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17 IN THE UNITED STATES DISTRICT COURT  
 18 FOR THE EASTERN DISTRICT OF CALIFORNIA  
 19 SACRAMENTO DIVISION

22 **RALPH COLEMAN, et al.,**  
 23 Plaintiffs,  
 24 v.  
 25 **GAVIN NEWSOM, et al.,**  
 26 Defendants.

Case No. 2:90-cv-00520 KJM DB P

**STIPULATED PROTECTIVE ORDER FOR  
 PLAINTIFF-INTERVENOR LIPSEY'S  
 CLAIM**

Judge: Hon. Kimberly Mueller  
 Action Filed: April 23, 1990

1        1.        PURPOSES AND LIMITATIONS

2                Disclosure and discovery activity related to Plaintiff-Intervenor Christopher Lipsey’s  
3 Complaint in Intervention in this action, ECF No. 6941, are likely to involve production of  
4 confidential, proprietary, or private information for which special protection from public  
5 disclosure and from use for any purpose other than prosecuting this litigation may be warranted.  
6 Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated  
7 Protective Order applicable to information produced by non-parties. This Stipulated Protective  
8 order does not supersede existing *Coleman* protective orders applicable to the parties. The parties  
9 acknowledge that this Order does not confer blanket protections on all disclosures or responses to  
10 discovery and that the protection it affords from public disclosure and use extends only to the  
11 limited information or items that are entitled to confidential treatment under the applicable legal  
12 principles. The parties further acknowledge, as set forth in Section 12.3, below, that this  
13 Stipulated Protective Order does not entitle them to file confidential information under seal; Civil  
14 Local Rule 141 and the court’s standing orders set forth the procedures that must be followed and  
15 the standards that will be applied when a party seeks permission from the court to file material  
16 under seal.

17        2.        DEFINITIONS

18                2.1        Challenging Party: a Party or Non-Party that challenges the designation of  
19 information or items under this Order.

20                2.2        “CONFIDENTIAL” Information or Items: information (regardless of how it is  
21 generated, stored or maintained) or tangible things that qualify for protection under Federal Rule  
22 of Civil Procedure 26(c), excluding “confidential material” as defined in the *Coleman* Protective  
23 Order, ECF No. 2109 (as amended by the February 25, 2020 order, ECF No. 6482), which shall  
24 continue to be governed by the *Coleman* Protective Order, as modified.

25                2.3        Counsel (without qualifier): Outside Counsel of Record and House Counsel (as  
26 well as their support staff).

27                2.4        Designating Party: a Party or Non-Party that designates information or items that it  
28 produces in disclosures or in responses to discovery as “CONFIDENTIAL” or “HIGHLY

1 CONFIDENTIAL – ATTORNEYS’ EYES ONLY”.

2 2.5 Expert: a person with specialized knowledge or experience in a matter pertinent to  
3 the litigation who (1) has been retained by a Party or its counsel to serve as an expert witness or  
4 as a consultant in this action, (2) is not a past or current employee of a Party or of a Party’s  
5 competitor, and (3) at the time of retention, is not anticipated to become an employee of a Party  
6 or of a Party’s competitor.

7 2.6 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or  
8 Items: extremely sensitive “Confidential Information or Items,” disclosure of which to another  
9 Party or Non-Party would create a substantial risk of serious harm that could not be avoided by  
10 less restrictive means.

11 2.7 House Counsel: attorneys who are employees of a party to this action. House  
12 Counsel does not include Outside Counsel of Record or any other outside counsel.

13 2.8 Intervenor Claim Disclosure or Discovery Material: all items or information,  
14 regardless of the medium or manner in which it is generated, stored, or maintained (including,  
15 among other things, testimony, transcripts, and tangible things), that are produced or generated in  
16 disclosures or responses to discovery regarding Lipsey’s Complaint in Intervention.

17 2.9 Non-Party: any natural person, partnership, corporation, association, or other legal  
18 entity not named as a Party to this action.

19 2.10 Outside Counsel of Record: attorneys who are not employees of a party to this  
20 action but are retained to represent or advise a party to this action and have appeared in this action  
21 on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.

