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REGGIE HAMILTON

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 REGGIE HAMILTON,

4 Plaintiff,

5 vs.

6
7 THE REGENTS OF THE UNIVERSITY OF
8 CALIFORNIA, PAMELA E. ROSKOWSKI,
9 JON EASTERBROOK, BARNEY RIVERA
10 and DOES 1 through 15,

11 Defendants.

Case No.: C10-01622 DMR

**STIPULATION AND PROTECTIVE
ORDER**

12 1. PURPOSES AND LIMITATIONS

13 Disclosure and discovery activity in this action are likely to involve production of
14 confidential, proprietary, or private information for which special protection from public
15 disclosure and from use for any purpose other than prosecuting this litigation would be
16 warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the
17 following Stipulated Protective Order. The Parties acknowledge that this Order does not
18 confer blanket protections on all disclosures or responses to discovery and that the
19 protection it affords extends only to the limited information or items that are entitled
20 under the applicable legal principles to treatment as confidential. The Parties further
21 acknowledge, as set forth in Section 10, below, that this Stipulated Protective Order
22 creates no entitlement to file confidential information under seal; Civil Local Rule 79-5
23 sets forth the procedures that must be followed and reflects the standards that will be
24 applied when a party seeks permission from the court to file material under seal.

25 2. DEFINITIONS

26 2.1 Party: any party to this action, including all of its officers, directors,
27 employees, consultants, retained experts, counsel, and outside counsel (and their
28 support staff).

1 2.2 Disclosure or Discovery Material: all items or information, regardless of the
2 medium or manner generated, stored, or maintained (including, among other things,
3 documents, correspondence, emails, computer files, testimony, transcripts, and/or
4 tangible things) that are produced or generated in disclosures or responses to discovery
5 (including without limitation deposition questioning) in this matter.

6 2.3 Confidential and Protected Documents and Information: for purposes of
7 this Agreement, the term “Confidential and Protected Documents and Information” shall
8 be deemed to refer solely to: (1) all documents in the possession, custody or control of
9 the parties regarding and/or comprising confidential personnel matters and/or
10 confidential internal affairs investigations regarding plaintiff REGGIE HAMILTON and/or
11 any other employee and/or agent of THE REGENTS OF THE UNIVERSITY OF
12 CALIFORNIA (“THE REGENTS”); and (2) any and all information in the possession,
13 custody or control of the parties regarding and/or comprising confidential personnel
14 matters and/or confidential internal affairs investigations regarding plaintiff REGGIE
15 HAMILTON and/or any other employee and/or agent of THE REGENTS.

16 3. SCOPE

17 The protections conferred by this Stipulation and Order cover not only
18 Confidential and Protected Documents and Information (as defined above), but also any
19 information copied or extracted therefrom, as well as all copies, excerpts, summaries,
20 and/or compilations thereof, plus testimony, conversations, communications, or
21 presentations by parties or counsel to or in court or in any other settings that might
22 reveal Confidential and Protected Documents and Information and/or any portion
23 thereof.

24 4. DURATION

25 Even after the termination of this litigation, the confidentiality obligations imposed
26 by this Order shall remain in effect unless and until all parties agree otherwise in writing
27 or a court order otherwise directs.

28 5. CHALLENGING CONFIDENTIALITY DESIGNATIONS

1 5.1 Object in Writing. Any party may object in writing to the designation of a
2 document or information as confidential and protected. If the parties are unable to
3 resolve an objection within fourteen court days of making the objection, the parties shall
4 submit a joint letter in compliance with Judge Ryu’s standing order regarding discovery
5 disputes. Until the Court resolves the issue, the material shall be treated as confidential.
6 The failure of a party to challenge the confidentiality of a document or information will
7 not constitute an admission that the document or information is or is not confidential.
8 Nor will such failure constitute an admission that the document or information is or is not
9 admissible.

10 6. ACCESS TO AND USE OF CONFIDENTIAL AND PROTECTED
11 MATERIAL

12 6.1 Provisions. The following provisions shall govern the use of a
13 “Confidential and Protected Documents and Information” by any person to whom such
14 document or information is produced, whether in response to discovery or otherwise or
15 disclosed in the course of this litigation:

16 (a) All Confidential and Protected Documents and Information produced in this
17 action (and all copies, excerpts, digests, summaries, and indices of such documents
18 and information) can only be viewed by the Parties and the attorneys of record in this
19 Action – Pamela Y. Price, Curtis Allen, George Khoury, Louis Leone, Claudia Leed,
20 Andrea Makely Ritigstein and the attorneys’ necessary staff, who all will agree to be
21 bound by this Order. All Confidential and Protected Documents shall be clearly marked,
22 “Confidential and Protected Documents Subject to Protective Order. All Confidential
23 and Protected Information shall be designated “Confidential and Protected Information
24 subject to Protective Order” in an appropriate manner.

25 (b) Any Confidential and Protected Document and Information (and any copy,
26 excerpt, digest, summary, or index thereof) and all information contained therein will be
27 used only for the purpose of preparation and trial of the above-captioned lawsuit,
28 except to the extent The Regents, its counsel, employees and/or agents are defendants

1 in other lawsuits in which the disclosure or production of any Confidential and Protected
2 Documents and Information is necessary, The Regents are not restricted by this Order
3 from disclosing or producing said Confidential and Protected Documents and
4 Information in other litigation to the extent said Confidential and Protected Documents
5 and Information is the subject of a Protective Order substantially similar to the instant
6 Protective Order. Simultaneous to such a disclosure in other litigation the Regents shall
7 notify Plaintiff Hamilton's counsel in writing of the disclosure.

