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 Dual Diagnosis Treatment Center, Inc.,  
 8 Satya Health of California, Inc., and  
 Vedanta Laboratories, Inc.  
 9

10 UNITED STATES DISTRICT COURT  
 11 CENTRAL DISTRICT OF CALIFORNIA - SOUTHERN DIVISION

12  
 13 DUAL DIAGNOSIS TREATMENT  
 CENTER, INC., et al.,

14 Plaintiffs,

15 v.

16 CITY OF SAN CLEMENTE, et al.,

17 Defendants.  
 18

Case No. 8:15-cv-01611-CJC-JCG  
 Judge: Hon. Cormac J. Carney

**STIPULATION AND PROTECTIVE  
 ORDER**

Trial Date: September 12, 2017

1 Plaintiffs Dual Diagnosis Treatment Center, Inc., Satya Health of California,  
2 Inc., and Vedanta Laboratories, Inc. (“Plaintiffs”) and Defendants City of San  
3 Clemente and the City Council of San Clemente (“Defendants” or the “City”),  
4 through their respective counsels of record, hereby stipulate and request that the  
5 Court enter an order as follows:

6  
7 1. DEFINITIONS AND STATEMENT OF GOOD CAUSE

8  
9 The terms defined in this Section shall, throughout this Order, have the  
10 meanings herein provided. Defined terms may be used in the singular or in the  
11 plural.

12 1.1 “Designating party” means the party designating any information which  
13 it either produces, is asked to produce, or whose information is sought from or  
14 produced by any other person as “CONFIDENTIAL” or “CONFIDENTIAL—  
15 ATTORNEY’S EYES ONLY.”

16 1.2 “Receiving Party” means the party receiving or requesting production of  
17 information designated “CONFIDENTIAL” or “CONFIDENTIAL—ATTORNEY’S  
18 EYES ONLY.”

19 1.3 “Confidential Information” means any information, whether or not  
20 embodied in any physical medium, used (or commercially scheduled to be used) by  
21 the Designating Party in or pertaining to its trade or business that is not generally  
22 known and as to which there is an overriding interest that overcomes the right of  
23 access to the record. Any summary, compilation or copy of any Confidential  
24 Information shall also constitute Confidential Information.

25 1.4 “Attorney’s Eyes Only Information” means that subset of information  
26 meeting the definition of “Confidential Information” set forth in Paragraph 1.3 above

1 and that is so highly sensitive that disclosure beyond the limits set forth in Section 5  
2 below would create a substantial risk of serious injury that could not be avoided by  
3 less restrictive means. The Designating Party shall bear the ultimate burden of  
4 proving that any information it has designated “CONFIDENTIAL—ATTORNEY’S  
5 EYES ONLY” meets the foregoing definition.

6 1.5 “Reporting Party” means any natural person who has furnished  
7 information purporting to disclose a violation of a law of the United States, the State  
8 of California, or the City of San Clemente, in confidence, to the City or to any law  
9 enforcement officer or agency. “Reporting Party” shall specifically include, but is  
10 not limited to, any natural person who has submitted such a complaint to the City  
11 through 1) the City’s eTRAKiT online reporting portal; 2) email communication to  
12 codeenforcement@san-clemente.org; or 3) telephone or email communication to any  
13 person then employed by the City.

14 1.6 “Personal Identifying Information” is defined in Penal Code section  
15 530.55(b), and that definition is incorporated by reference as if fully set forth herein.

16 1.7 “Termination” means the dismissal, whether with or without prejudice,  
17 or settlement of this action, or entry of final judgment in this action and the expiration  
18 of all periods of time to appeal or seek judicial review of such judgment, and/or the  
19 final conclusion of any appeal, including time to seek any further review thereof.

