

Filed in The District Court
of Travis County, Texas

MAR 18 2015 MYR

At 906 a M.
Velva L. Price, District Clerk

CAUSE NO. D-1-GN-14-005114

JAMES STEELE, *et al.*,
Plaintiffs

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IN THE DISTRICT COURT OF

VS.

TRAVIS COUNTY, TEXAS

GTECH CORPORATION,
Defendant

201st JUDICIAL DISTRICT

AGREED PROTECTIVE ORDER

The parties James Steele, *et al.* ("Plaintiffs"), Intervenors Kenyatta Jacobs, Lona Boghosian, Casandra Wilson, and Christi Bambico ("Intervenors"), and Defendant GTECH Corporation ("Defendant"), collectively "the Parties", have requested that the Court enter this Agreed Protective Order so that certain information provided through discovery in this case may be protected as "ATTORNEYS' EYES ONLY" information and not be subject to disclosure or use except within these proceedings.

It is hereby ORDERED as follows:

1. **Scope.** All documents produced in the course of discovery, including initial disclosures, all responses to discovery requests, all deposition testimony and exhibits, other materials which may be subject to restrictions on disclosure for good cause and information derived directly therefrom (hereinafter collectively "documents"), shall be subject to this Order concerning confidential information as set forth below.

2. **Form and Timing of Designation.** A party may designate documents as confidential and restricted in disclosure under this Order by placing or affixing the words "ATTORNEYS' EYES ONLY" on the document in a manner that will not interfere with the legibility of the document and that will permit complete removal of the "ATTORNEYS' EYES ONLY" designation. Documents shall be designated "ATTORNEYS' EYES ONLY" prior to or at the time of the production or disclosure of the documents. The designation "ATTORNEYS' EYES ONLY" does not mean that the



document has any status or protection by statute or otherwise except to the extent and for the purposes of this Order.

3. Documents Which May be Designated "ATTORNEYS' EYES ONLY". Any party may designate documents as "ATTORNEYS' EYES ONLY" upon making a good faith determination that the documents contain information protected from disclosure by statute or that should be protected from disclosure as confidential personal information, medical or psychiatric information, trade secrets, personnel records, or such other sensitive commercial information that is not publicly available. Public records and other information or documents that are publicly available may not be designated as "ATTORNEYS' EYES ONLY".

4. Depositions. Deposition testimony shall be deemed "ATTORNEYS' EYES ONLY" only if designated as such. Such designation shall be specific as to the portion of the transcript or any exhibit to be designated as "ATTORNEYS' EYES ONLY". Thereafter, the deposition transcripts and any of those portions so designated shall be protected as "ATTORNEYS' EYES ONLY", pending objection, under the terms of this Order.

5. Subpoenas. Any party who obtains documents from a subpoena shall notify opposing counsel, provide a copy of the documents, and grant opposing counsel 30 days to designate "ATTORNEYS' EYES ONLY" documents.

6. Protection of the Documents.

a. General Protections. Documents designated "ATTORNEYS' EYES ONLY" shall not be used or disclosed by the parties, counsel for the parties, or any other persons identified in ¶ 5 (b) for any purpose whatsoever other than to prepare for and to conduct discovery and trial in this action, including appeal thereof.

b. Limited Third-Party Disclosures. The parties and counsel for the parties shall not disclose or permit the disclosure of any "ATTORNEYS' EYES ONLY" documents to any third person or entity except as set forth in subparagraphs (i)-(v). Subject to

these requirements, the following categories of persons may be allowed to review documents that have been designated "ATTORNEYS' EYES ONLY":

