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 6 Paula Pritchard, Kathleen Robbins, Ian Murray,
 7 Judy Murray, Sandy Chambers, and Kerry Dean

8 UNITED STATES DISTRICT COURT

9 DISTRICT OF NEVADA

10 ENRIQUE MARTINEZ, *et al.*,

11 Plaintiffs,

12 vs.

13 MXI CORP., *et al.*,

14 Defendants.

Case No.: 3:15-cv-00243-MMD-VPC

**PRITCHARD DEFENDANTS AND
 PLAINTIFFS'
 STIPULATION AND ORDER
 REGARDING NON-WAIVER OF
 PRIVILEGES**

17 COME NOW Defendants PAULA PRITCHARD, KATHLEEN ROBBINS, IAN
 18 MURRAY, JUDY MURRAY, SANDY CHAMBERS and KERRY DEAN (collectively the
 19 "Pritchard Defendants"), by and through their counsel, Kaempfer Crowell, and with Plaintiffs
 20 ENRIQUE MARTINEZ, MICHELLE MARTINEZ, SUNSHINE MARTINEZ-VALDEZ,
 21 BECKIE LOBB and PAULA WILSON hereby stipulate to the following.

22
 23 **Stipulation and Order Regarding Non-Waiver of Privileges**

24
 25 WHEREAS, on August 4, 2016, the Court ruled that the Pritchard Defendants were to
 26 provide access to their personal email accounts in granting Plaintiffs' Motion to Compel.

27 As a result of that ruling, the undersigned counsel engaged in discussions to use an
 28 independent third party vendor to collect and safeguard the Pritchard Defendants emails pending an

1 agreement by the undersigned counsel as to the protocol for protecting privileged information.

2 Counsel have mutually agreed to utilize the services of David Field, ACE | Forensic
3 Discovery Technician, XACT DATA DISCOVERY, 733 Marquette Ave South, Suite 125,
4 Minneapolis, Minnesota 55402 ("Third Party Vendor").

5 It was agreed upon by counsel that use of a Third Party Vendor in e-discovery was the most
6 efficient means to comply with the court's ruling and became necessary to ensure the subject files
7 remain intact. However, counsel hereby agree that the use of the Third Party Vendor in no way
8 constitutes a waiver of the attorney-client privilege that may apply to the content uncovered.

9 Counsel also agreed to negotiate a stipulated protocol to govern the production of the
10 Pritchard Defendants' emails to protect for privilege before any emails or documents are produced
11 to Plaintiffs. If the parties cannot agree, the court will be enlisted to provide guidance.
12

13 As such, the Third Party Vendor has agreed to hold, safeguard, and preserve the
14 information collected unless and until counsel enter into an agreement regarding the protocol for
15 production or the Court issues an order addressing the same.
16

17 Counsel hereby agree that there shall be no waiver of the attorney client privilege and work
18 product privilege, along with any other applicable privileges, by disclosure by the Pritchard
19 Defendants of their personal email accounts and corresponding information contained therein to the
20 Third Party Vendor.

21 The parties agree that, pursuant to Fed. R. Evid. 502, the disclosure during discovery of
22 any communication or information that is protected by privilege, including but not limited to those
23 defined by Fed. R. Evid. 502, or work-product protection, shall not waive the privilege or
24 protection in the above-captioned case, or any other federal or state proceeding, for either the
25 document or the subject matter of the document.
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1 All email account disclosures made to the Third Party Vendor are to be regarded as
2 necessary to comply with the Court's August 4, 2016 ruling and their disclosure to the Third Party
3 Vendor shall be regarded as confidential and privileged and the producing party is hereby deemed
4 to have taken "reasonable steps to prevent disclosure," regardless of any argument or
5 circumstances suggesting otherwise. Pursuant to FRE 502(d), "A federal court may order that the
6 privilege or protection is not waived by disclosure connected with the litigation pending before the
7 court — in which event the disclosure is also not a waiver in any other federal or state
8 proceeding."

10 Whereas, the parties have contemplated the foregoing, stipulated, and hereby request the
11 entry of an order providing, that all privileges and work product protection shall not be waived
12 under the certain circumstances, as specified herein.

13 **IT IS SO STIPULATED by the undersigned.**

15 DATED this 8th day of August, 2016.

DATED this 8th day of August, 2016.

16 KAEMPFER CROWELL

DICKINSON WRIGHT, PLLC

17 By: /s/ Lesley B. Miller

By: /s/ R. Adam Swick

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25 *Kathleen Robbins, Ian Murray, Judy*

R. Adam Swick (admitted pro hac vice)

26 *Murray, Sandy Chambers, and Kerry*

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27 *Dean*

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28

Suite C300

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29 **IT IS SO ORDERED**

Tel.: (512) 647-6100

30 *Valerie P. Ponder*
31 **U.S. MAGISTRATE JUDGE**

Fax: (512) 647-6129

32 DATED: August 10, 2016

E-mail: aswick@rctlegal.com

Attorneys for Plaintiffs Enrique

Martinez, Michelle Martinez,

Sunshine Martinez, Beckie Lobb

and Paula Wilson

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ORDER GRANTING STIPULATION.

UNITED STATES MAGISTRATE JUDGE

Michelle Diegel

From: Adam Swick <aswick@rctlegal.com>
Sent: Monday, August 8, 2016 3:32 PM
To: Lesley Miller
Cc: Michelle Diegel; Karen Shuman; Ben King; Beret Flom
Subject: RE: Stipulation and Order Regarding NonWaiver (Final for Signatures) (002).DOCX

You have my permission to sign for me and file.

Sent from my T-Mobile 4G LTE Device

----- Original message -----

From: Lesley Miller <LMiller@kcnvlaw.com>
Date: 8/8/2016 4:38 PM (GMT-06:00)
To: Adam Swick <aswick@rctlegal.com>
Cc: Michelle Diegel <MDiegel@kcnvlaw.com>, Karen Shuman <KShuman@kcnvlaw.com>, Ben King <bking@rctlegal.com>, Beret Flom <bflom@rctlegal.com>
Subject: RE: Stipulation and Order Regarding NonWaiver (Final for Signatures) (002).DOCX

Adam,

With your permission, I will file this. It contains those additions/revisions.

Lesley

KAEMPFER

CROWELL

Lesley B. Miller

Kaempfer Crowell

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