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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

CESAR CONTRERAS, et al.  
  
Plaintiffs,  
  
v.  
  
REMINGTON LODGING &  
HOSPITALITY, LLC, et al.  
  
Defendants.

Case No. 17cv0167-DMS-JLB

**ORDER GRANTING IN PART JOINT  
MOTION TO THE EXTENT THE  
PARTIES REQUEST ENTRY OF  
THE STIPULATED PROTECTIVE  
ORDER**

[ECF Nos. 17, 18]

The Court hereby GRANTS IN PART the parties’ Joint Motion (ECF Nos. 17, 18).<sup>1</sup> The Court recognizes that at least some of the documents and information (“materials”) being sought through discovery in the above-captioned action are, for competitive reasons, normally kept confidential by the parties. The parties have agreed to be bound by the terms of this Protective Order (“Order”) in this action.

The materials to be exchanged throughout the course of the litigation between the parties may contain trade secret or other confidential research, technical, cost, price, marketing or other commercial information, as is contemplated by Federal Rule of Civil Procedure 26(c)(7). The purpose of this Order is to protect the confidentiality of such materials as much as practical during the litigation. THEREFORE:

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<sup>1</sup> In their Joint Motion, the parties request entry of their stipulated protective order and for an extension of discovery deadlines. This order rules only on the request for entry of the parties’ stipulated protective order.

1 DEFINITIONS

2 1. The term “Confidential Information” will mean and include information  
3 contained or disclosed in any materials, including documents, portions of documents,  
4 answers to interrogatories, responses to requests for admissions, trial testimony,  
5 deposition testimony, and transcripts of trial testimony and depositions, including data,  
6 summaries, and compilations derived therefrom that is deemed to be Confidential  
7 Information by any party to which it belongs.

8 2. The term “materials” will include, but is not be limited to: documents;  
9 correspondence; memoranda; bulletins; blueprints; specifications; customer lists or  
10 other material that identify customers or potential customers; price lists or schedules  
11 or other matter identifying pricing; minutes; telegrams; letters; statements; cancelled  
12 checks; contracts; invoices; drafts; books of account; worksheets; notes of  
13 conversations; desk diaries; appointment books; expense accounts; recordings;  
14 photographs; motion pictures; compilations from which information can be obtained  
15 and translated into reasonably usable form through detection devices; sketches;  
16 drawings; notes (including laboratory notebooks and records); reports; instructions;  
17 disclosures; other writings; models and prototypes and other physical objects.

18 3. The term “counsel” will mean outside counsel of record, and other  
19 attorneys, paralegals, secretaries, and other support staff employed in the law firms  
20 Law Offices of Daniel A. Kaplan, Ordaz Law, APC, and Ogletree, Deakins, Nash,  
21 Smoak & Stewart, P.C. “Counsel” also includes in-house attorneys for Defendant.

22 GENERAL RULES

23 4. Each party to this litigation that produces or discloses any materials,  
24 answers to interrogatories, responses to requests for admission, trial testimony,  
25 deposition testimony, and transcripts of trial testimony and depositions, or information  
26 that the producing party believes should be subject to this Protective Order may  
27 designate the same as “CONFIDENTIAL” or “CONFIDENTIAL - FOR COUNSEL  
28 ONLY.”

- 1 a. Designation as “CONFIDENTIAL”: Any party may designate  
2 information as “CONFIDENTIAL” only if, in the good faith belief  
3 of such party and its counsel, the unrestricted disclosure of such  
4 information could be potentially prejudicial to the business or  
5 operations of such party.
- 6 b. Designation as “CONFIDENTIAL - FOR COUNSEL ONLY”:  
7 Any party may designate information as “CONFIDENTIAL - FOR  
8 COUNSEL ONLY” only if, in the good faith belief of such party  
9 and its counsel, the information is among that considered to be  
10 most sensitive by the party, including but not limited to trade secret  
11 or other confidential research, development, financial or other  
12 commercial information.

