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 6 EXPERIAN INFORMATION SOLUTIONS,
 INC.

7
 8 UNITED STATES DISTRICT COURT
 9 CENTRAL DISTRICT OF CALIFORNIA
 10 EASTERN DIVISION

11
 12 SILVESTRE ALVARADO, an
 13 individual,

14 Plaintiff,

15 v.

16 TOYOTA MOTOR CREDIT
 17 CORPORATION; FIFTH THIRD
 18 BANK; and EXPERIAN
 INFORMATION SOLUTIONS,
 INC.,

19 Defendants.

Case No. 5:19-cv-01832 CBM (KKx)

**[PROPOSED] STIPULATED
 PROTECTIVE ORDER**

Complaint Filed: September 24, 2019

20 IT IS HEREBY STIPULATED by and between Plaintiff Silvestre Alvarado
 21 and Defendants Experian Information Solutions, Inc. and Fifth Third Bank, through
 22 their respective attorneys of record, as follows:

23 1. A. PURPOSES AND LIMITATIONS

24 Discovery in this action is likely to involve production of confidential,
 25 proprietary, or private information for which special protection from public
 26 disclosure and from use for any purpose other than prosecuting this litigation may
 27 be warranted. Accordingly, the parties hereby stipulate to and petition the Court to
 28 enter the following Stipulated Protective Order. The parties acknowledge that this

1 Order does not confer blanket protections on all disclosures or responses to
2 discovery and that the protection it affords from public disclosure and use extends
3 only to the limited information or items that are entitled to confidential treatment
4 under the applicable legal principles. The parties further acknowledge, as set forth
5 in Section 12.3, below, that this Stipulated Protective Order does not entitle them to
6 file confidential information under seal; Civil Local Rule 79-5 sets forth the
7 procedures that must be followed and the standards that will be applied when a
8 party seeks permission from the court to file material under seal.

9 **B. GOOD CAUSE STATEMENT**

10 Fed. R. Civ. P. 26(c)(1) requires a showing of good cause for the entry of a
11 protective order by the Court to prevent public disclosure of material such as trade
12 secrets or other confidential research, development, or commercial information.
13 Documents and information have been and may be sought, produced or exhibited
14 by and among the parties to this action relating to trade secrets, confidential
15 research, development, technology or other proprietary information belonging to
16 Defendant (including, but not limited to, codes, computer systems, software and
17 processes used for credit reporting, and information derived therefrom), and/or
18 personal income, credit and other confidential information of Plaintiff. An order of
19 this Court is necessary to protect the parties from annoyance, embarrassment,
20 oppression, or undue burden or expense related to the disclosure of confidential,
21 proprietary or private information of the parties for purposes other than prosecuting
22 and defending this litigation. This Order does not confer blanket protection on all
23 disclosures or responses to discovery, and the protection it gives from public
24 disclosure and use extends only to the specific documents and material entitled to
25 confidential treatment under applicable legal principles.

26 **2. DEFINITIONS**

27 2.1 Action: this pending federal law suit.

28 2.2 Challenging Party: a Party or Non-Party that challenges the

1 designation of information or items under this Order.

2 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
3 how it is generated, stored or maintained) or tangible things that qualify for
4 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
5 the Good Cause Statement.

6 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
7 their support staff).

8 2.5 Designating Party: a Party or Non-Party that designates information or
9 items that it produces in disclosures or in responses to discovery as
10 “CONFIDENTIAL.”

11 2.6 Disclosure or Discovery Material: all items or information, regardless
12 of the medium or manner in which it is generated, stored, or maintained (including,
13 among other things, testimony, transcripts, and tangible things), that are produced
14 or generated in disclosures or responses to discovery in this matter.

15 2.7 Expert: a person with specialized knowledge or experience in a matter
16 pertinent to the litigation who has been retained by a Party or its counsel to serve as
17 an expert witness or as a consultant in this Action.

18 2.8 House Counsel: attorneys who are employees of a party to this Action.
19 House Counsel does not include Outside Counsel of Record or any other outside
20 counsel.

21 2.9 Non-Party: any natural person, partnership, corporation, association,
22 or other legal entity not named as a Party to this action.

23 2.10 Outside Counsel of Record: attorneys who are not employees of a
24 party to this Action but are retained to represent or advise a party to this Action and
25 have appeared in this Action on behalf of that party or are affiliated with a law firm
26 which has appeared on behalf of that party, and includes support staff.

