

1 JANET M. HEROLD
 2 Regional Solicitor
 3 SUSAN SELETSKY
 4 FLSA Counsel
 5 DEMIAN CAMACHO (CSBN 286693)
 6 Trial Attorney
 7 UNITED STATES DEPARTMENT OF LABOR
 8 Office of the Solicitor
 9 350 S. Figueroa Street, Suite 370
 10 Los Angeles, California 90071
 11 Telephone: (213) 894-1594
 12 Facsimile: (213) 894-2064
 13 Email: camacho.demian@dol.gov

14 Attorneys for Plaintiff, Edward C. Hugler,
 15 Acting Secretary, United States Department of
 16 Labor

17 (Defense counsel listed on next page)

18 UNITED STATES DISTRICT COURT
 19 FOR THE CENTRAL DISTRICT OF CALIFORNIA

20 **EDWARD C. HUGLER**, Acting Secretary of
 21 Labor, United States Department of Labor,
 22 Plaintiff,
 23 v.
 24 **HIMANSHU BHATIA**, an individual,
 25 Defendant.

26 **Case No. 8:16-cv-01548-JVS-JCG**

27 **STIPULATED PROTECTIVE
 28 ORDER**

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CONNIE L. MICHAELS, Bar No. 128065
cmichaels@littler.com
LITTLER MENDELSON, P.C.
2049 Century Park East, 5th Floor
Los Angeles, CA 90067.3107
Telephone: 310.553.0308
Facsimile: 310.553.5583

R. BRIAN DIXON, Bar No. 076247
bdixon@littler.com
LITTLER MENDELSON, P.C.
333 Bush Street, 34th Floor
San Francisco, CA 94104
Telephone: 415.433.1940
Facsimile: 415.399.8490

MOHAMMAD N. KHAN, Bar No. 297729
Mohammad.Khan@chugh.com
CHUGH, LLP
15925 Carmenita Road
Cerritos CA 90703
Telephone: 562.229.1220
Facsimile: 562.229.1221

Attorneys for Defendant
HIMANSHU BHATIA

1 **1. A. PURPOSES AND LIMITATIONS**

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

14
15 **B. GOOD CAUSE STATEMENT**

16 This action is likely to involve financial, immigration, medical, and/or private
17 stored communications information for which special protection from public disclosure
18 and from use for any purpose other than prosecution of this action is warranted. Such
19 confidential and proprietary materials and information consist of, among other things,
20 confidential medical, financial, and telecommunications records (including information
21 implicating privacy rights of third parties), information otherwise generally unavailable
22 to the public, or which may be privileged or otherwise protected from disclosure under
23 state or federal statutes, court rules, case decisions, or common law. Accordingly, to
24 expedite the flow of information, to facilitate the prompt resolution of disputes over
25 confidentiality of discovery materials, to adequately protect information the parties are
26 entitled to keep confidential, to ensure that the parties are permitted reasonable
27 necessary uses of such material in preparation for and in the conduct of trial, to address
28 their handling at the end of the litigation, and serve the ends of justice, a protective order

1 for such information is justified in this matter. It is the intent of the parties that
2 information will not be designated as confidential for tactical reasons and that nothing be
3 so designated without a good faith belief that it has been maintained in a confidential,
4 non-public manner, and there is good cause why it should not be part of the public
5 record of this case.

6 7 **2. DEFINITIONS**

8 2.1 Action: Refers to this pending action, Acting Secretary of Labor v. Himanshu
9 Bhatia, Case No. 8:16-cv-01548-JVS-JCG.

10 2.2 Challenging Party: a Party or Non-Party that challenges the designation of
11 information or items under this Order.

12 2.3 “CONFIDENTIAL” Information or Items: information (regardless of how it is
13 generated, stored or maintained) or tangible things that qualify for protection under
14 Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause
15 Statement.

16 2.4 Designating Party: a Party or Non-Party that designates information or items
17 that it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

18 2.5 Disclosure or Discovery Material: all items or information, regardless of the
19 medium or manner in which it is generated, stored, or maintained (including, among
20 other things, testimony, transcripts, and tangible things), that are produced or generated
21 in disclosures or responses to discovery in this matter.

22 2.6 Expert: a person with specialized knowledge or experience in a matter
23 pertinent to the litigation who has been retained by a Party or its counsel to serve as an
24 expert witness or as a consultant in this Action.

25 2.7 Non-Party: any natural person, partnership, corporation, association, or other
26 legal entity not named as a Party to this action.

