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23 UNITED STATES DISTRICT COURT
24 EASTERN DISTRICT OF CALIFORNIA

25 MCGRAW-HILL GLOBAL
26 EDUCATION HOLDINGS, LLC,
27 PEARSON EDUCATION, INC., and
28 CENGAGE LEARNING, INC.,

Plaintiff,

v.

YAROSLAV STOLYARCHUK,

Defendant.

No. 2:17-cv-01716-WBS-DB

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. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure

1 and use extends only to the limited information or items that are entitled to confidential treatment
2 under the applicable legal principles. The parties further acknowledge, as set forth in Section
3 12.3, below, that this Stipulated Protective Order does not entitle them to file confidential
4 information under seal; General Local Rule 141 sets forth the procedures that must be followed
5 and the standards that will be applied when a party seeks permission from the court to file
6 material under seal.

7
8 **2. DEFINITIONS**

9 2.1 Challenging Party: a Party or Non-Party that challenges the designation of
10 information or items under this Order.

11 2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is
12 generated, stored or maintained) or tangible things that qualify for protection under Federal Rule
13 of Civil Procedure 26(c).

14 2.3 “HIGHLY CONFIDENTIAL” Information or Items. Information or Items:
15 Information or tangible things that contain or disclose information that the Designating Party, in
16 good faith, believes to be extremely commercially sensitive or would provide a competitive
17 advantage to competitors or compromise or jeopardize the Designating Party's business interests
18 if disclosed.

19 2.4 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as
20 well as their support staff).

21 2.5 Designating Party: a Party or Non-Party that designates information or items that it
22 produces in disclosures or in responses to discovery as “CONFIDENTIAL” or “HIGHLY
23 CONFIDENTIAL.”

24 2.6 Disclosure or Discovery Material: all items or information, regardless of the
25 medium or manner in which it is generated, stored, or maintained (including, among other things,
26 testimony, transcripts, and tangible things), that are produced or generated in disclosures or
27 responses to discovery in this matter.
28

1 2.7 Expert: a person with specialized knowledge or experience in a matter pertinent to
2 the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a
3 consultant in this action, as well as anti-piracy personnel employed by Plaintiffs.

4 2.8 House Counsel: attorneys who are employees of a party to this action. House
5 Counsel does not include Outside Counsel of Record or any other outside counsel.

6 2.9 Non-Party: any natural person, partnership, corporation, association, or other legal
7 entity not named as a Party to this action.

8 2.10 Outside Counsel of Record: attorneys who are not employees of a party to this
9 action but are retained to represent or advise a party to this action and have appeared in this action
10 on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.

11 2.11 Party: any party to this action, including all of its officers, directors, employees,
12 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

13 2.12 Producing Party: a Party or Non-Party that produces Disclosure or Discovery
14 Material in this action.

15 2.13 Professional Vendors: persons or entities that provide litigation support services
16 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and
17 organizing, storing, or retrieving data in any form or medium) and their employees and
18 subcontractors.

19 2.14 Protected Material: any Disclosure or Discovery Material that is designated as
20 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL.”

21 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material from a
22 Producing Party.

23
24 3. SCOPE

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

1 However, the protections conferred by this Stipulation and Order do not cover the following
2 information: (a) any information that is in the public domain at the time of disclosure to a
3 Receiving Party or becomes part of the public domain after its disclosure to a Receiving Party as
4 a result of publication not involving a violation of this Order, including becoming part of the
5 public record through trial or otherwise; and (b) any information known to the Receiving Party
6 prior to the disclosure or obtained by the Receiving Party after the disclosure from a source who
7 obtained the information lawfully and under no obligation of confidentiality to the Designating
8 Party. Any use of Protected Material at trial shall be governed by a separate agreement or order.

9
10 4. DURATION

11 Even after final disposition of this litigation, the confidentiality obligations imposed by this
12 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order
13 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims
14 and defenses in this action, with or without prejudice; and (2) final judgment herein after the
15 completion and exhaustion of all appeals, re-hearings, remands, trials, or reviews of this action,
16 including the time limits for filing any motions or applications for extension of time pursuant to
17 applicable law.

