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15 Attorneys for Plaintiff
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17 **UNITED STATES DISTRICT COURT**
 18 **CENTRAL DISTRICT OF CALIFORNIA**

19 MARX GARCIA, an individual
 20
 21 Plaintiff,
 v.
 22 ZODIAC POOL SYSTEMS LLC; and
 23 DOES 1-50, INCLUSIVE,
 24 Defendants.

Case No. 5:24-cv-02041-MCS
 (AJRx)
DISCOVERY MATTER
~~PROPOSED~~ **ORDER**
GRANTING STIPULATED
PROTECTIVE ORDER

Complaint Filed: July 31, 2024

1 **1. GENERAL**

2 1.1 Purposes and Limitations. Discovery in this action is 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 prosecuting
5 this litigation may be warranted. Accordingly, the parties hereby stipulate to and
6 petition the Court to enter the following Stipulated Protective Order. The parties
7 acknowledge that this Order does not confer blanket protections on all disclosures or
8 responses to discovery and that the protection it affords from public disclosure and
9 use extends only to the limited information or items that are entitled to confidential
10 treatment under the applicable legal principles. The parties further acknowledge, as
11 set forth in Section 12.3, below, that this Stipulated Protective Order does not entitle
12 them to file confidential information under seal; Civil Local Rule 79-5 sets forth the
13 procedures that must be followed and the standards that will be applied when a party
14 seeks permission from the court to file material under seal.

15 1.2 Good Cause Statement.

16 This action is likely to involve trade secrets, customer and pricing lists,
17 individuals' private information, and other valuable confidential research,
18 development, commercial, financial, technical and/or proprietary information, as is
19 contemplated by Federal Rule of Civil Procedure 26(c)(1)(G), and special protection
20 from public disclosure and from use for any purpose other than prosecution of this
21 action is warranted. Such confidential and proprietary materials and information
22 consist of, among other things, confidential business or financial information,
23 information regarding confidential business practices, or other confidential research,
24 technical, cost, price, development, marketing, or other commercial information
25 (including information implicating privacy rights of third parties), information
26 otherwise generally unavailable to the public, or which may be privileged or otherwise
27 protected from disclosure under state or federal statutes, court rules, case decisions,
28 or common law. Accordingly, to expedite the flow of information, to facilitate the

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

10 **2. DEFINITIONS**

11 2.1 Action: this pending federal lawsuit.

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

14 2.3 Confidential Information or Items: information (regardless of how it is
15 generated, stored or maintained) or tangible things contained or disclosed in any
16 materials, including documents, portions of documents, answers to interrogatories,
17 responses to requests for admissions, trial testimony, deposition testimony, and
18 transcripts of trial testimony and depositions, including data, summaries, and
19 compilations derived therefrom that is deemed to be confidential information by any
20 Party to which it belongs and that qualifies for protection under Federal Rule of Civil
21 Procedure 26(c), and as specified above in the Good Cause Statement.

22 2.4 Counsel: Outside Counsel of Record, House Counsel for Defendant
23 Zodiac Pool Systems LLC (“Defendant”), and other attorneys, paralegals, secretaries,
24 and other support staff employed in the following law firms: Winston & Strawn LLP
25 and Jaurigue Law Group. “Counsel” also includes paralegals, secretaries, and other
26 support staff for Defendant.

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1 2.5 Designating Party: a Party or Non-Party that designates information or
2 items that it produces in disclosures, in responses to discovery, or in deposition
3 testimony as “CONFIDENTIAL.”

4 2.6 Disclosure or Discovery Material: all items or information, regardless
5 of the medium or manner in which it is generated, stored, or maintained (including,
6 among other things, documents, portions of documents, tangible things, testimony,
7 transcripts, answers to interrogatories, responses to requests for admissions, as well
8 as any data, summaries, and compilations derived therefrom), that are produced or
9 generated in disclosures, responses to discovery, or deposition testimony in this
10 matter.

11 2.7 Expert: a person with specialized knowledge or experience in a matter
12 pertinent to the litigation who has been retained by a Party or its counsel to serve as
13 an expert witness or as a consultant in this Action.