22 2.11 Party: any party to this action, including all of its officers, directors, employees,  
23 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

24 2.12 Producing Party: a Party or Non-Party that produces Intervenor Claim Disclosure  
25 or Discovery Material in this action.

26 2.13 Professional Vendors: persons or entities that provide litigation support services  
27 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and  
28 organizing, storing, or retrieving data in any form or medium) and their employees and

1 subcontractors.

2 2.14 Protected Material: any Intervenor Claim Disclosure or Discovery Material that is  
3 designated as “CONFIDENTIAL,” or as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
4 ONLY.”

5 2.15 Receiving Party: a Party that receives Intervenor Claim Disclosure or Discovery  
6 Material from a Producing Party.

7 2.16 Related Case: a civil case that the court has related to this litigation under Eastern  
8 District Local Rule 123 and in which the undersigned plaintiff-intervenor’s counsel represents the  
9 plaintiff.

10 3. SCOPE

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

23 4. DURATION

24 Even after final disposition of this litigation, the confidentiality obligations imposed by  
25 this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court  
26 order otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all  
27 claims and defenses in this action, with or without prejudice; and (2) final judgment herein after  
28 the completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,

1 including the time limits for filing any motions or applications for extension of time pursuant to  
2 applicable law.

3 5. DESIGNATING PROTECTED MATERIAL

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

11 Mass, indiscriminate, or routinized designations are prohibited.

12 If it comes to a Designating Party’s attention that information or items that it designated  
13 for protection do not qualify for protection at all or do not qualify for the level of protection  
14 initially asserted, that Designating Party must promptly notify all other parties that it is  
15 withdrawing the mistaken designation.

16 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order  
17 (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered,  
18 Intervenor Claim Disclosure or Discovery

19 Material that qualifies for protection under this Order must be clearly so designated before  
20 the material is disclosed or produced.

21 Designation in conformity with this Order requires:

22 (a) for information in documentary form (e.g., paper or electronic documents, but  
23 excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing  
24 Party affix the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’  
25 EYES ONLY” to each page that contains protected material. If only a portion or portions of the  
26 material on a page qualifies for protection, the Producing Party also must clearly identify the  
27 protected portion(s) (e.g., by making appropriate markings in the margins) and must specify, for  
28 each portion, the level of protection being asserted.

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

14           Notwithstanding the process identified in the preceding paragraph, to the extent any party  
15 to this action deems a produced document confidential under one or more of the standing  
16 protective orders in this action, that party may designate the documents as confidential and  
17 protected under this Order by giving written notice of the designation to the Producing Party.

18           (b) for testimony given in deposition or in other pretrial or trial proceedings, that  
19 the Designating Party identify on the record, before the close of the deposition, hearing, or other  
20 proceeding, all protected testimony and specify the level of protection being asserted. When it is  
21 impractical to identify separately each portion of testimony that is entitled to protection and it  
22 appears that substantial portions of the testimony may qualify for protection, the Designating  
23 Party may invoke on the record (before the deposition, hearing, or other proceeding is concluded)  
24 a right to have up to 21 days to identify the specific portions of the testimony as to which  
25 protection is sought and to specify the level of protection being asserted. Only those portions of  
26 the testimony that are appropriately designated for protection within the 21 days shall be covered  
27 by the provisions of this Stipulated Protective Order. Alternatively, a Designating Party may  
28 specify, at the deposition or up to 21 days afterwards if that period is properly invoked, that the

1 entire transcript shall be treated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –  
2 ATTORNEYS’ EYES ONLY.”

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

9 Transcripts containing Protected Material shall have an obvious legend on the title page  
10 that the transcript contains Protected Material, and the title page shall be followed by a list of all  
11 pages (including line numbers as appropriate) that have been designated as Protected Material and  
12 the level of protection being asserted by the Designating Party. The Designating Party shall  
13 inform the court reporter of these requirements. Any transcript that is prepared before the  
14 expiration of a 21-day period for designation shall be treated during that period as if it had been  
15 designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” in its entirety unless  
16 otherwise agreed. After the expiration of that period, the transcript shall be treated only as  
17 actually designated.

