

1 RUTAN & TUCKER, LLP  
 Philip D. Kohn (State Bar No. 90158)  
 2 City Attorney, City of Laguna Beach  
 pkohn@rutan.com  
 3 Ajit Singh Thind (State Bar No. 268018)  
 Deputy City Attorney, City of Laguna Beach  
 4 athind@rutan.com  
 611 Anton Boulevard, Suite 1400  
 5 Costa Mesa, California 92626-1931  
 Telephone: 714-641-5100  
 6 Facsimile: 714-546-9035

7 O'MELVENY & MYERS LLP  
 Michael G. Yoder (State Bar. No, 83059)  
 8 myoder@omm.com  
 Christopher S. Whittaker (State Bar No, 274699)  
 9 cwhittaker@omm.com  
 610 Newport Center Drive, Suite 1700  
 10 Newport Beach, California 92660-6429  
 Telephone: 949-823-6900  
 11 Facsimile: 949-823-6994

12 Attorneys for Defendants  
 CITY OF LAGUNA BEACH and  
 13 LAGUNA BEACH POLICE DEPARTMENT

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

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 18 DAVID SESTINI, RICHARD OWENS,  
 and MICHAEL NEWMAN, individually  
 19 and on behalf of all others similarly  
 situated,  
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 Plaintiffs,  
 21  
 vs.  
 22 CITY OF LAGUNA BEACH and  
 LAGUNA BEACH POLICE  
 23 DEPARTMENT, a California charter  
 city,  
 24  
 Defendants.  
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Case No.: 8:15-CV-01332 AG (DFMx)  
 Assigned for all purposes to:  
 Hon. Judge Andrew J. Guilford

**STIPULATED PROTECTIVE ORDER**

Date Action Filed: August 20, 2015  
 Trial Date: February 7, 2017  
 Judge: Hon. Andrew J. Guilford  
 Courtroom: 10D

1     **1.     PURPOSE AND LIMITS OF THIS ORDER**

2             Discovery in this action is likely to involve confidential, proprietary,  
3 sensitive, or private information requiring special protection from public disclosure  
4 and from use for any purpose other than this litigation. Thus, the Court enters this  
5 Protective Order. This Order does not confer blanket protections on all disclosures  
6 or responses to discovery, and the protection it gives from public disclosure and use  
7 extends only to the specific material entitled to confidential treatment under the  
8 applicable legal principles. This Order does not limit or otherwise affect any  
9 objections that a party may have to the production or disclosure of information in  
10 this action except as expressly stated. This Order does not automatically authorize  
11 the filing under seal of material designated under this Order. Instead, the parties  
12 must comply with L.R. 79-5.2 and this Court’s Guide to Electronically Filing  
13 Under-Seal Documents in Civil Cases if they seek to file anything under seal. This  
14 Order does not govern the use at trial of material designated under this Order.

15     **2.     DESIGNATING PROTECTED MATERIAL**

16             **2.1     Over-Designation Prohibited.** Any party or non-party who  
17 designates information or items for protection under this Order as  
18 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEY EYES  
19 ONLY” (a “designator”) must only designate specific material that qualifies under  
20 the appropriate standards. To the extent practicable, only those parts of documents,  
21 items, or oral or written communications that require protection shall be designated.  
22 Designations with a higher confidentiality level when a lower level would suffice  
23 are prohibited. Mass, indiscriminate, or routinized designations are prohibited.  
24 Unjustified designations expose the designator to sanctions, including the Court’s  
25 striking all confidentiality designations made by that designator. Designation under  
26 this Order is allowed only if the designation is necessary to protect material that, if  
27 disclosed to persons not authorized to view it, would cause competitive or other  
28 recognized harm or if protection of the information is required by law. Material

1 may not be designated if it has been made public, or if designation is otherwise  
2 unnecessary to protect a secrecy or privacy interest. If a designator learns that  
3 information or items that it designated for protection do not qualify for protection at  
4 all or do not qualify for the level of protection initially asserted, that designator  
5 must promptly notify all parties that it is withdrawing the mistaken designation.

6 **2.2 Manner and Timing of Designations.** Designation under this Order  
7 requires the designator to affix the applicable legend (“CONFIDENTIAL” or  
8 “HIGHLY CONFIDENTIAL – ATTORNEY EYES ONLY”) to each page that  
9 contains protected material. For testimony given in deposition or other proceeding,  
10 the designator shall specify all protected testimony and the level of protection being  
11 asserted. It may make that designation during the deposition or proceeding, or may  
12 invoke, on the record or by written notice to all parties on or before the next  
13 business day, a right to have up to 21 days from the deposition or proceeding to  
14 make its designation.

15 **2.2.1** A party or non-party that makes original documents or materials  
16 available for inspection need not designate them for protection until after the  
17 inspecting party has identified which material it would like copied and  
18 produced. During the inspection and before the designation, all material  
19 shall be treated as HIGHLY CONFIDENTIAL – ATTORNEY EYES  
20 ONLY. After the inspecting party has identified the documents it wants  
21 copied and produced, the producing party must designate the documents, or  
22 portions thereof, that qualify for protection under this Order.

