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8 Attorneys for Defendant EQUIFAX  
 9 INFORMATION SERVICES LLC

10 **UNITED STATES DISTRICT COURT**  
 11 **NORTHERN DISTRICT OF CALIFORNIA**

12 KAMLESH BANGA,  
 13  
 14 Plaintiff,

15 vs.

16 CAL STATE 9 CREDIT UNION; EQUIFAX  
 17 INFORMATION SERVICES, LLC; and Does  
 18 1 through 10 inclusive,  
 19 Defendants.

Case No: 3:08-CV-03015 MMC

~~PROPOSED~~ **STIPULATED  
 PROTECTIVE ORDER**

20 1. PURPOSES AND LIMITATIONS

21 Disclosure and discovery activity in this action are likely to involve production of confidential,  
 22 proprietary, or private information for which special protection from public disclosure and from  
 23 use for any purpose other than prosecuting this litigation would be warranted. Accordingly, the  
 24 parties hereby stipulate to and petition the court to enter the following Stipulated Protective  
 25 Order. The parties acknowledge that this Order does not confer blanket protections on all  
 26 disclosures or responses to discovery and that the protection it affords extends only to the limited  
 27 information or items that are entitled under the applicable legal principles to treatment as  
 28 confidential. The parties further acknowledge, as set forth in Section 10, below, that this  
 Stipulated Protective Order creates no entitlement to file confidential information under seal;

1 Civil Local Rule 79-5 sets forth the procedures that must be followed and reflects the standards  
2 that will be applied when a party seeks permission from the court to file material under seal.

3 2. DEFINITIONS

4 2.1 Party: any party to this action, including all of its officers, directors, employees, consultants,  
5 retained experts, and outside counsel (and their support staff).

6 2.2 Disclosure or Discovery Material: all items or information, regardless of the medium or  
7 manner generated, stored, or maintained (including, among other things, testimony, transcripts, or  
8 tangible things) that are produced or generated in disclosures or responses to discovery  
9 in this matter.

10 2.3 “Confidential” Information or Items: information (regardless of how generated,  
11 stored or maintained) or tangible things that qualify for protection under standards developed  
12 under F.R.Civ.P. 26(c).

13 2.4 “Highly Confidential – Attorneys’ Eyes Only” Information or Items: extremely sensitive  
14 “Confidential Information or Items” whose disclosure to another Party or nonparty would create a  
15 substantial risk of serious injury that could not be avoided by less restrictive means.

16 2.5 Receiving Party: a Party that receives Disclosure or Discovery Material from a Producing  
17 Party.

18 2.6 Producing Party: a Party or non-party that produces Disclosure or Discovery  
19 Material in this action.

20 2.7. Designating Party: a Party or non-party that designates information or items  
21 that it produces in disclosures or in responses to discovery as “Confidential” or “Highly  
22 Confidential — Attorneys’ Eyes Only.”

23 2.8 Protected Material: any Disclosure or Discovery Material that is designated as “Confidential”  
24 or as “Highly Confidential – Attorneys’ Eyes Only.”

25 2.9. Outside Counsel: attorneys who are not employees of a Party but who are retained to  
26 represent or advise a Party in this action.

27 2.10 House Counsel: attorneys who are employees of a Party.

28

1 2.11 Counsel (without qualifier): Outside Counsel and House Counsel (as well as their support  
2 staffs).

3 2.12 Expert: a person with specialized knowledge or experience in a matter pertinent to the  
4 litigation who has been retained by a Party or its counsel to serve as an expert witness or as a  
5 consultant in this action and who is not a past or a current employee of a Party or of a competitor  
6 of a Party's and who, at the time of retention, is not anticipated to become an employee of a Party  
7 or a competitor of a Party's. This definition includes a professional jury or trial consultant  
8 retained in connection with this litigation.

9 2.13 Professional Vendors: persons or entities that provide litigation support services (e.g.,  
10 photocopying; videotaping; translating; preparing exhibits or demonstrations; organizing, storing,  
11 retrieving data in any form or medium; etc.) and their employees and subcontractors.

