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22 **UNITED STATES DISTRICT COURT**
23 **NORTHERN DISTRICT OF CALIFORNIA**

24 EVYONNE RENEE HALL,) Case No.: CV13-03646 WHO
25)
26 Plaintiff,)
27) **STIPULATED PROTECTIVE ORDER**
28 v.)
29)
30) Hon. William H. Orrick
31 HAMILTON FAMILY CENTER)
32) Action Filed: August 6, 2013
33 Defendant.)

34 **1. PURPOSES AND LIMITATIONS**

35 Disclosure and discovery activity in this action are likely to involve production of
36 confidential, proprietary, or private information for which special protection from public disclosure
37 and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly,
38 the parties hereby stipulate to and petition the court to enter the following Stipulated Protective
39 Order. The parties acknowledge that this Order does not confer blanket protections on all
40 disclosures or responses to discovery and that the protection it affords from public disclosure and

1 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 12.3,
3 below, that this Stipulated Protective Order does not entitle them to file confidential information
4 under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards
5 that will be applied when a party seeks permission from the court to file material under seal.

6 **2. DEFINITIONS**

7 2.1 Challenging Party: a Party or Non-Party that challenges the designation of
8 information or items under this Order.

9 2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is
10 generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of
11 Civil Procedure 26(c).

12 2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as
13 well as their support staff).

14 2.4 Designating Party: a Party or Non-Party that designates information or items that it
15 produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

16 2.5 Disclosure or Discovery Material: all items or information, regardless of the
17 medium or manner in which it is generated, stored, or maintained (including, among other things,
18 testimony, transcripts, and tangible things), that are produced or generated in disclosures or
19 responses to discovery in this matter.

20 2.6 Expert: a person with specialized knowledge or experience in a matter pertinent to
21 the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a
22 consultant in this action.

23 2.7 House Counsel: attorneys who are employees of a party to this action. House
24 Counsel does not include Outside Counsel of Record or any other outside counsel.

25 2.8 Non-Party: any natural person, partnership, corporation, association, or other legal
26 entity not named as a Party to this action.

27 2.9 Outside Counsel of Record: attorneys who are not employees of a party to this
28 action but are retained to represent or advise a party to this action and have appeared in this action

1 on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.

2 2.10 Party: any party to this action, including all of its officers, directors, employees,
3 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

4 2.11 Producing Party: a Party or Non-Party that produces Disclosure or Discovery
5 Material in this action.

6 2.12 Professional Vendors: persons or entities that provide litigation support services
7 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing,
8 storing, or retrieving data in any form or medium) and their employees and subcontractors.

9 2.13 Protected Material: any Disclosure or Discovery Material that is designated as
10 “CONFIDENTIAL.”

11 2.14 Receiving Party: a Party that receives Disclosure or Discovery Material from a
12 Producing Party.

13 **3. SCOPE**

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

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

26 **4. DURATION**

27 Even after final disposition of this litigation, the confidentiality obligations imposed by this
28 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order

1 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims
2 and defenses in this action, with or without prejudice; and (2) final judgment herein after the
3 completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,
4 including the time limits for filing any motions or applications for extension of time pursuant to
5 applicable law.

6 **5. DESIGNATING PROTECTED MATERIAL**

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

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

18 If it comes to a Designating Party’s attention that information or items that it designated for
19 protection do not qualify for protection, that Designating Party must promptly notify all other
20 Parties that it is withdrawing the mistaken designation.

21 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order
22 (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered,
23 Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so
24 designated before the material is disclosed or produced.

25 Designation in conformity with this Order requires:

- 26 (a) for information in documentary form (e.g., paper or electronic documents, but
27 excluding transcripts of depositions or other pretrial or trial proceedings), that the
28 Producing Party affix the legend “CONFIDENTIAL” to each page that contains

1 protected material. If only a portion or portions of the material on a page qualifies
2 for protection, the Producing Party also must clearly identify the protected
3 portion(s) (e.g., by making appropriate markings in the margins).

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

14 (b) for testimony given in deposition or in other pretrial or trial proceedings, that
15 the Designating Party identify on the record, before the close of the deposition,
16 hearing, or other proceeding, all protected testimony.