20 1.8 This action involves commercial, financial, and/or proprietary  
21 information for which Plaintiffs contend special protection from public disclosure  
22 and from use for any purpose other than in connection with this litigation is  
23 warranted. Such confidential and proprietary materials and information consist of,  
24 among other things, claimed confidential business or financial information,  
25 information otherwise generally unavailable to the public, or which may be  
26 privileged or otherwise protected from disclosure under state or federal statutes, court

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

12  
13 2. SCOPE AND INTERPRETATION OF THIS ORDER

14  
15 2.1 This Order shall be applicable to, and shall govern, all (a) requests for  
16 production of documents and things; (b) depositions; (c) interrogatories; (d) requests  
17 for admission; (e) any other discovery authorized by the Federal Rules of Civil  
18 Procedure; and (f) any other letters, communications, mailings, or other exchanges of  
19 information or presentation of evidence by the parties in this action not otherwise  
20 identified by the preceding descriptions.

21 2.2 A Designating Party who wishes to keep information confidential  
22 pursuant to this Order shall identify with specificity and designate that information as  
23 “CONFIDENTIAL” or “CONFIDENTIAL—ATTORNEY’S EYES ONLY” within  
24 ten (10) days of the first production of such information and simultaneously deliver  
25 that designation to all other parties via e-mail or overnight mail. All information  
26 properly designated by a Designating Party as “CONFIDENTIAL” or

1 “CONFIDENTIAL—ATTORNEY’S EYES ONLY” in accordance with this Order  
2 shall be used solely for the purposes of this action. Such information may not be  
3 used for any business, commercial, or governmental purpose, except by written  
4 agreement between the Designating Party and the Receiving Party or upon an order  
5 by this Court after reasonable notice and a hearing, at which the Designating and  
6 Receiving Parties shall have an opportunity to be heard.

7       2.3 A party that believes in good faith that any designated information  
8 labeled as such by a Designating Party should not properly be deemed  
9 “CONFIDENTIAL” or “CONFIDENTIAL—ATTORNEY’S EYES ONLY” pursuant  
10 to this Order may object to such designation by making such an objection in writing  
11 and delivering this objection to the Designating Party. The Designating Party shall in  
12 such an event have fourteen (14) days from the receipt of any such objection to file a  
13 motion with the Court that seeks to maintain the designated information as  
14 “CONFIDENTIAL” or “CONFIDENTIAL—ATTORNEY’S EYES ONLY” pursuant  
15 to this Order. The parties shall continue to treat designated information as  
16 “CONFIDENTIAL” or “CONFIDENTIAL—ATTORNEY’S EYES ONLY” during  
17 the pendency of any such motion until a decision on that motion is rendered by the  
18 trial court. The parties agree to bear their own costs and attorney’s fees in connection  
19 with any such motion. The Designating Party shall have the burden of proving that  
20 the information is entitled to be treated as “CONFIDENTIAL” or  
21 “CONFIDENTIAL—ATTORNEY’S EYES ONLY” for the purposes of this Order.

22       2.4 The designation by a Designating Party of any document, thing, or  
23 information as “CONFIDENTIAL” or “CONFIDENTIAL—ATTORNEY’S EYES  
24 ONLY” pursuant to this Order shall be made in good faith and shall be intended  
25 solely to facilitate the pre-trial proceedings, preparation, trial, and settlement of this  
26 action. Counsel’s treatment of designated documents or information in conformity  
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1 with the indicated designation shall not be an admission or agreement by any party  
2 that the designated information, in fact or in law, constitutes any proprietary and/or  
3 confidential information of any other party. The designation of information as  
4 “CONFIDENTIAL” or “CONFIDENTIAL—ATTORNEY’S EYES ONLY” pursuant  
5 to this Order shall not, in substantive proceedings in this action, excuse or relieve the  
6 Designating Party from the burden of proof imposed by the relevant substantive law.

7 2.5 This Order shall not be construed as a waiver by the parties of any  
8 objection which might be raised as to the admissibility of any evidentiary material.  
9 This Order shall also be without prejudice to the rights of any person to oppose  
10 production of any information on any proper ground.

11  
12 3. USE AND/OR DISCLOSURE OF PERSONAL IDENTIFYING  
13 INFORMATION OF REPORTING PARTIES

14  
15 3.1 The Parties to this action understand and acknowledge that this  
16 Stipulation and Protective Order is designed, in part, to protect the alleged privacy of  
17 Reporting Parties while relieving the City of its alleged need to redact such  
18 information prior to disclosing responsive documents and information in discovery.  
19 Accordingly, the Personal Identifying Information of any Reporting Party is shall be  
20 protected within the scope of this Order as follows:

21 3.2 The Personal Identifying information of any Reporting Party shall be  
22 used solely for the purposes of this action.