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

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

1     6.     CHALLENGING CONFIDENTIALITY DESIGNATIONS

2             6.1     Timing of Challenges. Any Party or Non-Party may challenge a designation of  
3 confidentiality at any time. Unless a prompt challenge to a Designating Party’s confidentiality  
4 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic  
5 burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to  
6 challenge a confidentiality designation by electing not to mount a challenge promptly after the  
7 original designation is disclosed.

8             6.2     Meet and Confer. The Challenging Party shall initiate the dispute resolution  
9 process by providing written notice of each designation it is challenging and describing the basis  
10 for each challenge. To avoid ambiguity as to whether a challenge has been made, the written  
11 notice must recite that the challenge to confidentiality is being made in accordance with this  
12 specific paragraph of the Protective Order. The parties shall attempt to resolve each challenge in  
13 good faith and must begin the process by conferring directly (in voice to voice dialogue; other  
14 forms of communication are not sufficient) within 14 days of the date of service of notice. In  
15 conferring, the Challenging Party must explain the basis for its belief that the confidentiality  
16 designation was not proper and must give the Designating Party an opportunity to review the  
17 designated material, to reconsider the circumstances, and, if no change in designation is offered,  
18 to explain the basis for the chosen designation. A Challenging Party may proceed to the next  
19 stage of the challenge process only if it has engaged in this meet and confer process first or  
20 establishes that the Designating Party is unwilling to participate in the meet and confer process in  
21 a timely manner.

22             6.3     Judicial Intervention. If the Parties cannot resolve a challenge without court  
23 intervention, the Designating Party shall file and serve a motion to retain confidentiality under  
24 Civil Local Rule 230 (and in compliance with Civil Local Rule 141, if applicable) within 21 days  
25 of the initial notice of challenge or within 14 days of the parties agreeing that the meet and confer  
26 process will not resolve their dispute, whichever is earlier. Each such motion must be  
27 accompanied by a competent declaration affirming that the movant has complied with the meet  
28 and confer requirements imposed in the preceding paragraph. Failure by the Designating Party to



1 make such a motion including the required declaration within 21 days (or 14 days, if applicable)  
2 shall automatically waive the confidentiality designation for each challenged designation. In  
3 addition, the Challenging Party may file a motion challenging a confidentiality designation at any  
4 time if there is good cause for doing so, including a challenge to the designation of a deposition  
5 transcript or any portions thereof. Any motion brought pursuant to this provision must be  
6 accompanied by a competent declaration affirming that the movant has complied with the meet  
7 and confer requirements imposed by the preceding paragraph.

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

15 7. ACCESS TO AND USE OF PROTECTED MATERIAL

16 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or  
17 produced by another Party or by a Non-Party in connection with this case only for prosecuting,  
18 defending, or attempting to settle this litigation or any Related Case. Such Protected Material may  
19 be disclosed only to the categories of persons and under the conditions described in this Order.  
20 When the litigation has been terminated, a Receiving Party must comply with the provisions of  
21 section 15 below (FINAL DISPOSITION).

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

24 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered  
25 by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any  
26 information or item designated "CONFIDENTIAL" only to:

27 (a) the Receiving Party's Outside Counsel of Record in this action, as well as  
28 employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the

1 information for this litigation and who have signed the “Acknowledgment and Agreement to Be  
2 Bound” that is attached hereto as Exhibit A;

3 (b) the officers, directors, and employees (including House Counsel) of the  
4 Receiving Party to whom disclosure is reasonably necessary for this litigation and who have  
5 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

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

9 (d) the court and its personnel;

10 (e) court reporters and their staff, professional jury or trial consultants, and  
11 Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have  
12 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

13 (f) during their depositions, witnesses in the action to whom disclosure is  
14 reasonably necessary and who have signed the “Acknowledgment and Agreement to Be Bound”  
15 (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court. Pages of  
16 transcribed deposition testimony or exhibits to depositions that reveal Protected Material must be  
17 separately bound by the court reporter and may not be disclosed to anyone except as permitted  
18 under this Stipulated Protective Order.