- i. **Counsel.** Counsel for the parties and employees and agents of counsel who have responsibility for the preparation and trial of the action;
 - ii. **Parties.** Parties and employees of a party to this Order;
 - iii. **Court Reporters and Recorders.** Court reporters and recorders engaged for depositions;
 - iv. **Consultants, Investigators and Experts.** Consultants, investigators, consulting experts, or testifying experts (hereinafter referred to collectively as "experts") employed by the parties or counsel for the parties to assist in the preparation and trial of this action or proceeding, but only after such persons have completed the certification contained in Attachment A, Acknowledgment of Understanding and Agreement to Be Bound; and,
 - v. **Others by Consent.** Other persons only by written consent of the producing party or upon order of the Court and on such conditions as may be agreed or ordered. All such persons shall execute the certification contained in Attachment A, Acknowledgment of Understanding and Agreement to Be Bound.
- c. **Control of Documents.** Counsel for the parties shall take reasonable and appropriate measures to prevent unauthorized disclosure of documents designated as "ATTORNEYS' EYES ONLY" pursuant to the terms of this Order. Counsel shall maintain the originals of the forms signed by persons acknowledging their obligations under this Order for a period of 1 year after dismissal of the action, the entry of final judgment and/or the conclusion of any appeals arising therefrom.

d. Copies. Prior to production to another party, all copies, electronic images, duplicates, extracts, summaries or descriptions (hereinafter referred to collectively as “copies”) of the Documents, or any individual portion of such a document, shall be affixed with the designation “ATTORNEYS’ EYES ONLY” if the words do not already appear on the copy. All such copies shall thereafter be entitled to the protection of this Order. The term “copies” shall not include indices, electronic databases or lists of documents provided these indices, electronic databases or lists do not contain substantial portions or images of the text of confidential documents or otherwise disclose the substance of the confidential information contained in those documents.

7. Filing of “ATTORNEYS’ EYES ONLY” Documents Under Seal. The Court highly discourages the manual filing of any pleadings or documents under seal. To the extent that a brief, memorandum or pleading references any document marked as “ATTORNEYS’ EYES ONLY”, then the brief, memorandum or pleading shall refer the Court to the particular exhibit filed under seal without disclosing the contents of any confidential information.

- a.** Before any document marked as “ATTORNEYS’ EYES ONLY” is filed under seal with the Clerk, the filing party shall first consult with the party that originally designated the document as “ATTORNEYS’ EYES ONLY” to determine whether, with the consent of that party, the document or a redacted version of the document may be filed with the Court not under seal.
- b.** Where agreement is not possible or adequate, before a “ATTORNEYS’ EYES ONLY” document is filed with the Clerk, it shall be placed in a sealed envelope marked **THIS DOCUMENT CONTAINS MATERIALS THAT ARE CLAIMED TO BE**

ATTORNEYS' EYES ONLY AND ARE COVERED BY AN "ATTORNEYS' EYES ONLY" ORDER displaying the case name, docket number, a designation of what the document is, the name of the party in whose behalf it is submitted, and name of the attorney who has filed the documents on the front of the envelope.

- c. To the extent that it is necessary for a party to discuss the contents of any confidential information in a written pleading, then such portion of the pleading may be filed under seal. In such circumstances, counsel shall prepare two versions of the pleadings, a public and a confidential version. The public version shall contain a redaction of references to "ATTORNEYS' EYES ONLY" documents. The confidential version shall be a full and complete version of the pleading and shall be filed with the Clerk under seal as above.
- d. If the Court or a particular judicial officer has developed an alternative method for the electronic filing of documents under seal, then the parties shall follow this alternative method and shall not file any documents or pleadings manually with the Clerk of Court.

8. Challenges by a Party to Designation as "ATTORNEYS' EYES ONLY". Any "ATTORNEYS' EYES ONLY" designation is subject to challenge by any party or non-party with standing to object (hereafter "party"). Before filing any motions or objections to a confidentiality designation with the Court, the objecting party shall have an obligation to meet and confer in a good faith effort to resolve the objection agreement. If agreement is reached confirming or waiving the "ATTORNEYS' EYES ONLY" designation as to any documents subject to the objection, the designating party shall serve on all parties a notice specifying the documents and the nature of the agreement.

