

NOTE: CHANGES MADE BY THE COURT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

RICARDO FERNANDO RODRIQUES,)
)
Petitioner,)
)
v.)
)
MERRICK B. GARLAND,)
U.S. ATTORNEY GENERAL,)
)
Respondent.)

5:23-cv-02444-DSF-JPR

**STIPULATED
PROTECTIVE ORDER
AND 502(d) CLAWBACK
ORDER**

1 **1. INTRODUCTION**

2 1.1 PURPOSES AND LIMITATIONS

3 Discovery in this action is likely to involve production of confidential, sensitive,
4 proprietary, or private information, for which special protection from public disclosure
5 and from use for any purpose other than prosecuting or defending this litigation may
6 be warranted. No one subject to this Protective Order shall use Confidential
7 Information obtained from the opposing party in this litigation in any other
8 proceedings, including in federal or state proceedings and enforcement actions.
9 Nothing in this Stipulation and Order shall prevent any party from using independently
10 obtained information for legitimate law enforcement purposes. Accordingly, the parties
11 hereby stipulate to and petition the Court to enter the following Stipulated Protective
12 Order. The parties acknowledge that this Order does not confer blanket protections
13 on, or allow blanket designations of, all disclosures or responses to discovery and that
14 the protection it affords from public disclosure and use extends only to the limited
15 information or items that are entitled to confidential treatment under the applicable
16 legal principles. The parties further acknowledge, as set forth in Section 12, below, that
17 this Stipulated Protective Order does not entitle them to file confidential information
18 under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and
19 the standards that will be applied when a party seeks permission from the Court to file
20 material under seal. This Protective Order is an order of the Court pursuant to 5 U.S.C.
21 § 552a(b)(11) that allows for the disclosure of documents or information whose
22 disclosure would otherwise be prohibited by the Privacy Act of 1974. As specifically
23 described herein, these documents shall be marked as Confidential.

24 1.2 GOOD CAUSE STATEMENT

25 The parties expect that information protected by federal law, including but not
26 limited to the Privacy Act of 1974, 5 U.S.C. § 552a, as amended (the Privacy Act), will
27 be disclosed to Petitioner in the course of discovery and produced to the Court in
28

1 pleadings, motions, and other documents. Specifically, Respondent represents that it
2 has in its possession one or more noncitizen files (hereinafter “A-files”) of individuals
3 who are noncitizens, citizens, and/or lawful permanent residents of the United States
4 that may be relevant to Petitioner’s United States citizenship claim. These A-files
5 contain information that is, or may be, discoverable in the instant litigation, but
6 Respondent believes that the files are protected from disclosure under the Privacy Act.
7 Additionally, Respondent has in its possession Petitioner’s A-file, which contains
8 identifying information, which is or may be discoverable, concerning individuals other
9 than Petitioner. Respondent believes that this information is also protected from
10 disclosure under the Privacy Act. Respondent may also obtain other records in its
11 possession, including, but not limited to, social security, military, and tax records, which
12 may be otherwise discoverable in this matter but are protected from disclosure by
13 various federal statutes including the Privacy Act.

14 **2. DEFINITIONS**

15 2.1 “Action” shall mean the case captioned “*Ricardo Fernando Rodriques v. Merrick*
16 *B. Garland*, 5:23-cv-02444-DSF-JPR, CDCA.”

17 2.2 “Challenging Party” shall mean a Party or Non-Party that challenges the
18 designation of information or items under this Stipulation and Order.

19 2.3 “Confidential Information” is any information (regardless of how it is
20 generated, stored or maintained) or tangible thing that qualifies for protection
21 under Federal Rule of Civil Procedure 26(c). Confidential Information
22 encompasses but is not limited to personally identifiable information,
23 including, but not limited to, first and last names, date of birth, place of birth,
24 immigration status, citizenship, travel to and from the United States, phone
25 number, work, home, and/or email address, medical and disability-related
26 information, Social Security numbers, a-numbers, driver’s license
27 information, financial information, name of employer, professional license
28

1 numbers, photograph of any person, law enforcement sensitive information,
2 non-public information that is For Official Use Only (FOUO), information
3 protected by the provisions of the Privacy Act, information contained in
4 individual detainee files (e.g., “A files”) subject to disclosure conditions under
5 the Privacy Act or any other information or documents that would be covered
6 by the Privacy Act if the subject of the information had been a U.S. citizen or
7 a person lawfully admitted for permanent residence, and information that is
8 protected or restricted from disclosure under the terms of any statute or
9 regulation, including 8 C.F.R. §§ 208.6, 1208.6, but which the Court may
10 order to be produced.

