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12 BMC WEST, LLC

13 (ATTORNEY INFORMATION
14 CONTINUED ON NEXT PAGE)

15
16 UNITED STATES DISTRICT COURT
17 CENTRAL DISTRICT OF CALIFORNIA

18 SERGIO GALICIA GONZALEZ, an
19 individual, appearing on behalf of
himself and all others similarly
20 situated,

21 Plaintiff,

22 v.

23 BMC WEST, LLC, a Delaware
limited liability company,

24 Defendant.
25
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Case No. 5:17-CV-00390 JGB (RAOx)

ASSIGNED TO HON. ROZELLA A.
OLIVER

DISCOVERY MATTER

**AMENDED STIPULATION RE
PROTECTIVE ORDER**

Complaint Filed: January 20, 2017
FAC Filed: May 8, 2017

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15 Attorneys for Plaintiff SERGIO GALICIA
16 GONZALEZ, appearing on behalf of
17 himself and all others similarly situated
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1 I. PURPOSE OF STIPULATION AND PROTECTIVE ORDER

2 The parties to this action anticipate that the discovery phase of this matter may
3 involve the disclosure of material protected under the constitutional, statutory, or
4 common law right to privacy or protected as confidential business, financial,
5 proprietary, or trade secret information. Without waiving any objections to the
6 discoverability of any such information, it is the parties' intention to provide a
7 mechanism by which discovery of relevant information, otherwise not objectionable,
8 may be obtained in a manner which protects all parties, including non-parties and third
9 parties to this litigation, from the risk of disclosure of such confidential information.
10 Accordingly, the parties, by and through their respective counsel, hereby stipulate
11 to, and seek the Court's approval of, the following Protective Order.

12 II. DEFINITIONS

13 1. Party. "Party" means any of the parties to this action, their affiliates, and
14 their respective officers, directors, and employees.

15 2. Counsel. "Counsel" means:

16 a. Littler Mendelson, a professional corporation, and its respective
17 support staff and other employees who are not employed by a
18 Party and to whom it is necessary to disclose Confidential
19 Information for the purpose of this action;

20 b. Law Offices Of Gregg A. Farley, and Law Offices Of Sahag
21 Majarian, and their respective support staff and other employees
22 who are not employed by a Party and to whom it is necessary to
23 disclose Confidential Information for the purpose of this action;

24 3. Confidential or Confidential Information. For the purposes of this
25 Protective Order, the term "Confidential" or "Confidential Information" is information
26 that has not been made public or is not otherwise available or accessible in the public
27 domain and that concerns or relates to the confidential or proprietary information of:
28 (1) defendant BMC West LLC ("Defendant"); (2) plaintiff Sergio Galicia Gonzalez

1 (“Plaintiff”); or (3) any third parties, the disclosure of which information is likely to
2 have the effect of causing harm to the competitive position of Defendant or to the
3 organization or person from whom the information was obtained, or to the parties’
4 privacy. Confidential Information also includes private information pertaining to
5 Defendant’s or a third party’s employees, for which Defendant or a third party has a
6 duty to maintain the confidentiality of such information. Information designated
7 Confidential may be used only in connection with this proceeding, and not for any
8 other purpose. Such information may not be disclosed to anyone except as provided
9 in this Order.

10 III. DESIGNATION OF PROTECTED INFORMATION

11 5. In connection with discovery proceedings in this action, the Parties may
12 reasonably designate any appropriate document, thing, material, testimony or other
13 information derived therefrom, as Confidential under the terms of this Protective
14 Order (hereinafter “Protective Order”). By designating a document, thing, material,
15 testimony, or other information derived therefrom as Confidential, the Party making
16 the designation is certifying to the Court that there is a good-faith basis both in law
17 and fact for the designation within the meaning of Federal Rule of Civil Procedure
18 26(g).

19 6. Confidential documents shall be so designated by stamping each page of
20 the document produced to a Party with the legend “CONFIDENTIAL.” Stamping the
21 legend “CONFIDENTIAL” on the face of a CD-ROM, DVD, or other computer disk
22 or electronic storage device shall designate all contents therein as Confidential, unless
23 otherwise indicated by the producing party.

24 7. Testimony taken at a deposition, conference, hearing or trial may be
25 designated as Confidential by making a statement to that effect on the record at the
26 deposition or other proceeding or, in the case of a deposition, such designation may be
27 made within thirty (30) days after the receipt of the deposition transcript.
28 Arrangements shall be made with the court reporter taking and transcribing such

1 proceeding to separately bind such portions of the transcript containing information
2 designated as Confidential, and to label such portions appropriately. During the thirty
3 (30) day period, all such deposition transcripts shall be treated as if it had been
4 designated as Confidential.

5 8. Material designated as Confidential under this Protective Order, the
6 information contained therein, and any summaries, copies, abstracts, or other
7 documents derived in whole or in part from material designated as Confidential
8 (collectively, "Confidential Material") shall be used only for the purpose of the
9 prosecution, defense, or settlement of this action, and for no other purpose.

