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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JODI SCOTT-GEORGE, individually and  
on behalf of other members of the general  
public similarly situated,

Plaintiff,

v.

PHV CORPORATION, a Delaware  
Corporation,

Defendant.

No. 2:13-cv-0441 TLN DAD

ORDER

On July 25, 2013, the parties submitted a proposed stipulated protective order regarding the use of confidential information for the court’s consideration. That proposed stipulated protective order provides that any documents filed with the Court shall be filed under seal, pursuant to applicable court procedures, and accompanied by a motion to seal, in an envelope marked “CONFIDENTIAL-Filed Under Seal Pursuant to Court Order.” (Proposed Stipulated Protective Order filed July 25, 2013 (Doc. No. 28-115) at 12<sup>1</sup>.) The proposed stipulated protective order, however, fails to reference the applicable Local Rules or comply with the procedures set forth therein.

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<sup>1</sup> Citations such as this one are to the page number reflected on the court’s CMECF system and not to the page number assigned by the parties.

1 All documents filed with the court are presumptively public. See San Jose  
2 Mercury News, Inc. v. U.S. Dist. Court, 187 F.3d 1096, 1103 (9th Cir. 1999) (“It is well-  
3 established that the fruits of pretrial discovery are, in the absence of a court order to the contrary,  
4 presumptively public.”). Rule 26 of the Federal Rules of Civil Procedure provides a mechanism  
5 by which the parties may, in appropriate circumstances, propose means of protecting the claimed  
6 confidentiality of information in certain documents filed in a specific case. FED. R. CIV. P. 26(c).  
7 Protective orders pursuant to Rule 26(c) are intended to safeguard the parties and other persons in  
8 light of the broad discovery rights authorized in Rule 26(b). United States v. CBS, Inc., 666 F.2d  
9 364, 368-69 (9th Cir. 1982).

10 Whether or not a protective order is entered in any case is subject to the discretion  
11 of the court. See Seattle Times Co. v. Rhinehart, 467 U.S. 20, 36 (1984) (holding that Rule 26(c)  
12 confers “broad discretion on the trial court to decide when a protective order is appropriate and  
13 what degree of protection is required”); Phillips v. Gen. Motors Corp., 307 F.3d 1206, 1211 (9th  
14 Cir. 2002) (noting the district court’s “broad latitude to grant protective orders to prevent  
15 disclosure of materials for many types of information”). A protective order will not be entered  
16 absent a showing of good cause. FED. R. CIV. P. 26(c); Foltz v. State Farm Mut. Auto. Ins. Co.,  
17 331 F.3d 1122, 1130-31 (9th Cir. 2003); Phillips, 307 F.3d at 1210 (“Generally, the public can  
18 gain access to litigation documents and information produced during discovery unless the party  
19 opposing disclosure shows ‘good cause’ why a protective order is necessary.”).

20 A party’s desire for a protective order does not constitute good cause to bar the  
21 public from access to litigation documents. Rather, the party seeking protection bears the burden  
22 of showing specific prejudice or harm, including, with respect to individual documents, particular  
23 and specific need for protection. Phillips, 307 F.3d at 1210-11; San Jose Mercury News, 187  
24 F.3d at 1102-03. “If a court finds particularized harm will result from disclosure of information  
25 to the public, then it balances the public and private interests to decide whether a protective order  
26 is necessary.” Phillips, 307 F.3d at 1211.

27 Stipulations and motions for entry of a protective order must (1) show a  
28 particularized need for protection as to each individual document or piece of information

1 proposed to be covered by the order, (2) show why the need for protection should be addressed by  
2 court order, as opposed to a private agreement between or among parties, and (3) describe the  
3 types of documents or information eligible for protection under the order, with the description  
4 provided in general terms sufficient to reveal the nature of the types of documents or information.  
5 See San Jose Mercury News, 187 F.3d at 1103 (holding that blanket stipulated protective orders  
6 “are inherently subject to challenge and modification, as the party resisting disclosure generally  
7 has not made a particularized showing of good cause with respect to any individual document”);  
8 Local Rule 141.1.

9           Here, the Court will not approve an order that fails to reference, or comply with,  
10 the procedures relating to the sealing of documents as set forth in Local Rules. In this regard, the  
11 parties are advised that documents that are the subject of a protective order may be filed under  
12 seal only if a sealing order is first obtained. See Local Rule 141.1. A party seeking to obtain a  
13 sealing order shall comply with the provisions of Local Rule 141, which sets forth a specific  
14 procedure for seeking a sealing order. After compliance with Local Rule 141, the court will issue  
15 an order granting or denying the request to seal.

16           Moreover, it appears that the parties’ proposed stipulated protective order  
17 contemplates that the Court shall retain jurisdiction over the enforcement of the stipulated  
18 protective order even after this lawsuit terminates. (Proposed Stipulated Protective Order filed  
19 July 25, 2013 (Doc. No. 28-1) at 19.) Local Rule 141.1(f), however, provides that once the Clerk  
20 has closed an action, unless otherwise ordered, the Court will not retain jurisdiction over  
21 enforcement of the terms of any protective order filed in that action. In their proposed protective  
22 order the parties have not addressed why the Court should deviate from this local rule of court in  
23 this case.

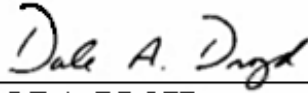
24           The parties’ request for entry of the proposed stipulated protective order will,  
25 therefore, be denied without prejudice to the submission of a stipulated protective order that cures  
26 these defects. The parties may, of course, agree that specific documents to be filed with the court  
27 that disclose information derived from documents containing confidential information shall be

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1 submitted to the court either in redacted form in conformity with Local Rule 140 or with a request  
2 to seal documents and proposed sealing order in conformity with Local Rules 141 and 141.1.

3 Accordingly, IT IS ORDERED that the parties' July 25, 2013 request for entry of  
4 the proposed stipulated protective order (Doc. No. 28) is denied without prejudice.

5 Dated: July 30, 2013

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8 DALE A. DROZD  
9 UNITED STATES MAGISTRATE JUDGE

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