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15 **UNITED STATES DISTRICT COURT**
16 **EASTERN DISTRICT OF CALIFORNIA**
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18 DOROTHEA EMMONS and LISA)
19 STAPLETON, individually, and on behalf of)
20 other members of the general public similarly)
situated, and as aggrieved employees,)

21 Plaintiffs,)

22 v.)

23 QUEST DIAGNOSTICS CLINICAL)
LABORATORIES, INC., a Delaware)
24 corporation; QUEST DIAGNOSTICS)
INCORPORATED, doing business as QUEST)
25 DIAGNOSTICS INCORPORATED OF)
NEVADA, a Nevada corporation; QUEST)
26 DIAGNOSTICS NICHOLS INSTITUTE, a)
California corporations; DOES 1 through 10,)
27 inclusive,)

28 Defendants.)

) Case No. 1:13-cv-00474-DAD-BAM

) **STIPULATION AND PROTECTIVE**
ORDER

1 WHEREAS Plaintiffs Dorothea Emmons and Lisa Stapleton (“Plaintiffs”), and Defendant
2 Quest Diagnostics Incorporated, a Delaware corporation (“Defendant” and, together with Plaintiffs,
3 the “parties” or, separately, a “party”), have commenced discovery in the above captioned matter;

4 WHEREAS disclosure and discovery activity in this action are likely to involve the potential
5 production of confidential, private, proprietary, and/or trade secret or other sensitive business
6 information that warrants special protection from public disclosure and from use for any purpose
7 other than prosecuting and defending this litigation.

8 WHEREAS, subject to and without waiving any objections any Party may have as to the
9 discoverability of any information, and without waiving any objections or legal claims any Party
10 may have (including but not limited to any objections or legal claims arising out of the acquisition,
11 retention, or other handling of documents containing confidential or proprietary information), the
12 Parties desire to agree to procedures for the exchange, handling and protection of “Confidential
13 Information” as defined herein;

14 WHEREAS, the Parties acknowledge that the following Proposed Stipulated Protective
15 Order does not confer blanket protections on all disclosures or responses to discovery and that the
16 protection it affords extends only to information and items that are confidential and that: (1) are
17 protected by the right of privacy or a statutory protection of confidentiality, (2) are proprietary or (3)
18 contain trade secrets;

19 WHEREFORE, pursuant to Federal Rule of Civil Procedure 5.2(e) and 26, the Parties, by
20 and through their respective counsel, hereby submit the following Stipulation and respectfully move
21 the Court to approve the Stipulation as a Protective Order:

22 STIPULATION

23 1. “Confidential Information,” as used herein, means any type or classification of
24 information, whether it be a document, information contained in a document, information revealed
25 during a deposition, information revealed in an interrogatory answer, or otherwise, which is not
26 generally known to the public, which the designating party (the “Designating Party”) maintains in
27 confidence by itself or with others, and which is commercially sensitive, trade secret, proprietary,
28 and/or private.

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2 2. Any party to this action may designate Confidential Information as “Confidential
3 Information” where the party exercises reasonable discretion in making the designation and where
4 the designation is made upon a good faith belief that such information may reasonably be considered
5 “Confidential Information” as defined herein. Mass, indiscriminate or reutilized designations are
6 improper and the parties do not waive the right to challenge any other party’s designation.
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8 3. A party to this action may designate information as Confidential Information by
9 marking the page or electronic file or medium: “CONFIDENTIAL INFORMATION.” In lieu of
10 marking original documents, the Designating Party may mark copies that are produced or
11 exchanged. Marking or stamping “CONFIDENTIAL INFORMATION” on a label on any electronic
12 storage medium shall designate the entire contents of such electronic storage medium as
13 Confidential Information.

14 4. In accordance with the limitations and procedures set forth below, access to the
15 Confidential Information shall be limited to the following persons or parties:

- 16 a. Attorneys of record for the Parties;
- 17 b. Paralegals, secretaries, and/or process servers regularly employed by the
18 Parties’ counsel of record;
- 19 c. Plaintiffs and Defendants, including their employees;
- 20 d. Experts or paid consultants regarding this litigation; and
- 21 e. Third party percipient/fact witnesses in this litigation.

