

# EXHIBIT A

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11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13 SAN JOSE DIVISION

14 UNITED STATES OF AMERICA, ) Case No. CR-18-00258-EJD-SVK  
15 )  
16 Plaintiff, ) **[PROPOSED] ORDER PERMITTING TRIAL**  
17 v. ) **PREPARATION DURING COVID-19**  
18 ) **PANDEMIC**  
19 ELIZABETH HOLMES and )  
20 RAMESH "SUNNY" BALWANI, )  
21 Defendants. ) Hon. Edward J. Davila  
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22 WHEREAS, trial in the above-captioned matter is scheduled to begin on July 28, 2020;

23 WHEREAS, the COVID-19 disease, caused by a virus that spreads easily from person to person  
24 which may result in serious illness or death and has been classified by the World Health Organization as  
25 a worldwide pandemic, has broadly spread throughout the United States;

26 WHEREAS, the President of United States has declared a National Emergency in response to the  
27 COVID-19 outbreak;

28 WHEREAS, scientific evidence and public health best practices show that the most effective

1 approach to slowing the community transmission of communicable diseases like COVID-19 is through  
2 limiting public activities and engaging in social distancing;

3 WHEREAS, consistent with guidance from national and state public health agencies, the federal  
4 government and numerous states and municipalities in which trial-preparation activities in this matter  
5 must occur have declared public emergencies and/or public health emergencies and have suspended or  
6 placed restrictions on government services, movement of individuals, private business operations, and  
7 court proceedings with the aim facilitating an effective response to the COVID-19 emergency,  
8 including:

- 9 • The District of Columbia has ordered all non-essential business to cease operations  
10 through April 24, 2020, and all individuals living in Washington, DC to stay at their place  
11 of residence except to engage in certain essential activities. *See* Mayor’s Order 2020-053  
12 (Mar. 24, 2020); Mayor’s Order 2020-054 (Mar. 30, 2020).
- 13 • The State of New York has implemented a 10-point New York State on PAUSE Plan,  
14 inducing ordering closure of all non-essential businesses, limitation on use of public  
15 transportation, and limiting congregation of individuals outside their home to workers  
16 providing essential services. *See* Executive Order 202.8 (Mar. 20, 2020).
- 17 • The State of California has ordered its residents to stay at home or at their place of  
18 residence except as needed to maintain continuity of operations of the federal critical  
19 infrastructure sectors. *See* Executive Order N-22-30 (Mar. 19, 2020).
- 20 • The State of Maryland has ordered the closure of all non-essential businesses until further  
21 order and for all persons to stay in their homes or places of residence except to conduct  
22 certain essential activities. *See* Order of the Governor of the State of Maryland No. 20-  
23 03-23-01 (Mar. 23, 2020); Order of the Governor of the State of Maryland No. 20-03-20-  
24 01 (Mar. 30, 2020).
- 25 • The State of Washington has ordered that all people in Washington State shall  
26 immediately cease leaving their home or place of residence except: (1) to conduct or  
27 participate in essential activities, and/or (2) for employment in essential business  
28 services. *See* Proclamation 20-25 by the Governor Amending Proclamation 20-05 (Mar.

1 23, 2020).

- 2 • The Commonwealth of Virginia has ordered that all individuals in Virginia shall remain  
3 at their place of residence, except to conduct certain essential activities or when travel is  
4 required by court order, through June 10, 2020. *See* Executive Order No. 55 (Mar. 30,  
5 2020).

6 WHEREAS, the Chief Judge of the Northern District of California has ordered the closure of the  
7 San Jose Courthouse to both staff and the public, with no exceptions, through April 7, 2002, which  
8 period may be extended by further order. *See* N.D. Cal. General Order 73 (as amended Mar. 25, 2020).

9 WHEREAS, in recognition of the impact of court proceedings during the COVID-19 outbreak on  
10 the health of jurors, witnesses, parties, attorneys, the public, court staff, Probation and Pretrial Services  
11 staff, chambers staff, and judges, the Chief Judge of the Northern District of California has ordered,  
12 among other things, that no criminal jury trial will be commenced before May 1, 2020; that appearances  
13 in criminal cases before the district judges may be waived and postponed, and that the requirements for  
14 filing of courtesy copies to chambers is suspended pending further notice. *See* N.D. Cal. General Order  
15 72 (Mar. 16, 2020);

16 WHEREAS, this Court's General Order 72 permits individual Judges to make case-by-case  
17 exceptions to procedures at their discretion;

18 WHEREAS, the COVID-19 pandemic in the United States is a public health emergency that  
19 poses challenges to the parties in their efforts to effectively prepare for trial and remain in compliance  
20 with the above orders and public health best practices because many of the activities necessary to that  
21 trial preparation would violate the foregoing orders or related to state and local laws;

22 WHEREAS, notwithstanding the foregoing orders, and based on the authority permitted by Gen.  
23 Order 72, the continuation of the above-captioned matter is deemed to be an essential government  
24 function;

25  
26 IT IS HEREBY ORDERED that the parties, their counsel, and their agents, are ordered to take  
27 steps they deem necessary to prepare for trial in this matter, including: causing to be manually filed in  
28 the courts of this District and elsewhere manual filings consistent with court rules for such filings;

1 serving trial subpoenas and subpoenas *duces tecum* on non-parties as the need may be, including upon  
2 non-parties in affected areas and notwithstanding any local orders or laws to the contrary; traveling  
3 interstate to meet with witnesses to prepare for trial testimony; and taking whatever other steps and  
4 engaging whatever staff, experts, consultants, or other agents they deem appropriate and necessary for  
5 trial preparation;

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7 IT IS FURTHER ORDERED that the right to complete the above activities supersedes any  
8 federal, state, or local law or order to the contrary;

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10 **IT IS SO ORDERED.**

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12 Dated \_\_\_\_\_

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14 Hon. Edward J. Davila  
15 United States District Judge  
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