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Attorneys for Non-Party  
GOOGLE INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

Case No. 3-16-80263-RS

**In the Matter of the Search of Content  
Stored at Premises Controlled by Google  
Inc. and Further Described in  
Attachment A**

**Non-Party Google Inc.'s Administrative  
Motion for an Order of Civil Contempt  
[Civil Local Rule 7-11]**

**I. Introduction**

On August 14, 2017, the Court denied Google's Motion to Quash and ordered Google Inc. ("Google") to produce certain foreign-stored communications to the government in response to a search warrant. *See In re Search of Content Stored at Premises Controlled by Google Inc. and Further Described in Attachment A*, No. 16-mc-80263-RS, 2017 WL 3478809 (N.D. Cal. Aug. 14, 2017) (the "August 14 Order"). Because the August 14 Order conflicts directly with the ruling of the Second Circuit Court of Appeals, *see In re Warrant to Search a Certain E-Mail Account Controlled & Maintained by Microsoft Corp.*, 829 F.3d 197 (2d Cir. 2016)

1 (“*Microsoft*”); *reh’g denied en banc*, 855 F.3d 53 (2d Cir. 2017) (“*En Banc Denial*”), the only  
 2 appellate court to have addressed the issue, Google intends to appeal to obtain legal clarity from  
 3 the appellate court in its home district. Google therefore does not intend to comply with the  
 4 August 14 Order while seeking appellate review.<sup>1</sup>

5 Because entry of a civil contempt order is necessary to remove doubt as to the basis for  
 6 appellate jurisdiction and would facilitate prompt appellate review, and because compliance with  
 7 the Court’s August 14 Order would undermine Google’s ability to seek legal clarity in its home  
 8 district, Google sought the government’s agreement to enter into a stipulation of civil contempt  
 9 with any sanctions stayed pending appellate review of the August 14 Order. The government  
 10 agreed to a similar stipulation in the *Microsoft* case, and indeed it recently entered into such a  
 11 stipulation with Google in another jurisdiction with stayed sanctions identical to those Google  
 12 sought here. In this case, however—despite this Court’s recognition that Google is proceeding in  
 13 good faith in this litigation to seek clarity on an important legal issue—the government refused to  
 14 enter into any stipulation with a stay of sanctions. Google accordingly brings this motion to  
 15 respectfully request that the Court enter the proposed Order finding Google in civil contempt,  
 16 devise an appropriate sanction, and stay any sanctions during the pendency of Google’s appeal.<sup>2</sup>  
 17 Google will continue to preserve information in its possession that is called for by the warrant but  
 18 stored outside of the United States, and would immediately produce this information if, after  
 19 exhausting its appellate options, it does not prevail.<sup>3</sup>

20 <sup>1</sup> Google understands that complying with the August 14 Order would potentially undermine the  
 21 Ninth Circuit Court of Appeals’ jurisdiction over this matter and therefore Google’s ability to  
 22 obtain the legal clarity it seeks.

23 <sup>2</sup> Consistent with common practice, and based in part on this Court’s finding that Google has  
 24 made “diligent, good faith efforts to comply with current law” in this matter, Aug. 14 Order, 2017  
 25 WL 3478809, at \*5, Google requested that the government stipulate to civil contempt with stayed  
 26 sanctions to facilitate a prompt appeal. Although the government has in related litigation in  
 27 another jurisdiction stipulated to the terms Google proposed, *see* Declaration of John R. Tyler  
 28 (“Tyler Decl.”), ¶¶ 3-4, Ex. B-C, it declined to do so here. The government instead indicated that  
 it would oppose Google’s exercise of its right to appeal unless Google was required to pay  
 coercive sanctions for each day the appeal was pending. *See* Tyler Decl., ¶ 6.

<sup>3</sup> This motion is properly styled as an administrative motion pursuant to Civil Local Rule 7-11  
 because it concerns a matter “not otherwise governed by a federal statute, Federal or local rule or  
 standing order.” Civil Local Rule 7-8, which otherwise governs “motion[s] for sanctions,” does  
 not apply here because Google is not asking the court to sanction another party. There is no  
 dispute that Google does not intend to comply with the August 14 Order while it seeks appellate  
 review, and by this motion Google is simply so advising the Court and requesting an appropriate  
 order to facilitate review.

