

IT IS HEREBY stipulated and made an Order of the Court that, until this Stipulated Confidentiality Order is amended or superseded, all parties and their employees who are provided with Confidential Information (as hereinafter defined) shall follow the procedures set forth below with respect to certain documents, information, or testimony provided or exchanged in these or related actions or proceedings.

A. Scope.

1. This Order shall govern all documents and information produced by any party or persons or entities not a party to this action, whether produced informally or pursuant to a formal discovery request and shall also include all documents or information contained in a document, or information revealed during a deposition or in any interrogatory answer or otherwise disclosed in discovery.

2. Nothing in this Order precludes any party from seeking relief from the Court with regard to the production of documents or information.

3. This Order does not alter any confidentiality obligations that a party may have at law or under another agreement.

4. Nothing in this Order shall be construed as an agreement or acknowledgment by the non-producing party that any document, testimony, or other information designated as “Confidential” or “Confidential – Attorney’s Eyes Only” constitutes a trade secret or is in fact confidential.

B. Confidential Information.

1. Materials that contain sensitive information may be designated as “Confidential” or as “Confidential – Attorney’s Eyes Only.” The designating party, who need not be the producing party, will make such a designation only as to those documents or discovery responses

that are in good faith believed to contain or constitute valuable confidential, proprietary, trade secret, or other sensitive information. The designation “Confidential – Attorneys Eyes Only” shall be reserved for the above information that is believed to be unknown to the opposing party or parties, or any of the employees of a corporate party. For purposes of this order, so-designated information includes, but is not limited to, non-public financial information, pricing information, customer and patient identification and health data, and marketing materials. Materials so designated are referred to herein as “Confidential Information.”

2. Documents shall be designated as Confidential Information by marking or stamping each page of any such document “Confidential,” “Confidential—Attorney’s Eyes Only,” or identifying such documents by bates production numbers or other unequivocal identifier in writing to each party receiving the Confidential Information. In lieu of marking the originals of documents, any party may mark the copies of such documents that are produced or exchanged.

3. With respect to testimony that constitutes or references Confidential Information, confidential portions of the transcript may be designated as such on the record at the time the testimony is given, and additional portions of the testimony may be designated as “Confidential” or “Confidential—Attorney’s Eyes Only” within twenty (20) days after receipt of the transcript. Until the twenty (20) day period has expired, the entire transcript shall be treated as Confidential Information. In addition, any deposition in which documents designated as containing Confidential Information are marked as exhibits or shown to the deponent or otherwise employed shall be considered confidential and subject to the provisions of this Order.

C. Treatment of Confidential Information.

1. Except as otherwise provided in this or subsequent court orders, documents designated as “Confidential” shall not be disclosed or shown to anyone other than:

- (a) The parties, the employees of such parties, or the agents of the parties (or the parent or beneficial owner of such party) to whom it is necessary that Confidential Information be shown for purposes of this proceeding;
- (b) Outside counsel for the parties, the employees of such attorneys, and agents of such attorneys, to whom it is necessary that Confidential Information be shown for purposes of this proceeding;
- (c) Inside counsel for each party and the employees of such attorneys to whom it is necessary that Confidential Information be shown for purposes of this proceeding;
- (d) Persons employed by any party or its attorneys solely for the purpose of assisting in the preparation of this action for trial, including but not limited to experts, their staff, and support personnel to whom it is necessary that Confidential Information be shown for purposes of assisting in such preparation. Each person to whom Confidential Information is disclosed, revealed, or made available, including experts or consultants retained by one or more of the Parties, shall be advised of the existence and the contents of this Order and shall agree in writing to be bound by its terms and conditions by executing the Protective Order Agreement attached hereto as Exhibit A (“Protective Order Agreement”). Outside counsel shall maintain the Protective Order Agreements throughout the course of the litigation and shall provide copies of same to the Producing Party and the Court upon request;
- (e) The Court or persons employed by the Court and the jury;

- (f) Duly qualified court reporters and videographers participating in these proceedings;
- (g) Persons who were the authors or recipients of the documents in the ordinary course of business;
- (h) Witnesses in preparation for or in the course of depositions or the trial of this matter; and
- (i) Persons who, in addition to those identified above, are permitted access by order of the Court or upon stipulation of the party that produced or disclosed the Confidential Information, after notice to all parties and an opportunity has been had to object.

2. Documents designated as “Confidential – Attorney’s Eyes Only” shall not be disclosed or shown to anyone other than the persons described in paragraphs C.1(b), C.1(d), C.1(e), C.1(f), C.1(g) and C.1(i).

3. Confidential Information shall be used by the receiving party solely for the prosecution and/or defense of this litigation and only as provided in this Stipulated Confidentiality Order. Confidential Information shall not be used or employed for the purpose of any other action, use or proceeding, or for any commercial, business or other purpose whatsoever. It is specifically recognized that information, which is marked “Confidential” or “Confidential—Attorneys’ Eyes Only” shall not be utilized by the receiving party for any purpose other than the prosecution and/or defense of this litigation.

