

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

OHIO A. PHILIP RANDOLPH INSTITUTE, <i>et al.</i>	:	
	:	
Plaintiffs,	:	Case No. 2:16-cv-00303
	:	
v.	:	JUDGE GEORGE C. SMITH
	:	
SECRETARY OF STATE, JON HUSTED	:	Magistrate Judge Deavers
	:	
Defendant.	:	

STIPULATED CONFIDENTIALITY AGREEMENT AND PROTECTIVE ORDER

Counsel for Plaintiffs and Defendant have conferred and agree to stipulate to the following order (the “Protective Order”):

1. This Stipulated Confidentiality Agreement and Protective Order (“Agreement and Order”) is necessary because Plaintiffs have sought in discovery a recent data list in the Secretary’s possession that originated from the Bureau of Motor Vehicles (“BMV”).
2. This Agreement and Order covers documents with information originating from the BMV that are in Defendant’s possession, custody, or control, and that are responsive to Plaintiffs’ discovery requests. More specifically, the responsive documents consist of a list of Ohioans with a driver’s license as of approximately March 23, 2017. This Agreement and Order applies to the Responsive Documents and all information in the Responsive Documents. These documents and all information in the documents are collectively referred to herein as the “Responsive Documents.”
3. Prior to producing the Responsive Documents to Plaintiffs, Defendant shall affix the word “Confidential” to the Responsive Documents. Accidental disclosure of the

Responsive Documents without a “Confidential” designation does not waive the confidence and protections provided under this Agreement and Order.

4. Prior to producing the Responsive Documents, the Secretary shall redact the following information from the Responsive Documents: all digits but the last two digits of social security numbers. Accidental disclosure of the Responsive Documents without redactions does not waive the confidence and protections provided under this Agreement and Order.
5. The Responsive Documents shall be used solely for the purposes of this litigation, including all levels of appeal. Plaintiffs and others bound by this Agreement and Order agree not to use the information in the Responsive Documents to contact or communicate with any individual for any reason.
6. Within thirty (30) days after the conclusion of this litigation, including any appeals, Plaintiffs and their counsel and all other individuals who have received a copy of the Responsive Documents (aside from the Secretary, the Court, and Court support staff) shall destroy all copies of the Responsive Documents in their possession, custody, or control.
7. The Responsive Documents may be disclosed to and used only by:
 - a. Counsel of record for the parties, other attorneys within such counsel’s office and such counsel’s support staff involved in this litigation;
 - b. An outside consultant or expert who is being consulted or retained by Plaintiffs’ counsel in this litigation, including such consultant’s or expert’s support staff;
 - c. The Court, and its support staff; and
 - d. Any other person as ordered by the Court.

8. Prior to disclosing any Responsive Documents to any individuals (other than the Court and its support staff) referenced in Paragraph 7, Plaintiffs' counsel shall obtain from said individuals, as a condition of receiving the Responsive Documents, the agreement annexed hereto as Attachment A.
9. Subject to Paragraphs 10 and 11 and the other terms of this Agreement and Order and the Federal Rules of Civil Procedure, any party may use Responsive Documents in the course of a deposition or hearing as may be allowed, provided that prior to his or her examination, the witness is furnished with a copy of this Order and has executed Attachment A to this Order.
10. Individuals to whom Responsive Documents are disclosed may only thereafter publicly use or disclose calculations and analyses that summarize data from the Responsive Documents and do not reveal any personal identification information. Subject to Paragraphs 7 and 11, individuals to whom Responsive Documents are disclosed shall not share with any other person or entity personal identification information from any of the Responsive Documents, including names, addresses, and any other information that can or may be used to identify individuals.
11. In the event that Plaintiffs intend to use any of the personal identification information in Paragraph 10 in a court filing or proceeding (*i.e.* names, addresses, and any other information that can or may be used to identify individuals), Plaintiffs shall only do so under seal or in a confidential court setting. Plaintiffs shall ensure that any references to this information in any transcripts is redacted or put under seal prior to making any transcripts public.

IT IS SO ORDERED.

s/ George C. Smith
GEORGE C. SMITH, JUDGE
UNITED STATES DISTRICT COURT

Respectfully submitted,

MICHAEL DEWINE (0009181)
Ohio Attorney General

s/ Naila Awan (by email authority)

NAILA AWAN, Trial Attorney (0088147)
STUART C. NAIFEH*
CAMERON BELL*
Dēmos
220 Fifth Ave., 2nd Flr.
New York, NY 10001
Telephone: 212-485-6055
Email: nawan@demoss.org
Email: snaifeh@demoss.org

s/ Steven T. Voigt

STEVEN T. VOIGT (0092879)
Principal Assistant Attorney General
HEATHER L. BUCHANAN (0083032)
Senior Assistant Attorney General
Constitutional Offices Section
30 East Broad Street, 16th Floor
Columbus, Ohio 43215
Tel: (614) 466-2872; Fax: (614) 728-7592
steven.voigt@ohioattorneygeneral.gov
heather.buchanan@ohioattorneygeneral.gov

FREDA J. LEVENSON (0045916)
ACLU of Ohio
4506 Chester Avenue
Cleveland, Ohio 44103
Telephone: 216-472-2220
Email: flevenson@acluohio

Counsel for Defendant
Secretary of State Jon Husted

DANIEL P. TOKAJI
Cooperating Attorney for ACLU of Ohio
The Ohio State University
Moritz College of Law**
55 W. 12th Ave
Columbus, OH 43210
Telephone: 310-266-0402
Email: dtokaji@gmail.com

RICHARD SAPHIRE (0017813)
Cooperating Attorney for ACLU of Ohio
University of Dayton School of Law**
300 College Park
Dayton, Ohio 45469
Telephone: 937-229-2820
Email: rsaphire1@udayton.edu

PAUL MOKE (0014099)
Cooperating Attorney for ACLU of Ohio
Wilmington College**
1252 Pyle Center
Wilmington, Ohio 45177
Telephone: 937-725-7501
Email: paul.moke@gmail.com
Counsel for Plaintiffs