

1 HOLLAND & KNIGHT LLP
2 Shelley G. Hurwitz (State Bar #217566)
3 400 S. Hope St., 8th Floor
4 Los Angeles, California 90071-2040
5 Telephone (213) 896-2400
6 Facsimile (213) 896-2450
7 E-mail: shelly.hurwitz@hklaw.com

8 Attorneys for Defendant

ALISA BRODKOWITZ (*Pro Hac Vice*)
RACHEL M. LUKE (*Pro Hac Vice*)
FRIEDMAN | RUBIN
alisa@friedmanrubin.com
rachel@friedmanrubin.com
51 University Street, Suite 201
Seattle, WA 98101
Tel: 206-501-4446
Fax: 206-623-0794

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

9 XUAN THI PHAN, an individual,) No. 2:16-cv-02328-WBS-DB
10)
11 Plaintiff,) STIPULATED
12) PROTECTIVE ORDER
13 vs.)
14)
15 JETBLUE AIRWAYS)
CORPORATION, a Delaware)
corporation,)
Defendant.)

16 1. A. PURPOSES AND LIMITATIONS

17 Discovery in this action is likely to involve production of confidential, proprietary or private
18 information for which special protection from public disclosure and from use for any purpose other
19 than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and
20 petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that
21 this Order does not confer blanket protections on all disclosures or responses to discovery and that
22 the protection it affords from public disclosure and use extends only to the limited information or
23 items that are entitled to confidential treatment under the applicable legal principles.

24 B. GOOD CAUSE STATEMENT

25 This action is likely to involve confidential material and/or proprietary information for
26 which special protection from public disclosure and from use for any purpose other than
27 prosecution of this action is warranted. Such confidential and proprietary materials and information
28 may consist of, among other things, plaintiff's medical records, defendant's manuals, training

1 materials, employee files, passenger contact information, records of other similar incidents or
2 commercial information (including information implicating privacy rights of third parties),
3 information otherwise generally unavailable to the public, or which may be privileged or otherwise
4 protected from disclosure under state or federal statutes, court rules, case decisions, or common
5 law. By entering into this Stipulated Protective Order, the parties are not stipulating to an agreement
6 to produce such information, nor agreeing to the notion that such documents are discoverable. In
7 fact, defendant maintains that some of the categories of documents outlined above are not
8 discoverable. Accordingly, to expedite the flow of information, to facilitate the prompt resolution
9 of disputes over confidentiality of discovery materials, to adequately protect information the parties
10 are entitled to keep confidential, to ensure that the parties are permitted reasonable necessary uses
11 of such material in preparation for and in the conduct of trial, to address their handling at the end of
12 the litigation, and serve the ends of justice, a protective order for such information is justified in this
13 matter. It is the intent of the parties that information will not be designated as confidential for
14 tactical reasons and that nothing be so designated without a good faith belief that it has been
15 maintained in a confidential, non-public manner, and there is good cause why it should not be part
16 of the public record of this case. Nothing set forth herein shall be interpreted to require production
17 of documents that are not otherwise discoverable, nor of documents otherwise prohibited from
18 disclosure.

19 C. ACKNOWLEDGMENT OF PROCEDURE FOR FILING UNDER SEAL

20 The parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated
21 Protective Order does not entitle them to file confidential information under seal; Local Civil Rule
22 141 sets forth the procedures that must be followed and the standards that will be applied when a
23 party seeks permission from the court to file material under seal.

24 There is a strong presumption that the public has a right of access to judicial proceedings
25 and records in civil cases. In connection with non-dispositive motions, good cause must be shown
26 to support a filing under seal. See *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1176
27 (9th Cir. 2006), *Phillips v. Gen. Motors Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002), *Makar-*
28 *Welbon v. Sony Electrics, Inc.*, 187 F.R.D. 576, 577 (E.D. Wis. 1999) (even stipulated protective

1 orders require good cause showing), and a specific showing of good cause or compelling reasons
2 with proper evidentiary support and legal justification, must be made with respect to Protected
3 Material that a party seeks to file under seal. The parties' mere designation of Disclosure or
4 Discovery Material as CONFIDENTIAL does not— without the submission of competent evidence
5 by declaration, establishing that the material sought to be filed under seal qualifies as confidential,
6 privileged, or otherwise protectable—constitute good cause.

7 Further, if a party requests sealing related to a dispositive motion or trial, then compelling
8 reasons, not only good cause, for the sealing must be shown, and the relief sought shall be narrowly
9 tailored to serve the specific interest to be protected. *See Pintos v. Pacific Creditors Ass'n*, 605
10 F.3d 665, 677-79 (9th Cir. 2010). For each item or type of information, document, or thing sought
11 to be filed or introduced under seal in connection with a dispositive motion or trial, the party
12 seeking protection must articulate compelling reasons, supported by specific facts and legal
13 justification, for the requested sealing order. Again, competent evidence supporting the application
14 to file documents under seal must be provided by declaration.

