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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

SERGIO MORA, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

ZETA INTERACTIVE CORP., et al.

Defendants.

Case No. 1:16-cv-00198-DAD-SAB

**STIPULATED PROTECTIVE
ORDER**

1. PURPOSES AND LIMITATIONS

Disclosure and discovery activity in this action are 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. Such information includes but is not limited to Highly Sensitive Electronic Data 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 enter the following Stipulated Protective Order. This Order will govern discovery of all information, including electronically stored information (“ESI”) in this case as a supplement to the Federal Rules of Civil Procedure, this Court’s Guidelines for the Discovery of Electronically Stored

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

10
11 2. DEFINITIONS

12 2.1. Challenging Party: A Party or Non-Party that challenges the
13 designation of information or items under this Order.

14 2.2. “CONFIDENTIAL” information or materials: all information and
15 materials that have not been made public, the disclosure of which could cause harm
16 to the disclosing Party’s business operations or the business operations of a party in
17 privity with the disclosing Party, could provide improper competitive advantage to
18 others, discloses private or personal information, or for any other reason qualifies
19 for protection under Federal Rule of Civil Procedure 26(c).

20 2.3. “CONFIDENTIAL – OUTSIDE COUNSELS’ EYES ONLY”
21 information and materials: all information and materials that would, if known to any
22 officer, director, employee, or agent of a receiving Party (including any attorneys
23 employed by a receiving Party, regardless of whether such employees are deemed
24 in-house counsel), or to the public, lead to a harm or injury to the reputation and/or
25 business of the disclosing Party. Confidential – Outside Counsels’ Eyes Only
26 information and materials may include information that concerns or relates to (1)
27 sales, marketing, manufacturing, or research and development, (2) financial
28 performance, (3) manufacturing or other costs of doing business, (4) licenses or

1 other confidential agreements, (5) technical details of products or methods of doing
2 business, (6) manufacturers and/or suppliers, and/or (7) corporate information, such
3 as information relating to mergers, acquisitions, and/or asset purchases. Confidential
4 – Outside Counsels’ Eyes Only information and materials is a subcategory of
5 Confidential information and materials as defined above in Section B.2.

6 Confidential – Outside Counsels’ Eyes Only Information shall not include any
7 Information and/or Materials that has been made public, provided such public
8 disclosure was authorized by the Party claiming ownership of the Information or
9 Material, and not unlawful, inadvertent, or the fault of the receiving Party.

10 2.4. Counsel (without qualifier): Outside Counsel of Record and House
11 Counsel (as well as their support staff).

12 2.5. Designating Party: A Party or Non-Party that designates information or
13 items that it produces in disclosures or in responses to discovery as
14 “CONFIDENTIAL” or “CONFIDENTIAL – OUTSIDE COUNSELS’ EYES
15 ONLY”.

16 2.6. Disclosure or Discovery Material: all items or information, regardless
17 of the medium or manner in which it is generated, stored, or maintained (including,
18 among other things, testimony, transcripts, and tangible things), that are produced or
19 generated in disclosures or responses to discovery in this matter.

20 2.7. Expert: a person with specialized knowledge or experience in a matter
21 pertinent to the litigation who (1) has been retained by a Party or its counsel to serve
22 as an expert witness or as a consultant in this action, (2) is not a past or current
23 employee of a Party or a current employee of a Party’s competitor, and (3) at the
24 time of retention, is not anticipated to become an employee of a Party or of a Party’s
25 competitor.

26 2.8. “HIGHLY CONFIDENTIAL—DATA” Information or Items:
27 extremely sensitive electronically stored data representing proprietary, confidential
28 and/or trade secret information, disclosure of which to another Party or Non-Party

1 would create a substantial risk of serious harm to the Producing Party.

2 2.9. House Counsel: attorneys who are employees of a party to this action.
3 House Counsel does not include Outside Counsel of Record or any other outside
4 counsel.

5 2.10. Non-Party: any natural person, partnership, corporation, association, or
6 other legal entity not named as a Party to this action.

7 2.11. Outside Counsel of Record: attorneys who are not employees of a party
8 to this action but are retained to represent or advise a party to this action and have
9 appeared in this action on behalf of that party or are affiliated with a law firm which
10 has appeared on behalf of that party.