## II. Argument

### A. An Order of Civil Contempt Is a Final, Appealable Order.

It is well established that an order finding a non-party in civil contempt is a final, appealable order. *See, e.g., Estate of Domingo v. Republic of Philippines*, 808 F.2d 1349, 1350 (9th Cir. 1987) (recognizing a non-party's "right of appeal" once he submits to contempt) (citing *David v. Hooker, Ltd.*, 560 F.2d 412, 416 (9th Cir. 1977)); *In re Grand Jury Subpoenas Dated December 10, 1987*, 926 F.2d 847, 853 (9th Cir. 1991) (same); *see also In re Sealed Case*, 141 F.3d 337, 339 (D.C. Cir. 1998) (contempt order against a non-party "is considered final" and subject to appellate review). The Supreme Court has held that the claims of a non-party that receives an adverse discovery order become "ripe for appellate review" when a finding of contempt is entered. *United States v. Ryan*, 402 U.S. 530, 532 (1971); *see also Church of Scientology of California v. United States*, 506 U.S. 9, 18, n. 11 (1992).

Indeed, the government has recently stipulated, and an appellate court has recently found, that such an order of civil contempt provides an appropriate basis for appellate review in a case that raised the same legal issues as this matter. In *Microsoft*—the case that lies at the root of this litigation—the Second Circuit Court of Appeals recognized that an order finding a service provider in civil contempt was a final appealable order. *See Microsoft*, 829 F.3d at 205 & n. 9. In *Microsoft*, after the U.S. District Court for the Southern District of New York denied Microsoft's motion to quash a search warrant that purported to compel Microsoft to disclose foreign-stored data, the government and Microsoft stipulated to a finding of contempt, and the Second Circuit acknowledged that the contempt finding rendered the decision sufficiently final for purposes of appellate jurisdiction. *See id.*

### B. A Contempt Order is Final Even If Contempt Sanctions Are Stayed Pending Appeal and a Stay is Appropriate in this Matter.

Where a non-party seeks review "so that the merits of" a discovery order "can be tested," courts have found that it is appropriate to stay contempt sanctions during the pendency of appeal. *Harris v. United States*, 413 F.2d 314, 315 (9th Cir. 1969); *see also Stone v. City and County of San Francisco*, 968 F.2d 850, 854-55 (9th Cir. 1992); Federal Practice & Procedure § 3917 ("A nonparty witness could appeal an adjudication of contempt for failure to obey a discovery order, even though the district court stayed the imposition of sanctions."). Google here seeks in good faith to test the legal merits of the August 14 Order in light of contrary precedent in the Second

Circuit. Given that providers like Google face legal uncertainty in the Ninth Circuit on the important issues raised by this case, the public interest strongly favors allowing Google to proceed with this appeal, and to stay any sanctions so that Google need not comply prematurely at the risk of undermining appellate jurisdiction. Google will continue to preserve the information requested by the warrant, thereby minimizing any harm to the government. Accordingly, Google requests that the Court enter an order of contempt against Google with an appropriate sanction, to be stayed during the pendency of Google's appeal in this matter.

**1. Google Seeks In Good Faith to Clarify an Unsettled Issue of Law in this Circuit.**

The Second Circuit's decision in *Microsoft* has created substantial legal uncertainty regarding whether a warrant issued under the SCA can compel a provider to search and retrieve private customer communications from a foreign data center. The Ninth Circuit has not yet addressed the matter; in fact, the Second Circuit is the only federal appellate court to have done so and the August 14 Order conflicts with the Second Circuit's decision. Because Google has its headquarters within the jurisdiction of the Ninth Circuit, it is particularly important for Google's continued operations to obtain the Ninth Circuit's guidance on this important issue.

The Court's August 14 Order recognized that Google has proceeded in good faith in this matter to seek legal clarity regarding legal issues important to its operations, holding: "In light of the Second Circuit decision in *Microsoft* and the absence of relevant Ninth Circuit precedent, Google's diligent, good faith efforts to comply with current law do not warrant contempt at this stage of the proceedings." August 14 Order, 2017 WL 3478809, at \*5. Google brings this motion for contempt to enable it to obtain "relevant Ninth Circuit precedent" clarifying what is required for Google to "comply with current law" in light of the uncertainty resulting from *Microsoft*.