23 3.3 The disclosure of the Personal Identifying Information of any Reporting  
24 Party pursuant to this Order is not a waiver of the City’s right to assert applicable  
25 statutory or common-law privilege at any deposition, hearing, or proceeding, or at  
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27

1 trial, nor is such disclosure a waiver of any objection otherwise permitted by the  
2 terms of this Order.

3 3.4 The Personal Identifying information of any Reporting Party may not be  
4 used for any non-litigation business, commercial, or governmental purpose, except by  
5 written agreement between the City and the Receiving Party or upon an order by this  
6 Court after reasonable notice and a hearing, at which the City and Receiving Parties  
7 shall have an opportunity to be heard.

8 3.5 The protections of Paragraphs 3.1 through 3.4 shall apply to the Personal  
9 Identifying Information of all Reporting Parties without the need for City to  
10 separately identify and designate that information as protected.

11 3.6 Sections 4 through 7 of this Order shall not apply to the Personal  
12 Identifying Information of a Reporting Party, unless the party disclosing such  
13 information separately identifies and designates that information as also being  
14 “CONFIDENTIAL,” or “CONFIDENTIAL—ATTORNEY’S EYES ONLY”  
15 pursuant to Paragraph 2.2.

16  
17 4. USE AND/OR DISCLOSURE OF CONFIDENTIAL INFORMATION

18  
19 4.1 The Receiving Party and its counsel shall not, directly or indirectly, in  
20 whole or in part, disclose any document, information or thing designated  
21 “CONFIDENTIAL” during the pendency of its protection, pursuant to section 8, by  
22 this Order to any person, except those persons described in Paragraphs 4.2 through  
23 4.7:

24 4.2 The Court and its personnel, any jury empaneled in this action, and any  
25 other person who may serve in a judicial or quasi-judicial function;  
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1           4.3    A professional court reporter engaged to transcribe testimony in this  
2 action;

3           4.4    Any party of record in this action or officer, director, in-house counsel,  
4 or employee of a party of record who is actively assisting in the preparation and trial  
5 of this litigation;

6           4.5    Counsel of record and its employees providing active assistance with  
7 this litigation (including law clerks, legal assistants, technical assistants, secretaries  
8 and clerks of such counsel);

9           4.6    Expert witnesses and consultants engaged to assist counsel in the  
10 defense or prosecution of this action, provided that such expert witnesses and  
11 consultants first shall have signed a Confidentiality Agreement in the form attached  
12 as Exhibit A; and

13           4.7    During the course of a deposition, to the person whose deposition is  
14 being taken, provided that each deponent to whom disclosure is made first shall have  
15 signed a Confidentiality Agreement in the form attached as Exhibit A.

16

17           5.     USE AND/OR DISCLOSURE OF ATTORNEY’S EYES ONLY  
18                    INFORMATION

19

20           5.1    The Receiving Party and its counsel shall not, directly or indirectly, in  
21 whole or in part, disclose any document, information or thing designated  
22 “CONFIDENTIAL—ATTORNEY’S EYES ONLY” to any person, except those  
23 persons described in Paragraphs 5.2 through 5.6:

24           5.2    The Court and its personnel, any jury empanelled in this action and any  
25 other person who may serve in a judicial or quasi-judicial function;

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1 5.3 A professional court reporter engaged to transcribe testimony in this  
2 action;

3 5.4 Counsel for the parties and their employees providing active assistance  
4 with this litigation (including law clerks, legal assistants, technical assistants,  
5 secretaries and clerks of such counsel);

6 5.5 Expert witnesses and consultants engaged to assist counsel in the  
7 defense or prosecution of this action, provided that such expert witnesses and  
8 consultants first shall have signed a Confidentiality Agreement in the form attached  
9 as Exhibit A; and

10 5.6 During the course of a deposition, to the person whose deposition is  
11 being taken, provided that each deponent to whom disclosure is made first shall have  
12 signed a Confidentiality Agreement in the form attached as Exhibit A. Persons  
13 shown documents or information designated as “CONFIDENTIAL—ATTORNEY’S  
14 EYES ONLY” under this Paragraph shall not be allowed to retain copies thereof.