27 2.8 Counsel of Record: attorneys who are not employees of a party to this Action
28 but are retained to represent or advise a party to this Action and have appeared in this

1 Action on behalf of that party or are affiliated with the agency or law firm which has
2 appeared on behalf of that party, and includes support staff. Namely, for Plaintiff, the
3 U.S. Department of Labor’s Office of the Solicitor, and its attorneys. For Defendant
4 Bhatia, Littler Mendelson, A Professional Corporation, and Chugh, A Limited Liability
5 Partnership, and their attorneys and staff.

6 2.9 Party: any party to this Action, including all of its officers, directors,
7 consultants, retained experts, and Counsel of Record (and their support staffs).

8 2.10 Producing Party: a Party or Non-Party that produces Disclosure or Discovery
9 Material in this Action.

10 2.11 Professional Vendors: persons or entities that provide litigation support
11 services (e.g., photocopying, videotaping, translating, preparing exhibits or
12 demonstrations, and organizing, storing, or retrieving data in any form or medium) and
13 their employees and subcontractors.

14 2.12 Protected Material: any Disclosure or Discovery Material that is designated
15 as “CONFIDENTIAL.”

16 2.13 Receiving Party: a Party that receives Disclosure or Discovery Material from
17 a Producing Party.

18 19 **3. SCOPE**

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

1 **4. DURATION**

2 Even after final disposition of this litigation, the confidentiality obligations
3 imposed by this Order shall remain in effect until a Designating Party agrees otherwise
4 in writing or a court order otherwise directs. Final disposition shall be deemed to be the
5 later of (1) dismissal of all claims and defenses in this Action, with or without prejudice;
6 and (2) final judgment herein after the completion and exhaustion of all appeals,
7 rehearings, remands, trials, or reviews of this Action, including the time limits for filing
8 any motions or applications for extension of time pursuant to applicable law.
9

10 **5. DESIGNATING PROTECTED MATERIAL**

11 5.1 Exercise of Restraint and Care in Designating Material for Protection.

12 Each Party or Non-Party that designates information or items for protection under
13 this Order must take care to limit any such designation to specific material that qualifies
14 under the appropriate standards. The Designating Party must designate for protection
15 only those parts of material, documents, items, or oral or written communications that
16 qualify so that other portions of the material, documents, items, or communications for
17 which protection is not warranted are not swept unjustifiably within the ambit of this
18 Order.

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

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

26 5.2 Manner and Timing of Designations. Except as otherwise provided in
27 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
28 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection

1 under this Order must be clearly so designated before the material is disclosed or
2 produced.

3 Designation in conformity with this Order requires:

4 (a) for information in documentary form (e.g., paper or electronic documents, but
5 excluding transcripts of depositions or other pretrial or trial proceedings), that the
6 Producing Party affix at a minimum, the legend “CONFIDENTIAL” (hereinafter
7 “CONFIDENTIAL legend”), to each page that contains protected material. If only a
8 portion or portions of the material on a page qualifies for protection, the Producing Party
9 also must clearly identify the protected portion(s) (e.g., by making appropriate markings
10 in the margins).

11 A Party or Non-Party that makes original documents available for inspection need
12 not designate them for protection until after the inspecting Party has indicated which
13 documents it would like copied and produced. During the inspection and before the
14 designation, all of the material made available for inspection shall be deemed
15 “CONFIDENTIAL.” After the inspecting Party has identified the documents it wants
16 copied and produced, the Producing Party must determine which documents, or portions
17 thereof, qualify for protection under this Order. Then, before producing the specified
18 documents, the Producing Party must affix the “CONFIDENTIAL legend” to each page
19 that contains Protected Material. If only a portion or portions of the material on a page
20 qualifies for protection, the Producing Party also must clearly identify the protected
21 portion(s) (e.g., by making appropriate markings in the margins).

22 (b) for testimony given in depositions that the Designating Party identify the
23 Disclosure or Discovery Material on the record, before the close of the deposition, all
24 protected testimony.

25 (c) for information produced in some form other than documentary and for any
26 other tangible items, that the Producing Party affix in a prominent place on the exterior
27 of the container or containers in which the information is stored the legend
28

1 “CONFIDENTIAL.” If only a portion or portions of the information warrants protection,
2 the Producing Party, to the extent practicable, shall identify the protected portion(s).