9. **Action by the Court.** Applications to the Court for an order relating to any documents designated “ATTORNEYS’ EYES ONLY”, shall be by motion and any other procedures set forth in the presiding judge’s standing orders or other relevant orders. Nothing in this Order or any action or agreement of a party under this Order limits the Court’s power to make any orders that may be appropriate with respect to the use and disclosure of any documents produced or used in discovery or at trial.

10. **Obligations on Conclusion of Litigation.**

- a. **Order Remains in Effect.** Unless otherwise agreed or ordered, this Order shall remain in force after dismissal or entry of final judgment not subject to further appeal.
- b. **Return of “ATTORNEYS’ EYES ONLY” Documents.** Within thirty days after dismissal or entry of final judgment not subject to further appeal, all documents treated as “ATTORNEYS’ EYES ONLY” under this Order, including copies as defined in ¶ 5(d), shall be returned to the producing party unless:
 - i. the document has been offered into evidence or filed without restriction as to disclosure;
 - ii. the parties agree to destruction in lieu of return; or
 - iii. as to documents bearing the notations, summations, or other mental impressions of the receiving party, the party elects to destroy the documents and certifies to the producing party that it has done so. Notwithstanding the above requirements to return or destroy documents, counsel may retain attorney work product, including an index which refers or related to information designated “ATTORNEYS’ EYES ONLY” so long as that work product does not duplicate verbatim substantial portions of the text or images

of confidential documents. This work product shall continue to be "ATTORNEYS' EYES ONLY" under this Order.

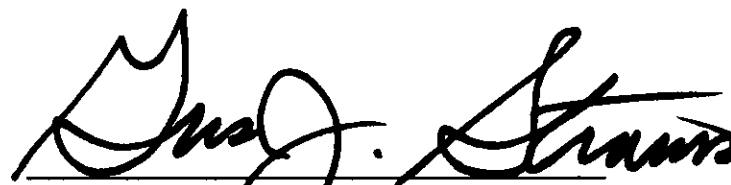
- c. **Return of Documents Filed Under Seal.** After dismissal or entry of final judgment not subject to further appeal, the Clerk may elect to return to counsel for the parties or, after notice, destroy documents filed or offered at trial under seal or otherwise restricted by the Court as to disclosure.

11. **Order Subject to Modification.** This Order shall be subject to modification by the Court on its own motion or on motion of a party or any other person with standing concerning the subject matter.

12. **No Prior Judicial Determination.** This Order is entered based on the representations and agreements of the parties and for the purpose of facilitating discovery. Nothing herein shall be construed or presented as a judicial determination that any documents or information designated "ATTORNEYS' EYES ONLY" by counsel or other parties is subject to protection until such time as the Court may rule on a specific document or issue.

13. **Persons Bound.** This Order shall take effect when entered and shall be binding upon all counsel and their law firms, the parties, and persons made subject to this Order by its terms.

SIGNED THIS 18th day of MARCH, 2015


Judge Presiding

AGREED AS TO FORM
AND ENTRY REQUESTED:

REED SMITH, LLP

By: /s/ Kenneth E. Broughton

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ATTORNEYS FOR INTERVENORS
LONA BOGHOSIAN,
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AND CHRISTI BAMBICO

EXHIBIT "A"**Acknowledgment of Understanding
and Agreement to Be Bound**

I declare that:

I have been given a copy of and have read the Agreed Protective Order entered in the case *James Steele, et al. v. GTECH Corporation*, No. D-1-GN-14-005114, in the 201st Judicial District Court of Travis County, Texas. I agree to abide by the Agreed Protective Order and not reveal or otherwise communicate to anyone or use any of the "Attorneys' Eyes Only" information that is disclosed to me except in accordance with the terms of the Agreed Protective Order. I acknowledge that any violation of the Agreed Protective Order may be punishable for contempt of court or result in civil liability, or both, and agree to submit to the jurisdiction of the District Court of Travis County, Texas, 201st Judicial District, for all matters relating to the Agreed Protective order.

Dated: _____

Declarant

Printed Name

Street Address

City/State/Zip

Telephone Number