

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

JAMES CUMMINGS

PLAINTIFF

VS.

NO. 4:11-CV-000524 SWW

UNION PACIFIC RAILROAD COMPANY

DEFENDANT

AGREED PROTECTIVE ORDER

IT IS ORDERED that the video disclosed by Union Pacific Railroad Company ("Union Pacific") and marked "Produced Pursuant to Protective Order" be governed by the following:

1. James Cummings ("Cummings") and his Counsel of Record agree that anyone working in their offices on the subject matter will familiarize themselves with the terms of this Protective Order, and be instructed that they are bound by the Order just as Cummings and his Counsel of Record are bound by the Order.
2. Counsel of Record may only make copies of the subject video for use by Counsel of Record, consultants, and experts.
3. The subject video and the substance of any information obtained therein, are not to be disseminated by Cummings or his Counsel of Record, their agents, employees, consultants, experts, and any other individuals associated in this lawsuit except as provided below.
4.
 - a. Nothing herein shall prevent the exhibition of the subject video to persons bound by the terms of this Order. The requirement of such written agreement may be satisfied by obtaining the signature of any such consultant or expert on a copy of this Order, having first explained the contents thereof to such person.
 - b. Counsel of record shall maintain a list of the names of all persons to whom the confidential information is disclosed. This provision will not apply to such notes, or memoranda, prepared by or for Counsel of Record in this action.
 - c. Such persons shall, by reviewing the video and signing a copy of the Order, agree to jurisdiction of this Court over their person for the purpose of any action seeking to enforce the terms and conditions of this Order or any action for contempt for violation of the terms of this Order.
5.
 - a. At any time prior to final judgment, Counsel of Record may file a request to lift the subject video from this Protective Order.

- b. If there is no agreement, either side may request a hearing in order that the issue of the Protective Order as to the subject video may be resolved.
 - c. The confidential status of all matters shall be permanent except with regard to those items requested by Counsel of Record to be lifted from the Protective Order. With regard to such items, the same shall be accorded confidential status unless and until such time as the Court rules on Counsel of Records' request to lift the Protective Order and, thereafter, if the Court so orders.
6. Cummings and his Counsel of Record, their agents, employees, consultants, experts, and any other individuals associated in this lawsuit shall not advertise that they have confidential information obtained from Union Pacific through discovery in this case, and which is the subject of this Order whether described specifically or generally. Neither the video covered by this Order nor the substantive information contained therein shall be disclosed in any publication or oral presentation by Cummings or his Counsel of Record, their agents, employees, consultants, experts, and any other individuals associated in this lawsuit.
 7. The Court further orders that Cummings and his Counsel of Record, their agents, employees, consultants, experts, and any other individuals associated in this lawsuit shall not disseminate the video to the media, Internet, or other electronic outlet.
 8. This Order does not affect any party's ability to object to the admissibility of any of the video at trial on relevance or other grounds. Further, Union Pacific shall retain all rights available to it under applicable Arkansas or federal law in the event of any inadvertent waiver.
 9. Counsel of record agrees to return the video and all copies to Union Pacific's attorneys at Friday, Eldredge & Clark within 30 days upon entry of a final judgment or dismissal order in this case.

SIGNED this 26th day of January, 2012.



THE HONORABLE SUSAN WEBBER WRIGHT

AGREED AS TO FORM AND SUBSTANCE:

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