The contempt order Google seeks here is similar to that entered in *Microsoft* pursuant to a stipulation between Microsoft and the government. Whereas Microsoft sought to appeal in the absence of case law clearly and directly supporting its position, Google seeks to appeal partly on the basis of appellate case law (the *Microsoft* decision) contrary to this Court's decision. Google's basis for appeal and need for clarifying certainty is therefore, if anything, stronger than Microsoft's was. Nonetheless, in *Microsoft*, the government stipulated to a finding of civil contempt without sanctions to facilitate appeal. Here, where the basis for appeal is still stronger,

1 the government takes the position that Google cannot appeal without incurring coercive, daily  
2 sanctions. There is no legitimate basis for the government's change of position.

3 **2. The Government Commonly Agrees to Stay Sanctions Pending Appeal in**  
4 **Similar Circumstances.**

5 The government's position is all the more inexplicable because it has consistently entered  
6 into stipulations of contempt with no sanctions or stayed sanctions to facilitate appeal by Internet  
7 service providers. As noted above, it entered into a stipulation with Microsoft and agreed that,  
8 because the provider only sought "in good faith" to obtain review of the trial court's decision,  
9 contempt sanctions were not appropriate during the pendency of the appeal. *See Microsoft*, 829  
10 F.3d at 205 & n. 9.; *see also* Tyler Decl., ¶ 2, Ex. A (Joint Stip. Regarding Contempt Order, Case  
11 Nos. 13-MAG-2184; M9-150). It has also recently entered into a stipulation with Google in  
12 another jurisdiction with stayed sanctions nearly identical to the stipulation Google proposed  
13 here. *See* Tyler Decl., Exs. B-C. And it has elsewhere entered into a stipulation with stayed  
14 sanctions with another service provider to facilitate appeal in the Ninth Circuit as recently as this  
15 spring. *Id.*, Exs. D-E. There is no sound basis for the government to break with its past practice  
16 in this matter, where Google seeks in good faith to exercise its right to appeal to obtain clarifying  
17 guidance from the Ninth Circuit in light of the decision contrary to this Court's order of the  
18 Second Circuit in *Microsoft*.

19 **III. Conclusion**

20 As this Court held, Google brought this matter as part of a diligent, good faith effort to clarify  
21 and comply with current law. Continuing that effort, Google seeks prompt appellate review of  
22 the August 14 Order to clarify the law within the Ninth Circuit in light of precedent contrary to  
23 the August 14 Order in the Second Circuit, the only appellate court to have addressed the issue.  
24 Accordingly, Google respectfully requests that the Court enter the proposed Order finding Google  
25 in civil contempt, devise an appropriate sanction, and stay any sanctions during the pendency of  
26 Google's appeal.  
27  
28

1 DATED: September 13, 2017

PERKINS COIE LLP

3 By: /s/ Todd M. Hinnen

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11  
12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN FRANCISCO DIVISION  
15

16 In the Matter of the Search of Content  
17 Stored at Premises Controlled by Google  
Inc. and Further Described in Attachment  
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**Case No. 3-16-80263**

**Declaration of John R. Tyler in Support of  
Google Inc.'s Administrative Motion for an  
Order of Civil Contempt**

**[Civil Local Rule 7-11]**

1 I JOHN R. TYLER, declare and certify as follows:

2 1. I am an attorney with the law firm of Perkins Coie LLP in Seattle, Washington,  
3 and am one of the attorneys representing Google Inc. (“Google”) in the above-entitled action. I  
4 have personal knowledge of the facts set forth in this declaration and am competent to testify.

5 2. Attached as Exhibit A is a true and correct copy of the Stipulation Regarding  
6 Contempt Order, dated September 4, 2014 and agreed to by the government and Microsoft  
7 Corporation in *In re Warrant to Search a Certain E-Mail Account Controlled & Maintained by*  
8 *Microsoft Corp.*, Case Nos. 13-MAG-2184; M9-150 (S.D.N.Y. Sep. 4, 2014) (ECF No. 91).