4. No person shall disclose Confidential Information to any third party, except as provided by this Order, without prior written notice of the specific disclosures and persons involved to the designating party—which may not be the “producing party”—and any other person

or entity which claims the information is Confidential Information. Such disclosure shall not be made until the party seeking to disclose the document provides ten days written notice to the person or party claiming information is Confidential Information—which may not be the “producing party”—and (1) such party consents to the disclosure; or (2) the court resolves any objections to the disclosure, whichever is earlier. Any objections to such disclosure shall be made in writing by the producing party within 10 days after receipt of notice of any intent to disclose.

5. Notwithstanding anything to the contrary in the foregoing paragraphs, any party may use without restriction:

- (a) its own documents or information; and
- (b) documents or information developed or obtained by a receiving party independently of discovery in these or related actions or proceedings;

irrespective of whether such document or information has been designated by the designating party as Confidential Information.

6. Each person given access to designated Confidential Information shall be advised that the information is being disclosed pursuant and subject to the terms of this Stipulated Confidentiality Order and may not be disclosed other than as provided by this Order. To the extent such person is neither a party nor employed by a party, such person shall sign Exhibit A (“Protective Order Agreement”) before any Confidential Information is disclosed.

7. No Confidential Information, including but not limited to transcripts, depositions, exhibits, and pleadings, shall be filed with the Court or used in a hearing unless the party seeking to file or use the Confidential Information has provided, at least five (5) business days before the intended use, written notice to all parties and any person claiming the information is Confidential Information, of its intent to use any information designated as Confidential Information. This pre-

filing notice shall specify the specific information that the party intends to file with the Court and will allow the other party's counsel sufficient time to seek a temporary or permanent sealing order, if desired, and rely on the protections afforded to it under Texas Civil Practice & Remedies Code § 134A.006 and/or Rule 76a of the Texas Rules of Civil Procedure. Upon request of the designating party, the parties shall reasonably cooperate to redact the Confidential Information, if feasible, to avoid the need for a sealing order.

8. In the event of an emergency, a party seeking to file or use Confidential Information shall not file or use any such information but shall instead tender to the Court for *in camera* inspection the Confidential Information that it seeks to file and seek a ruling permitting the use of the material. During the pendency of a motion for protection or in the event of an emergency, the parties will treat Confidential Information in dispute as subject to this Confidentiality Order until the Court enters an order determining otherwise.

9. Unless otherwise agreed to by the parties or ordered by the Court, all pre-trial proceedings involving or relating to “Confidential” and/or “Confidential—Attorney’s Eyes Only” Material shall be subject to the provisions of this Order.

10. This Order shall not be deemed a waiver of any party’s: (1) right to timely object to any discovery requests on any ground which has not previously been overruled or waived; (2) right to seek an order compelling discovery with respect to any discovery requests; (3) right in any proceeding herein to object to the admission of any evidence on any ground; or (4) right to use its own documents and its own “Confidential” or “Confidential—Attorney’s Eyes Only” Material in its sole and complete discretion.

11. The inadvertent or unintentional disclosure of Confidential Information, regardless of whether the information was so designated at the time of the disclosure, shall not be deemed a

waiver, in whole or in part, of a party's claim of confidentiality, either as to the specific information disclosed or as to any other information relating thereto on the same or related subject matter if, within ten (10) days of discovering the inadvertent failure to designate the material as “Confidential” or “Confidential—Attorneys’ Eyes Only,” the person or entity that provided the Confidential Information identifies the material produced and amends the designation.

12. Within thirty (30) days after the settlement or final adjudication, including appeals, of the action or actions in which the documents have been produced, all Confidential Information supplied by the parties and non-parties and all copies thereof shall, upon request, be certified to have been destroyed or deleted. However, it is understood that each party may retain a complete file of all litigation documents filed with the Court in these actions and that work product in the possession or control of counsel for any party that reflects or includes information derived from documents or testimony designated as confidential will not be destroyed or deleted.

13. A party shall not be obligated to challenge the propriety of a designation of Confidential Information at the time such designation is made, and a failure to do so shall not preclude a subsequent challenge to the designation. In the event that any party to this litigation disagrees at any stage of these proceedings with the designation of any information as Confidential Information, the parties shall first try to resolve the dispute in good faith on an informal basis, such as by production of redacted copies. If the dispute cannot be resolved, the objecting party may move the court for an order removing the designated status of the disputed information; however, the designating party shall bear the burden of proof on whether the information is properly designated. The disputed information shall remain Confidential Information unless and until the court orders otherwise.

14. Any other dispute concerning the application of this Stipulated Confidentiality Order shall be heard by the Court upon motion by the objecting party. This Stipulated Confidentiality Order in no manner circumvents the protections afforded to the parties under Texas Civil Practice & Remedies Code § 134A.006 and Rule 76a of the Texas Rules of Civil Procedure. Any abuse of this Stipulated Confidentiality Order may result in sanctions/costs being taxed against the abusive party.

IT IS SO ORDERED this _____ day of _____, 2021.

Signed: 
7/27/2022

Hon. Robert Schaffer, Presiding Judge

APPROVED AS TO FORM AND CONTENT:

/s/ Shannon A. Lang
Shannon A. Lang

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d/b/a Law Office of Merick Nepomuceno
and Emmerico Tan Nepomuceno a/k/a
Merick Nepomuceno

DATED this _____ day of _____, _____.

By: _____

Name: _____
(Printed Name)