23 **2.2.2** Parties shall give advance notice if they expect a deposition or  
24 other proceeding to include designated material so that the other parties can  
25 ensure that only authorized individuals are present at those proceedings when  
26 such material is disclosed or used. The use of a document as an exhibit at a  
27 deposition shall not in any way affect its designation. Transcripts containing  
28 designated material shall have a legend on the title page noting the presence

1 of designated material, and the title page shall be followed by a list of all  
2 pages (including line numbers as appropriate) that have been designated, and  
3 the level of protection being asserted. The designator shall inform the court  
4 reporter of these requirements. Any transcript that is prepared before the  
5 expiration of the 21-day period for designation shall be treated during that  
6 period as if it had been designated HIGHLY CONFIDENTIAL –  
7 ATTORNEY EYES ONLY unless otherwise agreed. After the expiration of  
8 the 21-day period, the transcript shall be treated only as actually designated.

9 **2.3 Inadvertent Failures to Designate.** An inadvertent failure to  
10 designate does not, standing alone, waive protection under this Order. Upon timely  
11 assertion or correction of a designation, all recipients must make reasonable efforts  
12 to ensure that the material is treated according to this Order.

13 **3. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

14 All challenges to confidentiality designations shall proceed under L.R. 37-1  
15 through L.R. 37-4. Until the Court enters an order changing the designation of  
16 specified information or documents, they shall be afforded the “CONFIDENTIAL”  
17 or “HIGHLY CONFIDENTIAL – ATTORNEY EYES ONLY ” treatment  
18 described in this Order.

19 **4. ACCESS TO DESIGNATED MATERIAL**

20 **4.1 Basic Principles.** A receiving party may use designated material only  
21 for this litigation. Designated material may be disclosed only to the categories of  
22 persons and under the conditions described in this Order.

23 **4.2 Disclosure of CONFIDENTIAL Material Without Further**  
24 **Approval.** Unless otherwise ordered by the Court or permitted in writing by the  
25 designator, a receiving party may disclose any material designated  
26 CONFIDENTIAL only to:  
27  
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1           **4.2.1** The receiving party's outside counsel of record in this action  
2 and employees of outside counsel of record to whom disclosure is reasonably  
3 necessary;

4           **4.2.2** The receiving party (if an individual) or the officers, directors,  
5 and employees of the receiving party (if an entity) to whom disclosure is  
6 reasonably necessary, and who have signed the Agreement to Be Bound  
7 (Exhibit A);

8           **4.2.3** Experts and consultants retained by the receiving party's outside  
9 counsel of record to whom disclosure is reasonably necessary, and who have  
10 signed the Agreement to Be Bound (Exhibit A);

11           **4.2.4** The Court and its personnel;

12           **4.2.5** Outside court reporters and their staff, professional jury or trial  
13 consultants, and professional vendors to whom disclosure is reasonably  
14 necessary, and who have signed the Agreement to Be Bound (Exhibit A);

15           **4.2.6** During their depositions, witnesses in the action to whom  
16 disclosure is reasonably necessary and who have signed the Agreement to Be  
17 Bound (Exhibit A); and

18           **4.2.7** The author or recipient of a document containing the material, or  
19 a custodian or other person who otherwise possessed or knew the  
20 information.

21           **4.3 Disclosure of HIGHLY CONFIDENTIAL – ATTORNEY EYES**  
22 **ONLY Material Without Further Approval.** Unless permitted in writing by the  
23 designator, a receiving party may disclose material designated HIGHLY  
24 CONFIDENTIAL – ATTORNEY EYES ONLY without further approval only to:

25           **4.3.1** The receiving party's outside counsel of record in this action  
26 and employees of outside counsel of record to whom it is reasonably  
27 necessary to disclose the information;

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1           **4.3.2** Experts and consultants retained by the receiving party's outside  
2 counsel of record to whom disclosure is reasonably necessary, and who have  
3 signed the Agreement to Be Bound (Exhibit A);

4           **4.3.3** The Court and its personnel;

5           **4.3.4** Outside court reporters and their staff, professional jury or trial  
6 consultants, and professional vendors to whom disclosure is reasonably  
7 necessary, and who have signed the Agreement to Be Bound (Exhibit A); and

8           **4.3.5** The author or recipient of a document containing the material, or  
9 a custodian or other person who otherwise possessed or knew the  
10 information.

11 **5. PROTECTED MATERIAL SUBPOENAED OR ORDERED**  
12 **PRODUCED IN OTHER LITIGATION**

13           **5.1 Subpoenas and Court Orders.** This Order in no way excuses non-  
14 compliance with a lawful subpoena or court order. The purpose of the duties  
15 described in this section is to alert the interested parties to the existence of this  
16 Order and to give the designator an opportunity to protect its confidentiality  
17 interests in the court where the subpoena or order issued.