14 2.8 House Counsel: attorneys who are employees of a party to this Action.
15 House Counsel does not include Outside Counsel of Record or any other outside
16 counsel.

17 2.9 Non-Party: any natural person, partnership, corporation, association, or
18 other legal entity not named as a Party to this action.

19 2.10 Outside Counsel of Record: attorneys who are not employees of a party
20 to this Action but are retained to represent or advise a party to this Action and have
21 appeared in this Action on behalf of that party or are affiliated with a law firm that
22 has appeared on behalf of that party, including support staff.

23 2.11 Party: any party to this Action, including all of its officers, directors,
24 employees, consultants, retained experts, House Counsel, and Outside Counsel of
25 Record (and their support staffs).

26 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
27 Discovery Material in this Action.

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1 2.13 Professional Vendors: persons or entities that provide litigation support
2 services (e.g., photocopying, videotaping, translating, preparing exhibits or
3 demonstrations, and organizing, storing, or retrieving data in any form or medium)
4 and their employees and subcontractors.

5 2.14 Protected Material: any Disclosure or Discovery Material that is
6 designated as “CONFIDENTIAL.”

7 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material
8 from a Producing Party.

9 **3. SCOPE**

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

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

17 **4. DURATION**

18 Once a case proceeds to trial, all of the court-filed information to be introduced
19 that was previously designated as confidential or maintained pursuant to this
20 protective order becomes public and will be presumptively available to all members
21 of the public, including the press, unless compelling reasons supported by specific
22 factual findings to proceed otherwise are made to the trial judge in advance of the
23 trial. See Kamakana v. City and Cty. of Honolulu, 447 F.3d 1172, 1180-81 (9th Cir.
24 2006) (distinguishing “good cause” showing for sealing documents produced in
25 discovery from “compelling reasons” standard when merits-related documents are
26 part of court record). Accordingly, the terms of this protective order do not extend
27 beyond the commencement of the trial.

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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 this
4 Order must take care to limit any such designation to specific material that qualifies
5 under the appropriate standards. The Designating Party must designate for protection
6 only those parts of material, documents, items, or oral or written communications that
7 qualify so that other portions of the material, documents, items, or communications
8 for which protection is not warranted are not swept unjustifiably within the ambit of
9 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 impose
13 unnecessary expenses and burdens on other parties) may expose the Designating Party
14 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 the "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 documents
8 it wants copied and produced, the Producing Party must determine which documents,
9 or portions thereof, qualify for protection under this Order. Then, before producing
10 the specified documents, the Producing Party must affix the “CONFIDENTIAL
11 legend” to each page that contains Protected Material. If only a portion or portions
12 of the material on a page qualifies for protection, the Producing Party also must clearly
13 identify the protected portion(s) (e.g., by making appropriate markings in the
14 margins).

15 (b) for testimony given in depositions that the Designating Party identify
16 the Disclosure or Discovery Material on the record whenever possible. A Party may
17 also designate portions of depositions as containing Confidential Information after
18 transcription of the proceedings; a Party will have until thirty (30) days after receipt
19 of the deposition transcript to inform the other Party to the action of the portions of
20 the transcript to be designated “CONFIDENTIAL.”

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

27 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
28 failure to designate qualified information or items does not, standing alone, waive the

1 Designating Party’s right to secure protection under this Order for such material.
2 Upon timely correction of a designation, the Receiving Party must make reasonable
3 efforts to assure that the material is treated in accordance with the provisions of this
4 Order.

5 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

6 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
7 designation of confidentiality at any time that is consistent with the Court’s
8 Scheduling Order.

9 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
10 resolution process under Local Rule 37-1, et seq. Any discovery motion must strictly
11 comply with the procedures set forth in Local Rules 37-1, 37-2, and 37-3.

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

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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 Action only for prosecuting, defending, or attempting to settle this Action. 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
9 location and in a secure manner that ensures that access is limited to the persons
10 authorized under this Order.