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

21 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”  
22 Information or Items. Unless otherwise ordered by the court or permitted in writing by the  
23 Designating Party, a Receiving Party may disclose any information or item designated “HIGHLY  
24 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to:

25 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as  
26 employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the  
27 information for this litigation and who have signed the “Acknowledgment and Agreement to Be  
28 Bound” that is attached hereto as Exhibit A;

1 (b) Experts of the Receiving Party to whom disclosure is reasonably necessary for  
2 this litigation and who have signed the “Acknowledgment and Agreement to Be Bound”  
3 (Exhibit A);

4 (c) the court and its personnel;

5 (d) court reporters and their staff, professional jury or trial consultants, and  
6 Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have  
7 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A); and

8 (e) the author or recipient of a document containing the information or a custodian  
9 or other person who otherwise possessed or knew the information.

10 7.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY  
11 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items to Designated House  
12 Counsel.

13 (a) Unless otherwise ordered by the court or agreed to in writing by the  
14 Designating Party, a Party that seeks to disclose to Designated House Counsel any information or  
15 item that has been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”  
16 pursuant to paragraph 7.3(b) first must make a written request to the Designating Party that (1)  
17 sets forth the full name of the Designated House Counsel and the city and state of his or her  
18 residence, and (2) describes the Designated House Counsel’s current and reasonably foreseeable  
19 future primary job duties and responsibilities in sufficient detail to determine if House Counsel is  
20 involved, or may become involved, in any competitive decision-making.

21 (b) A Party that makes a request and provides the information specified in the  
22 preceding respective paragraph may disclose the subject Protected Material to the identified  
23 Designated House Counsel unless, within 14 days of delivering the request, the Party receives a  
24 written objection from the Designating Party. Any such objection must set forth in detail the  
25 grounds on which it is based.

26 (c) A Party that receives a timely written objection must meet and confer with the  
27 Designating Party (through direct voice to voice dialogue) to try to resolve the matter by  
28 agreement within seven days of the written objection. If no agreement is reached, the Party

1 seeking to make the disclosure to Designated House Counsel may file a motion as provided in  
2 Civil Local Rule 230 (and in compliance with Civil Local Rule 141, if applicable) seeking  
3 permission from the court to do so. Any such motion must describe the circumstances with  
4 specificity, set forth in detail the reasons why the disclosure to Designated House Counsel is  
5 reasonably necessary, assess the risk of harm that the disclosure would entail, and suggest any  
6 additional means that could be used to reduce that risk. In addition, any such motion must be  
7 accompanied by a competent declaration describing the parties' efforts to resolve the matter by  
8 agreement (i.e., the extent and the content of the meet and confer discussions) and setting forth  
9 the reasons advanced by the Designating Party for its refusal to approve the disclosure.

10 In any such proceeding, the Party opposing disclosure to Designated House Counsel shall  
11 bear the burden of proving that the risk of harm that the disclosure would entail (under the  
12 safeguards proposed) outweighs the Receiving Party's need to disclose the Protected Material to  
13 its Designated House Counsel.

14 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER  
15 LITIGATION

16 If a Party is served with a subpoena or a court order issued in other litigation that  
17 compels disclosure of any information or items designated in this action as "CONFIDENTIAL"  
18 or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" that Party must:

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

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

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

27 If the Designating Party timely seeks a protective order, the Party served with the  
28 subpoena or court order shall not produce any information designated in this action as

1 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” before a  
2 determination by the court from which the subpoena or order issued, unless the Party has obtained  
3 the Designating Party’s permission. The Designating Party shall bear the burden and expense of  
4 seeking protection in that court of its confidential material – and nothing in these provisions  
5 should be construed as authorizing or encouraging a Receiving Party in this action to disobey a  
6 lawful directive from another court.

