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

MICHAEL KORMAN, an individual,

Plaintiff,

Case No. 8:18-cv-00024-AG-KES

vs.

**STIPULATED PROTECTIVE
ORDER**

EXPERIAN INFORMATION
SOLUTIONS INC., is a business
entity, form unknown;
PROGRESSIVE MANAGEMENT
SERVICES, is a business entity, form
unknown; USCB AMERICA, is a
business entity, form unknown, and
DOES 1-10, Inclusive,

Defendants.

1. A. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to

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1 enter the following Stipulated Protective Order. The parties acknowledge that this
2 Order does not confer blanket protections on all disclosures or responses to
3 discovery and that the protection it affords from public disclosure and use extends
4 only to the limited information or items that are entitled to confidential treatment
5 under the applicable legal principles. The parties further acknowledge, as set forth
6 in Section 12.3, below, that this Stipulated Protective Order does not entitle them
7 to file confidential information under seal; Civil Local Rule 79-5 sets forth the
8 procedures that must be followed and the standards that will be applied when a
9 party seeks permission from the court to file material under seal.
10

11 B. GOOD CAUSE STATEMENT

12 This action involves allegations of inaccurate credit reporting relating to a
13 medical debt potentially owed by a third party who is not the Plaintiff. This
14 litigation contemplates and Plaintiff discovery requests to date seek information
15 relating to disclosure of potentially protected health information. Moreover, as
16 Defendants' policy and procedure information is likely relevant to their defenses,
17 information relevant to this is likely to involve trade secrets, confidential and
18 proprietary policy and procedure information, other valuable research,
19 development, commercial, financial, technical and/or proprietary information
20 (including, but no limited to, codes, computer systems, software and processes
21 used for credit reporting, and information derived therefrom), for which special
22 protection from public disclosure and from use for any purpose other than
23 prosecution of this action is warranted. Such confidential and proprietary materials
24 and information consist of, among other things, confidential business or financial
25 information, information regarding confidential business practices, or other
26 confidential research, development, or commercial information (including
27 information implicating privacy rights of third parties), information otherwise
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1 generally unavailable to the public, or which may be privileged or otherwise
2 protected from disclosure under state or federal statutes, court rules, case decisions,
3 or common law. Defendants assert they have invested significant resources in
4 developing their policy and procedure information, and that disclosure of this
5 information to the public and their competitors would compromise that investment.
6 Accordingly, to expedite the flow of information, to facilitate the prompt resolution
7 of disputes over confidentiality of discovery materials, to adequately protect
8 information the parties are entitled to keep confidential, to ensure that the parties
9 are permitted reasonable necessary uses of such material in preparation for and in
10 the conduct of trial, to address their handling at the end of the litigation, and serve
11 the ends of justice, a protective order for such information is justified in this
12 matter. It is the intent of the parties that information will not be designated as
13 confidential for tactical reasons and that nothing be so designated without a good
14 faith belief that it has been maintained in a confidential, non-public manner, and
15 there is good cause why it should not be part of the public record of this case.
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18 2. DEFINITIONS

19 2.1 Action: this pending federal lawsuit.

20 2.2 Challenging Party: a Party or Non-Party that challenges the
21 designation of information or items under this Order.

22 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
23 how it is generated, stored or maintained) or tangible things that qualify for
24 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
25 the Good Cause Statement.

26 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
27 their support staff).

28 2.5 Designating Party: a Party or Non-Party that designates information

1 or items that it produces in disclosures or in responses to discovery as
2 “CONFIDENTIAL.”

3 2.6 Disclosure or Discovery Material: all items or information, regardless
4 of the medium or manner in which it is generated, stored, or maintained (including,
5 among other things, testimony, transcripts, and tangible things), that are produced
6 or generated in disclosures or responses to discovery in this matter.

7 2.7 Expert: a person with specialized knowledge or experience in a
8 matter pertinent to the litigation who has been retained by a Party or its counsel to
9 serve as an expert witness or as a consultant in this Action.

10 2.8 House Counsel: attorneys who are employees of a party to this
11 Action. House Counsel does not include Outside Counsel of Record or any other
12 outside counsel.

13 2.9 Non-Party: any natural person, partnership, corporation, association
14 or other legal entity not named as a Party to this action.

15 2.10 Outside Counsel of Record: attorneys who are not employees of a
16 party to this Action but are retained to represent or advise a party to this Action
17 and have appeared in this Action on behalf of that party or are affiliated with a law
18 firm that has appeared on behalf of that party, and includes support staff.

19 2.11 Party: any party to this Action, including all of its officers, directors,
20 employees, consultants, retained experts, and Outside Counsel of Record (and their
21 support staffs).

22 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
23 Discovery Material in this Action.