11 2.4 “Counsel” means Counsel of Record for a Party or Non-Party, as well as their
12 support staff.

13 2.5 “Designating Party” shall mean the party or other person who designates
14 information or items that it produces in disclosures or in responses to
15 discovery as “CONFIDENTIAL” under Section 5.2 of this Protective Order.

16 2.6 “Disclose” (or forms thereof) shall mean to distribute, provide, or otherwise
17 make available for access, viewing, or copying Disclosure or Discovery
18 Material.

19 2.7 “Disclosure or Discovery Material” shall include all items or information,
20 regardless of the medium or manner in which it is generated, stored, or
21 maintained (including, among other things, testimony, transcripts, and
22 tangible things), that are produced or generated in disclosures or responses
23 to discovery in this matter, including a copy, summary, paraphrasing, or
24 characterization of those items or information.

25 2.8 “Document” shall mean all items listed in Federal Rule of Civil Procedure
26 34(a)(1)(A) & (B).
27
28

- 1 2.9 “Expert” shall mean a person with specialized knowledge or experience in a
2 matter pertinent to the litigation who has been retained by a party or its
3 counsel to serve as an expert witness or as a consultant in this Action.
- 4 2.10 A “Non-Party” is any natural person, partnership, corporation, association,
5 governmental agency, or other legal entity not named as a party to this action.
- 6 2.11 A “Party” is any party to this Action, including all of its officers, directors,
7 employees, consultants, retained Experts, and Counsel.
- 8 2.12 “Producing Party” shall mean the person or party producing information in
9 discovery in the Action.
- 10 2.13 “Professional Vendor” shall mean any person or entity that provides litigation
11 support services (e.g., photocopying, videotaping, translating, preparing
12 exhibits or demonstrations, and organizing, storing, or retrieving data in any
13 form or medium) and their employees and subcontractors.
- 14 2.14 “Protected Material” means any Disclosure or Discovery Material containing
15 Confidential Information and designated as “CONFIDENTIAL” under
16 Section 5.2 of this Stipulation and Order.
- 17 2.15 A “Receiving Party” is any party who receives information designated as
18 Confidential Information.

19
20 **3. SCOPE**

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

26 Any use of Protected Material at trial shall be governed by the orders of the trial
27 judge. This Order does not govern the use of Protected Material at trial or purport to
28

1 restrict the parties' ability to enter a separate agreement governing the use of protected
2 material at trial.

3 **4. DURATION**

4 Even after Final Disposition of this litigation, the confidentiality obligations
5 imposed by this Order shall remain in effect until a Designating Party agrees otherwise
6 in writing or a court order otherwise directs. Final Disposition shall be deemed to be
7 the later of (1) dismissal of all claims and defenses in this action with prejudice; and (2)
8 final judgment after the completion and exhaustion of all appeals, re-hearings, remands,
9 trials, or reviews of this action, including the time limits for filing any motions or
10 applications for extension of time pursuant to applicable law.

11 **5. DESIGNATING PROTECTED MATERIAL**

12 5.1 EXERCISE OF RESTRAINT AND CARE IN DESIGNATING MATERIAL FOR 13 PROTECTION

14 Each Party or Non-Party that designates information or items for protection
15 under this Order must take care to limit any such designation to only those Documents
16 that contain Confidential Information under the appropriate standards.

17 Indiscriminate or routinized designations are prohibited. Designations that are
18 shown to be clearly unjustified or that have been made for an improper purpose (e.g.,
19 to unnecessarily encumber the case development process or to impose unnecessary
20 expenses and burdens on other parties) may expose the Designating Party to sanctions.