3 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure
4 to designate qualified information or items does not, standing alone, waive the
5 Designating Party’s right to secure protection under this Order for such material. Upon
6 timely correction of a designation, the Receiving Party must make reasonable efforts to
7 assure that the material is treated in accordance with the provisions of this Order.

8 9 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

10 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of
11 confidentiality at any time that is consistent with the Court’s Scheduling Order.

12 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution
13 process under Local Rule 37.1 et seq.

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

21 22 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

23 7.1 Basic Principles. A Receiving Party may use Protected Material that is
24 disclosed or produced by another Party or by a Non-Party in connection with this Action
25 only for prosecuting, defending, or attempting to settle this Action. Such Protected
26 Material may be disclosed only to the categories of persons and under the conditions
27 described in this Order. When the Action has been terminated, a Receiving Party must
28 comply with the provisions of section 13 below (FINAL DISPOSITION).

1 Protected Material must be stored and maintained by a Receiving Party at a
2 location and in a secure manner that ensures that access is limited to the persons
3 authorized under this Order.

4 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise
5 ordered by the court or permitted in writing by the Designating Party, a Receiving Party
6 may disclose any information or item designated “CONFIDENTIAL” only to:

7 (a) the Receiving Party’s Counsel of Record in this Action, as well as employees
8 of said Counsel of Record to whom it is reasonably necessary to disclose the information
9 for this Action;

10 (b) the officers, directors, and employees of the Receiving Party to whom
11 disclosure is reasonably necessary for this Action;

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

15 (d) the court and its personnel;

16 (e) court reporters and their staff;

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

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

22 (h) during their depositions, witnesses, and attorneys for witnesses, in the Action
23 to whom disclosure is reasonably necessary provided: (1) the deposing party requests
24 that the witness sign the form attached as Exhibit 1 hereto; and (2) they will not be
25 permitted to keep any confidential information unless they sign the “Acknowledgment
26 and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating
27 Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to
28 depositions that reveal Protected Material may be separately bound by the court reporter

1 and may not be disclosed to anyone except as permitted under this Stipulated Protective
2 Order; and

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

5
6 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
7 **PRODUCED IN OTHER LITIGATION**

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

11 (a) promptly notify in writing the Designating Party. Such notification shall
12 include a copy of the subpoena or court order;

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

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

19 If the Designating Party timely seeks a protective order, the Party served with the
20 subpoena or court order shall not produce any information designated in this action as
21 “CONFIDENTIAL” before a determination by the court from which the subpoena or
22 order issued, unless the Party has obtained the Designating Party’s permission. The
23 Designating Party shall bear the burden and expense of seeking protection in that court
24 of its confidential material and nothing in these provisions should be construed as
25 authorizing or encouraging a Receiving Party in this Action to disobey a lawful directive
26 from another court.

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

3 (a) The terms of this Order are applicable to information produced by a Non-Party
4 in this Action and designated as “CONFIDENTIAL.” Such information produced by
5 Non-Parties in connection with this litigation is protected by the remedies and relief
6 provided by this Order. Nothing in these provisions should be construed as prohibiting a
7 Non-Party from seeking additional protections.

8 (b) In the event that a Party is required, by a valid discovery request, to produce a
9 Non-Party’s confidential information in its possession, and the Party is subject to an
10 agreement with the Non-Party not to produce the Non-Party’s confidential information,
11 then the Party shall:

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

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

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

20 (c) If the Non-Party fails to seek a protective order from this court within 14 days
21 of receiving the notice and accompanying information, the Receiving Party may produce
22 the Non-Party’s confidential information responsive to the discovery request. If the Non-
23 Party timely seeks a protective order, the Receiving Party shall not produce any
24 information in its possession or control that is subject to the confidentiality agreement
25 with the Non-Party before a determination by the court. Absent a court order to the
26 contrary, the Non-Party shall bear the burden and expense of seeking protection in this
27 court of its Protected Material.
28

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

2 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
3 Protected Material to any person or in any circumstance not authorized under this
4 Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing
5 the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve
6 all unauthorized copies of the Protected Material, (c) inform the person or persons to
7 whom unauthorized disclosures were made of all the terms of this Order, and (d) request
8 such person or persons to execute the “Acknowledgment and Agreement to Be Bound”
9 that is attached hereto as Exhibit A.
10

11 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR**
12 **OTHERWISE PROTECTED MATERIAL**

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

23 **12. MISCELLANEOUS**

24 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
25 person to seek its modification by the Court in the future.