7 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS  
8 LITIGATION

9 (a) The terms of this Order are applicable to information produced by a Non-  
10 Party in this action and designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –  
11 ATTORNEYS’ EYES ONLY.” Such information produced by Non-Parties in connection with  
12 this litigation is protected by the remedies and relief provided by this Order. Nothing in these  
13 provisions should be construed as prohibiting a Non-Party from seeking additional protections.

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

- 18 1. promptly notify in writing the Requesting Party and the Non-Party that  
19 some or all of the information requested is subject to a confidentiality agreement with a Non-  
20 Party;
- 21 2. promptly provide the Non-Party with a copy of the Stipulated Protective  
22 Order in this litigation, the relevant discovery request(s), and a reasonably specific description of  
23 the information requested; and
- 24 3. make the information requested available for inspection by the Non-Party.

25 (c) If the Non-Party fails to object or seek a protective order from this court  
26 within 14 days of receiving the notice and accompanying information, the Receiving Party may  
27 produce the Non-Party’s confidential information responsive to the discovery request. If the Non-  
28 Party timely seeks a protective order, the Receiving Party shall not produce any information in its

1 possession or control that is subject to the confidentiality agreement with the Non-Party before a  
2 determination by the court. Absent a court order to the contrary, the Non-Party shall bear the  
3 burden and expense of seeking protection in this court of its Protected Material.

4 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

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

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

23 12. MISCELLANEOUS

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

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

1 Party waives any right to object on any ground to use in evidence of any of the material covered  
2 by this Protective Order.

3           12.3 Filing Protected Material. Without written permission from the Designating Party  
4 or a court order secured after appropriate notice to all interested persons, a Party may not file in  
5 the public record in this action any Protected Material. A Party that seeks to file under seal any  
6 Protected Material must comply with Civil Local Rule 141 and the court's standing orders.  
7 Protected Material may only be filed under seal pursuant to a court order authorizing the sealing  
8 of the specific Protected Material at issue. Pursuant to Civil Local Rule 141 and the court's  
9 standing orders, a sealing order will issue only upon a request establishing that the Protected  
10 Material at issue is entitled to protection under the law. If a Receiving Party's request to file  
11 Protected Material under seal pursuant to Civil Local Rule 141(b) is denied by the court, then the  
12 Receiving Party may file the Protected Material in the public record unless otherwise instructed  
13 by the court.

14 13. FINAL DISPOSITION

15           Within 60 days after the final disposition, as defined in paragraph 4, of this action and all  
16 Related Cases as defined in paragraph 2.16, each Receiving Party must return all Protected  
17 Material to the Producing Party or destroy such material. As used in this subdivision, "all  
18 Protected Material" includes all copies, abstracts, compilations, summaries, and any other format  
19 reproducing or capturing any of the Protected Material. Whether the Protected Material is  
20 returned or destroyed, the Receiving Party must submit a written certification to the Producing  
21 Party (and, if not the same person or entity, to the Designating Party) by the 60-day deadline that  
22 (1) identifies (by category, where appropriate) all the Protected Material that was returned or  
23 destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts,  
24 compilations, summaries or any other format reproducing or capturing any of the Protected  
25 Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all  
26 pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda,  
27 correspondence, deposition and trial exhibits, expert reports, attorney work product, and  
28 consultant and expert work product, even if such materials contain Protected Material. Any such

1 archival copies that contain or constitute Protected Material remain subject to this Protective  
2 Order as set forth in Section 4 (DURATION).

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

5 Dated: March 1, 2022

Respectfully submitted,

6 /s/ Brian C. Baran

/s/ Namrata Kotwani (as authorized on 3/1/22)

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17 *Attorneys for Plaintiff-Intervenor*  
18 *Christopher Lipsey*

19 PURSUANT TO STIPULATION, IT IS SO ORDERED.

20  
21 DATED: March 7, 2022.

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25 CHIEF UNITED STATES DISTRICT JUDGE  
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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

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 \_\_\_\_\_ [date] in the case of *Coleman v. Newsom*, Case No. 2:90-cv-00520 KJM DB P. 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 sanctions and punishment in the nature of contempt. I solemnly 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: \_\_\_\_\_  
[printed name]

Signature: \_\_\_\_\_  
[signature]