22 5. All persons designated in paragraph 4.d and 4.e who, in the course of this action, may
23 be given access to Confidential Information, shall be required to read the Stipulation and agree to be
24 bound thereby by executing the “Acknowledgment and Agreement To Be Bound By Protective
25 Order,” attached hereto as Exhibit A. The original Acknowledgments will be maintained by the
26 party providing access to the Confidential Information and shall be produced upon reasonable
27 request. Notwithstanding Paragraph 4, although Plaintiffs and percipient witnesses may be provided
28 access to Confidential Information for review, the parties agree that Plaintiffs and percipient

1 witnesses will not be given possession, temporarily or otherwise, of copies of Confidential
2 Information.

3 6. Any responses to interrogatories, requests for admissions, or demands for inspection
4 and pleadings that disclose the content of Confidential Information shall be restricted and marked as
5 Confidential Information.

6 7. Confidential Information produced or disclosed by a party shall be used by the
7 receiving party solely for the purposes of this action and not for any other purpose. This Stipulation
8 and Protective Order is not intended to contravene Rule 1-500(A) of the California Rule of
9 Professional Conduct and Model Rules of Professional Conduct 5.6.

10 8. If Confidential Information is disclosed during a deposition or in other pretrial or trial
11 proceedings, counsel of record for the receiving party shall make arrangements, or when appropriate
12 request the Court to make arrangements, to ensure that only the deponent, counsel for the deponent,
13 court reporter, and Qualified Persons identified in Paragraph 4 above, are present, and ask that the
14 transcript or exhibits containing Confidential Information, or portions thereof, be bound separately
15 and marked "Confidential - Subject to Protective Order."

16 9. Nothing contained in this Stipulation shall be construed to prejudice the rights of a
17 party to use before the Court, arbitrator, or mediator any Confidential Information. However, before
18 doing so, the party intending to use Confidential Information shall so inform the other party and
19 request from the Court, arbitrator, or mediator appropriate protection for the Confidential
20 Information. The proponent of the sealing or redaction of any document to be filed with the Court
21 shall file a "Request to Seal Documents" pursuant to Eastern District Local Rule 140 and 141.

22 10. Nothing in this Stipulation shall abridge the rights of any party to seek judicial review
23 or to pursue other appropriate judicial action with respect to any ruling made by the Court
24 concerning the issue of the confidential status of the Confidential Information.

25 11. Any objections as to the admissibility of the Confidential Information are reserved
26 and are not waived by any terms of this Stipulation and Order.

27 12. This Stipulation and Order shall not prejudice the right of the Parties: (a) to object to
28 any request to produce Confidential Information; (b) to object to the introduction into evidence of

1 any Confidential Information; (c) to seek additional protective treatment for any Confidential
2 Information; (d) to object to the designation of documents as Confidential Information; or (e) to seek
3 any modification of any provision of this Stipulation and Order either generally or as to any
4 particular Confidential Information by properly noticed motion. The Parties shall meet and confer
5 regarding any dispute that refers or relates to Confidential Information prior to filing any motion.

6 13. The parties agree that the designating party's legal remedies are inadequate to prevent
7 the use or disclosure of Confidential Information covered by this Stipulation. Therefore, the Parties
8 agree that injunctive relief is an appropriate remedy to prevent any person or party from using or
9 disclosing Confidential Information in violation of this Stipulation and Order. In the event a party,
10 or any other person or entity, violates or threatens to violate any of the terms of this Stipulation and
11 Order, the Parties agree that the designating party, with appropriate notice, may apply to the Court to
12 obtain injunctive relief against any such persons or parties violating or threatening to violate any of
13 the terms of this Stipulation. In the event the designating party applies to the Court to obtain
14 injunctive relief, the responding party, person or entity subject to the provisions of this Stipulation
15 and Order shall not employ as a defense thereto a claim that the designating party possesses an
16 adequate remedy at law. The Parties and any other persons subject to the terms of this Stipulation
17 and Order agree that this Court shall retain jurisdiction over them for the purpose of enforcing this
18 order. The Parties waive and release any and all requirements for a bond or undertaking to support
19 any injunctive relief.