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

23 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
24 designate qualified information or items does not, standing alone, waive the Designating Party’s
25 right to secure protection under this Order for such material. Upon timely correction of a
26 designation, the Receiving Party must make reasonable efforts to assure that the material is treated
27 in accordance with the provisions of this Order.

28 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

1 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of
2 confidentiality at any time. Unless a prompt challenge to a Designating Party’s confidentiality
3 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic
4 burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to
5 challenge a confidentiality designation by electing not to mount a challenge promptly after the
6 original designation is disclosed.

7 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution
8 process by providing written notice of each designation it is challenging and describing the basis
9 for each challenge. To avoid ambiguity as to whether a challenge has been made, the written notice
10 must recite that the challenge to confidentiality is being made in accordance with this specific
11 paragraph of the Protective Order. The parties shall attempt to resolve each challenge in good faith
12 and must begin the process by conferring directly (in voice to voice dialogue; other forms of
13 communication are not sufficient) within 14 days of the date of service of notice. In conferring, the
14 Challenging Party must explain the basis for its belief that the confidentiality designation was not
15 proper and must give the Designating Party an opportunity to review the designated material, to
16 reconsider the circumstances, and, if no change in designation is offered, to explain the basis for
17 the chosen designation. A Challenging Party may proceed to the next stage of the challenge
18 process only if it has engaged in this meet and confer process first or establishes that the
19 Designating Party is unwilling to participate in the meet and confer process in a timely manner.

20 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court
21 intervention, the Designating Party shall file and serve a motion to retain confidentiality under
22 Civil Local Rule 7 (and in compliance with Civil Local Rule 79-5, if applicable) within 21 days of
23 the initial notice of challenge or within 14 days of the parties agreeing that the meet and confer
24 process will not resolve their dispute, whichever is earlier. Each such motion must be accompanied
25 by a competent declaration affirming that the movant has complied with the meet and confer
26 requirements imposed in the preceding paragraph. Failure by the Designating Party to make such a
27 motion including the required declaration within 21 days (or 14 days, if applicable) shall
28 automatically waive the confidentiality designation for each challenged designation. In addition,

1 the Challenging Party may file a motion challenging a confidentiality designation at any time if
2 there is good cause for doing so, including a challenge to the designation of a deposition transcript
3 or any portions thereof. Any motion brought pursuant to this provision must be accompanied by a
4 competent declaration affirming that the movant has complied with the meet and confer
5 requirements imposed by the preceding paragraph.

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

13 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

14 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or
15 produced by another Party or by a Non-Party in connection with this case only for prosecuting,
16 defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to
17 the categories of persons and under the conditions described in this Order. When the litigation has
18 been terminated, a Receiving Party must comply with the provisions of section 13 below (FINAL
19 DISPOSITION).

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

22 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered
23 by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any
24 information or item designated "CONFIDENTIAL" only to:

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

- 1 A;
- 2 (b) the officers, directors, and employees (including House Counsel) of the
- 3 Receiving Party to whom disclosure is reasonably necessary for this litigation and
- 4 who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);
- 5 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is
- 6 reasonably necessary for this litigation and who have signed the “Acknowledgment
- 7 and Agreement to Be Bound” (Exhibit A);
- 8 (d) the court and its personnel;
- 9 (e) court reporters and their staff, professional jury or trial consultants, mock
- 10 jurors, and Professional Vendors to whom disclosure is reasonably necessary for
- 11 this litigation and who have signed the “Acknowledgment and Agreement to Be
- 12 Bound” (Exhibit A);
- 13 (f) Pages of transcribed deposition testimony or exhibits to depositions that reveal
- 14 Protected Material must be separately bound by the court reporter and may not be
- 15 disclosed to anyone except as permitted under this Stipulated Protective Order.
- 16 (g) the author or recipient of a document containing the information or a custodian
- 17 or other person who otherwise possessed or knew the information.

18 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN**

19 **OTHER LITIGATION**

20 If a Party is served with a subpoena or a court order issued in other litigation that compels

21 disclosure of any information or items designated in this action as “CONFIDENTIAL,” that Party

22 must:

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

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

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

10 **9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN**
11 **THIS LITIGATION**

12 (a) The terms of this Order are applicable to information produced by a Non-Party
13 in this action and designated as “CONFIDENTIAL.” Such information produced by
14 Non-Parties in connection with this litigation is protected by the remedies and relief
15 provided by this Order. Nothing in these provisions should be construed as
16 prohibiting a Non-Party from seeking additional protections.