### 12 3. SCOPE

13 The protections conferred by this Stipulation and Order cover not only Protected Material (as  
14 defined above), but also any information copied or extracted therefrom, as well as all copies,  
15 excerpts, summaries, or compilations thereof, plus testimony, conversations, or presentations by  
16 parties or counsel to or in court or in other settings that might reveal Protected Material.

### 17 4. DURATION

18 Even after the termination of this litigation, the confidentiality obligations imposed by this Order  
19 shall remain in effect until a Designating Party agrees otherwise in writing or a court order  
20 otherwise directs.

### 21 5. DESIGNATING PROTECTED MATERIAL

22 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party or non-  
23 party that designates information or items for protection under this Order must take care to limit  
24 any such designation to specific material that qualifies under the appropriate standards. A  
25 Designating Party must take care to designate for protection only those parts of material,  
26 documents, items, or oral or written communications that qualify – so that other portions of the  
27 material, documents, items, or communications for which protection is not warranted are not  
28 swept unjustifiably within the ambit of this Order. Mass, indiscriminate, or routinized

1 designations are prohibited. Designations that are shown to be clearly unjustified, or that have  
2 been made for an improper purpose (e.g., to unnecessarily encumber or retard the case  
3 development process, or to impose unnecessary expenses and burdens on other parties), expose  
4 the Designating Party to sanctions. If it comes to a Party's or a non-party's attention that  
5 information or items that it designated for protection do not qualify for protection at all, or do not  
6 qualify for the level of protection initially asserted, that Party or non-party must promptly notify  
7 all other parties that it is withdrawing the mistaken designation.

8 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order  
9 (see, e.g., second paragraph of section 5.2(a), below), or as otherwise stipulated or ordered,  
10 material that qualifies for protection under this Order must be clearly so designated before the  
11 material is disclosed or produced.

12 Designation in conformity with this Order requires: (a) for information in documentary form  
13 (apart from transcripts of depositions or other pretrial or trial proceedings), that the Producing  
14 Party affix the legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS'  
15 EYES ONLY" at the top of each page that contains protected material. If only a portion or  
16 portions of the material on a page qualifies for protection, the Producing Party also must clearly  
17 identify the protected portion(s) (e.g., by making appropriate markings in the margins) and must  
18 specify, for each portion, the level of protection being asserted (either "CONFIDENTIAL" or  
19 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY"). A Party or non-party that makes  
20 original documents or materials available for inspection need not designate them for protection  
21 until after the inspecting Party has indicated which material it would like copied and produced.

22 During the inspection and before the designation, all of the material made available for inspection  
23 shall be deemed "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY." After the  
24 inspecting Party has identified the documents it wants copied and produced, the Producing Party  
25 must determine which documents, or portions thereof, qualify for protection under this Order,  
26 then, before producing the specified documents, the Producing Party must affix the appropriate  
27 legend ("CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY")  
28 at the top of each page that contains Protected Material. If only a portion or portions of the

1 material on a page qualifies for protection, the Producing Party also must clearly identify the  
2 protected portion(s) (e.g., by making appropriate markings in the margins) and must specify, for  
3 each portion, the level of protection being asserted (either “CONFIDENTIAL” or “HIGHLY  
4 CONFIDENTIAL – ATTORNEYS’ EYES ONLY”).