15 Any document that is not confidential, privileged, or otherwise protectable in its entirety
16 will not be filed under seal if the confidential portions can be redacted. If documents can be
17 redacted, then a redacted version for public viewing, omitting only the confidential, privileged, or
18 otherwise protectable portions of the document, shall be filed. Any application that seeks to file
19 documents under seal in their entirety should include an explanation of why redaction is not
20 feasible.

21 2. DEFINITIONS

22 2.1 Action: *Phan v. JetBlue, et. al., Case No. 2:16-cv-02328-WBS-DB*

23 2.2 Challenging Party: a Party or Non-Party that challenges the designation of
24 information or items under this Order.

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

1 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their support
2 staff).

3 2.5 Designating Party: a Party or Non-Party that designates information or items that it
4 produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

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

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

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

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

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

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

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

24 2.13 Professional Vendors: persons or entities that provide litigation support services
25 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing,
26 storing, or retrieving data in any form or medium) and their employees and subcontractors.

27 2.14 Protected Material: any Disclosure or Discovery Material that is designated as
28 “CONFIDENTIAL.”

1 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material from a
2 Producing Party.

3 3. SCOPE

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

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

10 5. DESIGNATING PROTECTED MATERIAL

11 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party or
12 Non-Party that designates information or items for protection under this Order must take care to
13 limit any such designation to specific material that qualifies under the appropriate standards. The
14 Designating Party must designate for protection only those parts of material, documents, items or
15 oral or written communications that qualify so that other portions of the material, documents, items
16 or communications for which protection is not warranted are not swept unjustifiably within the
17 ambit of this Order.

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

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

25 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order
26 (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered,
27 Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so
28 designated before the material is disclosed or produced.

1 Designation in conformity with this Order requires:

2 (a) for information in documentary form (e.g., paper or electronic documents, but
3 excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing Party
4 affix at a minimum, the legend “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to
5 each page that contains protected material. If only a portion of the material on a page qualifies for
6 protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making
7 appropriate markings in the margins).

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

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

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

26 5.2 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
27 designate qualified information or items does not, standing alone, waive the Designating Party’s
28 right to secure protection under this Order for such material. Upon timely correction of a

1 designation, the Receiving Party must make reasonable efforts to assure that the material is treated
2 in accordance with the provisions of this Order.

3 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

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

6 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process.
7 The parties shall meet and confer in good faith.

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

14 7. ACCESS TO AND USE OF PROTECTED MATERIAL

15 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or
16 produced by another Party or by a Non-Party in connection with this Action only for prosecuting,
17 defending or attempting to settle this Action. Such Protected Material may be disclosed only to the
18 categories of persons and under the conditions described in this Order. When the Action has been
19 terminated, a Receiving Party must comply with the provisions of section 13 below (FINAL
20 DISPOSITION).

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

23 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered
24 by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any
25 information or item designated "CONFIDENTIAL" only to:

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

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

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

6 (d) the court and its personnel;

7 (e) court reporters and their staff;

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

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

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

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

23 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
24 LITIGATION

25 If a Party is served with a subpoena or a court order issued in other litigation that compels
26 disclosure of any information or items designated in this Action as “CONFIDENTIAL,” that Party
27 must:
28

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

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

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

8 If the Designating Party timely seeks a protective order, the Party served with the subpoena
9 or court order shall not produce any information designated in this action as “CONFIDENTIAL”
10 before a determination by the court from which the subpoena or order issued, unless the Party has
11 obtained the Designating Party’s permission. The Designating Party shall bear the burden and
12 expense of seeking protection in that court of its confidential material and nothing in these
13 provisions should be construed as authorizing or encouraging a Receiving Party in this Action to
14 disobey a lawful directive from another court.

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

17 (a) The terms of this Order are applicable to information produced by a Non-Party in
18 this Action and designated as “CONFIDENTIAL.” Such information produced by Non-Parties in
19 connection with this litigation is protected by the remedies and relief provided by this Order.
20 Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional
21 protections.

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

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

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

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

6 (c) If the Non-Party fails to seek a protective order from this court within 14 days of
7 receiving the notice and accompanying information, the Receiving Party may produce the Non-
8 Party's confidential information responsive to the discovery request. If the Non-Party timely seeks
9 a protective order, the Receiving Party shall not produce any information in its possession or
10 control that is subject to the confidentiality agreement with the Non-Party before a determination by
11 the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of
12 seeking protection in this court of its Protected Material.

13 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

21 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
22 MATERIAL

23 When a Producing Party gives notice to Receiving Parties that certain inadvertently
24 produced material is subject to a claim of privilege or other protection, the obligations of the
25 Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision
26 is not intended to modify whatever procedure may be established in an e-discovery order that
27 provides for production without prior privilege review. Pursuant to Federal Rule of Evidence
28 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a

1 communication or information covered by the attorney-client privilege or work product protection,
2 the parties may incorporate their agreement in the stipulated protective order submitted to the court.