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

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

1 (c) If the Non-Party fails to object or seek a protective order from this court within
2 14 days of receiving the notice and accompanying information, the Receiving Party
3 may produce the Non-Party's confidential information responsive to the discovery
4 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
5 not produce any information in its possession or control that is subject to the
6 confidentiality agreement with the Non-Party before a determination by the court.
7 Absent a court order to the contrary, the Non-Party shall bear the burden and
8 expense of seeking protection in this court of its Protected Material.

9 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

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

17 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
18 **PROTECTED MATERIAL**

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

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1 **12. MISCELLANEOUS**

2 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to
3 seek its modification by the court in the future.

4 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective
5 Order no Party waives any right it otherwise would have to object to disclosing or producing any
6 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no
7 Party waives any right to object on any ground to use in evidence of any of the material covered by
8 this Protective Order.

9 12.3 Filing Protected Material. Without written permission from the Designating Party
10 or a court order secured after appropriate notice to all interested persons, a Party may not file in the
11 public record in this action any Protected Material. A Party that seeks to file under seal any
12 Protected Material must comply with Civil Local Rule 79-5. Protected Material may only be filed
13 under seal pursuant to a court order authorizing the sealing of the specific Protected Material at
14 issue. Pursuant to Civil Local Rule 79-5, a sealing order will issue only upon a request establishing
15 that the Protected Material at issue is privileged, protectable as a trade secret, or otherwise entitled
16 to protection under the law. If a Receiving Party's request to file Protected Material under seal
17 pursuant to Civil Local Rule 79-5(d) is denied by the court, then the Receiving Party may file the
18 information in the public record pursuant to Civil Local Rule 79-5(e) unless otherwise instructed
19 by the court.

20 **13. FINAL DISPOSITION**

21 Within 60 days after the final disposition of this action, as defined in paragraph 4, each
22 Receiving Party must return all Protected Material to the Producing Party or destroy such material.
23 As used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations,
24 summaries, and any other format reproducing or capturing any of the Protected Material. Whether
25 the Protected Material is returned or destroyed, the Receiving Party must submit a written
26 certification to the Producing Party (and, if not the same person or entity, to the Designating Party)
27 by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected
28 Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained

1 any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of
2 the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival
3 copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda,
4 correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant
5 and expert work product, even if such materials contain Protected Material. Any such archival
6 copies that contain or constitute Protected Material remain subject to this Protective Order as set
7 forth in Section 4 (DURATION).

8 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

9 DATED: _____
10 Attorneys for Plaintiff

11 DATED: _____
12 Attorneys for Defendant

12 PURSUANT TO STIPULATION, IT IS SO ORDERED.

13 DATED: November 12, 2013
14 
15 United States District Judge

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CERTIFICATE OF SERVICE
Evyyonne R. Hall v. Hamilton Family Center
United States Northern Dist. Case No.: C13-03646 WHO

At the time of service I was over 18 years of age and not a party to this action. I am employed in the County of San Francisco, California. My business address is 525 Market Street, 17th Floor, San Francisco, California 94105. On this date I served the following document(s):

STIPULATED PROTECTIVE ORDER

on the person or persons listed below, through their respective attorneys of record in this action, by placing true copies thereof in sealed envelopes or packages addressed as shown below by the following means of service:

: **By United States Mail.** I placed the envelope(s) for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

: **By Electronic Service.** Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification addresses listed below.

: **By Overnight Delivery.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and address to the persons at the addresses below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

: **By Messenger Service.** I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed below and provided them to a professional messenger service for service.

: **By Fax Transmission.** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed below. No error was reported by the fax machine that I used.

Richard M. Rogers
Law Offices of Richard M. Rogers
100 Bush Street, Suite 1980
San Francisco, CA 94104
Tel: 415-981-9788
Fax: 415-981-9798
Attorneys for Plaintiff
Evyyonne R. Hall

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED November 12, 2013 at San Francisco, California.

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Richean Martin