13 5. In the event the producing party elects to produce materials for  
14 inspection, no marking need be made by the producing party in advance of the initial  
15 inspection. For purposes of the initial inspection, all materials produced will be  
16 considered as “CONFIDENTIAL - FOR COUNSEL ONLY,” and must be treated as  
17 such pursuant to the terms of this Order. Thereafter, upon selection of specified  
18 materials for copying by the inspecting party, the producing party must, within a  
19 reasonable time prior to producing those materials to the inspecting party, mark the  
20 copies of those materials that contain Confidential Information with the appropriate  
21 confidentiality marking.

22 6. Whenever a deposition taken on behalf of any party involves a disclosure  
23 of Confidential Information of any party:

- 24 a. the deposition or portions of the deposition must be designated as  
25 containing Confidential Information subject to the provisions of  
26 this Order; such designation must be made on the record whenever  
27 possible, but a party may designate portions of depositions as  
28 containing Confidential Information after transcription of the

1 proceedings; [A] party will have until fourteen (14) days after  
2 receipt of the deposition transcript to inform the other party or  
3 parties to the action of the portions of the transcript to be  
4 designated “CONFIDENTIAL” or “CONFIDENTIAL - FOR  
5 COUNSEL ONLY.”

6 b. the disclosing party will have the right to exclude from attendance  
7 at the deposition, during such time as the Confidential Information  
8 is to be disclosed, any person other than the deponent, counsel  
9 (including their staff and associates), the court reporter, and the  
10 person(s) agreed upon pursuant to paragraph 8 below; and

11 c. the originals of the deposition transcripts and all copies of the  
12 deposition must bear the legend “CONFIDENTIAL” or  
13 “CONFIDENTIAL - FOR COUNSEL ONLY,” as appropriate,  
14 and the original or any copy ultimately presented to a court for  
15 filing must not be filed unless it can be accomplished under seal,  
16 identified as being subject to this Order, and protected from being  
17 opened except by order of this Court.

18 7. All Confidential Information designated as “CONFIDENTIAL” or  
19 “CONFIDENTIAL FOR COUNSEL ONLY” must not be disclosed by the receiving  
20 party to anyone other than those persons designated within this order and must be  
21 handled in the manner set forth below and, in any event, must not be used for any  
22 purpose other than in connection with this litigation, unless and until such designation  
23 is removed either by agreement of the parties, or by order of the Court.

24 8. Information designated “CONFIDENTIAL - FOR COUNSEL ONLY”  
25 must be viewed only by counsel (as defined in paragraph 3) of the receiving party, and  
26 by independent experts under the conditions set forth in this Paragraph. The right of  
27 any independent expert to receive any Confidential Information will be subject to the  
28 advance approval of such expert by the producing party or by permission of the Court.

1 The party seeking approval of an independent expert must provide the producing party  
2 with the name and curriculum vitae of the proposed independent expert, and an  
3 executed copy of the form attached hereto as Exhibit A, in advance of providing any  
4 Confidential Information of the producing party to the expert. Any objection by the  
5 producing party to an independent expert receiving Confidential Information must be  
6 made in writing within fourteen (14) days following receipt of the identification of the  
7 proposed expert. Confidential Information may be disclosed to an independent expert  
8 if the fourteen (14) day period has passed and no objection has been made. The  
9 approval of independent experts must not be unreasonably withheld.

10 9. Information designated “CONFIDENTIAL” must be viewed only by  
11 counsel (as defined in paragraph 3) of the receiving party, by independent experts  
12 (pursuant to the terms of paragraph 8), and by the additional individuals listed below,  
13 provided each such individual has read this Order in advance of disclosure and has  
14 agreed in writing to be bound by its terms:

- 15 a. Executives who are required to participate in policy decisions with  
16 reference to this action;
- 17 b. Technical personnel of the parties with whom Counsel for the  
18 parties find it necessary to consult, in the discretion of such  
19 counsel, in preparation for trial of this action; and
- 20 c. Stenographic and clerical employees associated with the  
21 individuals identified above.

22 10. With respect to material designated “CONFIDENTIAL” or  
23 “CONFIDENTIAL – FOR COUNSEL ONLY,” any person indicated on the face of  
24 the document to be its originator, author or a recipient of a copy of the document, may  
25 be shown the same.