15 5.7 The designation of information as “CONFIDENTIAL—ATTORNEY’S  
16 EYES ONLY” shall not preclude counsel from relying upon such material in the  
17 course of providing legal advice to the parties in this action; provided, however that  
18 counsel shall not disclose the contents of any “CONFIDENTIAL—ATTORNEY’S  
19 EYES ONLY” information in the course of providing legal advice.

20 6. USE OF CONFIDENTIAL INFORMATION AND ATTORNEY’S  
21 EYES ONLY INFORMATION AT DEPOSITIONS

22  
23 6.1 Upon the good faith assertion by counsel for the Designating Party that a  
24 question or line of questions at a deposition or hearing is likely to result in the  
25 disclosure of Confidential Information or Attorney’s Eyes Only Information, any  
26 person not entitled under the pertinent provisions of Sections 4 and 5 to access to  
27 Confidential Information or Attorney’s Eyes Only Information shall leave the

1 deposition or hearing until the question or line of questions is completed, unless  
2 otherwise ordered by the Court. The Confidential Information or Attorney's Eyes  
3 Only Information disclosed at the deposition or hearing shall not, directly or  
4 indirectly, in whole or in part, be used with, disclosed or made available to any  
5 person, except those persons set forth, with respect to Confidential Information or  
6 Attorney's Eyes Only Information, in Sections 4 and 5.

7 6.2 Information disclosed at the deposition of the Designating Party or its  
8 present or former officers, directors, employees, agents or independent consultants  
9 may be designated as Confidential Information or Attorney's Eyes Only Information  
10 either (a) on the record at the deposition, or (b) by serving a written notification on  
11 the other parties and any involved deponent pursuant to the provisions of Paragraphs  
12 2.2 and 2.3.

13 7. DESIGNATED CONFIDENTIAL INFORMATION AND  
14 ATTORNEY'S EYES ONLY INFORMATION AND COURT  
15 PROCEEDINGS OR FILINGS

16 7.1 If the parties believe it is necessary to submit with any motion, or as  
17 evidence in any proceeding in this action, any documents containing Confidential  
18 Information or Attorney's Eyes Only Information, the parties shall comply with the  
19 provisions of Rules 2.550 and 2.551 of the California Rules of Court. The parties  
20 agree not to oppose any motion to file materials under seal, unless any material  
21 sought to be filed under seal is the subject of a dispute between the parties under  
22 Paragraph 2.3 of this Order, which has not been resolved at the time the motion to  
23 seal is filed.

24 7.2 All documents (or other appropriate sealed container) containing  
25 Confidential Information or Attorney's Eyes Only Information filed with the Court in  
26

1 connection with any motion or proceeding shall be endorsed with the following  
2 legend:

3  
4 **“FILED UNDER SEAL”**

5 Contains information designated “CONFIDENTIAL[—  
6 ATTORNEY’S EYES ONLY]” that is subject to a pending motion to  
7 file the record under seal.”

8  
9 7.3 Confidential Information and Attorney’s Eyes Only Information shall be  
10 filed in separate envelopes and marked accordingly.

11 7.4 Except as filed with the Court in accordance with this Order and except  
12 as otherwise may be required by law, all documents, information, and things  
13 designated “CONFIDENTIAL” or “CONFIDENTIAL—ATTORNEY’S EYES  
14 ONLY” shall be maintained separately and at all times in the custody of individuals  
15 to whom access may be given under this stipulation who, as applicable, have each  
16 executed a Confidentiality Agreement in the form of Exhibit A.