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

24 5.2 MANNER AND TIMING OF DESIGNATIONS.

25 Except as otherwise provided in this Order, or as otherwise stipulated or ordered,
26 Disclosure or Discovery Material that qualifies for protection under this Order must be
27 clearly so designated before the material is disclosed or produced.
28

1 Designation in conformity with this Order requires:

2 (a) For information in documentary form (e.g., paper or electronic
3 documents, but excluding transcripts of depositions or other pretrial or trial
4 proceedings), that the Producing Party affix at a minimum, the legend
5 “CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER”, to each page.

6 (b) If a Party initially produces documents for inspection (e.g., because of the
7 volume of materials and to reduce unnecessary copying) or deposition
8 transcripts, in lieu of marking the original of a document which contains
9 Confidential Information prior to such an inspection, Counsel for the Producing
10 Party may in writing designate documents or things being produced for
11 inspection as containing Confidential Information, thereby making them subject
12 to this Order. Any copies of such documents thereafter provided, however, must
13 be marked by the Designating Party, if appropriate, in accordance with this Order
14 at the time copies are formally produced. Tangible objects constituting or
15 containing Confidential Information may be designated Confidential
16 Information by affixing to the object or its container, a label or tag marked
17 “CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER.”

18 (c) Documents that are designated “CONFIDENTIAL-SUBJECT TO
19 PROTECTIVE ORDER”, including deposition transcripts and associated
20 exhibits, may be disclosed to deponents who have been given a copy of this
21 Protective Order and have signed a declaration in the form attached hereto as
22 “Exhibit A.”

23 (d) For Confidential Information produced in some form other than
24 documentary and for any other tangible items, the Producing Party shall affix in
25 a prominent place on the exterior of the container or containers in which the
26 information is stored the legend “CONFIDENTIAL – SUBJECT TO
27 PROTECTIVE ORDER.” If only a portion or portions of the information
28

1 warrants protection, the Producing Party, to the extent practicable, shall identify
2 the protected portion(s).

3 (e) With respect to documents containing Protected Material produced in
4 Native Format, the Designating Party shall include the appropriate
5 confidentiality designation in the filename.

6 (f) A Designating Party may designate as CONFIDENTIAL information or
7 items produced in this litigation by another Party or Non-Party that contains or
8 is derived from the Designating Party's own such Designations, subject to the
9 restrictions set forth in the Order. Each Party that designates such information
10 or items as CONFIDENTIAL will be treated as the Designating Party for
11 purposes of this Order.

12 5.3 INADVERTENT FAILURES TO DESIGNATE

13 (a) An inadvertent failure to designate qualified information or items does not
14 waive the Designating Party's right to secure protection under this Order for
15 such material. Upon correction of a designation, the Receiving Party must make
16 reasonable efforts to assure that the material is treated in accordance with the
17 provisions of this Order.

18 (b) If a Receiving Party learns that, by inadvertence or otherwise, it, or a
19 person to whom it has disclosed Confidential Information in accordance with
20 this Protective Order, has disclosed Confidential Information to any person or
21 in any circumstance not authorized under this Protective Order, the Receiving
22 Party shall, upon learning of the unauthorized disclosure: (1) promptly notify the
23 person(s) to whom the unauthorized disclosure was made that the unauthorized
24 disclosure contains Confidential Information subject to this Protective Order;
25 (2) promptly make all reasonable efforts to obtain the return of the Confidential
26 Information and to prevent further unauthorized disclosures of the Confidential
27 Information, including requesting the person who received the unauthorized
28

1 disclosure to agree to be bound by the terms of this Protective Order by
2 executing a declaration in the form attached as “Exhibit A”; and (3) within five
3 (5) calendar days notify the Producing Party and all other Parties of the identity
4 of the person(s) to whom the unauthorized disclosure was made, the
5 circumstances surrounding the disclosure, and the steps taken to prevent any use
6 or further disclosure of the Confidential Information that was the subject of the
7 unauthorized disclosure.

8 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

9 6.1 TIMING OF CHALLENGES

10 Any Party or Non-Party may challenge a designation of confidentiality at any
11 time that is consistent with the Court’s Scheduling Order.