11 7.2 Disclosure of Confidential Information or Items. Unless otherwise
12 ordered by the Court or permitted in writing by the Designating Party, a Receiving
13 Party may disclose any information or item designated “CONFIDENTIAL” only to:

14 (a) the Receiving Party’s Outside Counsel of Record in this Action, as
15 well as employees or support staff of said Outside Counsel of Record to whom it is
16 reasonably necessary to disclose the information for this Action;

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

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

22 (d) the Court and its personnel;

23 (e) court reporters and their staff;

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

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

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

10 (i) any mediator or settlement officer, and their supporting personnel,
11 mutually agreed upon by any of the parties engaged in settlement discussions.

12 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
13 **PRODUCED 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 notification shall
18 include a copy of the subpoena or court order;

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

23 (c) cooperate with respect to all reasonable procedures sought to be pursued
24 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 action
27 as “CONFIDENTIAL” before a determination by the court from which the subpoena
28 or order issued, unless the Party has obtained the Designating Party’s permission. The

1 Designating Party shall bear the burden and expense of seeking protection in that court
2 of its confidential material and nothing in these provisions should be construed as
3 authorizing or encouraging a Receiving Party in this Action to disobey a lawful
4 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 by a Non-
8 Party in this Action and designated as "CONFIDENTIAL." Such information
9 produced by Non-Parties in connection with this litigation is protected by the
10 remedies and relief provided by this Order. Nothing in these provisions should be
11 construed as prohibiting a Non-Party from seeking additional protections.

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

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

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

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

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

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

4 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

5 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
6 Protected Material to any person or in any circumstance not authorized under this
7 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
8 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
9 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or
10 persons to whom unauthorized disclosures were made of all the terms of this Order,
11 and (d) request such person or persons to execute the “Acknowledgment and
12 Agreement to Be Bound” that is attached hereto as Exhibit A. If the Receiving Party
13 has disclosed the materials before receiving the designation, the Receiving Party must
14 notify the Designating Party in writing of each such disclosure. Counsel for the
15 parties will agree on a mutually acceptable manner of labeling or marking the
16 inadvertently produced materials as “CONFIDENTIAL.”

17 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
18 **PROTECTED MATERIAL**

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

1 **12. MISCELLANEOUS**

2 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
3 person to seek its modification by the Court in the future.

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

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

16 **13. FINAL DISPOSITION**

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

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

8 **14. VIOLATION OF ORDER**

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

12
13 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

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15
16 DATED: January 3, 2025

17 /s/ Amanda Collins
18 Attorney for Plaintiff
19 Marx Garcia

20 DATED: January 3, 2025

21 /s/ Tristan R. Kirk
22 Attorney for Defendant
23 Zodiac Pool Systems LLC

24 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

25
26 DATED: January 6, 2025

27 
28 HON. A. JOEL RICHLIN
United States Magistrate Judge

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3
4 I, _____ [**full name**], of _____
5 [**full address**], declare under penalty of perjury that I have read in its entirety and
6 understand the Stipulated Protective Order that was issued by the United States
7 District Court for the Central District of California on _____ [**date**] in the
8 case of *Marx Garcia v. Zodiac Pool Systems LLC*, Case No. 5:24-cv-02041-MCS
9 (AJRx). I agree to comply with and to be bound by all the terms of this Stipulated
10 Protective Order and I understand and acknowledge that failure to so comply could
11 expose me to sanctions and punishment in the nature of contempt. I solemnly
12 promise that I will not disclose in any manner any information or item that is subject
13 to this Stipulated Protective Order to any person or entity except in strict compliance
14 with the provisions of this Order.

15 I further agree to submit to the jurisdiction of the United States District Court
16 for the Central District of California for the purpose of enforcing the terms of this
17 Stipulated Protective Order, even if such enforcement proceedings occur after
18 termination of this action. I hereby appoint _____ [**full**
19 **name**] of _____ [**full address and**
20 **telephone number**] as my California agent for service of process in connection with
21 this action or any proceedings related to enforcement of this Stipulated Protective
22 Order.

23 Date: _____

24 City and State where signed: _____

25 Printed name: _____

26
27 Signature: _____

28