

1 ROBERT JON HENDRICKS, State Bar No. 179751
 2 STEPHEN L. TAEUSCH, State Bar No. 247708
 3 CAITLIN V. MAY, State Bar No. 293141
 4 MORGAN, LEWIS & BOCKIUS LLP
 5 One Market Street, Spear Street Tower
 6 San Francisco, California 94105-1126
 7 Tel: 415.442.1000
 8 Fax: 415.442.1001
 9 rhendricks@morganlewis.com
 10 staeusch@morganlewis.com
 11 cmay@morganlewis.com

12 Attorneys for Defendant
 13 UBER TECHNOLOGIES, INC.

14 SHANNON LISS-RIORDAN, *pro hac vice*
 15 (sliss@llrlaw.com)
 16 LICHTEN & LISS-RIORDAN, P.C.
 17 729 Boylston Street, Suite 2000
 18 Boston, MA 02116
 19 Telephone: (617) 994-5800
 20 Facsimile: (617) 994-5801

21 MATTHEW D. CARLSON (SBN 273242)
 22 (mcarlson@carlsonlegalservices.com)
 23 CARLSON LEGAL SERVICES
 24 100 Pine Street, Suite 1250
 25 San Francisco, CA 94111
 26 Telephone: (415) 817-1470

27 Attorneys for Plaintiffs
 28 DOUGLAS O'CONNOR, et al.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

DOUGLAS O'CONNOR, THOMAS
 COLOPY, DAVID KHAN, MATTHEW
 MANAHAN, WILSON ROLLE, JR., and
 WILLIAM ANDERSON, individually and
 on behalf of all others similarly situated;

Plaintiffs,

vs.

UBER TECHNOLOGIES, INC.,

Defendant.

Case No. CV 13-03826-EMC

STIPULATED PROTECTIVE ORDER

Complaint Filed: August 16, 2013

1 Disclosure and discovery activity in this action are likely to involve production of
2 confidential, proprietary, or private information for which special protection from public
3 disclosure and from use for any purpose other than prosecuting this litigation may be warranted.
4 Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated
5 Protective Order. The parties acknowledge that this Order does not confer blanket protections on
6 all disclosures or responses to discovery and that the protection it affords from public disclosure
7 and use extends only to the limited information or items that are entitled to confidential treatment
8 under the applicable legal principles. The parties further acknowledge that this Stipulated
9 Protective Order does not entitle them to file confidential information under seal; Civil Local
10 Rule 79-5 sets forth the procedures that must be followed and the standards that will be applied
11 when a party seeks permission from the court to file material under seal.

12 1. The Protective Order shall govern all materials deemed to be “Confidential
13 Information.” A Party may designate as “Confidential Information” any documents or
14 information produced in response to informal or formal discovery requests, subpoenas and/or
15 other exchanges of documents/information which, in good faith, such Party deems confidential,
16 including without limitation, any documents or information:

17 (a) Referring or related to confidential and proprietary human resources,
18 business or pricing information and/or financial records and information of Defendant;

19 (b) Referring or related to any current, former or prospective business partner
20 or third-party vendor of Defendant;

21 (c) Referring or related to any other confidential or trade secret information of
22 Defendant; and

23 (d) Any portions of depositions (including audio or video) where Confidential
24 Information is disclosed or used as exhibits.

25 Nothing in this Protective Order shall be deemed to require the production of information
26 that a party believes to be objectionable on other grounds, nor shall anything in this Protective
27 Order be deemed to allow for non-production of confidential information that is otherwise
28 discoverable.

1 2. In the case of documents and the information contained therein, designation of
2 Confidential Information produced pursuant to this Order shall be made by placing the following
3 legend on the face of the document or collection of documents: “CONFIDENTIAL –
4 PRODUCED PURSUANT TO PROTECTIVE ORDER.” Upon such designation, all parties
5 shall treat the identified information as confidential under this agreement until and unless it is
6 otherwise agreed by all parties or ordered by the Court. In the event a party neglects to identify
7 any disclosed information as confidential, it may do so after disclosure by sending notice to all
8 parties that clearly delineates the confidential information and describes the reason for the initial
9 failure to designate.

10 3. Confidential Information shall be held in confidence by each qualified recipient to
11 whom it is disclosed, shall be used only for purposes of this action, shall not be used for any
12 business purpose, and shall be disclosed only to qualified recipients for purposes that are
13 specifically and directly related to the reasonable conduct of this litigation.

