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

JOSEPH DOMBROWSKI.

Plaintiff,

vs.

THE UNITED STATES OF AMERICA, et
al.,

Defendants.

Case No.: 23-cv-34-JAH-KSC

**ORDER GRANTING JOINT
MOTION FOR A PROTECTIVE
ORDER [Doc. No. 6]**

Good cause appearing, the Court **GRANTS** the parties’ Joint Motion for Protective Order [Doc. No. 6] on the following terms:

DEFINITIONS

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

1 b. Designation as “CONFIDENTIAL – FOR COUNSEL ONLY”: Any
2 party may designate information as “CONFIDENTIAL – FOR COUNSEL ONLY”
3 only if, in the good faith belief of such party and its counsel, the information is among
4 that considered to be most sensitive by the party, including but not limited to
5 privileged and confidential information.

6 5. In the event the producing party elects to produce materials for inspection, no
7 marking need be made by the producing party in advance of the initial inspection. For
8 purposes of the initial inspection, all materials produced will be considered as
9 “CONFIDENTIAL – FOR COUNSEL ONLY,” and must be treated as such pursuant to the
10 terms of this Order. Thereafter, upon selection of specified materials for copying by the
11 inspecting party, the producing party must, within a reasonable time prior to producing
12 those materials to the inspecting party, mark the copies of those materials that contain
13 confidential information with the appropriate confidentiality marking.

14 6. Exercise of Restraint and Care in Designating Material for Protection.

15 Each party or non-party that designates information or items for protection under this
16 Order must take care to limit any such designation to specific material that qualifies under
17 the appropriate standards. The designating party must designate for protection only those
18 parts of material, documents, items, or oral or written communications that qualify – so that
19 other portions of the material, documents, items, or communications for which protection
20 is not warranted are not swept unjustifiably within the ambit of this Order.

21 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
22 shown to be clearly unjustified or that have been made for an improper purpose (e.g., to
23 unnecessarily encumber or retard the case development process or to impose unnecessary
24 expenses and burdens on other parties) expose the designating party to sanctions.

25 If it comes to a designating party’s attention that information or items that it
26 designated for protection do not qualify for protection, that designating party must promptly
27 notify all other parties that it is withdrawing the mistaken designation.
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1 7. Whenever a deposition taken on behalf of any party involves a disclosure of
2 confidential information of any party:

3 a. the deposition or portions of the deposition must be designated as
4 containing confidential information subject to the provisions of this Order; such
5 designation must be made on the record whenever possible, but a party may designate
6 portions of depositions as containing confidential information after transcription of
7 the proceedings; a party will have until 14 calendar days after receipt of the deposition
8 transcript to inform the other party or parties to the action of the portions of the
9 transcript to be designated “CONFIDENTIAL” or “CONFIDENTIAL – FOR
10 COUNSEL ONLY.”

11 b. the disclosing party will have the right to exclude from attendance at the
12 deposition, during such time as the confidential information is to be disclosed, any
13 person other than a party, deponent, counsel (including their staff and associates), the
14 court reporter and videographer; and

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

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

27 9. Information designated “CONFIDENTIAL – FOR COUNSEL ONLY” must
28 be viewed only by counsel (including their staff and associates as defined in Paragraph 3)

1 of the receiving party, and by independent experts under the conditions set forth in this
2 Protective Order.

3 10. Information designated “confidential” must be viewed only by counsel
4 (including their staff and associates as defined in Paragraph 3) of the receiving party, by
5 independent experts, by court personnel, and by the additional individuals listed below,
6 provided each such individual has read this Order in advance of disclosure and has executed
7 a copy of the form attached hereto as **Exhibit A**:

8 a. Government Officials who are required to participate in policy decisions
9 with reference to this action;

10 b. Technical personnel of the parties with whom counsel for the parties
11 find it necessary to consult in preparation for trial of this action, including
12 investigators and paralegals; and

13 c. Stenographic and clerical employees associated with the individuals
14 identified above.

15 11. With respect to material designated “CONFIDENTIAL” or
16 “CONFIDENTIAL – FOR COUNSEL ONLY,” any person indicated on the face of the
17 document to be its originator, author, or a recipient of a copy of the document, may be
18 shown the same.

19 12. All information which has been designated as “CONFIDENTIAL” or
20 “CONFIDENTIAL – FOR COUNSEL ONLY” by the producing or disclosing party, and
21 any and all reproductions of that information, must be retained in the custody of the counsel
22 for the receiving party identified in Paragraph 3, except that independent experts authorized
23 to view such information under the terms of this Order may retain custody of copies such
24 as are necessary for their participation in this litigation.

25 13. No document shall be filed under seal unless counsel secures a court order
26 allowing the filing of a document under seal. An application to file a document under seal
27 shall be served on opposing counsel, and on the person or entity that has custody and control
28 of the document, if different from opposing counsel. If opposing counsel, or the person or

1 entity who has custody and control of the document, wishes to oppose the application,
2 he/she must contact the chambers of the judge who will rule on the application, to notify
3 the judge's staff that an opposition to the application will be filed. If an application to file a
4 document under seal is granted by Judge Crawford, a redacted version of the document shall
5 be e-filed. A courtesy copy of the unredacted document shall be delivered to Judge
6 Crawford's chambers.