3 12. MISCELLANEOUS

4 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to
5 seek its modification by the Court in the future.

6 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective
7 Order, no Party waives any right it otherwise would have to object to disclosing or producing any
8 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no
9 Party waives any right to object on any ground to use in evidence of any of the material covered by
10 this Protective Order.

11 12.3 Filing Protected Material. A Party that seeks to file under seal any Protected
12 Material must comply with Local Civil Rule 141. Protected Material may only be filed under seal
13 pursuant to a court order authorizing the sealing of the specific Protected Material at issue. If a
14 Party's request to file Protected Material under seal is denied by the court, then the Receiving Party
15 may file the information in the public record unless otherwise instructed by the court.

16 13. FINAL DISPOSITION

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

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

4 14. VIOLATION

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

7 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

8 This 29th day of November, 2017.

9
10 FRIEDMAN | RUBIN

HOLLAND & KNIGHT LLP

11 /s/Alisa Brodkowitz

12 RACHEL M. LUKE, *Pro Hac Vice*
13 ALISA BRODKOWITZ, *Pro Hac Vice*
Counsel for Plaintiff

/s/ Shelley Hurwitz

SHELLEY G. HURWITZ, CA BAR # 217566
Steven Raffaele, *Pro Hac Vice*
Sarah G. Passeri, *Pro Hac Vice*
Counsel for Defendant

14 51 University Street, Suite 201
15 Seattle, WA 98101
16 Tel: 206-501-4446
17 Fax: 206-623-0794
kfriedman@friedmanrubin.com
alisa@friedmanrubin.com

18 (As authorized on November 29, 2017, pursuant to E.D. Cal. L.R. 131(e))
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 [*Phan v. JetBlue, et. al., Case No. 2:16-cv-02328-WBS-DB*]. 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 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: _____

1 **ORDER**

2 Pursuant to the parties' stipulation, IT IS SO ORDERED.

3 IT IS FURTHER ORDERED THAT:

4 1. Requests to seal documents shall be made by motion before the same judge who will
5 decide the matter related to that request to seal.

6 2. The designation of documents (including transcripts of testimony) as confidential
7 pursuant to this order does not automatically entitle the parties to file such a document with the
8 court under seal. Parties are advised that any request to seal documents in this district is governed
9 by Local Rule 141. In brief, Local Rule 141 provides that documents may only be sealed by a
10 written order of the court after a specific request to seal has been made. L.R. 141(a). However, a
11 mere request to seal is not enough under the local rules. In particular, Local Rule 141(b) requires
12 that "[t]he 'Request to Seal Documents' shall set forth *the statutory or other authority for sealing*,
13 the requested duration, the identity, by name or category, of persons to be permitted access to the
14 document, and all relevant information." L.R. 141(b) (emphasis added).

15 3. A request to seal material must normally meet the high threshold of showing that
16 "compelling reasons" support secrecy; however, where the material is, at most, "tangentially
17 related" to the merits of a case, the request to seal may be granted on a showing of "good cause."
18 Ctr. for Auto Safety v. Chrysler Grp., LLC, 809 F.3d 1092, 1096-1102 (9th Cir. 2016); Kamakana
19 v. City and County of Honolulu, 447 F.3d 1172, 1178-80 (9th Cir. 2006).

20 4. Nothing in this order shall limit the testimony of parties or non-parties, or the use of
21 certain documents, at any court hearing or trial – such determinations will only be made by the
22 court at the hearing or trial, or upon an appropriate motion.

23 5. With respect to motions regarding any disputes concerning this protective order which
24 the parties cannot informally resolve, the parties shall follow the procedures outlined in Local Rule
25 251. Absent a showing of good cause, the court will not hear discovery disputes on an *ex parte*
26 basis or on shortened time.

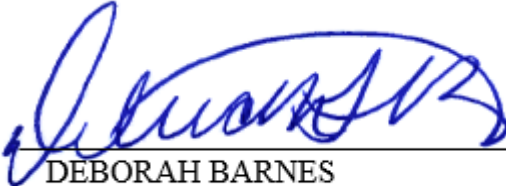
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

6. The parties may not modify the terms of this Protective Order without the court's approval. If the parties agree to a potential modification, they shall submit a stipulation and proposed order for the court's consideration.

7. Pursuant to Local Rule 141.1(f), the court will not retain jurisdiction over enforcement of the terms of this Protective Order after the action is terminated.

8. Any provision in the parties' stipulation that is in conflict with anything in this order is hereby DISAPPROVED.

Dated: December 8, 2017



DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

DLB:6
DB\orders\orders.civil\phan2328.stip.prot.ord