17  
18 8. **TERMINATION OF THIS ACTION**

19  
20 8.1 Within sixty (60) days after Termination of this action, the original and  
21 all copies of each document and thing produced in discovery and, other than attorney  
22 work product, any notes, summaries, abstracts or portions of any such document or  
23 thing, including archival copies of counsel and copies given to any expert or other  
24 person pursuant to this Order, which contain Confidential Information or Attorney’s  
25 Eyes Only Information shall (unless contrary to the Court’s rulings in this action) be  
26 either delivered to counsel for the Designating Party or, at the option of the Receiving  
27

1 Party, shall be destroyed by the party on possession of such documents or things,  
2 except that this deadline shall be extended if there exists any other related litigation  
3 between the parties in any forum. If the Receiving Party elects to have documents or  
4 things embodying Confidential Information or Attorney's Eyes Only Information  
5 destroyed, the party in possession of such documents or things shall, within sixty (60)  
6 days of Termination, certify to the Designating Party under penalty of perjury that  
7 such destruction has been completed.

8 8.2 This Order and the obligations of all persons subject to it, shall survive  
9 the Termination of this case. The Court shall retain jurisdiction to modify this Order,  
10 and over all persons and parties bound by this Order for the purposes of its  
11 enforcement.

12  
13 9. MISCELLANEOUS

14  
15 9.1 If any authority subpoenas or orders production of Confidential  
16 Information or Attorney's Eyes Only Information that a Receiving Party has obtained  
17 under the terms of this Order, such party shall promptly notify the Designating Party  
18 of the pendency of the subpoena or order and, absent a court order, shall not produce  
19 the information until the Designating Party has had reasonable time (at least 14 days)  
20 to object or take other appropriate steps to protect the information.

21 9.2 When any attorney of record in this action becomes aware of any  
22 violation of this Order, or of facts constituting good cause to believe that a violation  
23 of this Order may have occurred, such attorney shall promptly report to the Court and  
24 to the Designating Party that there may have been a violation of this Order.

25 9.3 Execution and entry of this Order shall not prevent a party to this action  
26 from seeking upon application to this Court to modify this Order for good cause  
27

1 shown or from seeking such other relief upon good cause shown as may become  
2 appropriate or necessary.

3  
4 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

5 DATED: June 30, 2017

**STRIS & MAHER LLP**

6  
7 /s/ Peter K. Stris  
Peter K. Stris

8 *Attorneys for Plaintiffs*  
Dual Diagnosis Treatment Center, Inc., Satya  
9 Health of California, Inc., and Vedanta  
10 Laboratories, Inc.

11 **BEST, BEST & KRIEGER LLP**

12 /s/ Daniel S. Shimell  
Daniel S. Shimell

13  
14 *Attorneys for Defendants*

15  
16 *Filer's Attestation: Pursuant to Local Rule 5-4.3.4(a)(2)(l), Daniel S. Shimell hereby*  
17 *attests that concurrence in the filing of this document and its contents was obtained*  
18 *from all signatories listed.*

19  
20  
21 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

22  
23 Dated: June 30, 2017

24   
25 Hon. Jay C. Gandhi  
United States Magistrate Judge

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

DUAL DIAGNOSIS TREATMENT  
CENTER, INC., et al.,

Plaintiffs,

v.

CITY OF SAN CLEMENTE, et al.,

Defendants.

Case No. 8:15-cv-01611-CJC-JCG  
Judge: Hon. Cormac J. Carney

**EXHIBIT A: CONFIDENTIALITY  
AGREEMENT**

**EXHIBIT A**

I, \_\_\_\_\_, declare:

1. I have read and understand the Protective Order to which this Exhibit A is annexed and I understand that, as permitted by the Protective Order, access to documents, information or things designated “CONFIDENTIAL” or “CONFIDENTIAL—ATTORNEY’S EYES ONLY” may be provided to me and that such access is pursuant to the terms, conditions, and restrictions of the Protective Order. I agree to be bound by the terms of the Protective Order.

2. I shall not use or disclose to others, except in accordance with the Protective Order, any document, information, or thing designated “CONFIDENTIAL” or “CONFIDENTIAL—ATTORNEY’S EYES ONLY.” If I fail to abide by the terms of this Confidentiality Agreement or the Protective Order, I understand that I shall be subject to sanctions, including contempt of this Court.

3. I agree to submit to the jurisdiction of this Court for the limited purpose of resolving disputes relating to this Protective Order and the documents, information and things it governs.

Dated: \_\_\_\_\_

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

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