18
19 5. DESIGNATING PROTECTED MATERIAL

20 5.1. Exercise of Restraint and Care in Designating Material for Protection. Each Party
21 or Non-Party that designates information or items for protection under this Order must take care
22 to limit any such designation to specific material that qualifies under the appropriate standards.
23 The Designating Party must designate for protection only those parts of material, documents,
24 items, or oral or written communications that qualify – so that other portions of the material,
25 documents, items, or communications for which protection is not warranted are not swept
26 unjustifiably within the ambit of this Order. If it comes to a Designating Party’s attention that
27 information or items it has designated for protection do not qualify for protection, that
28

1 Designating Party must promptly notify all other Parties that it is withdrawing the mistaken
2 designation.

3 5.2. Manner and Timing of Designations. Except as otherwise provided in this Order
4 (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered,
5 Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so
6 designated before the material is disclosed or produced.

7 Designation in conformity with this Order requires:

8 (a) for information in documentary form (e.g., paper or electronic documents, but
9 excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing
10 Party affix the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” to each page that
11 contains protected material. If only a portion or portions of the material on a page qualifies for
12 protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making
13 appropriate markings in the margins).

14 (b) for testimony given in depositions that the Designating Party identify the Disclosure
15 or Discovery Material on the record, before the close of the deposition all protected testimony;
16 Failure of counsel to designate testimony or exhibits at a deposition, however, shall not waive the
17 protected status of the testimony or exhibits. Counsel may designate specific testimony or
18 exhibits as Protected Material within thirty (30) calendar days after receiving the transcript of the
19 deposition. If counsel for the deponent or Party fails to designate the transcript or exhibits as
20 Protected Material within the above-described thirty-day period, any Party shall be entitled to
21 treat the transcript or exhibits as containing no Protected Material.

22 (c) for information produced in some form other than documentary and for any other
23 tangible items, that the Producing Party affix in a prominent place on the exterior of the of the
24 container or containers in which information or item is stored the legend “CONFIDENTIAL” or
25 “HIGHLY CONFIDENTIAL.” If only a portion or portions of the information or item warrant
26 protection, the Producing Party, to the extent practicable, shall identify the protected portion(s).
27
28

1 5.3. Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
2 designate qualified information or items does not, standing alone, waive the Designating Party's
3 right to secure protection under this Order for such material. Upon timely correction of a
4 designation, the Receiving Party must make reasonable efforts to assure that the material is
5 treated in accordance with the provisions of this Order.

6
7 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

8 6.1. Timing of Challenges. Any Party or Non-Party may challenge a designation of
9 confidentiality at any time. Unless a prompt challenge to a Designating Party's confidential
10 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic
11 burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to
12 challenge a confidentiality designation by electing not to mount a challenge promptly after the
13 original designation is disclosed.

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

1 6.3. Judicial Intervention. If the Parties cannot resolve a challenge without court
2 intervention, the Designating Party shall file and serve a motion to retain confidentiality within 21
3 days of the initial notice of challenge or within 14 days of the parties agreeing that the meet and
4 confer process will not resolve their dispute, whichever is earlier. Failure by the Designating
5 Party to make such a motion including the required declaration within 21 days (or 14 days, if
6 applicable) shall automatically waive the confidentiality designation for each challenged
7 designation. In addition, the Challenging Party may file a motion challenging a confidentiality
8 designation at any time if there is good cause for doing so, including a challenge to the
9 designation of a deposition transcript or any portions thereof. Any motion brought pursuant to this
10 provision must be accompanied by a competent declaration affirming that the movant has
11 complied with the meet and confer requirements imposed by the preceding paragraph.

12 Unless the Designating Party has waived the confidentiality designation by failing to file a
13 motion to retain confidentiality as described above, all parties shall continue to afford the material
14 in question the level of protection to which it is entitled under the Producing Party's designation
15 until the court rules on the challenge.