7 14. At any stage of these proceedings, any party may object to a designation of
8 materials as confidential information. The party objecting to confidentiality must notify, in
9 writing, counsel for the designating party of the objected-to materials and the grounds for
10 the objection. If the dispute is not resolved consensually between the parties after meeting
11 and conferring within 14 calendar days of receipt of such a notice of objections, the parties
12 may jointly request the Court's assistance with the dispute, in accordance with Judge
13 Crawford's Civil Chambers Rules. The materials at issue must be treated as confidential
14 information, as designated by the designating party, until the Court has ruled on the
15 objection or the matter has been otherwise resolved.

16 15. All confidential information must be held in confidence by those inspecting or
17 receiving it and must be used only for purposes of this action. Counsel for each party, and
18 each person receiving confidential information, must take reasonable precautions to prevent
19 the unauthorized or inadvertent disclosure of such information. If confidential information
20 is disclosed to any person other than a person authorized by this Order, the party responsible
21 for the unauthorized disclosure must immediately bring all pertinent facts relating to the
22 unauthorized disclosure to the attention of the other parties and, without prejudice to any
23 rights and remedies of the other parties, make every effort to prevent further disclosure by
24 the party and by the person(s) receiving the unauthorized disclosure.

25 16. No party will be responsible to another party for disclosure of confidential
26 information under this Order if the information in question is not labeled or otherwise
27 identified as such in accordance with this Order.
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1 17. If a party, through inadvertence, produces any confidential information
2 without labeling or marking or otherwise designating it as such in accordance with this
3 Order, the designating party may give written notice to the receiving party that the document
4 or thing produced is deemed confidential information, and that the document or thing
5 produced should be treated as such in accordance with that designation under this Order.
6 The receiving party must treat the materials as confidential, once the designating party so
7 notifies the receiving party. If the receiving party has disclosed the materials before
8 receiving the designation, the receiving party must notify the designating party in writing
9 of each such disclosure.

10 18. Nothing within this Order will prejudice the right of any party to object to the
11 production of any discovery material on the grounds that the material is protected as
12 privileged or as attorney work product.

13 19. Nothing in this Order will bar counsel from rendering advice to their clients
14 with respect to this litigation and, in the course thereof, relying upon any information
15 designated as confidential information, provided that the contents of the information must
16 not be disclosed.

17 20. This Order will be without prejudice to the right of any party to oppose
18 production of any information for lack of relevance or any other ground other than the mere
19 presence of confidential information. The existence of this Order must not be used by either
20 party as a basis for discovery that is otherwise improper under the Federal Rules of Civil
21 Procedure.

22 21. Nothing within this Order will be construed to prevent disclosure of
23 confidential information if such disclosure is required by law or by order of the Court.

24 22. Upon final termination of this action, including any and all appeals, counsel
25 for each party must, upon request of the producing party, return all confidential information
26 to the party that produced the information, including any copies, excerpts, and summaries
27 of that information, or must destroy same at the option of the receiving party, and must
28 purge all such information from all machine-readable media on which it resides.

1 Notwithstanding the foregoing, counsel for each party may retain all pleadings, briefs,
2 memoranda, motions, and other documents filed with the Court that refer to or incorporate
3 confidential information, and will continue to be bound by this Order with respect to all
4 such retained information. Further, attorney work product materials that contain
5 confidential information need not be destroyed, but, if they are not destroyed, the person in
6 possession of the attorney work product will continue to be bound by this Order with respect
7 to all such retained information.

8 23. Within 10 days of the termination of this case, any party seeking the return of
9 Confidential or Attorneys' Eyes Only documents submitted to the Court must file an *ex*
10 *parte* motion for their return. The parties understand that the Court will destroy any
11 Confidential or Attorneys' Eyes Only documents in its possession unless an *ex parte* motion
12 is filed with the 10-day period.

13 24. The restrictions and obligations set forth within this Order will not apply to
14 any information that:

- 15 a. the parties agree should not be designated confidential information;
- 16 b. the parties agree, or the Court rules, is already public knowledge;
- 17 c. the parties agree, or the Court rules, has become public knowledge other
18 than as a result of disclosure by the receiving party, its employees, or its agents in
19 violation of this Order; or
- 20 d. has come or will come into the receiving party's legitimate knowledge
21 independently of the production by the designating party. Prior knowledge must be
22 established by pre-production documentation.

23 25. The restrictions and obligations within this Order will not be deemed to
24 prohibit discussions of any confidential information with anyone if that person already has
25 or obtains legitimate possession of that information.

26 26. Transmission by e-mail or some other currently utilized method of
27 transmission is acceptable for all notification purposes within this Order.
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1 27. Without separate court order, the Protective Order and the parties' stipulation
2 does not change, amend, or circumvent any court rule or local rule.

3 28. The Court may modify the terms and conditions of the Order for good cause,
4 or in the interest of justice, or on its own order at any time in these proceedings.

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6 **IT IS SO ORDERED.**

7 Dated: April 6, 2023



8 Hon. Karen S. Crawford
9 United States Magistrate Judge

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1 **EXHIBIT A**

2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

3 I, _____ (name), of
4 _____ (address), declare under penalty of perjury
5 that I have read in its entirety and understand the Protective Order (“Order”) that
6 was issued by the United States District Court for the Southern District of California
7 in the case of **Joseph Dombrowski, v. United States of America, et al.**, Case No,
8 23cv034-JAH(KSC). I agree to comply with and be bound by all the terms of the
9 Order, and I understand and acknowledge that failure to so comply could expose me
10 to sanctions and punishment in the nature of contempt. I also agree that I will not
11 disclose in any manner any information or item that is subject to the Order to any
12 person or entity, except in strict compliance with the provisions of the Order.

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

16 DATED: _____
17 _____
18 Name: _____
19 Title: _____
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