14 4. Qualified recipients shall include only the following:

15 (a) In-house counsel and law firms for each Party and the secretarial, clerical
16 and paralegal staff of each, if/as needed to perform their job duties;

17 (b) Deposition notaries;

18 (c) Persons other than legal counsel who have been retained or specially
19 employed by a Party as an expert witness or consultant for purposes of this lawsuit or to perform
20 investigative work or fact research, provided that the disclosing counsel identify to opposing
21 counsel such expert witness or consultant, and provide to opposing counsel that individual’s full
22 curriculum vitae, at least one week before the disclosure for the sole purpose of affording the
23 opposing party an opportunity to object to the disclosure if necessary. However, the opposing
24 party shall not be permitted to use the disclosure of any such expert witness or consultant for any
25 other purpose in the litigation. The opposing party shall have one week to notify the disclosing
26 counsel of an objection to the disclosure. If any objections are raised, no confidential materials
27 shall be shown to the expert witness or consultant until after all objections have been resolved by
28 the Court;

1 (d) Deponents during the course of their depositions or potential witnesses of
2 this case;

3 (e) A mediator selected by mutual agreement of the Parties; and

4 (f) The Parties as defined above through their employees who are engaged
5 directly in this litigation on a need to know basis.

6 5. Persons to whom Confidential Information is shown shall be informed of the terms
7 of this Order and advised that its breach may be punished or sanctioned as contempt of the Court.
8 Deponents may be shown Confidential materials during their deposition but shall not be permitted
9 to keep copies of said Confidential materials nor any portion of the deposition transcript
10 reflecting the Confidential Information. Portions of deposition testimony deemed confidential by
11 any party may be so designated at the deposition, and any such testimony shall be segregated in
12 the deposition transcript and identified as “confidential” by the stenographer assigned to the
13 deposition.

14 6. Challenging Confidentiality Designations

15 (a) Timing of Challenges. Any Party or Non-Party may challenge a
16 designation of confidentiality at any time. Unless a prompt challenge to a designating party’s
17 confidentiality designation is necessary to avoid foreseeable, substantial unfairness, unnecessary
18 economic burdens, or a significant disruption or delay of the litigation, a party does not waive its
19 right to challenge a confidentiality designation by electing not to mount a challenge promptly
20 after the original designation is disclosed.

21 (b) Meet and Confer. The party challenging a confidentiality designation shall
22 initiate the dispute resolution process by providing written notice of each designation it is
23 challenging and describing the basis for each challenge. The parties shall attempt to resolve each
24 challenge in good faith and must begin the process by conferring directly (in voice to voice
25 dialogue; other forms of communication are not sufficient) within 14 days of the date of service
26 of notice. In conferring, the challenging party must explain the basis for its belief that the
27 confidentiality designation was not proper and must give the designating party an opportunity to
28 review the designated material, to reconsider the circumstances, and, if no change in designation

1 is offered, to explain the basis for the chosen designation.

2 (c) Judicial Intervention. If the parties cannot resolve a challenge without
3 court intervention, the designating party shall file and serve a motion to retain confidentiality
4 under Civil Local Rule 7 (and in compliance with Civil Local Rule 79-5, if applicable) within 21
5 days of the initial notice of challenge or within 14 days of the parties agreeing that the meet and
6 confer process will not resolve their dispute, whichever is earlier. Each such motion must be
7 accompanied by a competent declaration affirming that the movant has complied with the meet
8 and confer requirements imposed in the preceding paragraph. Failure by the designating party to
9 make such a motion including the required declaration within 21 days (or 14 days, if applicable)
10 shall automatically waive the confidentiality designation for each challenged designation. In
11 addition, the challenging party may file a motion challenging a confidentiality designation at any
12 time if there is good cause for doing so, including a challenge to the designation of a deposition
13 transcript or any portions thereof. Any motion brought pursuant to this provision must be
14 accompanied by a competent declaration affirming that the movant has complied with the meet
15 and confer requirements imposed by the preceding paragraph. The burden of persuasion in any
16 such challenge proceeding shall be on the designating party. Frivolous challenges, and those
17 made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on
18 other parties) may expose the challenging party to sanctions. Unless the designating party has
19 waived the confidentiality designation by failing to file a motion to retain confidentiality as
20 described above, all parties shall continue to afford the material in question the level of protection
21 to which it is entitled under the Producing Party's designation until the court rules on the
22 challenge.

23 7. No copies of Confidential Information shall be made except as required for the
24 conduct of this litigation and by or on behalf of attorneys of record in this action. Any person
25 making copies of such information shall maintain all copies within their possession or the
26 possession of those entitled to access to such information under this Order. Copies of
27 confidential documents that are attached to pleadings or motions filed with the court may be
28 retained in counsel's file. Any other copies of confidential documents shall be destroyed when no

1 longer required for purposes of this litigation.

2 8. All information and/or documents produced in this action that are Confidential
3 shall be used only for purposes of this litigation and not for any other purpose.