9 3. Attached as Exhibit B is a true and correct copy of the Stipulation Regarding Civil  
10 Contempt dated September 5, 2017, and agreed to by the government and Google in *IN RE*  
11 *SEARCH OF INFORMATION ASSOCIATED WITH [REDACTED]@GMAIL.COM THAT IS*  
12 *STORED AT PREMISES CONTROLLED BY GOOGLE INC.*, Case No. 1:16-mj-00757 (BAH)  
13 (Sep. 5, 2017) (ECF No. 36). Though designated “Filed Under Seal,” the Stipulation was later  
14 unsealed by the court and is now available at:

15 <http://www.dcd.uscourts.gov/sites/dcd/files/Stipulation-ECF36.pdf>.

16 4. Attached as Exhibit C is a true and correct copy of the Order dated September 5,  
17 2017, granting the Stipulation Regarding Civil Contempt in *IN RE SEARCH OF INFORMATION*  
18 *ASSOCIATED WITH [REDACTED]@GMAIL.COM THAT IS STORED AT PREMISES*  
19 *CONTROLLED BY GOOGLE INC.*, Case No. 1:16-mj-00757 (BAH) (Sep. 5, 2017) (ECF No.  
20 37). Though designated “Filed Under Seal,” the order was later unsealed by the court and is now  
21 available at: <http://www.dcd.uscourts.gov/sites/dcd/files/Order-ECF37.pdf>.

22 5. Attached as Exhibit D is a true and correct copy of the Order dated June 5, 2017,  
23 granting a Stipulation agreed to by the government and Glassdoor, Inc., in *In re: Grand Jury*  
24 *Subpoena Issued to Glassdoor, Inc.*, GJ Subpoena No. 16-03-217 (D. Ariz. June 5, 2017).



1 Though the contempt order is marked "Sealed," the court later issued an order unsealing it, a true  
2 and correct copy of which is attached as Exhibit E.

3 6. On September 8, 2017, my co-counsel Todd Hinnen and I spoke with counsel for  
4 the government, Assistant United States Attorneys Andrew Pak and William Frentzen, to ask if  
5 the government would agree in this case to a stipulation that is substantively identical to the one  
6 attached as Exhibit B. The government would not agree to a stipulation that did not require  
7 Google to pay coercive sanctions during the pendency of its appeal.  
8

9 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true  
10 and correct to the best of my knowledge. Executed in Seattle, Washington, on September 13,  
11 2017.  
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13 By:   
14 John R. Tyler  
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UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

In the Matter of a Warrant to Search a  
Certain E-Mail Account Controlled and  
Maintained By Microsoft Corporation

Case Nos. 13-MAG-2814; M9-150

**STIPULATION REGARDING CONTEMPT ORDER**

In response to the Court's order of August 29, 2014, lifting the stay in execution of the July 31, 2014 order, the parties to this proceeding, Microsoft Corporation and the United States of America, hereby jointly stipulate:

1. Microsoft has not fully complied with the Warrant, and Microsoft does not intend to so comply while it in good faith seeks further review of this Court's July 31 decision rejecting Microsoft's challenge to the Warrant.
2. While Microsoft continues to believe that a contempt order is not required to perfect an appeal, it agrees that the entry of an order of contempt would eliminate any jurisdictional issues on appeal. Thus, while reserving its rights to appeal any contempt order and the underlying July 31 ruling, Microsoft concurs with the Government that entry of such an order will avoid delays and facilitate a prompt appeal in this case.
3. The parties further agree that contempt sanctions need not be imposed at this time. The Government, however, reserves its right to seek sanctions, in

addition to the contempt order, in the case of (a) materially changed circumstances in the underlying criminal investigation, or (b) the Second Circuit's issuance of the mandate in the appeal, if this Court's order is affirmed and Microsoft continues not to comply with it.

Accordingly, to facilitate appellate review of this Court's July 31 ruling, the parties jointly request that the Court enter the attached order.

