

1 MARK W. ROBBINS, Bar No. 098552  
 2 mrobbins@littler.com  
 3 DANIELLE EANET, Bar No. 251369  
 4 deanet@littler.com  
 5 LITTLER MENDELSON, P.C.  
 6 2049 Century Park East  
 7 5th Floor  
 8 Los Angeles, CA 90067.3107  
 9 Telephone: 310.553.0308  
 10 Fax No.: 310.553.5583  
 11 Attorneys for Defendant  
 12 SOCIETE AIR FRANCE

13 UNITED STATES DISTRICT COURT  
 14 CENTRAL DISTRICT OF CALIFORNIA

15 MARIAMA DIALLO,  
 16 Plaintiff,  
 17 v.  
 18 AIR FRANCE-KLM; and DOES 1  
 19 through 50, Inclusive,  
 20 Defendants.

21 CASE NO. 2:14-cv-04749-PSG-PJW  
 22 ASSIGNED FOR ALL PURPOSES TO  
 23 JUDGE PHILIP S. GUTIERREZ  
 24 STIPULATION RE PROTECTIVE  
 25 ORDER  
 26 AND ORDER

27 This Order does not authorize  
 28 the parties to file documents  
 under seal. Under seal filings  
 are governed by Local Rule  
 79-5. Pjw

LITTLER MENDELSON, P.C.  
 2049 Century Park East  
 5th Floor  
 Los Angeles, CA 90067.3107  
 310.553.0308

1 I. PURPOSE OF STIPULATION AND PROTECTIVE ORDER

2 The parties to this action anticipate that the discovery phase of this matter may  
3 involve the disclosure of material protected under the constitutional, statutory, or  
4 common law right to privacy or protected as confidential business, financial,  
5 proprietary, or trade secret information. Without waiving any objections to the  
6 discoverability of any such information, it is the parties' intention to provide a  
7 mechanism by which discovery of relevant information, otherwise not objectionable,  
8 may be obtained in a manner which protects all parties, including non-parties and third  
9 parties to this litigation, from the risk of disclosure of such confidential information.  
10 Accordingly, the parties, by and through their respective counsel, hereby stipulate to,  
11 and seek the Court's approval of, the following Protective Order.

12 II. DEFINITIONS

13 1. Party. "Party" means any of the parties to this action, their affiliates, and  
14 their respective officers, directors, and employees.

15 2. Counsel. "Counsel" means:

16 a. Littler Mendelson, a professional corporation, and its respective  
17 support staff and other employees who are not employed by a  
18 Party;

19 b. Fraigun Law Group, and their respective support staff and other  
20 employees who are not employed by a Party;

21 3. Confidential or Confidential Information. For the purposes of this  
22 Protective Order, the term "Confidential" or "Confidential Information" is information  
23 that has not been made public or is not otherwise available or accessible in the public  
24 domain and that includes confidential or proprietary information of the disclosing  
25 party, the disclosure of which information is likely to have the effect of causing harm  
26 to the competitive position of disclosing party, or, if the disclosing party is a natural  
27 person, to the disclosing party's privacy. Confidential Information also includes  
28 private information pertaining to a disclosing party's employees, for which the

1 disclosing party has a duty to maintain the confidentiality of such information.  
2 Confidential Information also includes information (regardless of how generated,  
3 stored or maintained) or tangible things that qualify for protection under standards  
4 developed under Federal Rule of Civil Procedure 26(c). Information designated  
5 Confidential may be used only in connection with this proceeding, and not for any  
6 other purpose. Such information may not be disclosed to anyone except as provided  
7 in this Order.

8 **III. DESIGNATION OF PROTECTED INFORMATION**

9 5. In connection with discovery proceedings in this action, the Parties or  
10 any third party responding to a subpoena ("Third Party") may reasonably designate  
11 any appropriate document, thing, material, testimony or other information derived  
12 therefrom, as Confidential under the terms of this Protective Order (hereinafter  
13 "Protective Order"). By designating a document, thing, material, testimony, or other  
14 information derived therefrom as Confidential, the Party making the designation is  
15 certifying to the Court that there is a good-faith basis both in law and fact for the  
16 designation within the meaning of Federal Rule of Civil Procedure 26(g).

17 6. Confidential documents shall be so designated by stamping each page of  
18 the document produced to a Party with the legend "CONFIDENTIAL." Stamping the  
19 legend "CONFIDENTIAL" on the face of a CD-ROM, DVD, or other computer disk  
20 or electronic storage device shall designate all contents therein as Confidential, unless  
21 otherwise indicated by the producing party.

22 7. Testimony taken at a deposition, conference, hearing or trial may be  
23 designated as Confidential by making a statement to that effect on the record at the  
24 deposition or other proceeding or, in the case of a deposition, such designation may be  
25 made within thirty (30) days after the receipt of the deposition transcript.  
26 Arrangements shall be made with the court reporter taking and transcribing such  
27 proceeding to separately bind such portions of the transcript containing information  
28 designated as Confidential, and to label such portions appropriately. During the thirty

1 (30) day period, all such deposition transcripts shall be treated as if it had been  
2 designated as Confidential unless otherwise agreed.