27 2.11 Party: any party to this Action, including all of its officers, directors,
28 employees, consultants, retained experts, and Outside Counsel of Record (and their

1 support staffs).

2 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
3 Discovery Material in this Action.

4 2.13 Professional Vendors: persons or entities that provide litigation
5 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
6 demonstrations, and organizing, storing, or retrieving data in any form or medium)
7 and their employees and subcontractors.

8 2.14 Protected Material: any Disclosure or Discovery Material that is
9 designated as “CONFIDENTIAL.”

10 2.15 Receiving Party: a Party that receives Disclosure or Discovery
11 Material from a Producing Party.

12 3. SCOPE

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

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

20 4. DURATION

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

1 5. DESIGNATING PROTECTED MATERIAL

2 5.1 Exercise of Restraint and Care in Designating Material for Protection.

3 Each Party or Non-Party that designates information or items for protection under
4 this Order must take care to limit any such designation to specific material that
5 qualifies under the appropriate standards. The Designating Party must designate for
6 protection only those parts of material, documents, items, or oral or written
7 communications that qualify so that other portions of the material, documents,
8 items, or communications for which protection is not warranted are not swept
9 unjustifiably within the ambit of this Order.

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

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

18 5.2 Manner and Timing of Designations. Except as otherwise provided in
19 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
20 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
21 under this Order must be clearly so designated before the material is disclosed or
22 produced.

23 Designation in conformity with this Order requires:

24 (a) for information in documentary form (e.g., paper or electronic
25 documents, but excluding transcripts of depositions or other pretrial or trial
26 proceedings), that the Producing Party affix at a minimum, the legend
27 "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that
28 contains protected material. If only a portion or portions of the material on a page

1 qualifies for protection, the Producing Party also must clearly identify the protected
2 portion(s) (e.g., by making appropriate markings in the margins).

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

15 (b) for testimony given in depositions. A Party may designate
16 portions of a deposition as “CONFIDENTIAL,” on the record at the time the
17 deposition is taken, or within thirty (30) days from the date a deposition transcript
18 is received by serving a notice to all Parties designating portions as
19 “CONFIDENTIAL.” Until such time, all deposition testimony shall be treated as
20 Protected Material. To the extent any designations are made on the record during
21 the deposition, the Designating Party need not serve a notice re-designating those
22 portions of the transcript as “CONFIDENTIAL.”

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

1 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
2 failure to designate qualified information or items does not, standing alone, waive
3 the Designating Party's right to secure protection under this Order for such
4 material. Upon timely correction of a designation, the Receiving Party must make
5 reasonable efforts to assure that the material is treated in accordance with the
6 provisions of this Order.

7 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

8 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
9 designation of confidentiality at any time that is consistent with the Court's
10 Scheduling Order.

11 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
12 resolution process under Local Rule 37.1 et seq.

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

21 7. ACCESS TO AND USE OF PROTECTED MATERIAL

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

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

4 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
5 otherwise ordered by the court or permitted in writing by the Designating Party, a
6 Receiving Party may disclose any information or item designated
7 “CONFIDENTIAL” only to:

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

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

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

17 (d) the court and its personnel;

18 (e) court reporters and their staff;

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

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

25 (h) during their depositions, witnesses, and attorneys for witnesses,
26 in the Action to whom disclosure is reasonably necessary provided: (1) the
27 deposing party requests that the witness sign the “Acknowledgment and Agreement
28 to Be Bound” (Exhibit A); and (2) they will not be permitted to keep any

1 confidential information unless otherwise agreed by the Designating Party or
2 ordered by the court. Pages of transcribed deposition testimony or exhibits to
3 depositions that reveal Protected Material may be separately bound by the court
4 reporter and may not be disclosed to anyone except as permitted under this
5 Stipulated Protective Order;

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

9 (j) present or former employees of the Producing Party in
10 connection with their depositions in this action (provided that no former employees
11 shall be shown documents prepared after the date of his or her departure).