26 12.2 Right to Assert Other Objections. By stipulating to the entry of this
27 Protective Order no Party waives any right it otherwise would have to object to
28 disclosing or producing any information or item on any ground not addressed in this

1 Stipulated Protective Order. Similarly, no Party waives any right to object on any ground
2 to use in evidence of any of the material covered by this Protective Order.

3 12.3 Filing Protected Material. A Party that seeks to file under seal any Protected
4 Material must comply with Civil Local Rule 79-5. Protected Material may only be filed
5 under seal pursuant to a court order authorizing the sealing of the specific Protected
6 Material at issue. If a Party's request to file Protected Material under seal is denied by
7 the court, then the Receiving Party may file the information in the public record unless
8 otherwise instructed by the court.

9 10 **13. FINAL DISPOSITION**

11 After the final disposition of this Action, as defined in paragraph 4, within 60 days
12 of a written request by the Designating Party, each Receiving Party must return all
13 Protected Material to the Producing Party or destroy such material. As used in this
14 subdivision, "all Protected Material" includes all copies, abstracts, compilations,
15 summaries, and any other format reproducing or capturing any of the Protected Material.
16 Whether the Protected Material is returned or destroyed, the Receiving Party must
17 submit a written certification to the Designating Party) by the 60 day deadline that (1)
18 identifies (by category, where appropriate) all the Protected Material that was returned
19 or destroyed and (2) affirms that the Receiving Party has not retained any copies,
20 abstracts, compilations, summaries or any other format reproducing or capturing any of
21 the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an
22 archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts,
23 legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney
24 work product, and consultant and expert work product, even if such materials contain
25 Protected Material. Any such archival copies that contain or constitute Protected
26 Material remain subject to this Protective Order as set forth in Section 4 (DURATION).
27 Nothing in this paragraph shall be interpreted as requiring the Department to take any
28 action inconsistent with its obligations under federal law, including those imposed by the

1 Federal Records Act, the Freedom of Information Act, and any other applicable statute
2 or regulation.

3
4 **14.** Any violation of this Order may be punished by any and all appropriate
5 measures including, without limitation, contempt proceedings and/or monetary
6 sanctions.

7
8 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

9 Attorneys for Plaintiff Edward C. Hugler, Acting Secretary

10 DATED: February 10, 2017

11 /s/ Demian Camacho

12 DEMIAN CAMACHO

13 Trial Attorney

14 Attorneys for Defendant Himanshu Bhatia

15 DATED: February 10, 2017

16 /s/ Connie L. Michaels

17 CONNIE L. MICHAELS

18 LITTLER MENDELSON

19 A Professional Corporation

20 DATED: February 10, 2017

21 /s/ Mohammad N. Khan

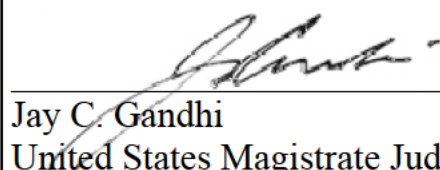
22 MOHAMMAD N. KHAN

23 CHUGH, LLP

24 A Professional Corporation

25
26 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

27 DATED: February 14, 2017

28 

Jay C. Gandhi

United States Magistrate Judge

1 **EXHIBIT A**

2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

3
4 I, _____ [print or type full name], of _____
5 [print or type full address], declare under penalty of perjury that I have read in its
6 entirety and understand the Stipulated Protective Order that was issued by the United
7 States District Court for the Central District of California on [date] in the case of Edward
8 C. Hugler v. Himanshu Bhatia, Case No. 8:16-cv-01548-JVS-JCG. I agree to comply
9 with and to be bound by all the terms of this Stipulated Protective Order and I
10 understand and acknowledge that failure to so comply could expose me to sanctions and
11 punishment in the nature of contempt. I solemnly promise that I will not disclose in any
12 manner any information or item that is subject to this Stipulated Protective Order to any
13 person or entity except in strict compliance with the provisions of this Order. I further
14 agree to submit to the jurisdiction of the United States District Court for the Central
15 District of California for the purpose of enforcing the terms of this Stipulated Protective
16 Order, even if such enforcement proceedings occur after termination of this action. I
17 hereby appoint _____ [print or type full name] of
18 _____ [print or type full address and
19 telephone number] as my California agent for service of process in connection with this
20 action or any proceedings related to enforcement of this Stipulated Protective Order.

21 Date: _____

22 City and State where sworn and signed: _____

23 Printed name: _____

24 Signature: _____