10 9. Confidential Material produced pursuant to this Protective Order and
11 marked solely as "Confidential" may be disclosed or made available only to:

12 a. the Court; a jury, arbitrator, or other trier or determiner of fact in
13 this action; a mediator who has been mutually agreed upon by the Parties;

14 b. Counsel for a Party (including the paralegal, clerical, and
15 secretarial staff employed by such Counsel);

16 c. a Party, or an officer, director, or employee of a Party deemed
17 necessary by Counsel to aid in the prosecution, defense, or settlement of this action;

18 d. experts or consultants (together with their clerical staff) retained by
19 such Counsel to assist in the prosecution, defense, or settlement of this action, except
20 that such experts and consultants shall not be employees of any Party or currently or
21 previously under contract with any Party (except any retention agreement relating to
22 such experts or consultants as experts or consultants in this action), or previously
23 affiliated or associated in any way with any Party;

24 e. court reporter(s) employed in this action;

25 f. a witness at any deposition or other proceeding in this action; and

26 g. any other person as to whom the Parties in writing agree.

27 Prior to receiving any Confidential Material, any person that falls into Category "d"
28 above, shall be provided with a copy of this Protective Order and shall execute a

1 Nondisclosure Agreement in the form of Attachment A prior to receiving any
2 Confidential Material. The fully-executed Nondisclosure Agreement shall be retained
3 by Counsel for the Party disclosing such Confidential Material to any person that falls
4 into Category “d” above.

5 10. Where testimony at a deposition involves disclosure of Confidential
6 Material, such deposition shall be taken only in the presence of the individuals
7 identified in paragraph 9, subject to the requirements of paragraph 9’s requirement of
8 the execution of a Non-Disclosure Agreement.

9 11. Nothing herein shall impose any restrictions on the use or disclosure by a
10 Party of material obtained by such Party independent of discovery in this action,
11 whether or not such material is also obtained through discovery in this action, or from
12 disclosing its own Confidential Material as it deems appropriate; provided, however,
13 if a Party has obtained any such material pursuant to a separate confidentiality
14 agreement or other legal obligation of confidentiality, that Party shall continue to
15 adhere to such confidentiality obligations. Nothing in this Protective Order shall be
16 deemed to restrict in any way any Party’s own documents or information, or the
17 Party’s attorneys with respect to that Party’s own documents or information.

18 12. If a Party wishes to file documents with the Court which have been
19 designated “CONFIDENTIAL” by another Party or Third Party pursuant to this
20 Protective Order, the Party shall comply with Local Rule 79-5.

21 13. In the event that any Confidential Material is used in any Court
22 proceeding in this action, it shall not lose its Confidential status through such use and
23 the Party using such Confidential Material, shall take all reasonable steps to maintain
24 its confidentiality during such use.

25 14. This Protective Order shall be without prejudice to the rights of the
26 Parties or any other Third Party (a) to bring before the Court at any time the question
27 of whether any particular document or information is Confidential or whether its use
28 should be restricted, or (b) to present a motion to the Court under Fed. R. Civ. P. 26(c)

1 for a separate protective order as to any particular document or information, including
2 restrictions differing from those as specified herein.

3 15. If a Party wishes to challenge the designation of materials stamped
4 “CONFIDENTIAL,” the Challenging Party shall notify the Designating Party in
5 writing of the documents and basis for the challenge. The Designating Party shall
6 respond in writing within five (5) business days thereafter. If any disputes remain, the
7 parties shall meet and confer within four (4) business days of the Designating Party’s
8 response in an effort to resolve such disputes. If any disputes remain unresolved, the
9 Challenging Party shall bring a motion seeking to remove the confidentiality
10 designation pursuant to Local Rule 37. The Designating Party shall provide its
11 portion of a joint stipulation to the Challenging Party pursuant to Local Rule 37-2.2
12 within five (5) business days after the parties meet and confer. Such motion shall
13 thereafter be governed by Local Rule 37-2.2 through 37-4. This Protective Order
14 shall not be deemed to prejudice the Parties in any way in any future application for
15 modification of this Protective Order.

16 16. This Protective Order is entered solely for the purpose of facilitating the
17 exchange of documents and information between the Parties to this action without
18 involving the Court unnecessarily in the process. Nothing in this Protective Order nor
19 in the production of any information or document under the terms of this Protective
20 Order nor any proceedings pursuant to this Protective Order shall be deemed to have
21 the effect of any admission or waiver by any Party or any Third Party or of altering
22 the confidentiality or non-confidentiality of any such document or information or
23 altering any existing obligation of any Party or any Third Party or the absence thereof,
24 or to impact in any way a Party’s right to object to any discovery requests on any
25 grounds, including attorney-client privilege, work product immunity, or any other
26 protection provided under the law.

