21 inadvertently produced material is subject to a claim of privilege or other protection,  
22 the 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  
28 product protection, the parties may incorporate their agreement in the Stipulated

1 Protective Order submitted to the Court.

2 12. MISCELLANEOUS

3 12.1 Right to Further Relief. Nothing in this Order abridges the right of any  
4 person to seek its modification by the Court in the future.

5 12.2 Right to Assert Other Objections. By stipulating to the entry of this  
6 Protective Order, no Party waives any right it otherwise would have to object to  
7 disclosing or producing any information or item on any ground not addressed in this  
8 Stipulated Protective Order. Similarly, no Party waives any right to object on any  
9 ground to use in evidence of any of the material covered by this Stipulated  
10 Protective Order.

11 12.3 Filing Protected Material. A Party that seeks to file under seal any  
12 Protected Material must comply with Civil Local Rule 79-5. Protected Material  
13 may only be filed under seal pursuant to a court order authorizing the sealing of the  
14 specific Protected Material at issue. If a Party's request to file Protected Material  
15 under seal is denied by the court, then the Receiving Party may file the information  
16 in the public record unless otherwise instructed by the court.

17 13. FINAL DISPOSITION

18 After the final disposition of this Action, as defined in paragraph 4, within 60  
19 days of a written request by the Designating Party, each Receiving Party must return  
20 all Protected Material to the Producing Party or destroy such material. As used in  
21 this subdivision, "all Protected Material" includes all copies, abstracts, compilations,  
22 summaries, and any other format reproducing or capturing any of the Protected  
23 Material. Whether the Protected Material is returned or destroyed, the Receiving  
24 Party must submit a written certification to the Producing Party (and, if not the same  
25 person or entity, to the Designating Party) by the 60 day deadline that (1) identifies  
26 (by category, where appropriate) all the Protected Material that was returned or  
27 destroyed and (2) affirms that the Receiving Party has not retained any copies,  
28 abstracts, compilations, summaries or any other format reproducing or capturing any

1 of the Protected Material. Notwithstanding this provision, Counsel are entitled to  
2 retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing  
3 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert  
4 reports, attorney work product, and consultant and expert work product, even if such  
5 materials contain Protected Material. Any such archival copies that contain or  
6 constitute Protected Material remain subject to this Protective Order as set forth in  
7 Section 4 (DURATION).

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

4 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

5 Dated: November 28, 2018

PAUL, PLEVIN, SULLIVAN &  
CONNAUGHTON LLP

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By: /s/ Kevin M. Brown  
SANDRA L. McDONOUGH  
CORRIE J. KLEKOWSKI  
KEVIN M. BROWN  
Attorneys for Defendants BOARD OF  
TRUSTEES OF THE CALIFORNIA  
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MARIA ANTONIETA GALLEGOS-RUIZ,  
ARTURO FERNANDEZ-GIBERT, ERI  
YASUHARA, RISA DICKSON, and  
ANDREW BODMAN

17 Dated: November 28, 2018


LAW OFFICES OF JUAN HONG, ALC

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By: /s/ Juan Hong  
JUAN HONG  
Attorney for Plaintiff MYUNG CHOI

21 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

22  
23 Dated: December 3, 2018



HON. SHASHI H. KEWALRAMANI  
United States Magistrate Judge

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1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, \_\_\_\_\_ [print or type full name], of

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5 \_\_\_\_\_  
6 [print or type full address], declare under penalty of perjury that I have read in its  
7 entirety and understand the Stipulated Protective Order that was issued by the  
8 United States District Court for the Central District of California on [date] in the  
9 case of *Choi v. Board of Trustees of the California State University, et al.*, 5:14 CV  
10 01707 VAP (DTBx). I agree to comply with and to be bound by all the terms of this  
11 Stipulated Protective Order, and I understand and acknowledge that failure to so  
12 comply could expose me to sanctions and punishment in the nature of contempt. I  
13 solemnly promise that I will not disclose in any manner any information or item that  
14 is subject to this Stipulated Protective Order to any person or entity except in strict  
15 compliance with the provisions of this Order.

16 I further agree to submit to the jurisdiction of the United States District Court  
17 for the Central District of California for the purpose of enforcing the terms of this  
18 Stipulated Protective Order, even if such enforcement proceedings occur after  
19 termination of this action.

20 I hereby appoint \_\_\_\_\_ [print or type full name] of  
21 \_\_\_\_\_ [print or type full address and  
22 telephone number] as my California agent for service of process in connection with  
23 this action or any proceedings related to enforcement of this Stipulated Protective  
24 Order.

25 Date: \_\_\_\_\_

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

27 Printed name: \_\_\_\_\_

28 Signature: \_\_\_\_\_



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SIGNATURE CERTIFICATION

Pursuant to Section 5-4.3.4(a) of the Local Rules, I hereby certify that the content is acceptable to Juan Hong, counsel for Plaintiff, and that I obtained authorization from him to affix his electronic signature to this document.

Dated: November 28, 2018

By:           /s/ Kevin M. Brown            
SANDRA L. McDONOUGH  
KEVIN M. BROWN  
Attorneys for Defendants BOARD OF  
TRUSTEES OF THE CALIFORNIA  
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