26 11. All information which has been designated as “CONFIDENTIAL” or  
27 “CONFIDENTIAL -FOR COUNSEL ONLY” by the producing or disclosing party,  
28 and any and all reproductions of that information, must be retained in the custody of

1 the counsel for the receiving party identified in paragraph 3, except that independent  
2 experts authorized to view such information under the terms of this Order may retain  
3 custody of copies such as are necessary for their participation in this litigation.

4 12. Before any materials produced in discovery, answers to interrogatories,  
5 responses to requests for admissions, deposition transcripts, or other documents which  
6 are designated as Confidential Information are filed with the Court for any purpose,  
7 the party seeking to file such material must seek permission of the Court to file the  
8 material under seal.

9 a. No document shall be filed under seal unless counsel secures a  
10 court order allowing the filing of a document under seal. An  
11 application to file a document under seal shall be served on  
12 opposing counsel, and on the person or entity that has custody and  
13 control of the document, if different from opposing counsel. If the  
14 application to file under seal a document designated as confidential  
15 is being made by the non-designating party, then, upon request, the  
16 designating party must promptly provide the applicant with a legal  
17 basis for the confidential designation to include within the  
18 application. If opposing counsel, or the person or entity that has  
19 custody and control of the document, wishes to oppose the  
20 application, he/she must contact the chambers of the judge who  
21 will rule on the application, to notify the judge's staff that an  
22 opposition to the application will be filed.

23 13. At any stage of these proceedings, any party may object to a designation  
24 of the materials as Confidential Information. The party objecting to confidentiality  
25 must notify, in writing, counsel for the designating party of the objected-to materials  
26 and the grounds for the objection. If the dispute is not resolved consensually between  
27 the parties within fourteen (14) days of receipt of such a notice of objections, the  
28 objecting party may move the Court for a ruling on the objection. The materials at

1 issue must be treated as Confidential Information, as designated by the designating  
2 party, until the Court has ruled on the objection or the matter has been otherwise  
3 resolved.

4 14. All Confidential Information must be held in confidence by those  
5 inspecting or receiving it, and must be used only for purposes of this action. Counsel  
6 for each party, and each person receiving Confidential Information must take  
7 reasonable precautions to prevent the unauthorized or inadvertent disclosure of such  
8 information. If Confidential Information is disclosed to any person other than a person  
9 authorized by this Order, the party responsible for the unauthorized disclosure must  
10 immediately bring all pertinent facts relating to the unauthorized disclosure to the  
11 attention of the other parties and, without prejudice to any rights and remedies of the  
12 other parties, make every effort to prevent further disclosure by the party and by the  
13 person(s) receiving the unauthorized disclosure.

14 15. No party will be responsible to another party for disclosure of  
15 Confidential Information under this Order if the information in question is not labeled  
16 or otherwise identified as such in accordance with this Order.

17 16. If a party, through inadvertence, produces any Confidential Information  
18 without labeling or marking or otherwise designating it as such in accordance with this  
19 Order, the designating party may give written notice to the receiving party that the  
20 document or thing produced is deemed Confidential Information, and that the  
21 document or thing produced should be treated as such in accordance with that  
22 designation under this Order. The receiving party must treat the materials as  
23 confidential, once the designating party so notifies the receiving party. If the receiving  
24 party has disclosed the materials before receiving the designation, the receiving party  
25 must notify the designating party in writing of each such disclosure. Counsel for the  
26 parties will agree on a mutually acceptable manner of labeling or marking the  
27 inadvertently produced materials as “CONFIDENTIAL” or “CONFIDENTIAL - FOR  
28 COUNSEL ONLY” - SUBJECT TO PROTECTIVE ORDER.

1           17. Nothing within this order will prejudice the right of any party to object to  
2 the production of any discovery material on the grounds that the material is protected  
3 as privileged or as attorney work product.

4           18. Nothing in this Order will bar counsel from rendering advice to their  
5 clients with respect to this litigation and, in the course thereof, relying upon any  
6 information designated as Confidential Information, provided that the contents of the  
7 information must not be disclosed.

