

The Honorable James Robart

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
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

C.V., individually; and M.H., individually,

NO. 2:17-cv-01684-JLR

Plaintiffs,

STIPULATED PROTECTIVE ORDER

v.

[Identical to the Western District of
Washington Model Order, with Particular
Types of Materials Described in Section 2
as Called for by the Model Order]

CORPORATION OF THE PRESIDENT OF
THE CHURCH OF JESUS CHRIST OF
LATTER-DAY SAINTS,

Defendant.

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this agreement is consistent with LCR 26(c). It does not confer blanket protection on all disclosures or responses to discovery, the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to

STIPULATED PROTECTIVE ORDER - 1
No. 2:17-cv-01684-JLR

GORDON | 1001 Fourth Avenue
TILDEN | Suite 4000
THOMAS | Seattle, WA 98154-1007
CORDELL | 206.467.6477

1 confidential treatment under the applicable legal principles, and it does not presumptively entitle
2 parties to file confidential information under seal.
3

4
5 2. “CONFIDENTIAL” MATERIAL
6

7 “CONFIDENTIAL” material shall include the following documents and tangible things
8 produced or otherwise exchanged: (1) documents that contain personal information in COP’s
9 possession relating to third-parties who are members of the LDS Church; and (2) copyrighted
10 Church Handbooks and other internal documents that provide guidance for clergy in the LDS
11 Church.
12
13
14
15

16
17 3. SCOPE
18

19 The protections conferred by this agreement cover not only confidential material (as
20 defined above), but also (1) any information copied or extracted from confidential material;
21 (2) all copies, excerpts, summaries, or compilations of confidential material; and (3) any
22 testimony, conversations, or presentations by parties or their counsel that might reveal
23 confidential material.
24
25
26
27

28 However, the protections conferred by this agreement do not cover information that is in
29 the public domain or becomes part of the public domain through trial or otherwise.
30
31
32

33 4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL
34

35 4.1 Basic Principles. A receiving party may use confidential material that is disclosed
36 or produced by another party or by a non-party in connection with this case only for prosecuting,
37 defending, or attempting to settle this litigation. Confidential material may be disclosed only to
38 the categories of persons and under the conditions described in this agreement. Confidential
39 material must be stored and maintained by a receiving party at a location and in a secure manner
40 that ensures that access is limited to the persons authorized under this agreement.
41
42
43
44
45

1 4.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise
2
3 ordered by the court or permitted in writing by the designating party, a receiving party may
4
5 disclose any confidential material only to:

6
7 (a) the receiving party's counsel of record in this action, as well as employees
8
9 of counsel to whom it is reasonably necessary to disclose the information for this litigation;

10
11 (b) the officers, directors, and employees (including in house counsel) of the
12
13 receiving party to whom disclosure is reasonably necessary for this litigation, unless the parties
14
15 agree that a particular document or material produced is for Attorney's Eyes Only and is so
16
17 designated;

18
19 (c) experts and consultants to whom disclosure is reasonably necessary for
20
21 this litigation and who have signed the "Acknowledgement and Agreement to Be Bound"
22
23 (Exhibit A);

24
25 (d) the court, court personnel, and court reporters and their staff;

26
27 (e) copy or imaging services retained by counsel to assist in the duplication of
28
29 confidential material, provided that counsel for the party retaining the copy or imaging service
30
31 instructs the service not to disclose any confidential material to third parties and to immediately
32
33 return all originals and copies of any confidential material;

34
35 (f) during their depositions, witnesses in the action to whom disclosure is
36
37 reasonably necessary and who have signed the "Acknowledgement and Agreement to Be Bound"
38
39 (Exhibit A), unless otherwise agreed by the designating party or ordered by the court. Pages of
40
41 transcribed deposition testimony or exhibits to depositions that reveal confidential material must
42
43 be separately bound by the court reporter and may not be disclosed to anyone except as permitted
44
45 under this agreement;

1 (g) the author or recipient of a document containing the information or a
2
3 custodian or other person who otherwise possessed or knew the information.
4

5 4.3 Filing Confidential Material. Before filing confidential material or discussing or
6
7 referencing such material in court filings, the filing party shall confer with the designating party
8
9 to determine whether the designating party will remove the confidential designation, whether the
10
11 document can be redacted, or whether a motion to seal or stipulation and proposed order is
12
13 warranted. Local Civil Rule 5(g) sets forth the procedures that must be followed and the
14
15 standards that will be applied when a party seeks permission from the court to file material under
16
17 seal.
18