12 6.2 MEET AND CONFER

13 The Challenging Party shall initiate the dispute resolution process under Local
14 Rule 37.1 et seq. The burden of persuasion in any such challenge proceeding shall be
15 on the Designating Party. Frivolous challenges, and those made for an improper
16 purpose (*e.g.*, to harass or impose unnecessary expenses and burdens on other parties),
17 may expose the Challenging Party to sanctions. Unless the Designating Party has waived
18 or withdrawn the confidentiality designation, all parties shall continue to afford the
19 material in question the protection to which it is entitled under the Producing Party’s
20 designation until the Court rules on the challenge.

21 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

22 7.1 BASIC PRINCIPLES

23 A Receiving Party may use Protected Material that is disclosed or produced by
24 another Party or by a Non-Party in connection with this Action only for prosecuting,
25 defending or attempting to settle the instant Action. A Receiving Party may not use
26 Protected Material in any other legal proceeding, except as permitted by order of court,
27 or as agreed by the parties. As noted in this agreement, no one subject to this Protective
28

1 Order shall use Confidential Information obtained from the Opposing Party in this
2 litigation in any other proceedings, including in federal or state proceedings and
3 enforcement actions. Nothing in this Order shall prevent any Party from using
4 independently obtained information for legitimate law enforcement purposes. Such
5 Protected Material may be disclosed only to the categories of persons and under the
6 conditions described in this Order. When the Action has been terminated, a Receiving
7 Party must comply with the provisions of Section 13 below (FINAL DISPOSITION).
8 Protected Material must be stored and maintained by a Receiving Party at a location
9 and in a secure manner that ensures that access is limited to the persons authorized
10 under this Order.

11 7.2 DISCLOSURE OF CONFIDENTIAL INFORMATION OR ITEMS

12 Unless otherwise ordered by the Court or permitted in writing by the Designating
13 Party, a Receiving Party may disclose any information or item designated
14 “CONFIDENTIAL” only to:

- 15 (a) the Receiving Party’s Counsel in this Action, as well as employees and any
16 legal, investigative, technical, administrative, and other support staff of said
17 Counsel to whom it is reasonably necessary to disclose the information for this
18 Action;
19 (b) the Receiving Party itself, including the officers, directors, and employees of
20 the Receiving Party to whom disclosure is reasonably necessary for this Action;
21 (c) Experts (as defined in this Order) or independent consultants (and their staff)
22 retained by Counsel for the Receiving Party to whom disclosure is reasonably
23 necessary for this Action and who have signed the “Acknowledgment and
24 Agreement to Be Bound” (Exhibit A);
25 (d) the court and its personnel;
26 (e) court reporters and their staff;
27
28

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

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

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

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

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

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

23 (a) promptly notify in writing the Designating Party. Such notification shall
24 include a copy of the subpoena or court order unless prohibited by law;

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

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

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

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

13 9.1 GENERALLY

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

19 9.2 DISCLOSURE, USE, AND HANDLING OF CONFIDENTIAL INFORMATION

20 Upon designating documents as Confidential Information, Respondent is
21 authorized to release to counsel for Petitioner and the Court in this case, such
22 documents, including documents from A-files and other files maintained by federal
23 agencies, which contain discoverable, unredacted Non-Party Confidential Information,
24 without obtaining written consent of the Non-Party whose names, addresses, and other
25 Confidential Information may be present in such documents.
26
27
28

1 9.3 OBLIGATION BY PARTY TO PRODUCE NON-PARTY CONFIDENTIAL
2 INFORMATION SUBJECT TO A NON-PRODUCTION AGREEMENT

3 (a) In the event that a Party is required by a valid discovery request to produce
4 a Non-Party's Confidential Information in its possession and the Party is subject to an
5 agreement with the Non-Party not to produce the Non-Party's Confidential
6 Information, then the Party must

7 (1) promptly notify in writing the requesting Party and the Non-Party that
8 some or all of the information requested is subject to a confidentiality agreement
9 with a Non-Party;

10 (2) promptly provide the Non-Party with a copy of this Order, the relevant
11 discovery request(s), and a reasonably specific description of the information
12 requested; and

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

15 (b) If the Non-Party fails to seek a protective order within 21 days of
16 receiving the notice and accompanying information, the Party may produce the Non-
17 Party's Confidential Information responsive to the discovery request. If the Non-
18 Party timely seeks a protective order, the Party must not produce any information in
19 its possession or control that is subject to the confidentiality agreement with the Non-
20 Party before a ruling on the protective-order request or other court order. Absent a
21 court order to the contrary, the Non-Party must bear the burden and expense of
22 seeking protection of its Protected Material.