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

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

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

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

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

25 If the Designating Party timely seeks a protective order, the Party served with
26 the subpoena or court order shall not produce any information designated in this
27 action as “CONFIDENTIAL” before a determination by the court from which the
28 subpoena or order issued, unless the Party has obtained the Designating Party’s

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

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

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

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

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

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

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

24 (c) If the Non-Party fails to seek a protective order from this court
25 within 14 days of receiving the notice and accompanying information, the
26 Receiving Party may produce the Non-Party's confidential information responsive
27 to the discovery request. If the Non-Party timely seeks a protective order, the
28 Receiving Party shall not produce any information in its possession or control that

1 is subject to the confidentiality agreement with the Non-Party before a
2 determination by the court. Absent a court order to the contrary, the Non-Party
3 shall bear the burden and expense of seeking protection in this court of its Protected
4 Material.

5 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

14 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
15 PROTECTED MATERIAL

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

26 12. MISCELLANEOUS

27 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
28 person to seek its modification by the Court in the future.

1 12.2 Right to Assert Other Objections. By stipulating to the entry of this
2 Protective Order no Party waives any right it otherwise would have to object to
3 disclosing or producing any information or item on any ground not addressed in
4 this Stipulated Protective Order. Similarly, no Party waives any right to object on
5 any ground to use in evidence of any of the material covered by this Protective
6 Order.

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

13 13. FINAL DISPOSITION

14 After the final disposition of this Action, as defined in paragraph 4, within 60
15 days of a written request by the Designating Party, each Receiving Party must
16 return all Protected Material to the Producing Party or destroy such material. As
17 used in this subdivision, "all Protected Material" includes all copies, abstracts,
18 compilations, summaries, and any other format reproducing or capturing any of the
19 Protected Material. Whether the Protected Material is returned or destroyed, the
20 Receiving Party must submit a written certification to the Producing Party (and, if
21 not the same person or entity, to the Designating Party) by the 60 day deadline that
22 (1) identifies (by category, where appropriate) all the Protected Material that was
23 returned or destroyed and (2) affirms that the Receiving Party has not retained any
24 copies, abstracts, compilations, summaries or any other format reproducing or
25 capturing any of the Protected Material. Notwithstanding this provision, Counsel
26 are entitled to retain an archival copy of all pleadings, motion papers, trial,
27 deposition, and hearing transcripts, legal memoranda, correspondence, deposition
28 and trial exhibits, expert reports, attorney work product, and consultant and expert

1 work product, even if such materials contain Protected Material. Any such archival
2 copies that contain or constitute Protected Material remain subject to this Protective
3 Order as set forth in Section 4 (DURATION).

4 14. Any violation of this order may be punished by any and all appropriate
5 measures including, without limitation, contempt proceedings and/or monetary
6 sanctions.

7
8 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

9 Dated: April 17, 2020

10 JONES DAY

11
12 By: /s/ Jennifer Sun
13 Jennifer Sun

14 Attorneys for Defendant
15 EXPERIAN INFORMATION
SOLUTIONS, INC.

16 SEMNAR & HARTMAN LLP

DINSMORE & SHOHL LLP

17
18 By: /s/ Jared Hartman
19 Jared Hartman

By: /s/ Dillon D. Chen
Dillon D. Chen

20 Attorneys for Plaintiff
SILVESTRE ALVARADO

Attorneys for Defendant
FIFTH THIRD BANK

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22 **FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

23
24 Dated: April 20, 2020

25 
26 HON. KENLY KIYOKO KATO
27 United States Magistrate Judge
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Signature Certification

Pursuant to Local Rule 5-4.3.4(a)(2), I hereby certify that all other signatories listed, on whose behalf this filing is submitted, concur with the contents of this filing and have authorized the filing.

/s/ Jennifer Sun
Jennifer Sun

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 Stipulated Protective Order that
7 was issued by the United States District Court for the Central District of California
8 on _____ [date] in the case of Silvestre Alvarado v. Toyota Motor
9 Credit Corporation, et al., Case No. 5:19-cv-01832 CBM (KKx). I agree to comply
10 with and to be bound by all the terms of this Stipulated Protective Order and I
11 understand and acknowledge that failure to so comply could expose me to sanctions
12 and punishment in the nature of contempt. I solemnly promise that I will not
13 disclose in any manner any information or item that is subject to this Stipulated
14 Protective Order to any person or entity except in strict compliance with the
15 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. I hereby appoint _____ [print
20 or type full name] of _____ [print or type
21 full address and telephone number] as my California agent for service of process in
22 connection with this action or any proceedings related to enforcement of this
23 Stipulated Protective Order.

24 Date: _____

25 City and State where sworn and signed: _____

26
27 Printed name: _____

28 Signature: _____