4 9. In the event that a Party wishes to use any Confidential Information in any papers
5 filed in Court in this litigation, the Party shall file a motion requesting that the Court maintain the
6 documents containing Confidential Information under seal pursuant to Civil Local Rule 79-5. In
7 the event the Party does not believe the documents should be filed under seal, it shall meet and
8 confer with regard to which documents, if any, should be filed under seal. Should the Parties not
9 agree upon which documents should be placed under seal, the Party seeking the maintenance of
10 such documents under seal shall file a motion requesting that the Court maintain the documents
11 under seal. The Parties acknowledge that whether Confidential Information submitted to the
12 Court is maintained under seal is subject to the Court's ultimate decision on any motion to place
13 and/or accept confidential documents under seal. The parties shall follow the procedure set forth
14 in Civil Local Rule 79-5 regarding filing documents under seal in civil cases.

15 10. The termination of this action shall not relieve the Parties and persons obligated
16 hereunder from their responsibility to maintain the confidentiality of information designated
17 confidential pursuant to this Order.

18 11. Upon termination of this action by entry of a final judgment (inclusive of any
19 appeals or petitions for review), the Parties may request the return or destruction of all previously
20 furnished Confidential Information, including any copies thereof, and each person or Party to
21 whom such Confidential Information has been furnished or produced shall be obligated to comply
22 with such request within thirty (30) days, with the exception of copies of Confidential
23 Information that were filed with the Court as part of this action, which the Parties' counsel shall
24 be permitted to retain. Any Confidential Information that is not requested shall be destroyed,
25 subject to the provisions of paragraph 8 herein.

26 12. Nothing in this Protective Order shall be construed as an admission as to the
27 relevance, authenticity, foundation or admissibility of any document, material, transcript, or other
28 information.

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

13. Nothing in the Protective Order shall be deemed to preclude any Party from moving to modify or dissolve this Order.

14. This Protective Order, until it is entered by the Court, *and even if it is never entered by the Court*, shall be deemed to be an enforceable agreement between the Parties, except that either Party may apply to the Court to challenge a confidentiality designation.

Dated: October 16, 2014

LICHTEN & LISS-RIORDAN, P.C.

By: /s/ Shannon Liss-Riordan
Shannon Liss-Riordan
Attorneys for Plaintiffs

Dated: October 16, 2014

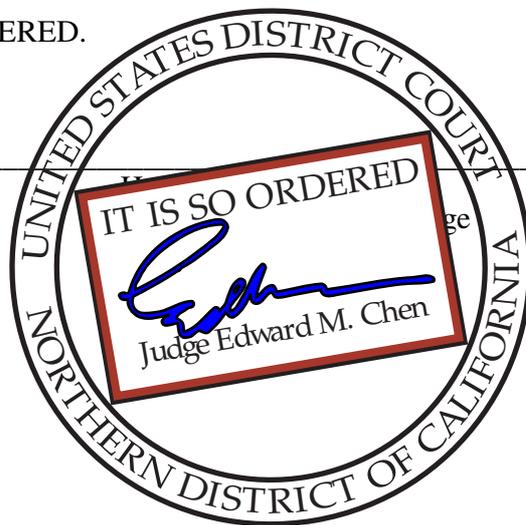
MORGAN, LEWIS & BOCKIUS LLP

By: /s/ Stephen L. Taesch
Stephen L. Taesch
Attorneys for Defendant

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: 10/21/14



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

Acknowledgement and Agreement to Be Bound by Protective Order:

I, _____, acknowledge that I have received a copy of the Stipulated Confidentiality Agreement and Protective Order (Order) in the lawsuit *Douglas O'Connor, et al., v. Uber Technologies, Inc.*, pending in United States District Court, Case No. 13-03826-EMC. Having read and understood its terms, I agree to be bound by the Order and consent to the jurisdiction of said Court for any proceeding to enforce the terms of the Order.

I further agree that, within thirty (30) days after my responsibilities relating to this case end, I will destroy all copies of any confidential documents that were provided to me in this case.

Name of individual:

Present occupation/job description:

Name of Company or Firm:

Address:

Dated:

Signature

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

ECF ATTESTATION

I, Stephen L. Tausch, am the ECF User whose ID and Password are being used to file this STIPULATED PROTECTIVE ORDER. In compliance with General Order 45 X.B, I hereby attest that Shannon Liss-Riordan has concurred in this filing.

Dated: October 16, 2014

MORGAN, LEWIS & BOCKIUS LLP

By /s/ Stephen L. Tausch
Stephen L. Tausch
Attorneys for Defendant
UBER TECHNOLOGIES, INC.