8           19. This Order will be without prejudice to the right of any party to oppose  
9 production of any information for lack of relevance or any other ground other than the  
10 mere presence of Confidential Information. The existence of this Order must not be  
11 used by either party as a basis for discovery that is otherwise improper under the  
12 Federal Rules of Civil Procedure.

13           20. Without separate court order, the Protective Order and the parties'  
14 stipulation do not change, amend, or circumvent any court rule or local rule.

15           21. Nothing within this order will be construed to prevent disclosure of  
16 Confidential Information if such disclosure is required by law or by order of the Court.

17           22. Upon final termination of this action, including any and all appeals,  
18 counsel for each party must, upon request of the producing party, return all  
19 Confidential Information to the party that produced the information, including any  
20 copies, excerpts, and summaries of that information, or must destroy same at the option  
21 of the receiving party, and must purge all such information from all machine-readable  
22 media on which it resides. Notwithstanding the foregoing, counsel for each party may  
23 retain all pleadings, briefs, memoranda, motions, and other documents filed with the  
24 Court that refer to or incorporate Confidential Information, and will continue to be  
25 bound by this Order with respect to all such retained information. Further, attorney  
26 work product materials that contain Confidential Information need not be destroyed,  
27 but, if they are not destroyed, the person in possession of the attorney work product  
28 will continue to be bound by this Order with respect to all such retained information.



1 a. Absent an ex parte motion made within 10 calendar days of the  
2 termination of the case, the parties understand that the Court will  
3 destroy any confidential documents in its possession.

4 23. The restrictions and obligations set forth within this order will not apply  
5 to any information that: (a) the Parties agree should not be designated Confidential  
6 Information; (b) the Parties agree, or the Court rules, is already public knowledge; (c)  
7 the Parties agree, or the Court rules, has become public knowledge other than as a  
8 result of disclosure by the receiving party, its employees, or its agents in violation of  
9 this Order; or (d) has come or will come into the receiving party's legitimate  
10 knowledge independently of the production by the designating party. Prior knowledge  
11 must be established by pre-production documentation.

12 24. The restrictions and obligations within this order will not be deemed to  
13 prohibit discussions of any Confidential Information with anyone if that person  
14 already has or obtains legitimate possession of that information.

15 25. Transmission by facsimile is acceptable for all notification purposes  
16 within this order.

17 26. This Order may be modified by agreement of the parties, subject to  
18 approval by the Court.

19 27. The Court may modify the terms and conditions of this Order for good  
20 cause, or in the interest of justice, or on its own order at any time in these proceedings.  
21 The parties prefer that the Court provide them with notice of the Court's intent to  
22 modify the Order and the content of those modifications, prior to entry of such an  
23 order.

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**EXHIBIT A**

**ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

I, \_\_\_\_\_ [print full name], of \_\_\_\_\_ [print 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 Central District of California on \_\_\_\_\_ [date] in the case of Contreras et al. v. Remington Lodging & Hospitality, LLC, et al, Case No. 17cv0167-DMS-JLB. 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 Southern 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 full name] of \_\_\_\_\_ [print 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 Order.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_

1 IT IS SO STIPULATED:

2 DATED: October 26, 2017

OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.

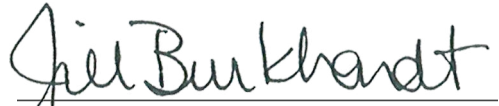
4 By: s/Jesse C. Ferrantella  
5 Spencer C. Skeen  
6 Tim L. Johnson  
7 Jesse C. Ferrantella  
8 Attorneys for Defendant  
9 REMINGTON LODGING &  
10 HOSPITALITY, LLC

11 DATED: October 26, 2017

LAW OFFICES OF DANIEL A.  
KAPLAN

12 By: s/Alanna J. Pearl  
13 Daniel A. Kaplan  
14 Alanna J. Pearl  
15 Attorneys for Plaintiffs

16 IT IS SO ORDERED this 27th day of October, 2017:

17   
18 Hon. Jill L. Burkhardt  
19 United States Magistrate Judge

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