5 (b) for testimony given in deposition or in other pretrial or trial proceedings,  
6 that the Party or non-party offering or sponsoring the testimony identify on the record, before the  
7 close of the deposition, hearing, or other proceeding, all protected testimony, and further specify  
8 any portions of the testimony that qualify as “HIGHLY CONFIDENTIAL – ATTORNEYS’  
9 EYES ONLY.” When it is impractical to identify separately each portion of testimony that is  
10 entitled to protection, and when it appears that substantial portions of the testimony may qualify  
11 for protection, the Party or non-party that sponsors, offers, or gives the testimony may invoke on  
12 the record (before the deposition or proceeding is concluded) a right to have up to 20 days to  
13 identify the specific portions of the testimony as to which protection is sought and to specify the  
14 level of protection being asserted (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –  
15 ATTORNEYS’ EYES ONLY”). Only those portions of the testimony that are appropriately  
16 designated for protection within the 20 days shall be covered by the provisions of this Stipulated  
17 Protective Order. Transcript pages containing Protected Material must be separately bound by  
18 the court reporter, who must affix to the top of each such page the legend “CONFIDENTIAL” or  
19 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” as instructed by the Party or  
20 nonparty offering or sponsoring the witness or presenting the testimony.

21 (c) for information produced in some form other than documentary, and for  
22 any other tangible items, that the Producing Party affix in a prominent place on the exterior of the  
23 container or containers in which the information or item is stored the legend “CONFIDENTIAL”  
24 or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” If only portions of the  
25 information or item warrant protection, the Producing Party, to the extent practicable, shall  
26 identify the protected portions, specifying whether they qualify as “Confidential” or as “Highly  
27 Confidential – Attorneys’ Eyes Only.”

28 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to

1 designate qualified information or items as “Confidential” or “Highly Confidential – Attorneys’  
2 Eyes Only” does not, standing alone, waive the Designating Party’s right to secure protection  
3 under this Order for such material. If material is appropriately designated as “Confidential” or  
4 “Highly Confidential – Attorneys’ Eyes Only” after the material was initially produced, the  
5 Receiving Party, on timely notification of the designation, must make reasonable efforts to assure  
6 that the material is treated in accordance with the provisions of this Order.

## 7 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

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

13 6.2 Meet and Confer. A Party that elects to initiate a challenge to a Designating Party’s  
14 confidentiality designation must do so in good faith and must begin the process by conferring  
15 directly (in voice to voice dialogue; other forms of communication are not sufficient) with  
16 counsel for the Designating Party. In conferring, the challenging Party must explain the basis for  
17 its belief that the confidentiality designation was not proper and must give the Designating Party  
18 an opportunity to review the designated material, to reconsider the circumstances, and, if no  
19 change in designation is offered, to explain the basis for the chosen designation. A challenging  
20 Party may proceed to the next stage of the challenge process only if it has engaged in this meet  
21 and confer process first.

22 6.3 Judicial Intervention. A Party that elects to press a challenge to a confidentiality  
23 designation after considering the justification offered by the Designating Party may file and serve  
24 a motion under Civil Local Rule 7 (and in compliance with Civil Local Rule 79-5, if applicable)  
25 that identifies the challenged material and sets forth in detail the basis for the challenge. Each  
26 such motion must be accompanied by a competent declaration that affirms that the movant has  
27 complied with the meet and confer requirements imposed in the preceding paragraph and that sets  
28 forth with specificity the justification for the confidentiality designation that was given by the

1 Designating Party in the meet and confer dialogue. The burden of persuasion in any such  
2 challenge proceeding shall be on the Designating Party. Until the court rules on the challenge, all  
3 parties shall continue to afford the material in question the level of protection to which it is  
4 entitled under the Producing Party's designation.

#### 5 7. ACCESS TO AND USE OF PROTECTED MATERIAL

6 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed  
7 or produced by another Party or by a non-party in connection with this case only for prosecuting,  
8 defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to  
9 the categories of persons and under the conditions described in this Order. When the litigation has  
10 been terminated, a Receiving Party must comply with the provisions of section 11, below  
11 (FINAL DISPOSITION). Protected Material must be stored and maintained by a Receiving  
12 Party at a location and in a secure manner that ensures that access is limited to the persons  
13 authorized under this Order.