11 2.12. Party: any party to this action, including all of its officers, directors,
12 employees, consultants, retained experts, and Outside Counsel of Record (and their
13 support staffs).

14 2.13. Producing Party: A Party or Non-Party that produces Disclosure or
15 Discovery Material in this action.

16 2.14. Professional Vendors: persons or entities that provide litigation support
17 services (e.g., photocopying, videotaping, translating, preparing exhibits or
18 demonstrations, and organizing, storing, or retrieving data in any form or medium)
19 and their employees and subcontractors.

20 2.15. Protected Material: any Disclosure or Discovery Material that is
21 designated as “CONFIDENTIAL,” “CONFIDENTIAL – OUTSIDE COUNSELS’
22 EYES ONLY,” or “HIGHLY CONFIDENTIAL—DATA.”

23 2.16. Receiving Party: A Party that receives Disclosure or Discovery
24 Material from a Producing Party.

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1 3. SCOPE

2 The protections conferred by this Stipulation and Order cover not only
3 Protected Material (as defined above), but also (1) any information copied or extracted
4 from Protected Material; (2) all copies, excerpts, summaries, or compilations of
5 Protected Material; and (3) any testimony, conversations, or presentations by Parties
6 or their Counsel that might reveal Protected Material. However, the protections
7 conferred by this Stipulation and Order do not cover the following information: (a)
8 any information that is in the public domain at the time of disclosure to a Receiving
9 Party or becomes part of the public domain after its disclosure to a Receiving Party as
10 a result of publication not involving a violation of this Order, including becoming part
11 of the public record through trial or otherwise; and (b) any information known to the
12 Receiving Party prior to the disclosure or obtained by the Receiving Party after the
13 disclosure from a source who obtained the information lawfully and under no
14 obligation of confidentiality to the Designating Party. Any use of Protected Material at
15 trial shall be governed by a separate agreement or order.

16
17 4. DURATION

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

26
27 5. DESIGNATING PROTECTED MATERIAL

28 5.1. Exercise of Restraint and Care in Designating Material for Protection.

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

8 5.1.1. Mass, indiscriminate, or routinized designations are prohibited.

9 Designations that are shown to be clearly unjustified or that have been
10 made for an improper purpose (e.g., to unnecessarily encumber or
11 retard the case development process or to impose unnecessary expenses
12 and burdens on other parties) expose the Designating Party to
13 sanctions.

14 5.1.2. If it comes to a Designating Party’s attention that information or items
15 that it designated for protection do not qualify for protection, that
16 Designating Party must promptly notify all other Parties that it is
17 withdrawing the mistaken designation.

18 5.2. Manner and Timing of Designations. Except as otherwise provided in
19 this Order or as otherwise stipulated or ordered, Disclosure or Discovery Material
20 that qualifies for protection under this Order must be clearly so designated before
21 the material is disclosed or produced.

22 5.3. Designation in conformity with this Order requires:

23 5.3.1. For information in documentary form (e.g., paper or electronic
24 documents, but excluding transcripts of depositions or other pretrial or
25 trial proceedings), that the Producing Party affix the legend
26 “CONFIDENTIAL,” “CONFIDENTIAL – OUTSIDE COUNSELS’
27 EYES ONLY,” or “HIGHLY CONFIDENTIAL—DATA” to each
28 page that contains Protected Material. If only a portion or portions of

1 the material on a page qualifies for protection, the Producing Party also
2 must clearly identify the protected portion(s) (e.g., by making
3 appropriate markings in the margins).

4 5.3.2. For testimony given in deposition or in other pretrial or trial
5 proceedings, that the Designating Party identify on the record, before
6 the close of the deposition, hearing, or other proceeding, all protected
7 testimony.

8 5.3.3. Parties shall give the other parties notice if they reasonably expect a
9 deposition, hearing or other proceeding to include Protected Material so
10 that the other parties can ensure that only authorized individuals who
11 have signed the “Acknowledgment and Agreement to Be Bound”
12 (Exhibit A) are present at those proceedings. The use of a document as
13 an exhibit at a deposition shall not in any way affect its designation as
14 “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL— ATTORNEYS’
15 EYES ONLY,” or “HIGHLY CONFIDENTIAL—DATA.”