Dated: September 4, 2014  
New York, New York

Respectfully submitted,

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United States Attorney

By: 

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*\*Admitted pro hac vice*

*Counsel for Microsoft Corporation*

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

In the Matter of a Warrant to Search a  
Certain E-Mail Account Controlled and  
Maintained By Microsoft Corporation

Case Nos. 13-MAG-2814; M9-150

**ORDER**

In accord with the parties' joint stipulation, and to permit prompt appellate review of this Court's July 31 ruling, this Court holds Microsoft Corporation in contempt for not complying in full with the Warrant, and imposes no other sanctions at this time. The Government may seek sanctions in the case of (a) materially changed circumstances in the underlying criminal investigation, or (b) the Second Circuit's issuance of the mandate in the appeal, if this Court's order is affirmed and Microsoft continues not to comply with it.

SO ORDERED.

Dated: \_\_\_\_\_

New York, New York

\_\_\_\_\_  
LORETTA A. PRESKA  
Chief United States District Judge

**CERTIFICATE OF SERVICE**

Justin Anderson affirms, under penalty of perjury, that he is employed in the Office of the United States Attorney for the Southern District of New York, and that, on today's date, he caused a copy of this submission to be served by this Court's electronic filing system on counsel of record in this matter.

Dated: September 4, 2014  
New York, New York

  
\_\_\_\_\_  
JUSTIN ANDERSON  
Assistant United States Attorney  
Tel: (212) 637-1035

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

IN THE MATTER OF THE SEARCH OF  
INFORMATION ASSOCIATED WITH  
[REDACTED]@GMAIL.COM THAT IS  
STORED AT PREMISES CONTROLLED BY  
GOOGLE INC.

Case No. 1:16-mj-00757 (BAH)

Chief Judge Beryl A. Howell

FILED UNDER SEAL

STIPULATION REGARDING CIVIL CONTEMPT

On July 31, 2017, the Court granted the government's Motion to Compel and ordered Google Inc. ("Google") to produce certain foreign-stored communications to the government in response to a search warrant (the "July 31 Order"). Google and the government hereby jointly stipulate:

1. Google does not intend to comply with the July 31 Order to disclose customer communications and other content stored outside the United States while Google, in good faith, seeks further review of the July 31 Order.
2. Entry of a civil contempt order and sanctions of \$10,000 per day, payable to the United States, until Google complies with this Court's order, will avoid issues regarding appellate jurisdiction and facilitate a prompt appeal.
3. The civil contempt sanctions against Google shall be stayed pending appeal of the Court's ruling. The sanctions shall not accrue during the pendency of the appeal, and shall only begin accruing seven business days after the Court of Appeals' filing of an opinion or memorandum decision if the Court of Appeals affirms this Court's order and Google does not fully comply with this Court's order. Nothing in this stipulation or the accompanying order shall be interpreted to prejudice the right of the parties to negotiate a further stay to allow for consideration of subsequent appellate review.
4. Google agrees to preserve all information called for by the search warrant in this matter during the pendency of the appeal and any related proceedings.

5. The parties intend that entry of this stipulation and order will constitute a final and appealable judgment of contempt.

Accordingly, to facilitate prompt appellate review of the July 31 Order, the parties jointly request that the Court enter the attached order.

Respectfully submitted September 5, 2017.



Dated: September 5, 2017

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2017.09.13

2017.09.13

Dated: September 5, 2017.

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

IN THE MATTER OF THE SEARCH OF  
INFORMATION ASSOCIATED WITH  
[REDACTED]@GMAIL.COM THAT IS  
STORED AT PREMISES CONTROLLED BY  
GOOGLE INC.

Case No. 1:16-mj-00757 (BAH)

Chief Judge Beryl A. Howell

FILED UNDER SEAL

ORDER

Upon the stipulation of the parties, and good cause appearing, IT IS ORDERED:

1. Google Inc. ("Google") is found in civil contempt of the Court's July 31, 2017 order.
2. Google is assessed sanctions of \$10,000 per day, payable to the United States, until it complies with the Court's order.
3. These civil contempt sanctions against Google are stayed pending appeal of the Court's July 31, 2017 order. The sanctions shall not accrue during the pendency of the appeal, and shall only begin accruing seven business days after the Court of Appeals' filing of an opinion or memorandum decision affirming this Court's order if Google has not fully comply with this Court's order.
4. During the pendency of the appeal and any related proceedings, Google shall preserve all information called for by the search warrant in this matter.