#### 14 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise

15 ordered by the court or permitted in writing by the Designating Party, a Receiving Party may  
16 disclose any information or item designated CONFIDENTIAL only to:

17 (a) the Receiving Party's Outside Counsel of record in this action, as well as employees of said  
18 Counsel to whom it is reasonably necessary to disclose the information for this litigation and who  
19 have signed the "Agreement to Be Bound by Protective Order" that is attached hereto as Exhibit  
20 A;

21 (b) the officers, directors, and employees (including House Counsel) of the Receiving Party to  
22 whom disclosure is reasonably necessary for this litigation and who have signed the "Agreement  
23 to Be Bound by Protective Order" (Exhibit A);

24 (c) experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably  
25 necessary for this litigation and who have signed the "Agreement to Be Bound by Protective  
26 Order" (Exhibit A);

27 (d) the Court and its personnel;

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1 (e) court reporters, their staffs, and professional vendors to whom disclosure is reasonably  
2 necessary for this litigation and who have signed the “Agreement to Be Bound by Protective  
3 Order” (Exhibit A);

4 (f) during their depositions, witnesses in the action to whom disclosure is reasonably necessary  
5 and who have signed the “Agreement to Be Bound by Protective Order” (Exhibit A). Pages of  
6 transcribed deposition testimony or exhibits to depositions that reveal Protected Material must be  
7 separately bound by the court reporter and may not be disclosed to anyone except as permitted  
8 under this Stipulated Protective Order.

9 (g) the author of the document or the original source of the information.

10 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”

11 Information or Items. Unless otherwise ordered by the court or permitted in writing by the  
12 Designating Party, a Receiving Party may disclose any information or item designated “HIGHLY  
13 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to:

14 (a) the Receiving Party’s Outside Counsel of record in this action, as well as  
15 employees of said Counsel to whom it is reasonably necessary to disclose the information for this  
16 litigation and who have signed the “Agreement to Be Bound by Protective Order” that is attached  
17 hereto as Exhibit A;

18 (b) the Court and its personnel;

19 (c) court reporters, their staffs, and professional vendors to whom disclosure is  
20 reasonably necessary for this litigation and who have signed the “Agreement to Be Bound by  
21 Protective Order” (Exhibit A); and

22 (d) the author of the document or the original source of the information.

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

25 If a Receiving Party is served with a subpoena or an order issued in other litigation that would  
26 compel disclosure of any information or items designated in this action as  
27 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” the



1 Receiving Party must so notify the Designating Party, in writing (by fax, if possible) immediately  
2 and in no event more than three court days after receiving the subpoena or order. Such  
3 notification must include a copy of the subpoena or court order. The Receiving Party also must  
4 immediately inform in writing the Party who caused the subpoena or order to issue in the other  
5 litigation that some or all the material covered by the subpoena or order is the subject of this  
6 Protective Order. In addition, the Receiving Party must deliver a copy of this Stipulated  
7 Protective Order promptly to the Party in the other action that caused the subpoena or order to  
8 issue. The purpose of imposing these duties is to alert the interested parties to the existence  
9 of this Protective Order and to afford the Designating Party in this case an opportunity to try to  
10 protect its confidentiality interests in the court from which the subpoena or order issued. The  
11 Designating Party shall bear the burdens and the expenses of seeking protection in that court of  
12 its confidential material – and nothing in these provisions should be construed as authorizing or  
13 encouraging a Receiving Party in this action to disobey a lawful directive from another court.

14 9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

22 10. FILING PROTECTED MATERIAL. Without written permission from the Designating  
23 Party or a court order secured after appropriate notice to all interested persons, a Party may not  
24 file in the public record in this action any Protected Material. A Party that seeks to file under seal  
25 any Protected Material must comply with Civil Local Rule 79-5.