16 5.4. For information produced in some form other than documentary and for
17 any other tangible items, that the Producing Party affix in a prominent place on the
18 exterior of the container or containers in which the information or item is stored the
19 legend “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL— ATTORNEYS’ EYES
20 ONLY,” or “HIGHLY CONFIDENTIAL—DATA.” If only a portion or portions of
21 the information or item warrant protection, the Producing Party, to the extent
22 practicable, shall identify the protected portion(s).

23 5.5. If qualified Protected Material cannot be labeled, they shall be
24 designated as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL— ATTORNEYS’
25 EYES ONLY,” or “HIGHLY CONFIDENTIAL—DATA” in a manner to be agreed
26 upon by the Parties.

27 5.6. Inadvertent Failures to Designate. If timely corrected, an inadvertent
28 failure to designate qualified information or items does not, standing alone, waive

1 the Designating Party's right to secure protection under this Order for such material.
2 Upon timely correction of a designation, the Receiving Party must make reasonable
3 efforts to assure that the material is treated in accordance with the provisions of this
4 Order.

5
6 **6. REDACTION**

7 6.1. Redacted versions of Protected Material may be used for any proper
8 purpose.

9 6.2. If any Party intends to use a redacted version of any Protected Material
10 in a manner that would exceed the uses permitted under the designation used on
11 such Information and/or Materials, the Party must first submit its proposed
12 redactions to the Party that originally designated such Information and/or Materials.
13 Upon receipt, the Party originally designating such Information and/or Materials
14 shall make a good faith effort to either approve the proposed redactions or propose
15 whatever additional redactions are necessary to render the Information and/or
16 Materials appropriate for use or disclosure exceeding their original designation as
17 promptly as practicable, but in no even more than seven (7) days after the receipt of
18 the proposed redactions.

19
20 **7. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

21 7.1. Timing of Challenges. Any Party or Non-Party may challenge a
22 designation of confidentiality at any time. Unless a prompt challenge to a
23 Designating Party's confidentiality designation is necessary to avoid foreseeable,
24 substantial unfairness, unnecessary economic burdens, or a significant disruption or
25 delay of the litigation, a Party does not waive its right to challenge a confidentiality
26 designation by electing not to mount a challenge promptly after the original
27 designation is disclosed.

1 7.2. Meet and Confer. The Challenging Party shall initiate the dispute
2 resolution process by providing written notice of each designation it is challenging
3 and describing the basis for each challenge. To avoid ambiguity as to whether a
4 challenge has been made, the written notice must recite that the challenge to
5 confidentiality is being made in accordance with this specific paragraph of the
6 Protective Order. The parties shall attempt to resolve each challenge in good faith
7 and must begin the process by conferring directly (in voice to voice dialogue; other
8 forms of communication are not sufficient) within 14 days of the date of service of
9 notice. In conferring, the Challenging Party must explain the basis for its belief that
10 the confidentiality designation was not proper and must give the Designating Party
11 an opportunity to review the designated material, to reconsider the circumstances,
12 and, if no change in designation is offered, to explain the basis for the chosen
13 designation. A Challenging Party may proceed to the next stage of the challenge
14 process only if it has engaged in this meet and confer process first or establishes that
15 the Designating Party is unwilling to participate in the meet and confer process in a
16 timely manner.

17 7.3. Judicial Intervention. If the Parties cannot resolve a challenge without
18 court intervention, the Designating Party shall file and serve a motion to retain
19 confidentiality under Civil Local Rule 7 (and in compliance with Civil Local Rule
20 79-5, if applicable) within 21 days of the initial notice of challenge or within 14
21 days of the parties agreeing that the meet and confer process will not resolve their
22 dispute, whichever is earlier. Each such motion must be accompanied by a
23 competent declaration affirming that the movant has complied with the meet and
24 confer requirements imposed in the preceding paragraph. Failure by the Designating
25 Party to make such a motion including the required declaration within 21 days (or
26 14 days, if applicable) shall automatically waive the confidentiality designation for
27 each challenged designation. In addition, the Challenging Party may file a motion
28 challenging a confidentiality designation at any time if there is good cause for doing

1 so, including a challenge to the designation of a deposition transcript or any portions
2 thereof. Any motion brought pursuant to this provision must be accompanied by a
3 competent declaration affirming that the movant has complied with the meet and
4 confer requirements imposed by the preceding paragraph.