16 7. ACCESS TO AND USE OF PROTECTED MATERIAL

17
18 7.1. Basic Principles. A Receiving Party may use Protected Material that is disclosed or
19 produced by another Party or by a Non-Party in connection with this case only for prosecuting,
20 defending, or attempting to settle this litigation and for otherwise investigating and enforcing
21 against potential violations of their rights. Such Protected Material may be disclosed only to the
22 categories of persons and under the conditions described in this Order. When the litigation has
23 been terminated, a Receiving Party must comply with the provisions of section 13 below (FINAL
24 DISPOSITION).

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

1 7.2. Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered
2 by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any
3 information or item designated “CONFIDENTIAL” only to:

4 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as employees
5 of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information
6 for this litigation;

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

9 (c) Experts (as defined in this Order) retained by the Receiving Party to whom disclosure
10 is reasonably necessary for this litigation;

11 (d) the court and its personnel;

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

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

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

23 (h) during their depositions, witnesses, and attorneys for witnesses, to whom disclosure is
24 reasonably necessary provided: (1) the deposing party requests that the witness sign the form
25 attached as Exhibit A hereto; and (2) they will not be permitted to keep any confidential
26 information, unless otherwise agreed by the Designating Party or ordered by the court. Pages of
27 information, unless otherwise agreed by the Designating Party or ordered by the court. Pages of
28 information, unless otherwise agreed by the Designating Party or ordered by the court. Pages of

1 transcribed deposition testimony or exhibits to depositions that reveal Protected Material may be
2 separately bound by the court reporter and may not be disclosed to anyone except as permitted
3 under this Stipulated Protective Order.

4 7.3. Disclosure of "HIGHLY CONFIDENTIAL" Information or Items. Unless
5 otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving
6 Party may disclose any information or item designated "HIGHLY CONFIDENTIAL" only to:

7 (a) the Receiving Party's Outside Counsel of Record in this action, as well as employees
8 of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information
9 for this litigation;

10 (b) In House Counsel of the Receiving Party to whom disclosure is reasonably necessary
11 for this litigation, who have been previously identified to opposing counsel;

12 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is
13 reasonably necessary for this litigation;

14 (d) the court and its personnel;

15 (e) court reporters and their staff, professional jury or trial consultants, mock jurors, and
16 Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have
17 signed the "Acknowledgement and Agreement to Be Bound" (Exhibit A);

18 (f) the author or recipient of a document containing the information or a custodian or other
19 person who otherwise possessed or knew the information; and

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

1 7.4. Disclosure to Experts. Any party who seeks to disclose any information or item
2 designated “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” to a retained Expert (as defined
3 in this Order) must first notify the party that so designated the information or item. Notification
4 shall include the proposed Expert’s name, occupation, and professional background. The party
5 receiving such notification will then have ten (10) days to serve a written objection to disclosure
6 to the Expert. If objection is made, the parties will meet and confer in good faith to resolve the
7 dispute. If the parties are unable to resolve the dispute despite making a reasonable effort to do so,
8 the party objecting to disclosure may file a motion with the Court to prevent disclosure. If the
9 objecting party fails to file such a motion within fourteen (14) days of service of its written
10 objection, however, the other party may proceed to disclose the information or item to the Expert.

11
12 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
13 LITIGATION

14 If a Party is served with a subpoena or a court order issued in other litigation that compels
15 disclosure of any information or items designated in this action as “CONFIDENTIAL” or
16 “HIGHLY CONFIDENTIAL,” that Party must:

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

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

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

24 If the Designating Party timely seeks a protective order, the Party served with the
25 subpoena or court order shall not produce any information designated in this action as
26 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” before a determination by the court from
27 which the subpoena or order issued, unless the Party has obtained the Designating Party’s
28 permission. The Designating Party shall bear the burden and expense of seeking protection in that

1 court of its confidential material and nothing in these provisions should be construed as
2 authorizing or encouraging a Receiving Party in this action to disobey a lawful directive from
3 another court.