26 11. FINAL DISPOSITION. Unless otherwise ordered or agreed in writing by the Producing  
27 Party, within sixty days after the final termination of this action, each Receiving Party must return  
28 all Protected Material to the Producing Party. As used in this subdivision, “all Protected Material”

1 includes all copies, abstracts, compilations, summaries or any other form of reproducing or  
2 capturing any of the Protected Material. With permission in writing from the Designating Party,  
3 the Receiving Party may destroy some or all of the Protected Material instead of returning it.  
4 Whether the Protected Material is returned or destroyed, the Receiving Party must submit a  
5 written certification to the Producing Party (and, if not the same person or entity, to the  
6 Designating Party) by the sixty day deadline that identifies (by category, where appropriate) all  
7 the Protected Material that was returned or destroyed and that affirms that the Receiving Party  
8 has not retained any copies, abstracts, compilations, summaries or other forms of reproducing or  
9 capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to  
10 retain an archival copy of all pleadings, motion papers, transcripts, legal memoranda,  
11 correspondence or attorney work product, even if such materials contain Protected Material. Any  
12 such archival copies that contain or constitute Protected Material remain subject to this Protective  
13 Order as set forth in Section 4 (DURATION), above.

14 12. MISCELLANEOUS

15 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person  
16 to seek its modification by the Court in the future.

17 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order no  
18 Party waives any right it otherwise would have to object to disclosing or producing any  
19 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no  
20 Party waives any right to object on any ground to use in evidence of any of the material covered  
21 by this Protective Order.

22 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

23 DATED: \_\_\_\_\_

24 Attorneys for Plaintiff

25 DATED: 5/4/2009  \_\_\_\_\_

26 Attorneys for Defendant Equifax Information Services LLC

27 DATED: \_\_\_\_\_

28 Attorneys for Defendant Cal State 9 Credit Union

1 includes all copies, abstracts, compilations, summaries or any other form of reproducing or  
2 capturing any of the Protected Material. With permission in writing from the Designating Party,  
3 the Receiving Party may destroy some or all of the Protected Material instead of returning it.  
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20 Party waives any right to object on any ground to use in evidence of any of the material covered  
21 by this Protective Order.

22 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

23 DATED: Kamlesh Bauguz  
24 Attorneys for Plaintiff

25 DATED: 4/21/09  
26 Attorneys for Defendant Equifax Information Services I.L.C

27 DATED: \_\_\_\_\_  
28 Attorneys for Defendant Cal State 9 Credit Union

1 includes all copies, abstracts, compilations, summaries or any other form of reproducing or  
2 capturing any of the Protected Material. With permission in writing from the Designating Party,  
3 the Receiving Party may destroy some or all of the Protected Material instead of returning it.  
4 Whether the Protected Material is returned or destroyed, the Receiving Party must submit a  
5 written certification to the Producing Party (and, if not the same person or entity, to the  
6 Designating Party) by the sixty day deadline that identifies (by category, where appropriate) all  
7 the Protected Material that was returned or destroyed and that affirms that the Receiving Party  
8 has not retained any copies, abstracts, compilations, summaries or other forms of reproducing or  
9 capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to  
10 retain an archival copy of all pleadings, motion papers, transcripts, legal memoranda,  
11 correspondence or attorney work product, even if such materials contain Protected Material. Any  
12 such archival copies that contain or constitute Protected Material remain subject to this Protective  
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19 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no  
20 Party waives any right to object on any ground to use in evidence of any of the material covered  
21 by this Protective Order.

22 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

23 DATED: \_\_\_\_\_

24 Attorneys for Plaintiff

25 DATED: \_\_\_\_\_

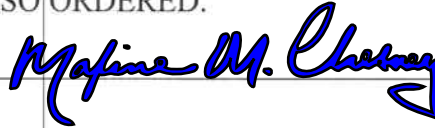
26 Attorneys for Defendant Equifax Information Services LLC

27 DATED: \_\_\_\_\_

28 Attorneys for Defendant Cal State 9 Credit Union

1 PURSUANT TO STIPULATION, IT IS SO ORDERED.

2 DATED: May 8, 2009



3 [The Honorable Maxine M. Chesney]

4 United States District ~~Magistrate~~ 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 Northern District of California on [date] in the case of *Kamlesh Banga v. Equifax Information Services LLC, et al.*, Case No. 3:08-CV-03015 MMC. 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 Northern 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]