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12 individually and on behalf of all others similarly  
situated

13 **UNITED STATES DISTRICT COURT**  
 14 **CENTRAL DISTRICT OF CALIFORNIA**  
 15 **WESTERN DIVISION**

16 ANDREA KASSABIAN, Individually  
17 and on Behalf of All Others Similarly  
18 Situated

19 Plaintiff,

20 vs.

21  
 22 FERRAGAMO USA, INC. AND DOES  
 23 1-10,  
 24 Defendants.

Case No.: CV13-1674 PSG (AGRx)  
Judge Philip S. Gutierrez

**STIPULATED PROTECTIVE  
ORDER**

Action Removed: March 8, 2013

Hon. Philip S. Gutierrez  
Magistrate Judge Alicia G. Rosenberg

1 **1. GOOD CAUSE STATEMENT**

2 Disclosure and discovery activity in this action are likely to involve  
3 production of confidential, proprietary, or private information, including but not  
4 limited to non-party consumer information, internal employee training manuals  
5 and policies of defendant Ferragamo USA Inc., for which special protection from  
6 public disclosure and from use for any purpose other than prosecuting this  
7 litigation may be warranted. Accordingly, the parties hereby stipulate to and  
8 petition the court to enter the following Stipulated Protective Order. The parties  
9 acknowledge that this Order does not confer blanket protections on all disclosures  
10 or responses to discovery and that the protection it affords from public disclosure  
11 and use extends only to the limited information or items that are entitled to  
12 confidential treatment under the applicable legal principles. The parties further  
13 acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective  
14 Order does not entitle them to file confidential information under seal; Civil Local  
15 Rule 79-5 set forth the procedures that must be followed and the standards that  
16 will be applied when a party seeks permission from the court to file material under  
17 seal.

18 **2. DEFINITIONS**

19 2.1 Challenging Party: a Party or Non-Party that challenges the  
20 designation of information or items under this Order.

21 2.2 "CONFIDENTIAL" Information or Items: information (regardless of  
22 how it is generated, stored or maintained) or tangible things that qualify for  
23 protection under Federal Rule of Civil Procedure 26(c) that has not been made  
24 public and that parties believe in good faith would, if disclosed, have the effect of  
25 causing harm to its competitive position or privacy interests.

26 2.3 Counsel (without qualifier): Outside Counsel of Record and House  
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1 Counsel (as well as their support staff).

2 2.4 Designating Party: a Party or Non-Party that designates information  
3 or items that it produces in disclosures or in responses to discovery as  
4 “CONFIDENTIAL.”

5 2.5 Disclosure or Discovery Material: all items or information,  
6 regardless of the medium or manner in which it is generated, stored, or maintained  
7 (including, among other things, testimony, transcripts, and tangible things), that  
8 are produced or generated in disclosures or responses to discovery in this matter.

9 2.6 Expert: a person with specialized knowledge or experience in a  
10 matter pertinent to the litigation who has been retained by a Party or its counsel to  
11 serve as an expert witness or as a consultant in this action.

12 2.7 House Counsel: attorneys who are employees of a party to this  
13 action. House Counsel does not include Outside Counsel of Record or any other  
14 outside counsel.

15 2.8 Non-Party: any natural person, partnership, corporation, association,  
16 or other legal entity not named as a Party to this action.

17 2.9 Outside Counsel of Record: attorneys who are not employees of a  
18 party to this action but are retained to represent or advise a party to this action and  
19 have appeared in this action on behalf of that party or are affiliated with a law firm  
20 which has appeared on behalf of that party.

21 2.10 Party: any party to this action, including all of its officers, directors,  
22 employees, consultants, retained experts, and Outside Counsel of Record (and  
23 their support staffs).

24 2.11 Producing Party: a Party or Non-Party that produces Disclosure or  
25 Discovery Material in this action.