4 9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS
5 LITIGATION

6 (a) The terms of this Order are applicable to information produced by a Non-Party in this
7 action and designated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL." Such
8 information produced by Non-Parties in connection with this litigation is protected by the
9 remedies and relief provided by this Order. Nothing in these provisions should be construed as
10 prohibiting a Non-Party from seeking additional protections.

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

14 1. promptly notify in writing the Requesting Party and the Non-Party that some or all of
15 the information requested is subject to a confidentiality agreement with a Non-Party;

16 2. promptly provide the Non-Party with a copy of the Stipulated Protective Order in this
17 litigation, the relevant discovery request(s), and a reasonably specific description of the
18 information requested; and

19 3. make the information requested available for inspection by the Non-Party.

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

27 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL
28

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

8 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
9 MATERIAL

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

19 12. MISCELLANEOUS

20
21 12.1. Right to Further Relief. Nothing in this Order abridges the right of any person to
22 seek its modification by the court in the future. The purpose of this provision is to alert the
23 interested parties to the existence of confidentiality rights of a Non-Party and to afford the Non-
24 Party an opportunity to protect its confidentiality interests in this court.

25 12.2. Right to Assert Other Objections. By stipulating to the entry of this Protective
26 Order no Party waives any right it otherwise would have to object to disclosing or producing any
27 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no
28

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 General Local Rule 141. Protected Material may only be
7 filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material
8 at issue. Pursuant to General Local Rule 141, a sealing order will issue only upon a request
9 establishing that the Protected Material at issue is privileged or otherwise entitled to protection
10 under the law. If a Receiving Party's request to file Protected Material under seal pursuant to
11 General Local Rule 141 is denied by the court, then the Receiving Party may file the information
12 in the public record unless otherwise instructed by the court.

13 13. FINAL DISPOSITION.

14
15 Within 60 days of receiving a written notice from a Producing Party after the final disposition
16 of this action, as defined in paragraph 4, each Receiving Party must return all Protected Material
17 to the Producing Party who provided written notice or destroy such material. As used in this
18 subdivision, "all Protected Material" includes all copies, abstracts, compilations, summaries, and
19 any other format reproducing or capturing any of the Protected Material. Whether the Protected
20 Material is returned or destroyed, the Receiving Party must submit a written certification to the
21 Producing Party (and, if not the same person or entity, to the Designating Party) by the 60 day
22 deadline that (1) identifies (by category, where appropriate) all the Protected Material that was
23 returned or destroyed and (2) affirms that the Receiving Party has not retained any copies,
24 abstracts, compilations, summaries or any other format reproducing or capturing any of the
25 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy
26 of all 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

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

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD

Dated: February 17, 2018

Respectfully submitted,
SHADES OF GRAY LAW GROUP, P.C.
NAOMI JANE GRAY

OPPENHEIM + ZEBRAK, LLP
SCOTT ZEBRAK (*pro hac vice* pending)

/s/ Naomi Jane Gray

Attorneys for Plaintiffs

ROPERS MAJESKI KOHN & BENTLEY PC
KEVIN ISAACSON

/s/ Kevin Isaacson (as authorized on
2/17/2018)

Attorney for Defendant

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);
19 Kamakana 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
25 Rule 251. Absent a showing of good cause, the court will not hear discovery disputes on an ex
26 parte basis or on shortened time.

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

1 proposed order for the court's consideration.

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

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


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7 Dated: February 22, 2018

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DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

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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
5 penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order
6 that was issued by the United States District Court for the Eastern District of California on
7 _____ [date] in the case of *McGraw-Hill Global Education Holdings, LLC, et al. v.*
8 *Stolyarchuk*, Case No. 2:17-cv-01716-WBS-DB. I agree to comply with and to be bound by all
9 the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so
10 comply could expose me to sanctions and punishment in the nature of contempt. I solemnly
11 promise that I will not disclose in any manner any information or item that is subject to this
12 Stipulated Protective Order to any person or entity except in strict compliance with the provisions
13 of this Order.

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

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

22 Date: _____

23 City and State where sworn and signed: _____

24 Printed name: _____

25 [printed name]

26 Signature: _____

27 [signature]