24 2.13 Professional Vendors: persons or entities that provide litigation
25 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
26 demonstrations, and organizing, storing, or retrieving data in any form or medium)
27 and their employees and subcontractors.
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1 2.14 Protected Material: any Disclosure or Discovery Material that is
2 designated as “CONFIDENTIAL.”

3 2.15 Receiving Party: a Party that receives Disclosure or Discovery
4 Material from a Producing Party.

5
6 3. SCOPE

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

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

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15 4. DURATION

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

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25 5. DESIGNATING PROTECTED MATERIAL

26 5.1 Exercise of Restraint and Care in Designating Material for Protection.
27 Each Party or Non-Party that designates information or items for protection under
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1 this Order must take care to limit any such designation to specific material that
2 qualifies under the appropriate standards. The Designating Party must designate
3 for protection only those parts of material, documents, items or oral or written
4 communications that qualify so that other portions of the material, documents,
5 items or communications for which protection is not warranted are not swept
6 unjustifiably within the ambit of this Order.

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

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

15 5.2 Manner and Timing of Designations. Except as otherwise provided in
16 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
17 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
18 under this Order must be clearly so designated before the material is disclosed or
19 produced.
20

21 Designation in conformity with this Order requires:

22 (a) for information in documentary form (e.g., paper or electronic
23 documents, but excluding transcripts of depositions or other pretrial or trial
24 proceedings), that the Producing Party affix at a minimum, the legend
25 "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that
26 contains protected material. If only a portion of the material on a page qualifies for
27 protection, the Producing Party also must clearly identify the protected portion(s)
28 (e.g., by making appropriate markings in the margins).

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

13 (b) for testimony given in depositions that the Designating Party
14 identifies the Disclosure or Discovery Material on the record, before the close of
15 the deposition all protected testimony.

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

22 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
23 failure to designate qualified information or items does not, standing alone, waive
24 the Designating Party’s right to secure protection under this Order for such
25 material. Upon timely correction of a designation, the Receiving Party must make
26 reasonable efforts to assure that the material is treated in accordance with the
27 provisions of this Order.
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2 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

3 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
4 designation of confidentiality at any time that is consistent with the Court's
5 Scheduling Order.

6 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
7 resolution process under Local Rule 37.1 et seq.

8 6.3 The burden of persuasion in any such challenge proceeding shall be
9 on the Designating Party. Frivolous challenges, and those made for an improper
10 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
11 parties) may expose the Challenging Party to sanctions. Unless the Designating
12 Party has waived or withdrawn the confidentiality designation, all parties shall
13 continue to afford the material in question the level of protection to which it is
14 entitled under the Producing Party's designation until the Court rules on the
15 challenge.
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18 7. ACCESS TO AND USE OF PROTECTED MATERIAL

19 7.1 Basic Principles. A Receiving Party may use Protected Material that
20 is disclosed or produced by another Party or by a Non-Party in connection with this
21 Action only for prosecuting, defending or attempting to settle this Action. Such
22 Protected Material may be disclosed only to the categories of persons and under
23 the conditions described in this Order. When the Action has been terminated, a
24 Receiving Party must comply with the provisions of section 13 below (FINAL
25 DISPOSITION).

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

1 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
2 otherwise ordered by the court or permitted in writing by the Designating Party, a
3 Receiving Party may disclose any information or item designated

4 “CONFIDENTIAL” only to:

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

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

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

13 (d) the court and its personnel;

14 (e) court reporters and their staff;

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

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

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

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

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

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

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

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

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

18 If the Designating Party timely seeks a protective order, the Party served
19 with the subpoena or court order shall not produce any information designated in
20 this action as “CONFIDENTIAL” before a determination by the court from which
21 the subpoena or order issued, unless the Party has obtained the Designating Party’s
22 permission. The Designating Party shall bear the burden and expense of seeking
23 protection in that court of its confidential material and nothing in these provisions
24 should be construed as authorizing or encouraging a Receiving Party in this Action
25 to disobey a lawful directive from another court.
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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
4 Non-Party in this Action and designated as “CONFIDENTIAL.” Such information
5 produced by Non-Parties in connection with this litigation is protected by the
6 remedies and relief provided by this Order. Nothing in these provisions should be
7 construed as prohibiting a Non-Party from seeking additional protections.

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

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

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

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

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

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

12
13 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
14 PROTECTED MATERIAL

15 When a Producing Party gives notice to Receiving Parties that certain
16 inadvertently produced material is subject to a claim of privilege or other
17 protection, the obligations of the Receiving Parties are those set forth in Federal
18 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
19 whatever procedure may be established in an e-discovery order that provides for
20 production without prior privilege review.