26 **3. SCOPE**

27 The protections conferred by this Stipulation and Order cover not only  
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1 Protected Material (~~as defined above~~), but also (1) any information copied or  
 2 extracted from Protected Material; (2) all copies, excerpts, summaries, or  
 3 compilations of Protected Material; and (3) any testimony, conversations, or  
 4 presentations by Parties or their Counsel that might reveal Protected Material.  
 5 However, the protections conferred by this Stipulated Protective Order do not  
 6 cover the following information: (a) any information that is in the public domain  
 7 at the time of disclosure to a Receiving Party or becomes part of the public  
 8 domain after its disclosure to a Receiving Party as a result of publication not  
 9 involving a violation of this Order, including becoming part of the public record  
 10 through trial or otherwise; and (b) any information known to the Receiving Party  
 11 prior to the disclosure or obtained by the Receiving Party after the disclosure from  
 12 a source who obtained the information lawfully and under no obligation of  
 13 confidentiality to the Designating Party. Any use of Protected Material at trial  
 14 shall be governed by a separate agreement or order.

15 **4. DURATION**

16 Even after final disposition of this litigation, the confidentiality obligations  
 17 imposed by this Order shall remain in effect until a Designating Party agrees  
 18 otherwise in writing or a court order otherwise directs. Final disposition shall be  
 19 deemed to be the later of (1) dismissal of all claims and defenses in this action,  
 20 with or without prejudice; and (2) final judgment herein after the completion and  
 21 exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,  
 22 including the time limits for filing any motions or applications for extension of  
 23 time pursuant to applicable law.

24 **5. DESIGNATING PROTECTED MATERIAL**

25 5.1 Exercise of Restraint and Care in Designating Material for  
 26 Protection. Each Party or Non-Party that designates information or items for  
 27 protection under this Order must take care to limit any such designation to specific  
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1 material that qualifies under the appropriate standards. The Designating Party  
2 must designate for protection only those parts of material, documents, items, or  
3 oral or written communications that qualify – so that other portions of the  
4 material, documents, items, or communications for which protection is not  
5 warranted are not swept unjustifiably within the ambit of this Order. Mass,  
6 indiscriminate, or routinized designations are prohibited. Designations that are  
7 shown to be clearly unjustified or that have been made for an improper purpose  
8 (e.g., to unnecessarily encumber or retard the case development process or to  
9 impose unnecessary expenses and burdens on other parties) expose the  
10 Designating Party to sanctions. If it comes to a Designating Party’s attention that  
11 information or items that it designated for protection do not qualify for protection,  
12 that Designating Party must promptly notify all other Parties that it is withdrawing  
13 the mistaken designation.

14 5.2 Manner and Timing of Designations.

15 Except as otherwise provided in this Order (see, e.g., second paragraph of  
16 section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or  
17 Discovery Material that qualifies for protection under this Order must be clearly  
18 so designated before the material is disclosed or produced. Designation in  
19 conformity with this Order requires:

20 (a) for information in documentary form (e.g., paper or electronic  
21 documents, but excluding transcripts of depositions or other pretrial or trial  
22 proceedings), that the Producing Party affix the legend “CONFIDENTIAL”  
23 to each page that contains protected material. If only a portion or portions  
24 of the material on a page qualifies for protection, the Producing Party also  
25 must clearly identify the protected portion(s) (e.g., by making appropriate  
26 markings in the margins).

27 A Party or Non-Party that makes original documents or materials available  
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1 for inspection need not designate them for protection until after the inspecting  
2 Party has indicated which material it would like copied and produced. During the  
3 inspection and before the designation, all of the material made available for  
4 inspection shall be deemed "CONFIDENTIAL." After the inspecting Party has  
5 identified the documents it wants copied and produced, the Producing Party must  
6 determine which documents, or portions thereof, qualify for protection under this  
7 Order. Then, before producing the specified documents, the Producing Party must  
8 affix the "CONFIDENTIAL" legend to each page that contains Protected  
9 Material. If only a portion or portions of the material on a page qualifies for  
10 protection, the Producing Party also must clearly identify the protected portion(s)  
11 (e.g., by making appropriate markings in the margins).