23
24 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

25 If a Party learns that, by inadvertence or otherwise, it has disclosed Protected
26 Material to any person or in any circumstance not authorized under this Stipulated
27 Protective Order, the Party must immediately (a) notify in writing the Designating Party
28

1 of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized
2 copies of the Protected Material, (c) inform the person or persons to whom
3 unauthorized disclosures were made of all the terms of this Stipulated Protective Order,
4 and (d) request such person or persons to execute the “Acknowledgment and
5 Agreement to Be Bound” that is attached hereto as Exhibit A.

6 **11. INADVERTENT DISCLOSURE OF PRIVILEGED INFORMATION**

7 (a) The Court hereby orders pursuant to Rule 502(d) of the Federal Rules of
8 Evidence, Rule 26(b) of the Federal Rules of Civil Procedure, and the Court’s inherent
9 authority that the production of a document, or part of a document, shall not constitute
10 a waiver of any privilege or protection as to any portion of that document, or as to any
11 undisclosed privileged or protected communications or information concerning the
12 same subject matter, in this or in any other proceeding, subject to this Protective Order.

13 (b) This Order applies to attorney-client privilege, work-product protection
14 as defined by Federal Rule of Civil Procedure Rule 26(b), governmental privileges, or
15 any other applicable privilege. Nothing in this Order shall constitute an admission that
16 any document disclosed in this litigation is subject to any of the foregoing privileges or
17 protections, or that any Party is entitled to raise or assert such privileges. Additionally,
18 nothing in this Order shall prohibit Parties from withholding from production any
19 document covered by any applicable privilege or other protection.

20 (c) The parties intend that this stipulated Order shall displace the provisions
21 of Fed. R. Evid. 502(b)(1) and (2). That is, the disclosure of privileged or protected
22 information, as described above, in this litigation shall not constitute a subject matter
23 waiver of the privilege or protection in this or any other federal or state proceeding,
24 regardless of the standard of care or specific steps taken to prevent disclosure. However,
25 nothing in this Order shall limit a Party’s right to conduct a pre-production review of
26 documents as it deems appropriate.

27
28

1 (d) The procedures applicable to a claim of privilege on a produced
2 Document and the resolution thereof shall be as follows:

3 (1) If a Receiving Party discovers a Document, or part thereof,
4 produced by a Producing Party that appears to be privileged or otherwise
5 protected, the Receiving Party shall promptly notify the Producing Party. Upon
6 confirmation from the Producing Party that the identified Document contains
7 Produced Privileged Information and a request from the Producing Party to
8 comply with the stipulations in this Order (“Privilege Notice”), the Receiving
9 Party must return the Document or destroy it and certify that it has been
10 destroyed to the Producing Party. The Receiving Party must also promptly
11 identify, sequester, and destroy any notes taken about the Document. If a
12 Receiving Party disclosed the Document specified before receiving the Privilege
13 Notice, it must take reasonable steps to retrieve it, and so notify the Producing
14 Party of the disclosure and its efforts to retrieve the Document. In addition, the
15 Receiving Party may not make use of that Document for any purpose. Nothing
16 in this Order is intended to shift the burden to identify privileged and protected
17 Documents from the Producing Party to the Receiving Party.