5 7.4. The burden of persuasion in any such challenge proceeding shall be on
6 the Designating Party. Frivolous challenges, and those made for an improper
7 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
8 parties) may expose the Challenging Party to sanctions. Unless the Designating
9 Party has waived the confidentiality designation by failing to file a motion to retain
10 confidentiality as described above, all parties shall continue to afford the material in
11 question the level of protection to which it is entitled under the Producing Party's
12 designation until the court rules on the challenge.

13 14 8. ACCESS TO AND USE OF PROTECTED MATERIAL

15 8.1. Basic Principles. A Receiving Party may use Protected Material that is
16 disclosed or produced by another Party or by a Non-Party in connection with this
17 case only for prosecuting, defending, or attempting to settle this litigation. Such
18 Protected Material may be disclosed only to the categories of persons and under the
19 conditions described in this Order. When the litigation has been terminated, a
20 Receiving Party must comply with the provisions of section 17 below (FINAL
21 DISPOSITION).

22 8.2. Protected Material must be stored and maintained by a Receiving Party
23 at a location and in a secure manner that ensures that access is limited to the persons
24 authorized under this Order.

25
26 9. Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise
27 ordered by the court or permitted in writing by the Designating Party, a
28 Receiving Party may disclose any information or item designated

1 “CONFIDENTIAL” only to:

- 2 a) the Receiving Party’s Outside Counsel of Record in this action, as well
3 as employees of said Outside Counsel of Record to whom it is
4 reasonably necessary to disclose the information for this litigation and
5 who have signed the “Acknowledgment and Agreement to Be Bound”
6 that is attached hereto as Exhibit A;
- 7 b) the officers, directors, and employees (including House Counsel) of the
8 Receiving Party to whom disclosure is reasonably necessary for this
9 litigation and who have signed the “Acknowledgment and Agreement
10 to Be Bound” (Exhibit A);
- 11 c) Experts (as defined in this Order) of the Receiving Party to whom
12 disclosure is reasonably necessary for this litigation and who have
13 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit
14 A);
- 15 d) the court and its personnel;
- 16 e) court reporters and their staff, professional jury or trial consultants,
17 mock jurors, and Professional Vendors to whom disclosure is
18 reasonably necessary for this litigation and who have signed the
19 “Acknowledgment and Agreement to Be Bound” (Exhibit A);
- 20 f) during their depositions, witnesses in the action to whom disclosure is
21 reasonably necessary and who have signed the “Acknowledgment and
22 Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the
23 Designating Party or ordered by the court. Pages of transcribed
24 deposition testimony or exhibits to depositions that reveal Protected
25 Material must be separately bound by the court reporter and may not be
26 disclosed to anyone except as permitted under this Stipulated Protective
27 Order.
- 28 g) the author or recipient of a document containing the information or a

1 custodian or other person who otherwise possessed or knew the
2 information.

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4 10. Disclosure of “CONFIDENTIAL – OUTSIDE COUNSELS’ EYES ONLY”
5 Protected Material. Unless otherwise ordered by the court or permitted in
6 writing by the Designating Party, a Receiving Party may disclose any
7 information or item designated “CONFIDENTIAL – OUTSIDE
8 COUNSELS’ EYES ONLY” only to:

- 9 a) the Receiving Party’s Outside Counsel of Record in this action, as well
10 as employees of said Outside Counsel of Record to whom it is
11 reasonably necessary to disclose the information for this litigation and
12 who have signed the “Acknowledgment and Agreement to Be Bound”
13 that is attached hereto as Exhibit A;
- 14 b) Experts (as defined in this Order) of the Receiving Party to whom
15 disclosure is reasonably necessary for this litigation and who have
16 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit
17 A); and
- 18 c) The Court and its staff, as defined herein.