8 (c) All Confidential and Protected Documents produced in this action shall be
9 returned to counsel for the parties who produced the documents or shall be destroyed
10 at the conclusion of this lawsuit.

11 (d) Confidential and Protected Documents and information contained therein and
12 Confidential and Protected Information will not be disclosed by the parties or the parties'
13 attorneys, except to the Court, court personnel, certified court reporters, consultants,
14 and experts engaged to prepare their respective claims or defenses in this case. Such
15 court reporters, consultants, and experts will agree to be bound by the terms of this
16 Agreement.

17 (e) The Confidential and Protected Documents and Information and the
18 information contained therein may be shown to and used by experts and consultants
19 engaged by or for parties to this litigation and their insurers for the purposes of
20 preparing this case for trial. All notes, copies or other reproductions of the text of the
21 documents or of the confidential information, however made, shall be either: (1)
22 returned to counsel for the parties who produced the documents or provided the
23 information; or (2) destroyed at the conclusion of this lawsuit.

24 (f) In the event that questions asked at depositions require disclosure of any
25 Confidential and Protected Documents and Information, counsel for the parties will
26 request on the record that the pertinent pages of the deposition transcripts be sealed
27 and be utilized only as permitted by this Agreement. When Confidential and Protected
28 Documents and Information is contained or incorporated in a deposition transcript,

1 arrangements shall be made with the reporter to bind the CONFIDENTIAL portions of
2 the transcript separately and label it "Confidential Information Subject to Protective
3 Order."

4 (g) In the event that a Confidential and Protected Document or any document
5 containing Confidential and Protected Information is introduced into evidence or
6 otherwise filed with the Court during the pendency of trial of this lawsuit, counsel
7 introducing or filing such document will, at the conclusion of this lawsuit, promptly
8 request return of such document and, upon receipt thereof, shall return the document to
9 the party who produced it or destroy it.

10 (h) Each document or thing designated by any party as confidential and
11 protected and, therefore, subject to the terms of this Agreement will be plainly marked
12 with a legend identifying it as a "Confidential and Protected Document subjected to
13 Protective Order" subject to the terms of this Agreement.

14 (i) At the conclusion of this lawsuit, all documents, transcripts, answers to
15 interrogatories, exhibits or portions thereof that have been designated as confidential
16 and protected, that have been obtained as a result of discovery in this action, and that
17 are in the possession of counsel, a party, expert, or consultant shall be returned to the
18 party who produced the documents or destroyed upon request.

19 (j) All provisions herein regarding confidentiality and non-disclosure of any
20 document and the information contained therein shall continue to be in force after the
21 conclusion of this lawsuit or the return of any document.

22 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
23 IN OTHER LITIGATION

24 If any Party is served with a subpoena or an order issued in other litigation that
25 would compel disclosure of the information or items designated in this action as
26 "CONFIDENTIAL", that Party must so notify the other Parties to this litigation through
27 their respective counsel, in writing (by fax or e-mail if possible) immediately and in no
28

1 event more than three court days after receiving the subpoena or order. Such
2 notification must include a copy of the subpoena or court order.

3 The Subpoenaed Party also must immediately inform in writing the Party who
4 caused the subpoena or order to issue in the other litigation that some or all the material
5 covered by the subpoena or order is the subject of this Protective Order. In addition,
6 the Subpoenaed Party must deliver a copy of this Stipulated Protective Order promptly
7 to the Party in the other action that caused the subpoena or order to issue.

8 The purpose of imposing these duties is to alert the interested parties to the
9 existence of this Protective Order and to afford the Subpoenaed Party in this case an
10 opportunity to try to protect the confidentiality interests in the court from which the
11 subpoena or order issued. The Party seeking protection of this Protective Order shall
12 bear the burdens and the expenses of seeking protection in that court of its confidential
13 material and nothing in these provisions should be construed as authorizing or
14 encouraging Subpoenaed Party in this action to disobey a lawful directive from another
15 court.

16 **8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

17 If a Subpoenaed Party learns that, by inadvertence or otherwise, it has disclosed
18 Confidential and Protected Documents or information contained in them or Confidential
19 and Protected Information to any person or in any circumstance not authorized under
20 this Stipulated Protective Order, the Subpoenaed Party must immediately (a) notify in
21 writing the other Party of the unauthorized disclosures, (b) use its best efforts to retrieve
22 all copies of the Confidential and Protected Documents or information contained in
23 them, (c) inform the person or persons to whom unauthorized disclosures were made of
24 all the terms of this Order, and (d) request such person or persons to execute the
25 "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A.

26 **9. FILING PROTECTED MATERIAL**

27 A Party may not file in the public record in this action any Confidential and
28 Protected Documents without written permission from the parties to this stipulation or a

1 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

2 I, _____ [print or type full name], of _____ [print
3 or type full address], declare under penalty of perjury that I have read in its entirety and
4 understand the Stipulated Protective Order that was issued by the United States District
5 Court for the Northern District of California on [date] in the case of _____
6 [insert formal name of the case and the number and initials assigned to it by the court].

7 I agree to comply with and to be bound by all the terms of this Stipulated Protective
8 Order and I understand and acknowledge that failure to so comply could expose me to
9 sanctions and punishment in the nature of contempt. I solemnly promise that I will not
10 disclose in any manner any information or item that is subject to this Stipulated
11 Protective Order to any person or entity except in strict compliance with the provisions
12 of this Order.

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

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

21
22 Date: _____

23 City

24 and State where sworn and signed: _____

25 Printed name: _____

26 Signature: _____