18 (2) If in connection with the pending Action a Producing Party
19 determines that a Document containing Privileged Information, or part thereof,
20 was produced by the Producing Party, the Producing Party shall provide notice
21 to the Receiving Party. The notice must contain information sufficient to identify
22 the Document, such as a Bates number or other identifying information. The
23 Receiving Party must promptly — within five (5) days — sequester, return, or
24 destroy the specified Document(s) and any copies and certify to the Producing
25 Party through the Receiving Party’s Counsel of Record that the Document(s)
26 and copies have been destroyed. The Receiving Party must sequester any notes
27 taken about the Document. If a Receiving Party disclosed the Document or
28

1 information specified in the notice before receiving the Privilege Notice, the
2 Receiving Party must take reasonable steps to retrieve it, and so notify the
3 Producing Party of the disclosure and its efforts to retrieve the Document or
4 information.

5 (3) Within fourteen (14) calendar days of the notification that disclosed
6 information has been returned or destroyed, or within a different time upon
7 written agreement of the Parties or order of the Court, the Producing Party shall
8 produce a privilege log with respect to the Documents or portion thereof
9 included in the notification.

10 (4) Upon receiving the notification, if a Receiving Party wishes to
11 dispute a Producing Party's notification, the Receiving Party shall promptly—
12 within seven (7) days—meet and confer with the Producing Party. The
13 Document(s) shall be sequestered immediately upon receiving the notification
14 and not be used by the Receiving Party in the Action (e.g., filed as an exhibit to
15 a pleading; used in deposition) while the dispute is pending. If the Parties are
16 unable to come to an agreement about the privilege assertions made in the
17 privilege notice, the Producing Party may make a motion for a judicial
18 determination of the privilege claim. The motion shall not assert as a ground for
19 entering such an Order the fact or circumstances of the inadvertent production.

20 (5) The Producing Party retains the burden of establishing the
21 privileged or protected nature of any produced Privileged Information. Nothing
22 in this Order shall limit the right of any Party to petition the Court for an order
23 compelling production of such disclosed Document(s) or to request an in camera
24 review of the disclosed information or Document.

25 (6) Pending resolution of the judicial determination, the Parties shall
26 refrain from using the challenged information for any purpose and shall not
27 disclose it to any person other than those required by law to be served with a
28

1 copy of the motion to the Court. The Receiving Party’s motion challenging the
2 assertion must not publicly disclose the information claimed to be privileged.
3 Any further briefing by any Party shall also not publicly disclose the information
4 claimed to be privileged if the privilege claim remains unresolved or is resolved
5 in the Producing Party’s favor.

6 (7) If a Document must be returned or destroyed as determined by the
7 process above, that Document, along with copies and notes about the
8 Document, that exist on back-up tapes, information technology (“IT”) systems,
9 or similar storage need not be immediately deleted or destroyed, and, instead,
10 such materials shall be overwritten and destroyed in the normal course of
11 business. Until they are overwritten in the normal course of business, the
12 Receiving Party will take reasonable steps to limit access, if any, to the persons
13 necessary to conduct routine IT and cybersecurity functions. Receiving Parties
14 shall also remain bound by the Protective Order in this Action as long as such
15 information is retained on any of the Receiving Party’s systems, and the
16 information must be treated in conformity with this Protective Order.

17 **12. MISCELLANEOUS**

18 12.1 RIGHT TO FURTHER RELIEF

19 Nothing in this Order abridges the right of any person to seek its modification
20 by the Court in the future.

21 12.2 RIGHT TO ASSERT OTHER OBJECTIONS

22 By stipulating to the entry of this Stipulated Protective Order, no Party waives
23 any right it otherwise would have to object to disclosing or producing any information
24 or item on any ground not addressed in this Stipulated Protective Order. Similarly, no
25 Party waives any right to object on any ground to use in evidence of any of the material
26 covered by this Stipulated Protective Order.

27 12.3 FILING PROTECTED MATERIAL

1 A Party that seeks to file under seal any Protected Material must comply with
2 Local Civil Rule 79-5.

3 **13. FINAL DISPOSITION**

4 13.1 RETURN OR DESTROY PROTECTED MATERIALS

5 Within 60 days after the Final Disposition of this Action, and upon a written
6 request by the Designating Party, each Receiving Party must use commercially
7 reasonable efforts to return all Protected Material to the Producing Party or destroy
8 such material. As used in this subdivision, “all Protected Material” includes all copies,
9 abstracts, compilations, summaries, and any other format reproducing or capturing any
10 of the Protected Material.