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12 (b) for testimony given in deposition or in other pretrial ~~or trial~~  
13 proceedings, that the Designating Party identify on the record, before the  
14 close of the deposition, hearing, or other proceeding, all protected  
15 testimony.

16 (c) for information produced in some form other than documentary  
17 and for any other tangible items, that the Producing Party affix in a  
18 prominent place on the exterior of the container or containers in which the  
19 information or item is stored the legend "CONFIDENTIAL." If only a  
20 portion or portions of the information or item warrant protection, the  
21 Producing Party, to the extent practicable, shall identify the protected  
22 portion(s).

23 5.3 Inadvertent Failures to Designate.

24 If timely corrected, an inadvertent failure to designate qualified  
25 information or items does not, standing alone, waive the Designating Party's right  
26 to secure protection under this Order for such material. Upon timely correction of  
27 a designation, the Receiving Party must make reasonable efforts to assure that the  
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1 material is treated in accordance with the provisions of this Order.

2 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

3 6.1 Timing of Challenges.

4 Any Party or Non-Party may challenge a designation of confidentiality at  
5 any time. Unless a prompt challenge to a Designating Party's confidentiality  
6 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary  
7 economic burdens, or a significant disruption or delay of the litigation, a Party  
8 does not waive its right to challenge a confidentiality designation by electing not  
9 to mount a challenge promptly after the original designation is disclosed.

10 6.2 Meet and Confer.

11 The Challenging Party shall initiate the dispute resolution process by  
12 providing written notice of each designation it is challenging and describing the  
13 basis for each challenge. To avoid ambiguity as to whether a challenge has been  
14 made, the written notice must recite that the challenge to confidentiality is being  
15 made in accordance with this specific paragraph of the Protective Order. The  
16 parties shall attempt to resolve each challenge in good faith and must begin the  
17 process by conferring directly (in voice to voice dialogue; other forms of  
18 communication are not sufficient) within 14 days of the date of service of notice.

19 In conferring, the Challenging Party must explain the basis for its belief that  
20 the confidentiality designation was not proper and must give the Designating  
21 Party an opportunity to review the designated material, to reconsider the  
22 circumstances, and, if no change in designation is offered, to explain the basis for  
23 the chosen designation. A Challenging Party may proceed to the next stage of the  
24 challenge process only if it has engaged in this meet and confer process first or  
25 establishes that the Designating Party is unwilling to participate in the meet and  
26 confer process in a timely manner.

27 6.3 Judicial Intervention.

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1 If the Parties cannot resolve a challenge without court intervention, the  
2 Designating Party shall file and serve a motion to retain confidentiality under  
3 Civil Local Rule 7 (and in compliance with Civil Local Rule 79-5) within 21 days  
4 of the initial notice of challenge or within 14 days of the parties agreeing that the  
5 meet and confer process will not resolve their dispute, whichever is earlier. Each  
6 such motion must be accompanied by a competent declaration affirming that the  
7 movant has complied with the meet and confer requirements imposed in the  
8 preceding paragraph. Failure by the Designating Party to make such a motion  
9 including the required declaration within 21 days (or 14 days, if applicable) shall  
10 automatically waive the confidentiality designation for each challenged  
11 designation. In addition, the Challenging Party may file a motion challenging a  
12 confidentiality designation at any time if there is good cause for doing so,  
13 including a challenge to the designation of a deposition transcript or any portions  
14 thereof. Any motion brought pursuant to this provision must be accompanied by a  
15 competent declaration affirming that the movant has complied with the meet and  
16 confer requirements imposed by the preceding paragraph and Local Rules 37-1  
17 and 37-2 governing discovery disputes, including the requirement that parties file  
18 a Joint Stipulation and concerning the matters in dispute.