21 If a Producing Party inadvertently discloses information in connection with
22 the pending litigation to another Party that the Producing Party thereafter claims to
23 be privileged or protected by the attorney-client privilege or attorney work product
24 protection (“Disclosed Protected Information”), the disclosure of the Disclosed
25 Protected Information shall not constitute or be deemed a waiver or forfeiture of
26 any claim of privilege or work product protection that the Producing Party would
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1 otherwise be entitled to assert with respect to the Disclosed Protected Information
2 and its subject matter in this proceeding or in any other federal or state proceeding.

3 A Producing Party may assert in writing attorney-client privilege or work
4 product protection with respect to Disclosed Protected Information. The Receiving
5 Party must—unless it contests the claim of attorney-client privilege or work
6 product protection—within five business days of receipt of that writing, (i) return
7 or destroy all copies of the Disclosed Protected Information, and (ii) provide a
8 certification of counsel that all of the Disclosed Protected Information has been
9 returned or destroyed. Within five business days after assertion of attorney-client
10 privilege or work product protection with respect to Disclosed Protected
11 Information, the Producing Party must produce a privilege log with respect to the
12 Disclosed Protected Information.

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15 12. MISCELLANEOUS

16 12.1 Right to Further Relief. Nothing in this Order abridges the right of
17 any person to seek its modification by the Court in the future.

18 12.2 Right to Assert Other Objections. By stipulating to the entry of this
19 Protective Order, no Party waives any right it otherwise would have to object to
20 disclosing or producing any information or item on any ground not addressed in
21 this Stipulated Protective Order. Similarly, no Party waives any right to object on
22 any ground to use in evidence of any of the material covered by this Protective
23 Order.

24 12.3 Filing Protected Material. A Party that seeks to file under seal any
25 Protected Material must comply with Local Civil Rule 79-5. Protected Material
26 may only be filed under seal pursuant to a court order authorizing the sealing of the
27 specific Protected Material at issue. If a Party's request to file Protected Material
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1 under seal is denied by the court, then the Receiving Party may file the information
2 in the public record unless otherwise instructed by the court.

3
4 13. FINAL DISPOSITION

5 After the final disposition of this Action, as defined in paragraph 4, within
6 60 days of a written request by the Designating Party, each Receiving Party must
7 return all Protected Material to the Producing Party or destroy such material. As
8 used in this subdivision, “all Protected Material” includes all copies, abstracts,
9 compilations, summaries, and any other format reproducing or capturing any of the
10 Protected Material. Whether the Protected Material is returned or destroyed, the
11 Receiving Party must submit a written certification to the Producing Party (and, if
12 not the same person or entity, to the Designating Party) by the 60 day deadline that
13 (1) identifies (by category, where appropriate) all the Protected Material that was
14 returned or destroyed and (2) affirms that the Receiving Party has not retained any
15 copies, abstracts, compilations, summaries or any other format reproducing or
16 capturing any of the Protected Material. Notwithstanding this provision, Counsel
17 are entitled to retain an archival copy of all pleadings, motion papers, trial,
18 deposition, and hearing transcripts, legal memoranda, correspondence, deposition
19 and trial exhibits, expert reports, attorney work product, and consultant and expert
20 work product, even if such materials contain Protected Material. Any such
21 archival copies that contain or constitute Protected Material remain subject to this
22 Protective Order as set forth in Section 4 (DURATION).

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1 14. VIOLATION

2 Any violation of this Order may be punished by appropriate measures including,
3 without limitation, contempt proceedings and/or monetary sanctions.

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5 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

6
7 DATED: June 15, 2018

8 LAW OFFICES OF ROBERT F. BRENNAN, APC

9 /s/ Robert F. Brennan

10 Robert F. Brennan
11 Attorneys for Plaintiff
12 Michael Korman

13 DATED: June 15, 2018

14 CARLSON & MESSER LLP

15 /s/ David J. Kaminski

16 David J. Kaminski
17 Stephen A. Watkins
18 Attorneys for Defendant
19 USCB, Inc.

20 DATED: June 15, 2018

21 JONES DAY

22 /s/ Donna Woo

23 Donna Woo
24 Attorneys for Defendant
25 EXPERIAN

26 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

27 DATED: June 19, 2018

28 
HON. KAREN E. SCOTT
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
6 that I have read in its entirety and understand the Stipulated Protective Order that
7 was issued by the United States District Court for the Central District of California
8 on [date] in the case of *Michael Korman v. Experian Information Systems, Inc. et*
9 *al.* 8:18-cv-00824-AG-KES. I agree to comply with and to be bound by all the
10 terms of this Stipulated Protective Order and I understand and acknowledge that
11 failure to so comply could expose me to sanctions and punishment in the nature of
12 contempt. I solemnly promise that I will not disclose in any manner any
13 information or item that is subject to this Stipulated Protective Order to any person
14 or entity except in strict compliance with the provisions of this Order.

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

23 Date: _____

24 City and State where sworn and signed: _____

25
26 Printed name: _____

27
28 Signature: _____

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