

1 confidential information, as well as confidential, proprietary and/or trade secret
2 information of Defendant or third parties, and that this Protective Order is intended
3 to protect such information.

4 2. All documents and/or information described above in Paragraph
5 1, including information derived therefrom (hereinafter “Confidential
6 Information”) produced by any party or third party pursuant to any discovery
7 request, subpoena or other provision of the *Federal Rules of Civil Procedure* in the
8 above-captioned litigation, will be covered by this Protective Order.

9 3. All confidential materials produced shall be marked
10 “CONFIDENTIAL.” Only those pages of a document containing Confidential
11 Information may be marked “CONFIDENTIAL.” The stamping of the legend
12 “CONFIDENTIAL” is for identification purposes only, and in the event that a
13 document produced is inadvertently not stamped with the legend
14 “CONFIDENTIAL,” such document is still subject to the provisions of this
15 Protective Order if it is later identified by any party as “CONFIDENTIAL.”

16 4. Challenging Designation of Confidential Materials. At any time after
17 receipt of documents labeled as Confidential Information, the Receiving Parties
18 may provide the disclosing Parties with a written objection to the classification of
19 specific documents as prohibited from disclosure under this Protective Order and
20 the basis for the Receiving Parties’ objection. Upon receipt of such a written
21 objection, the disclosing Parties shall provide a written response to the Receiving
22 Parties within five (5) business days. If the Disclosing Parties do not agree with
23 the position of the Receiving Parties, the Receiving Parties shall have the option of
24 proceeding with a discovery motion contesting the confidential nature of the
25 disputed documents. The parties shall comply with the meet and confer

1 requirements of the *Federal Rules of Civil Procedure* prior to the filing of any such
2 motion, and shall strictly comply with *Local Rule 37*, including the joint stipulation
3 provisions.

4 5. All Confidential Information provided in accordance with this Order
5 may be used for all proceedings in this matter only, including law and motion, trial
6 and/or appeal. However, without limiting the above use, the dissemination of all
7 such Confidential Information will be limited to the same individuals entitled to
8 use/review such Confidential Information as stated herein. The Court will retain
9 jurisdiction to determine whether any Confidential Information may be used before
10 the Court or in the Court.

11 6. Testimony taken at any deposition may be designated as confidential
12 by making a statement to that effect on the record at the deposition. Arrangements
13 shall be made by the taking party with the Court Reporter transcribing such
14 proceedings to separately bind such portions of the transcript containing
15 information designated as confidential, and to label such portions accordingly.
16 Any request to use Confidential Information at trial or in other pretrial proceedings
17 must be taken up with the District Judge at the appropriate time. Any motion to
18 seal documents containing Confidential Information must be filed in compliance
19 with *Local Rule 79.5*.

20 7. All Confidential Information produced in accordance with the Order
21 shall not be used, other than in the instant case, in any deposition, legal proceeding,
22 for media use/dissemination, or in any other forum, nor shall the Confidential
23 Information be disseminated in any form, except by court order, or other until such
24 time as the “Confidential” designation is removed by agreement of counsel for the
25 parties or by further order of this Court.

1 8. Confidential Information shall be viewed only by: (1) the Court and
2 its staff; (2) counsel of record for the receiving party, including associates, clerks,
3 and secretarial staff for such parties, (3) the parties to the action including
4 designated representatives of Defendant, (4) witnesses other than the parties may
5 review any statement made by that witness, reports containing, referencing or
6 repeating that witness' statements, or referencing that witness, and evidentiary and
7 other items referenced in their statements or reports of their statements, so long as
8 that witness has agreed in writing in advance of any disclosure of Confidential
9 Information to be bound by this Protective Order, (5) independent experts and
10 consultants retained by Parties, and (6) any associates, assistants, and secretarial
11 personnel of such experts, consultants and other persons designated by agreement
12 of counsel for the parties, and so long as they have agreed in writing in advance of
13 any disclosure of Confidential Information to be bound by this Protective Order.
14 In the event an individual does not consent to be bound by this Protective Order,
15 no disclosure of Confidential Information will be made to such individual. The
16 Court and its staff may review all matters, which pertain to the discussion of the
17 Confidential Information, including law and motion matters, consistent with this
18 confidentiality agreement in respect to the Confidential Information.

19 9. Confidential Information produced in connection with this order shall
20 not be disclosed, disseminated, or in any manner provided to the media or any
21 member of the public, unless the Court has ruled that the Confidential Information
22 may be divulged to the media and the public.

23 10. Those individuals authorized to review the Confidential Information
24 in connection with this litigation are expressly prohibited from duplicating,
25 copying or otherwise distributing, disseminating, or orally disclosing any of the
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1 disclosed Confidential Information for any purpose to any person or entity not
2 permitted access herein.

3 11. Counsel for each party shall take reasonable precautions to prevent
4 the unauthorized or inadvertent disclosure of Confidential Information.

5 12. In the event that the terms of this Protective Order are violated, the
6 parties agree that the aggrieved party may immediately apply to this Court to
7 obtain injunctive relief and sanctions against any person violating any of the terms
8 of this Protective Order. This Court shall retain jurisdiction over the parties for the
9 purpose of enforcing this Protective Order, and the Court shall have the power to
10 modify this Protective Order at any time and to impose whatever penalties it deems
11 appropriate for the violation of this Protective Order. Any request for monetary
12 sanctions must be made by a properly noticed motion before the Magistrate Judge.

13 13. This Protective Order, and the obligations of all persons thereunder,
14 including those relating to the disclosure and use of Confidential Information, shall
15 survive the final termination of this case, whether such termination is by
16 settlement, judgment, dismissal, appeal or otherwise, until further order of the
17 Court.

18 14. The Parties will preserve all such Confidential Information and
19 copies thereof, and will destroy them or return them to the producing party when
20 this litigation is concluded.

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1 **IT IS SO ORDERED.**

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3 Dated: April 17, 2014

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JEAN P. ROSENBLUTH
Magistrate Judge

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PROTECTIVE ORDER

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