19 5. DESIGNATING PROTECTED MATERIAL

20
21 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each party
22
23 or non-party that designates information or items for protection under this agreement must take
24
25 care to limit any such designation to specific material that qualifies under the appropriate
26
27 standards. The designating party must designate for protection only those parts of material,
28
29 documents, items, or oral or written communications that qualify, so that other portions of the
30
31 material, documents, items, or communications for which protection is not warranted are not
32
33 swept unjustifiably within the ambit of this agreement.
34

35 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
36
37 shown to be clearly unjustified or that have been made for an improper purpose (*e.g.*, to
38
39 unnecessarily encumber or delay the case development process or to impose unnecessary
40
41 expenses and burdens on other parties) expose the designating party to sanctions.
42
43
44
45

1 If it comes to a designating party's attention that information or items that it designated
2
3 for protection do not qualify for protection, the designating party must promptly notify all other
4
5 parties that it is withdrawing the mistaken designation.
6

7 5.2 Manner and Timing of Designations. Except as otherwise provided in this
8
9 agreement (*see, e.g.*, second paragraph of section 5.2(a) below), or as otherwise stipulated or
10
11 ordered, disclosure or discovery material that qualifies for protection under this agreement must
12
13 be clearly so designated before or when the material is disclosed or produced.
14

15 (a) Information in documentary form: (*e.g.*, paper or electronic documents
16
17 and deposition exhibits, but excluding transcripts of depositions or other pretrial or trial
18
19 proceedings), the designating party must affix the word "CONFIDENTIAL" to each page that
20
21 contains confidential material. If only a portion or portions of the material on a page qualifies
22
23 for protection, the producing party also must clearly identify the protected portion(s) (*e.g.*, by
24
25 making appropriate markings in the margins).
26

27 (b) Testimony given in deposition or in other pretrial proceedings: The
28
29 parties and any participating non-parties must identify on the record, during the deposition or
30
31 other pretrial proceeding, all protected testimony, without prejudice to their right to so designate
32
33 other testimony after reviewing the transcript. Any part or non-party may, within fifteen days
34
35 after receiving the transcript of the deposition or other pretrial proceeding, designate portions of
36
37 the transcript, or exhibits thereto, as confidential. If a party or non-party desires to protect
38
39 confidential information at trial, the issue should be addressed during the pretrial conference.
40

41 (c) Other tangible items: the producing party must affix in a prominent place
42
43 on the exterior of the container or containers in which the information or item is stored the word
44
45

1 “CONFIDENTIAL.” If only a portion or portions of the information or item warrant protection,
2
3 the producing party, to the extent practicable, shall identify the protected portion(s).
4

5 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
6
7 designate qualified information or items does not, standing alone, waive the designating party’s
8
9 right to secure protection under this agreement for such material. Upon timely correction of a
10
11 designation, the receiving party must make reasonable efforts to ensure that the material is
12
13 treated in accordance with the provisions of this agreement.
14

15 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

16
17 6.1 Timing of Challenges. Any party or non-party may challenge a designation of
18
19 confidentiality at any time. Unless a prompt challenge to a designating party’s confidentiality
20
21 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic
22
23 burdens, or a significant disruption or delay of the litigation, a party does not waive its right to
24
25 challenge a confidentiality designation by electing not to mount a challenge promptly after the
26
27 original designation is disclosed.

28
29 6.2 Meet and Confer. The parties must make every attempt to resolve any dispute
30
31 regarding confidential designations without court involvement. Any motion regarding
32
33 confidential designations or for a protective order must include a certification, in the motion or in
34
35 a declaration or affidavit, that the movant has engaged in a good faith meet and confer
36
37 conference with other affected parties in an effort to resolve the dispute without court action.
38
39 The certification must list the date, manner, and participants to the conference. A good faith
40
41 effort to confer requires a face-to-face meeting or a telephone conference.
42

43 6.3 Judicial Intervention. If the parties cannot resolve a challenge without court
44
45 intervention, the designating party may file and serve a motion to retain confidentiality under

1 Local Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable). The burden of
2 persuasion in any such motion shall be on the designating party. Frivolous challenges, and those
3 made for an improper purpose (*e.g.*, to harass or impose unnecessary expenses and burdens on
4 other parties) may expose the challenging party to sanctions. All parties shall continue to
5 maintain the material in question as confidential until the court rules on the challenge.
6
7
8
9

10
11 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
12 LITIGATION
13

14 If a party is served with a subpoena or a court order issued in other litigation that compels
15 disclosure of any information or items designated in this actions as "CONFIDENTIAL," that
16 party must:
17
18