18           **5.2 Notification Requirement.** If a party is served with a subpoena or a  
19 court order issued in other litigation that compels disclosure of any information or  
20 items designated in this action as CONFIDENTIAL or HIGHLY CONFIDENTIAL  
21 – ATTORNEY EYES ONLY, that party must:

22           **5.2.1** Promptly notify the designator in writing. Such notification  
23 shall include a copy of the subpoena or court order;

24           **5.2.2** Promptly notify in writing the party who caused the subpoena or  
25 order to issue in the other litigation that some or all of the material covered  
26 by the subpoena or order is subject to this Order. Such notification shall  
27 include a copy of this Order; and  
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1                   **5.2.3** Cooperate with all reasonable procedures sought by the  
2                   designator whose material may be affected.

3                   **5.3 Wait For Resolution of Protective Order.** If the designator timely  
4                   seeks a protective order, the party served with the subpoena or court order shall not  
5                   produce any information designated in this action as CONFIDENTIAL or HIGHLY  
6                   CONFIDENTIAL – ATTORNEY EYES ONLY before a determination by the  
7                   court where the subpoena or order issued, unless the party has obtained the  
8                   designator’s permission. The designator shall bear the burden and expense of  
9                   seeking protection of its confidential material in that court.

10                  **6. UNAUTHORIZED DISCLOSURE OF DESIGNATED MATERIAL**

11                  If a receiving party learns that, by inadvertence or otherwise, it has disclosed  
12                  designated material to any person or in any circumstance not authorized under this  
13                  Order, it must immediately (1) notify in writing the designator of the unauthorized  
14                  disclosures, (2) use its best efforts to retrieve all unauthorized copies of the  
15                  designated material, (3) inform the person or persons to whom unauthorized  
16                  disclosures were made of all the terms of this Order, and (4) use reasonable efforts  
17                  to have such person or persons execute the Agreement to Be Bound (Exhibit A).

18                  **7. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**  
19                  **PROTECTED MATERIAL**

20                  When a producing party gives notice that certain inadvertently produced  
21                  material is subject to a claim of privilege or other protection, the obligations of the  
22                  receiving parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B).  
23                  This provision is not intended to modify whatever procedure may be established in  
24                  an e-discovery order that provides for production without prior privilege review  
25                  pursuant to Federal Rule of Evidence 502(d) and (e).

26                  **8. FILING UNDER SEAL**

27                  Without written permission from the designator or a Court order, a party may  
28                  not file in the public record in this action any designated material. A party seeking

1 to file under seal any designated material must comply with L.R. 79-5.2 and this  
2 Court's Guide to Electronically Filing Under-Seal Documents in Civil Cases .  
3 Filings may be made under seal only pursuant to a court order authorizing the  
4 sealing of the specific material at issue. The fact that a document has been  
5 designated under this Order is insufficient to justify filing under seal. Instead,  
6 parties must explain the basis for confidentiality of each document sought to be  
7 filed under seal. Because a party other than the designator will often be seeking to  
8 file designated material, cooperation between the parties in preparing, and in  
9 reducing the number and extent of, requests for under seal filing is essential. *See*  
10 L.R. 79-5.2.2(b). If a *receiving party's* request to file designated material under  
11 seal pursuant to L.R. 79-5.2 is denied by the Court, then the receiving party *may file*  
12 *the material in the public record* unless (1) *the designator* seeks reconsideration  
13 within four days of the denial, or (2) as otherwise instructed by the Court.

14 **9. FINAL DISPOSITION**

15 Within 60 days after the final disposition of this action, each party shall  
16 return all designated material to the designator or destroy such material, including  
17 all copies, abstracts, compilations, summaries, and any other format reproducing or  
18 capturing any designated material. The receiving party must submit a written  
19 certification to the designator by the 60- day deadline that (1) identifies (by  
20 category, where appropriate) all the designated material that was returned or  
21 destroyed, and (2) affirms that the receiving party has not retained any copies,  
22 abstracts, compilations, summaries, or any other format reproducing or capturing  
23 any of the designated material. This provision shall not prevent counsel from  
24 retaining an archival copy of all pleadings, motion papers, trial, deposition, and  
25 hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits,  
26 expert reports, attorney work product, and consultant and expert work product, even  
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if such materials contain designated material. Any such archival copies remain subject to this Order.

IT IS SO ORDERED.

DATED: September 2, 2016



Douglas F. McCormick  
United States Magistrate Judge

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EXHIBIT A  
AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of  
\_\_\_\_\_ [print or type full address], declare under penalty of  
perjury that I have read in its entirety and understand the Protective Order that was  
issued by the United States District Court for the Central District of California on  
\_\_\_\_\_ [date] in the case of *Glover, et al. v. City of Laguna Beach, et al.*, Case  
No.: 8:15-CV-01332 AG (DFMx). I agree to comply with and to be bound by all  
the terms of this Protective Order, and I understand and acknowledge that failure to  
so comply could expose me to sanctions and punishment for contempt. I solemnly  
promise that I will not disclose in any manner any information or item that is  
subject to this Protective Order to any person or entity except in strict compliance  
with this Order.

I further agree to submit to the jurisdiction of the United States District Court  
for the Central District of California for the purpose of enforcing this 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 Order.

Date: \_\_\_\_\_  
City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_  
[printed name]

Signature: \_\_\_\_\_