11 13.2 CERTIFICATION OF RETURN OR DESTRUCTION

12 Whether the Protected Material is returned or destroyed, the Receiving Party
13 must submit a written certification to the Producing Party (and, if not the same person
14 or entity, to the Designating Party) within 60 days after the Final Disposition of this
15 Action that (1) identifies (by category, where appropriate) all the Protected Material that
16 was returned or destroyed and (2) affirms that the Receiving Party has not retained any
17 copies, abstracts, compilations, summaries or any other format reproducing or
18 capturing any of the Protected Material.

19 13.3 USE OF ARCHIVAL OR BACKUP DATA

20 Notwithstanding other provisions in this Order, Counsel are entitled to retain an
21 archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts,
22 legal memoranda, correspondence, deposition and trial exhibits, expert reports,
23 attorney work product, and consultant and expert work product, even if such materials
24 contain Protected Material. Any such archival copies that contain or constitute
25 Protected Material remain subject to this Protective Order as set forth in Section 4
26 (DURATION).
27
28

1 Counsel also shall not be required to delete Protected Material that may reside
2 on their respective parties', firms', or vendors' electronic disaster recovery systems that
3 are overwritten in the normal course of business, or Protected Material that may reside
4 in electronic files which are not reasonably accessible. However, parties and their
5 Counsel shall not retrieve, access, nor use any Protected Material from said electronic
6 disaster recovery systems or other not-reasonably accessible data sources after the
7 conclusion of the matter.

8 **14. VIOLATION**

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

11
12 Dated: 4/19/2024



HON. JEAN P. ROSENBLUTH
United States Magistrate Judge

13
14
15
16
17
18
19
20
21
22
23
24
25
26 Respectfully submitted on this 8th day of April, 2024.

27
28 Attorney for the Petitioner:

Attorneys for Respondent:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

/s/ Jeremy R. Kaufman
Jeremy R. Kauffman

Jones Day
555 S. Flower St.
Fiftieth Floor
Los Angeles, CA 90071
Telephone: 213.243.2544

Email: jkauffman@jonesday.com

/s/ Lindsay M. Vick
Lindsay M. Vick

Jesi J. Carlson
David Kim
Robert D. Tennyson, Jr.
Office of Immigration Litigation
United States Department of Justice
PO Box 878, Ben Franklin Station
Washington, DC 20044
Telephone: (202) 532-4023

Email: Lindsay.vick@usdoj.gov
jesi.j.carlson@usdoj.gov
robert.d.tennyson@usdoj.gov
david.kim4@usdoj.gov

1 Exhibit A

2
3 **UNITED STATES DISTRICT COURT**
4 **CENTRAL DISTRICT OF CALIFORNIA**

5 RICARDO FERNANDO RODRIQUES,)
6) 5:23-cv-02444-DSF-JPR
7 Petitioner,)
8)
9 v.)
10 MERRICK B. GARLAND,)
11 U.S. ATTORNEY GENERAL,)
12 Respondent.)

13
14 **ACKNOWLEDGEMENT AND AGREEMENT TO BE BOUND**

15 I, _____ [print or type full name], of
16 _____[print or type full address], declare under
17 penalty of perjury that I have read in its entirety and understand the Stipulated
18 Protective Order that was issued by the United States District Court for the Central
19 District of California on _____[date] in the instant case of *Ricardo*
20 *Fernando Roriques v. Merrick B. Garland*, Civil Action No. 5:23-cv-02444-DSF-JPR. I agree
21 to comply with and to be bound by all the terms of this Stipulated Protective Order and
22 I understand and acknowledge that failure to so comply could expose me to sanctions
23 and punishment in the nature of contempt. I solemnly promise that I will not disclose
24 in any manner any information or item that is subject to this Stipulated Protective Order
25 to any person or entity except in strict compliance with the provisions of this Order. I
26 further agree to submit to the jurisdiction of the United States District Court for the
27 Central District of California for enforcing the terms of this Stipulated Protective
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Order, even if such enforcement proceedings occur after termination of this action. I hereby appoint _____ [print or type full name] of _____ [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____