19 (a) promptly notify the designating party in writing and include a copy of the
20 subpoena or court order;
21

22 (b) promptly notify in writing the party who caused the subpoena or order to
23 issue in the other litigation that some or all of the material covered by the subpoena or order is
24 subject to this agreement. Such notification shall include a copy of this agreement; and
25

26 (c) cooperate with respect to all reasonable procedures sought to be pursued
27 by the designating party whose confidential material may be affected.
28
29

30
31 8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL
32

33 If a receiving party learns that, by inadvertence or otherwise, it has disclosed confidential
34 material to any person or in any circumstance not authorized under this agreement, the receiving
35 party must immediately (a) notify in writing the designating party of the unauthorized
36 disclosures, (b) use its best efforts to retrieve all unauthorized copies of the protected material,
37 (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of
38
39
40
41
42
43
44
45

1 this agreement, and (d) request that such person or persons execute the “Acknowledgement and
2 Agreement to Be Bound” that is attached hereto as Exhibit A.
3
4

5 9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
6 MATERIAL
7

8 When a producing party gives notice to receiving parties that certain inadvertently
9 produced material is subject to a claim of privilege or other protection, the obligations of the
10 receiving parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This
11 provision is not intended to modify whatever procedure may be established in an e-discovery
12 order or agreement that provides for production without prior privilege review. The parties agree
13 to the entry of a non-waiver order under Fed. R. Evid. 502(d) as set forth herein.
14
15
16
17
18
19

20 10. NON TERMINATION AND RETURN OF DOCUMENTS
21

22 Within 60 days after the termination of this action, including all appeals, each receiving
23 party must return all confidential material to the producing party, including all copies, extracts
24 and summaries thereof. Alternatively, the parties may agree upon appropriate methods of
25 destruction.
26
27
28

29 Notwithstanding this provision, counsel are entitled to retain one archival copy of all
30 documents filed with the court, trial, deposition, and hearing transcripts, correspondence,
31 deposition and trial exhibits, expert reports, attorney work product, and consultant and expert
32 work product, even if such materials contain confidential mater.
33
34
35
36
37

38 The confidentiality obligations imposed by this agreement shall remain in effect until a
39 designating party agrees otherwise in writing or a court orders otherwise.
40
41
42
43
44
45

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: April 23, 2018

GORDON TILDEN THOMAS & CORDELL LLP
Attorneys for Defendant

By: s/ Michael Rosenberger
Jeffrey I. Tilden, WSBA #12219
Michael Rosenberger, WSBA #17730
1001 Fourth Avenue, Suite 4000
Seattle, Washington 98154-1007
206.467.6477
jtilden@gordontilden.com
mrosenberger@gordontilden.com

DATED: April 23, 2018

WASHINGTON LAW CENTER
Attorneys for Plaintiffs

By: s/ Ashton K. Dennis
Ashton K. Dennis, WSBA #44015
Daniel Swinford, WSBA #52839
15 Oregon Avenue, Suite 210
Tacoma, WA 98409
ashton@washingtonlawcenter.com
daniel@washingtonlawcenter.com

CONNELLY LAW OFFICES
Attorneys for Plaintiffs

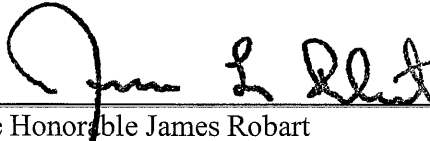
By: s/ Lincoln C. Beauregard
Lincoln C. Beauregard, WSBA #32878
Connelly Law Offices
2301 North 30th Street
Tacoma, WA 98403-3322
lincolnb@connelly-law.com

PURSUANT TO STIPULATION, IT IS SO ORDERED.

IT IS FURTHER ORDERED that pursuant to Fed R. Evid. 502(d), the production of any documents in this proceeding shall not, for the purposes of this proceeding or any other

1 proceeding in any other court, constitute a waiver by the producing party of any privilege
2
3 applicable to those documents, including the attorney-client privilege, attorney work-product
4
5 protection, or any other privilege or protection recognized by law.
6
7

8
9 DATED: April 24, 2018



The Honorable James Robart
United States District Court Judge

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

EXHIBIT A

ACKNOWLEDGEMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type 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 Western District of Washington on _____, 2018 in the case of *C.V. and M.H. v. Corporation of the President of the Church of Jesus Christ of Latter-day Saints*, No. 2:17-cv-01684-JLR. 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 Western District of Washington for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

DATE: _____

City and State where sworn and signed: _____

Printed name: _____

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
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45