19 The burden of persuasion in any such challenge proceeding shall be on the  
20 Designating Party. Frivolous challenges, and those made for an improper purpose  
21 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may  
22 expose the Challenging Party to sanctions. Unless the Designating Party has  
23 waived the confidentiality designation by failing to file a motion to retain  
24 confidentiality as described above, all parties shall continue to afford the material  
25 in question the level of to which it is entitled under the Producing Party's  
26 designation until the court rules on the challenge.

27 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

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1           7.1 Basic Principles.

2           A Receiving Party may use Protected Material that is disclosed or produced  
3 by another Party or by a Non-Party in connection with this case only for  
4 prosecuting, defending, or attempting to settle this litigation. Such Protected  
5 Material may be disclosed only to the categories of persons and under the  
6 conditions described in this Order. When the litigation has been terminated, a  
7 Receiving Party must comply with the provisions of section 13 below (FINAL  
8 DISPOSITION). Protected Material must be stored and maintained by a  
9 Receiving Party at a location and in a secure manner that ensures that access is  
10 limited to the persons authorized under this Order.

11           7.2 Disclosure of "CONFIDENTIAL" Information or Items.

12           Unless otherwise ordered by the court or permitted in writing by the  
13 Designating Party, a Receiving Party may disclose any information or item  
14 designated "CONFIDENTIAL" only to:

15           (a) the Receiving Party's Outside Counsel of Record in this  
16 action, as well as employees of said Outside Counsel of Record to whom it  
17 is reasonably necessary to disclose the information for this litigation and  
18 who have signed the "Acknowledgment and Agreement to Be Bound" that  
19 is attached hereto as Exhibit A;

20           (b) the officers, directors, and employees (including House  
21 Counsel) of the Receiving Party to whom disclosure is reasonably  
22 necessary for this litigation and who have signed the "Acknowledgment  
23 and Agreement to Be Bound" (Exhibit A);

24           (c) Experts (as defined in this Order) of the Receiving Party to  
25 whom disclosure is reasonably necessary for this litigation and who have  
26 signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

27           (d) the court and its personnel;

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1 (e) court reporters and their staff, professional jury or trial  
2 consultants, mock jurors, and Professional Vendors to whom disclosure is  
3 reasonably necessary for this litigation and who have signed the  
4 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

5 (f) during their depositions, witnesses in the action to whom  
6 disclosure is reasonably necessary and who have signed the  
7 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless  
8 otherwise agreed by the Designating Party or ordered by the court. Pages  
9 of transcribed deposition testimony or exhibits to depositions that reveal  
10 Protected Material must be separately bound by the court reporter and may  
11 not be disclosed to anyone except as permitted under this Stipulated  
12 Protective Order.

13 (g) the author or recipient of a document containing the  
14 information or a custodian or other person who otherwise possessed or  
15 knew the information.

16 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**  
17 **PRODUCED IN OTHER LITIGATION**

18 If a Party is served with a subpoena or a court order issued in other  
19 litigation that compels disclosure of any information or items designated in this  
20 action as “CONFIDENTIAL,” that Party must:

21 (a) promptly notify in writing the Designating Party. Such  
22 notification shall include a copy of the subpoena or court order;

23 (b) promptly notify in writing the party who caused the subpoena  
24 or order to issue in the other litigation that some or all of the material  
25 covered by the subpoena or order is subject to this Protective Order. Such  
26 notification shall include a copy of this Stipulated Protective Order; and

27 (c) cooperate with respect to all reasonable procedures sought to  
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1 be pursued by the Designating Party whose Protected Material may be  
2 affected.

3 If the Designating Party timely seeks a protective order, the Party served  
4 with the subpoena or court order shall not produce any information designated in  
5 this action as "CONFIDENTIAL" before a determination by the court from which  
6 the subpoena or order issued, unless the Party has obtained the Designating  
7 Party's permission. The Designating Party shall bear the burden and expense of  
8 seeking protection in that court of its confidential material – and nothing in these  
9 provisions should be construed as authorizing or encouraging a Receiving Party in  
10 this action to disobey a lawful directive from another court.