20 14. Inadvertent disclosure of any Confidential Information during discovery, arbitration,
21 mediation or trial of this action, or inadvertent disclosure of Confidential Information without
22 appropriate designation, shall be without prejudice to any claim that such material is private and
23 confidential and no party shall be held to have waived any rights of confidentiality by such
24 inadvertent disclosure.

25 15. If Confidential Information is disclosed to any persons other than in the manner
26 authorized by this Stipulation and Order, the person or party responsible for disclosure must
27 immediately bring all pertinent facts relating to such disclosure to the attention of counsel for all
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1 parties without prejudice to other rights and remedies of any party and make every effort to prevent
2 further disclosure by it or by the person who receives such information.

3 16. Sanctions for disclosure of Confidential Information contrary to the terms herein shall
4 be decided by the Court, after opportunity for briefing and argument by the Parties.

5 17. This Stipulation may be amended by the written agreement of counsel for the Parties
6 to this agreement in the form of an amended stipulation and pursuant to a further order of the Court.
7 This Stipulation is intended to regulate the handling of the Confidential Information during the
8 entirety of this litigation through appeal and thereafter, and shall remain in full force and effect until
9 modified, superseded or terminated on the record or by agreement of the Parties to this litigation and
10 any pertinent third parties or by order of the Court.

11 18. Within thirty five (35) days after the final disposition of the proceeding, whether
12 through final judgment or otherwise (including all appeals), counsel for the Parties and any person
13 authorized by the Stipulation to receive Confidential Information shall return or destroy all originals
14 and copies of documents relating or referring to the Confidential Information, except that only the
15 Parties' attorneys of record shall be entitled to retain pleadings, memoranda, declarations or
16 affidavits, written responses to discovery requests, responses to requests for admission, or deposition
17 transcripts that contain or refer to any Confidential Information to the extent necessary to preserve a
18 litigation file in this case. Confidential Information in such litigation files shall remain sealed and
19 disclosed only in accordance with the terms of this Stipulation and Order.

20 19. The terms of this Stipulation shall survive and remain in full force and effect after
21 termination of this lawsuit. The Court shall retain jurisdiction over the Parties, their attorneys and all
22 other persons to whom Confidential Information has been disclosed for the purpose of enforcing the
23 terms of this Stipulation and Order.

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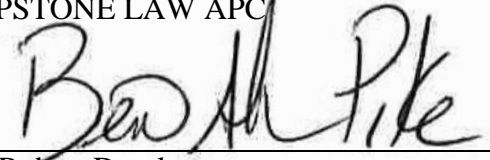
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Dated: December 3, 2015

CAPSTONE LAW APC

By:  _____

Robert Drexler
Stan Karas
Bevin Allen Pike
Jonathan Lee

Attorneys for Plaintiffs Dorothea Emmons and
Lisa Stapleton

Dated: December 3, 2015

SIDLEY AUSTIN LLP

By: /s/ Erica C. Parks _____

Jonathan M. Brenner
Erica C. Parks

Attorneys for Defendants Quest Diagnostics
Clinical Laboratories, Inc., Quest Diagnostics
Incorporated of Nevada, and Quest Diagnostics
Nichols Institute

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND BY PROTECTIVE ORDER

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 Stipulated Protective Order that was issued by the United States District
Court for the Eastern District of California on _____, 2015 in the case of Emmons et al. v.
Quest Diagnostics Clinical Laboratories, Inc. et al., Case No. 1:13-cv-00474-AWI-BAM. I agree to
comply with and to be bound by all the terms of this Stipulated Protective Order and I understand
and acknowledge that failure to so comply could expose me to punishment in the nature of contempt.
I promise that I will not disclose in any manner any information or item that is subject to this
Stipulated Protective Order to any person or entity except in strict compliance with the provisions of
this Order.

I further agree to submit to the jurisdiction of the United States District Court for the
Eastern District of California for the purpose of enforcing the terms of this Stipulated Protective
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 Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____