19
20 11. HIGHLY SENSITIVE DATA

21 11.1. To the extent production of ESI becomes necessary in this case, a
22 Producing Party may designate ESI as “HIGHLY CONFIDENTIAL—DATA” if it
23 comprises or includes ESI as determined by the Producing Party.

24 11.2. Protected Material designated as “HIGHLY CONFIDENTIAL—
25 DATA” shall be subject to all of the protections afforded to “CONFIDENTIAL –
26 OUTSIDE COUNSELS’ EYES ONLY” provided herein, as well as the additional
27 protections afforded under this ESI Protective Order
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1 12. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
2 IN OTHER LITIGATION

3 12.1. If a Party is served with a subpoena or a court order issued in other
4 litigation that compels disclosure of any Protected Information, that Party must:

- 5 a) promptly notify in writing the Designating Party. Such notification
6 shall include a copy of the subpoena or court order;
- 7 b) promptly notify in writing the party who caused the subpoena or order
8 to issue in the other litigation that some or all of the material covered
9 by the subpoena or order is subject to this Protective Order. Such
10 notification shall include a copy of this Stipulated Protective Order; and
- 11 c) cooperate with respect to all reasonable procedures sought to be
12 pursued by the Designating Party whose Protected Material may be
13 affected.

14 12.2. If the Designating Party timely seeks a protective order, the Party
15 served with the subpoena or court order shall not produce any information
16 designated in this action as “CONFIDENTIAL,” CONFIDENTIAL – OUTSIDE
17 COUNSELS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL—DATA” before a
18 determination by the court from which the subpoena or order issued, unless the
19 Party has obtained the Designating Party’s permission. The Designating Party shall
20 bear the burden and expense of seeking protection in that court of its confidential
21 material – and nothing in these provisions should be construed as authorizing or
22 encouraging a Receiving Party in this action to disobey a lawful directive from
23 another court.

24
25 13. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
26 PRODUCED IN THIS LITIGATION

27 13.1. The terms of this Order are applicable to Protected Material produced by
28 a Non-Party in this action. Such information produced by Non-Parties in connection

1 with this litigation is protected by the remedies and relief provided by this Order.
2 Nothing in these provisions should be construed as prohibiting a Non-Party from
3 seeking additional protections.

4 13.2. In the event that a Party is required, by a valid discovery request, to
5 produce a Non-Party's confidential information in its possession, and the Party is
6 subject to an agreement with the Non-Party not to produce the Non-Party's
7 confidential information, then the Party shall:

- 8 a) promptly notify in writing the Requesting Party and the Non-
9 Party that some or all of the information requested is subject to a
10 confidentiality agreement with a Non-Party;
- 11 b) promptly provide the Non-Party with a copy of the Stipulated
12 Protective Order in this litigation, the relevant discovery
13 request(s), and a reasonably specific description of the
14 information requested; and
- 15 c) make the information requested available for inspection by the
16 Non-Party.

17 13.3. If the Non-Party fails to object or seek a protective order from this court
18 within 14 days of receiving the notice and accompanying information, the Receiving
19 Party may produce the Non-Party's confidential information responsive to the
20 discovery request. If the Non-Party timely seeks a protective order, the Receiving
21 Party shall not produce any information in its possession or control that is subject to
22 the confidentiality agreement with the Non-Party before a determination by the court.
23 Absent a court order to the contrary, the Non-Party shall bear the burden and expense
24 of seeking protection in this court of its Protected Material.

25
26 14. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

27 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
28 Protected Material to any person or in any circumstance not authorized under this

1 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
2 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
3 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or
4 persons to whom unauthorized disclosures were made of all the terms of this Order,
5 and (d) request such person or persons to execute the “Acknowledgment and
6 Agreement to Be Bound” that is attached hereto as Exhibit A.

7
8 15. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
9 PROTECTED MATERIAL

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

20
21 16. MISCELLANEOUS

22 16.1. Right to Further Relief. Nothing in this Order abridges the right of any
23 person to seek its modification by the court in the future.

24 16.2. Right to Assert Other Objections. By stipulating to the entry of this
25 Protective Order no Party waives any right it otherwise would have to object to
26 disclosing or producing any information or item on any ground not addressed in this
27 Stipulated Protective Order. Similarly, no Party waives any right to object on any
28 ground to use in evidence of any of the material covered by this Protective Order.