SO ORDERED.

Date: September 5, 2017



*Beryl A. Howell*

BERYL A. HOWELL  
Chief Judge

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JUN 05 2017	
CLERK U S DISTRICT COURT DISTRICT OF ARIZONA	
BY	<u>2</u> DEPUTY

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

**SEALED**

In re: Grand Jury Subpoena  
Issued to Glassdoor, Inc.

GJ Subpoena No. 16-03-217  
(Assigned to Honorable Diane J. Humetewa  
United States District Judge)

**ORDER**

Upon stipulation of the parties, and good cause appearing, IT IS ORDERED:

1. Glassdoor, Inc. ("Glassdoor") is found in civil contempt of the Court's sealed order dated May 10, 2017.
2. Glassdoor is assessed sanctions of \$5,000 per day, payable to the United States, until it complies with the Court's order.
3. These civil contempt sanctions against Glassdoor are stayed pending appeal of the Court's ruling, provided that Glassdoor files a notice of appeal within two business days of this order and supports priority review consistent with Ninth Circuit Rule 34-3. The sanctions shall begin accruing after five business days of the filing of an opinion or memorandum decision by the Court of Appeals if the Court of Appeals affirms this Court's order and Glassdoor does not fully comply with this Court's order.
4. During the pendency of the appeal and any related proceedings, Glassdoor shall preserve all information called for by subpoena 16-03-217 (as limited by the government to seek responsive information only as to the eight reviews identified in its annex).

DATED this 5<sup>th</sup> day of June, 2017.

cc: ALL COUNSEL

1  
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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 In Re: Grand Jury Subpoena,  
10 Issued to Glassdoor, Inc.,  
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No. MC-17-36-PHX-DJH  
**ORDER**

15 The Court has reviewed the parties' Stipulated Motion to Unseal dated June 7,  
16 2017. Finding good cause for the requests, **IT IS ORDERED:**

- 17 1. This case shall be partially unsealed. All individual docket entries will remain  
18 separately sealed, except for:
- 19 a. the parties June 2, 2017 Stipulation regarding entry of an order of
  - 20 contempt;
  - 21 b. the Court's June 5, 2017 Order of contempt;
  - 22 c. the parties June 7, 2017 Stipulated Motion to Unseal;
  - 23 d. the redacted packet of filings attached as Exhibit A to the parties' June
  - 24 7, 2017 Stipulated Motion to Unseal; and
  - 25 e. this Order

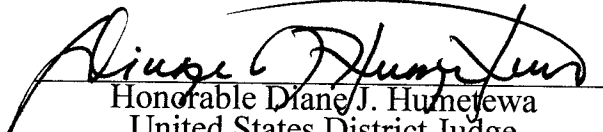
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1           **IT IS FURTHER ORDERED** that any future filings made in this case shall be  
2 accompanied by a motion to seal pursuant to LRCiv 5.6.

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5           Dated this 12th day of June, 2017.

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8           Honorable Diane J. Humejewa  
            United States District Judge



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

Case No. 3-16-80263-RS

**In the Matter of the Search of Content  
Stored at Premises Controlled by Google  
Inc. and Further Described in  
Attachment A**

**[Proposed] Order**

IT IS HEREBY ORDERED that Google's Administrative Motion for a Civil Contempt Order is GRANTED.

IT IS FURTHER ORDERED that:

1. Google Inc. ("Google") is found in civil contempt of the Court's August 14, 2017 order.
2. Google is assessed sanctions of \$10,000 per day, payable to the United States, until it complies with the Court's order.
3. These civil contempt sanctions against Google are stayed pending appeal of the Court's August 14, 2017 order. The sanctions shall not accrue during the pendency of the appeal, and shall only begin accruing seven business days after the filing of an opinion or memorandum decision affirming this Court's order, if Google has already exhausted its appellate options and does not fully comply with this Court's order.
4. During the pendency of the appeal and any related proceedings, Google shall preserve the information in its possession that is called for by the search warrant in this matter.

**SO ORDERED.**

1 Date: \_\_\_\_\_, 2017

2 HON. RICHARD SEEBORG  
3 UNITED STATES DISTRICT JUDGE