11 **9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE**  
12 **PRODUCED IN THIS LITIGATION**

13 (a) The terms of this Order are applicable to information produced  
14 by a Non-Party in this action and designated as "CONFIDENTIAL."  
15 *if the non-party agrees to be bound by this Order. In that event,*  
Such information produced by Non-Parties in connection with this litigation  
16 is protected by the remedies and relief provided by this Order. Nothing in  
17 these provisions should be construed as prohibiting a Non-Party from  
18 seeking additional protections.

19 (b) In the event that a Party is required, by a valid discovery  
20 request, to produce a Non-Party's confidential information in its possession,  
21 and the Party is subject to an agreement with the Non-Party not to produce  
22 the Non-Party's confidential information, then the Party shall:

23 (1) promptly notify in writing the Requesting Party and the Non-  
24 Party that some or all of the information requested is subject to a  
25 confidentiality agreement with a Non-Party;

26 (2) promptly provide the Non-Party with a copy of the Stipulated  
27 Protective Order in this litigation, the relevant discovery request(s),  
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1 and a reasonably specific description of the information requested;  
2 and

3 (3) make the information requested available for inspection by the  
4 Non-Party.

5 (c) If the Non-Party fails to object or seek a protective order from  
6 this court within 14 days of receiving the notice and accompanying  
7 information, the Receiving Party may produce the Non-Party's confidential  
8 information responsive to the discovery request. If the Non-Party timely  
9 seeks a protective order, the Receiving Party shall not produce any  
10 information in its possession or control that is subject to the confidentiality  
11 agreement with the Non-Party before a determination by the court. Absent  
12 a court order to the contrary, the Non-Party shall bear the burden and  
13 expense of seeking protection in this court of its Protected Material.

14 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

15 If a Receiving Party learns that, by inadvertence or otherwise, it has  
16 disclosed Protected Material to any person or in any circumstance not authorized  
17 under this Stipulated Protective Order, the Receiving Party must immediately (a)  
18 notify in writing the Designating Party of the unauthorized disclosures, (b) use  
19 its best efforts to retrieve all unauthorized copies of the Protected Material, (c)  
20 inform the person or persons to whom unauthorized disclosures were made of all  
21 the terms of this Order, and (d) request such person or persons to execute the  
22 "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit  
23 A.

24 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR**  
25 **OTHERWISE PROTECTED MATERIAL**

26 When a Producing Party gives notice to Receiving Parties that certain  
27 inadvertently produced material is subject to a claim of privilege or other  
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1 protection, the obligations of the Receiving Parties are those set forth in Federal  
2 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify  
3 whatever procedure may be established in an e-discovery order that provides for  
4 production without prior privilege review. Pursuant to Federal Rule of Evidence  
5 502(d) and (e), insofar as the parties reach an agreement on the effect of  
6 disclosure of a communication or information covered by the attorney-client  
7 privilege or work product protection, the parties may incorporate their agreement  
8 in the stipulated protective order submitted to the court.

9 **12. MISCELLANEOUS**

10 12.1 Right to Further Relief.

11 Nothing in this Order abridges the right of any person to seek its  
12 modification by the court in the future. No modification by the parties, however,  
13 shall have the force or effect of a Court order unless the Court approves the  
14 modification.

15 12.2 Right to Assert Other Objections.

16 By stipulating to the entry of this Protective Order no Party waives any  
17 right it otherwise would have to object to disclosing or producing any information  
18 or item on any ground not addressed in this Stipulated Protective Order.  
19 Similarly, no Party waives any right to object on any ground to use in evidence of  
20 any of the material covered by this Protective Order.

21 12.3 Filing Protected Material.

22 Without written permission from the Designating Party or a court order  
23 secured after appropriate notice to all interested persons, a Party may not file in  
24 the public record in this action any Protected Material. A Party that seeks to file  
25 under seal any Protected Material must comply with Civil Local Rule 79-5.  
26 The party who intends to file such papers shall give five business days' notice to  
27 the party who designated such materials as "Confidential." The filing party shall  
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1 cooperate with the designating party to allow the application to be filed along with  
2 the Confidential documents or information.