27 17. While this Stipulation is for the Court’s consideration and approval as an
28 order, it shall also be construed to create a contract between the Parties or between the

1 Parties and their respective counsel.

2 18. This Protective Order shall survive the final termination of this action
3 and the Court shall retain jurisdiction to resolve any dispute concerning the use of
4 information disclosed hereunder. Upon termination of this action, Counsel for the
5 Parties shall assemble and return to each other all documents, materials, and
6 deposition transcripts designated as Confidential. Alternatively, Counsel may agree to
7 destroy all documents, materials, and deposition transcripts designated as
8 Confidential, and provide written affirmation of such to opposing Counsel.
9 Notwithstanding the above, Counsel for the Parties shall keep one copy of
10 Confidential materials for their client files, which shall remain subject to the
11 prohibitions in this Stipulation against disclosure.

12 19. This Stipulation and Order may be executed in one or more identical
13 counterparts, each of which shall be deemed to be an original, but all of which
14 together shall constitute one and the same instrument. Facsimile signatures of any
15 Party upon the signature page of this Stipulation and Order shall be binding upon the
16 Parties hereto and may be submitted as though such signatures were original
17 signatures.

18 20. In the event a party inadvertently discloses or produces any Confidential
19 materials without designation, such inadvertent disclosure does not constitute a waiver
20 of confidentiality status. A party may designate such documents/information
21 Confidential within a reasonable time after such inadvertent disclosure.

22 21. If a party wishes to use another party's "confidential" documents at trial,
23 the party shall advise the other party's counsel prior to offering the documents, with
24 advance notice if reasonably practicable. The proponent of confidentiality then may
25 move to file the documents under seal. The proponent also may move the Court to
26 restrict access to the courtroom while the "confidential" documents are discussed.
27 The other parties need not join in such motions.

28 22. In the event that a party is served with a subpoena by any person, firm,

1 corporation, or other entity who is not a party to this action, is not a signatory to this
2 Order, or otherwise is not bound by this Order, which seeks to compel production of
3 Confidential documents, the party upon whom the subpoena is served shall give
4 written notice of the subpoena to the party who has asserted that the information or
5 documents sought by the subpoena is Confidential. The written notice required by this
6 Paragraph shall be given no later than seven (7) days after receipt of the subpoena, or
7 before the production date set forth in the subpoena, whichever is earlier. The party
8 who designated the subject information or documents as Confidential shall have the
9 responsibility to obtain from the Court an order quashing the subpoena, a protective
10 order, and/or such other relief as will protect the confidential nature of the subject
11 information or documents. If such a motion is filed before the requested production
12 date, the party upon whom the subpoena, discovery request, or order is served shall
13 not produce the subject information or documents requested in the subpoena,
14 discovery request, or order until after such time as the Court rules on the motion to
15 quash the subpoena or motion for protective order. If an order quashing the subpoena
16 or motion for protective order is obtained, the party upon whom the subpoena,
17 discovery request, or order is served shall comply with the order. If no motion to
18 quash or motion for protective order is filed before the scheduled production date set
19 forth in the subpoena, discovery request, or order, or if the motion to quash the
20 subpoena or motion for protective order is denied, the party upon whom the subpoena,
21 discovery request, or order is served may comply with the same without being deemed
22 to have violated this Order.

23 23. This Stipulated Protective Order may be modified only if such
24 modification is in writing, signed by the parties, and approved by an order of the
25 Court.

26 **IT IS SO STIPULATED.**
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1 Dated: July 31, 2017
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3 /s/ Radha D.S. Kulkarni
4 DOUGLAS A. WICKHAM
5 RADHA D.S. KULKARNI
6 LITTLER MENDELSON
7 A Professional Corporation
8 Attorneys for Defendants
9 BMC WEST, LLC

10 Dated: August 9, 2017

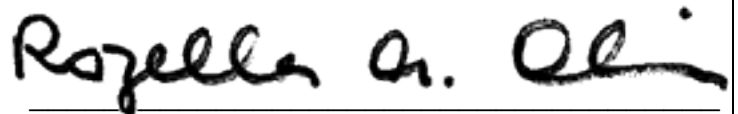
11 /s/ Gregg A. Farley
12 GREGG A. FARLEY
13 LAW OFFICES OF GREGG A.
14 FARLEY
15 Attorneys for Plaintiff
16 SERGIO GALICIA GONZALEZ

17 Dated: August 9, 2017

18 /s/ Sahag Marjarian II
19 SAHAG MAJARIAN II
20 LAW OFFICES OF SAHAG
21 MAJARIAN
22 Attorneys for Plaintiff
23 SERGIO GALICIA GONZALEZ

24 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

25 DATED: 9/05/2017

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27 HON. ROZELLA A. OLIVER
28 United States Magistrate Judge

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Attachment A
NONDISCLOSURE AGREEMENT

I, _____, do solemnly swear that I am fully familiar with the terms of the Stipulation and Protective Order entered in SERGIO GALICIA GONZALEZ v. BMC WEST, LLC., United States District Court for the Central District of California, Civil Action No. 5:17-cv-00390-JGB (RAOx), and hereby agree to comply with and be bound by the terms and conditions of said Order unless and until modified by further order of this Court. I hereby consent to the jurisdiction of said Court for purposes of enforcing this Protective Order.

Dated: _____

Name: _____

Address: _____

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