1 16.3. Filing Protected Material. Without written permission from the
2 Designating Party or a court order secured after appropriate notice to all interested
3 persons, a Party may not file in the public record in this action any Protected
4 Material. A Party that seeks to file under seal any Protected Material must comply
5 with Civil Local Rule 79-5. Protected Material may only be filed under seal
6 pursuant to a court order authorizing the sealing of the specific Protected Material at
7 issue. Pursuant to Civil Local Rule 79-5, a sealing order will issue only upon a
8 request establishing that the Protected Material at issue is privileged, protectable as
9 a trade secret, or otherwise entitled to protection under the law. If a Receiving
10 Party's request to file Protected Material under seal pursuant to Civil Local Rule 79-
11 5(d) is denied by the court, then the Receiving Party may file the information in the
12 public record pursuant to Civil Local Rule 79-5(e) unless otherwise instructed by the
13 court.

14
15 17. FINAL DISPOSITION

16 Within 60 days after the final disposition of this action, as defined in Section
17 4, each Receiving Party must return all Protected Material to the Producing Party or
18 destroy such material. As used in this subdivision, "all Protected Material" includes
19 all copies, abstracts, compilations, summaries, and any other format reproducing or
20 capturing any of the Protected Material. Whether the Protected Material is returned
21 or destroyed, the Receiving Party must submit a written certification to the
22 Producing Party (and, if not the same person or entity, to the Designating Party) by
23 the 60 day deadline that (1) identifies (by category, where appropriate) all the
24 Protected Material that was returned or destroyed and (2) affirms that the Receiving
25 Party has not retained any copies, abstracts, compilations, summaries or any other
26 format reproducing or capturing any of the Protected Material. Notwithstanding this
27 provision, Counsel are entitled to retain an archival copy of all pleadings, motion
28 papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence,

1 deposition and trial exhibits, expert reports, attorney work product, and consultant
2 and expert work product, even if such materials contain Protected Material. Any
3 such archival copies that contain or constitute Protected Material remain subject to
4 this Protective Order as set forth in Section 4 (DURATION).

5
6 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

7
8 DATED: February 21, 2017

9 NEWMAN DU WORS LLP

BURSOR & FISHER, P.A.

10
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ORDER

Pursuant to the stipulation of the parties, IT IS HEREBY ORDERED that:

1. The protective order is entered;
2. The parties are advised that pursuant to the Local Rules of the United States District Court, Eastern District of California, any documents which are to be

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filed under seal will require a written request which complies with Local Rule 141; and

- 3. The party making a request to file documents under seal shall be required to show good cause for documents attached to a nondispositive motion or compelling reasons for documents attached to a dispositive motion. Pintos v. Pacific Creditors Ass'n, 605 F.3d 665, 677-78 (9th Cir. 2009).

IT IS SO ORDERED.

Dated: February 21, 2017


UNITED STATES MAGISTRATE JUDGE

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [print or type full name], of
4 _____ [print or type full address], declare under penalty of perjury that
5 I have read in its entirety and understand the Stipulated Protective Order that was
6 issued by the United States District Court for the Northern District of California on
7 [date] in the case of _____ [**insert formal name of the case and the number**
8 **and initials assigned to it by the court**]. I agree to comply with and to be bound by
9 all the terms of this Stipulated Protective Order and I understand and acknowledge
10 that failure to so comply could expose me to sanctions and punishment in the nature of
11 contempt. I solemnly promise that I will not disclose in any manner any information
12 or item that is subject to this Stipulated Protective Order to any person or entity except
13 in strict compliance with the provisions of this Order.

14 I further agree to submit to the jurisdiction of the United States District Court for the
15 Northern District of California for the purpose of enforcing the terms of this
16 Stipulated Protective Order, even if such enforcement proceedings occur after
17 termination of this action.

18 I hereby appoint _____ [print or type full name] of
19 _____ [print or type full address and
20 telephone number] as my California agent for service of process in connection with
21 this action or any proceedings related to enforcement of this Stipulated Protective
22 Order.

23 Date: _____

24 City and State where sworn and signed: _____

25 Printed name: _____

26 Signature: _____

27
28