3 Protected Material may only be filed under seal pursuant to a court order  
4 authorizing the sealing of the specific Protected Material at issue. Pursuant to  
5 Civil Local Rule 79-5, a sealing order will issue only upon a request establishing  
6 that the Protected Material at issue is privileged, protectable as a trade secret, or  
7 otherwise entitled to protection under the law. If a Receiving Party's request to  
8 file Protected Material under seal pursuant to Civil Local Rule 79-5 is denied by  
9 the court, then the Receiving Party may file the information in the public record  
10 unless otherwise instructed by the court.

11 **13. FINAL DISPOSITION**

12 Within 60 days after the final disposition of this action, as defined in  
13 paragraph 4, each Receiving Party must return all Protected Material to the  
14 Producing Party or destroy such material. As used in this subdivision, "all  
15 Protected Material" includes all copies, abstracts, compilations, summaries, and  
16 any other format reproducing or capturing any of the Protected Material. Whether  
17 the Protected Material is returned or destroyed, the Receiving Party must submit a  
18 written certification to the Producing Party (and, if not the same person or entity,  
19 to the Designating Party) by the 60 day deadline that (1) identifies (by category,  
20 where appropriate) all the Protected Material that was returned or destroyed and  
21 (2) affirms that the Receiving Party has not retained any copies, abstracts,  
22 compilations, summaries or any other format reproducing or capturing any of the  
23 Protected Material. Notwithstanding this provision, Counsel are entitled to retain  
24 an archival copy of all pleadings, motion papers, trial, deposition, and hearing  
25 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert  
26 reports, attorney work product, and consultant and expert work product, even if  
27 such materials contain Protected Material. Any such archival copies that contain  
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1 or constitute Protected Material remain subject to this Protective Order as set forth  
2 in Section 4 (DURATION).

3  
4 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

5  
6  
7 Date: May 14, 2013

HAHN LOESER & PARKS

8  
9 /s/ Michael J. Gleason  
10 Michael J. Gleason  
11 Attorneys for Defendant  
Ferragamo USA Inc.

12 Date: May 14, 2013

WUCETICH & KOROVILAS LLP

13  
14 /s/ Jason Wucetich  
15 Jason Wucetich  
16 Attorney for Plaintiff  
Andrea Kassabian

17 PURSUANT TO STIPULATION, IT IS SO ORDERED.

18  
19 DATED: May 22, 2013

Alicia G. Rosenberg  
Alicia G. Rosenberg  
United States District Magistrate

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_, declare as follows:

1. My address is \_\_\_\_\_.
2. My present employer is \_\_\_\_\_.
3. My present occupation or job description is \_\_\_\_\_.
4. I have received a copy of the Stipulated Protective Order entered in this action on \_\_\_\_\_, 20\_\_.
5. I have carefully read and understand the provisions of this Stipulated Protective Order.
6. I will comply with all provisions of this Stipulated Protective Order.
7. I will hold in confidence, and will not disclose to anyone not qualified under the Stipulated Protective Order, any information, documents or other materials produced subject to this Stipulated Protective Order.
8. I will use such information, documents or other materials produced subject to this Stipulated Protective Order only for purposes of this present action.
9. Upon termination of this action, or upon request, I will return and deliver all information, documents or other materials produced subject to this Stipulated Protective Order, and all documents or things which I have prepared relating thereto, which documents are the subject of the Stipulated Protective Order, to my counsel in this action, or to counsel for the party by whom I am employed or retained or from whom I received the documents.
10. I hereby submit to the jurisdiction of this Court for the purposes of enforcing the Stipulated Protective Order in this action.

I declare under penalty of perjury under the laws of the United States that the following is true and correct.

Executed this \_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_.

Signature: \_\_\_\_\_