3 8. Material designated as Confidential under this Protective Order, the  
4 information contained therein, and any summaries, copies, abstracts, or other  
5 documents derived in whole or in part from material designated as Confidential  
6 (collectively, "Confidential Material") shall be used only for the purpose of the  
7 prosecution, defense, or settlement of this action, and for no other purpose.

8 9. Confidential Material produced pursuant to this Protective Order and  
9 marked solely as "Confidential" may be disclosed or made available only to:

10 a. the Court and its personnel; a jury, arbitrator, or other trier or  
11 determiner of fact in this action; a mediator who has been mutually agreed upon by  
12 the Parties;

13 b. Counsel for a Party (including the paralegal, clerical, and  
14 secretarial staff employed by such Counsel);

15 c. a Party, or an officer, director, or employee of a Party deemed  
16 necessary by Counsel to aid in the prosecution, defense, or settlement of this action;

17 d. experts or consultants (together with their clerical staff) retained by  
18 such Counsel to assist in the prosecution, defense, or settlement of this action, except  
19 that such experts and consultants shall not be employees of any Party or currently or  
20 previously under contract with any Party (except any retention agreement relating to  
21 such experts or consultants as experts or consultants in this action)

22 e. court reporter(s), their staffs, and professional vendors to whom  
23 disclosure is reasonably necessary for this litigation employed in this action;

24 f. a witness at any deposition or other proceeding in this action;

25 g. the author of the document or the original source of the  
26 information, or any prior recipient of the document or information; and

27 h. any other person as to whom the Parties in writing agree.

28 Categories (c)-(h) above shall hereafter be referred to as "Qualified Person(s)." Prior

1 to receiving any Confidential Material, each Qualified Person shall be provided with a  
2 copy of this Protective Order and shall execute a Nondisclosure Agreement in the  
3 form of Attachment A prior to receiving any Confidential Material. The fully-  
4 executed Nondisclosure Agreement shall be retained by Counsel for the Party  
5 disclosing such Confidential Material to the Qualified Person.

6 11. Where testimony at a deposition involves disclosure of Confidential  
7 Material, such deposition shall be taken only in the presence of the individuals  
8 identified in paragraph 9, subject to the requirements of paragraph 9's requirement of  
9 the execution of a Non-Disclosure Agreement.

10 12. Nothing herein shall impose any restrictions on the use or disclosure by a  
11 Party of material obtained by such Party independent of discovery in this action,  
12 whether or not such material is also obtained through discovery in this action, or from  
13 disclosing its own Confidential Material as it deems appropriate; provided, however,  
14 if a Party has obtained any such material pursuant to a separate confidentiality  
15 agreement or other legal obligation of confidentiality, that Party shall continue to  
16 adhere to such confidentiality obligations. Nothing in this Protective Order shall be  
17 deemed to restrict in any way any Party's use of its own documents or information, or  
18 the Party's attorneys with respect to that Party's own documents or information.

19 13. If a Party wishes to file documents with the Court which have been  
20 designated "CONFIDENTIAL" by another Party or Third Party pursuant to this  
21 Protective Order, such documents must be filed under seal in compliance with Local  
22 Rule 79-5.1 unless consent to file using the normal procedures has been obtained from  
23 the designating party as specified herein. The filing party's obligations shall be  
24 fulfilled by (a) filing the documents under seal as specified in Local Rule 79-5.1 with  
25 a supporting application stating that the documents were produced as Confidential  
26 Material pursuant to this Protective Order and a proposed order, and (b) giving notice  
27 of the filing by serving a copy of the application, proposed order and the document to  
28 be filed under seal to the Disclosing Party by personal service, email, fax or in another

1 manner reasonably calculated to ensure delivery by the end of the next business day.  
2 The Disclosing Party shall have five days from the date of service of the application  
3 and proposed order to file documents under seal to file and serve its own joinder in the  
4 application setting forth good cause for the sealing of the material. If the application  
5 is denied, then the document shall be made part of the public record. For purposes of  
6 complying with deadlines under the Federal Rules of Civil Procedure, Local Rules or  
7 any order of this Court, or for the setting of any other deadline triggered by the filing,  
8 the date of notice and filing of the document to be filed under seal shall be deemed the  
9 date of filing of the application to seal by the filing party and service in the manner  
10 specified here. For example, if an opposition to a motion is due on January 1, 2015,  
11 then the opposition shall be deemed timely if an application to file the opposition  
12 under seal is filed by January 1, 2015 along with the opposition to be sealed itself.

13 14. In the event that any Confidential Material is used in any Court  
14 proceeding in this action, it shall not lose its Confidential status through such use and  
15 the Party using such Confidential Material, shall take all reasonable steps to maintain  
16 its confidentiality during such use.

17 15. This Protective Order shall be without prejudice to the rights of the  
18 Parties or any other Third Party (a) to bring before the Court at any time the question  
19 of whether any particular document or information is Confidential or whether its use  
20 should be restricted, or (b) to present a motion to the Court under Fed. R. Civ. P. 26(c)  
21 for a separate protective order as to any particular document or information, including  
22 restrictions differing from those as specified herein.

23 16. If a Party wishes to challenge the designation of materials stamped  
24 "CONFIDENTIAL," the Challenging Party shall notify the Designating Party in  
25 writing of the documents and basis for the challenge. The Designating Party shall  
26 respond in writing within five (5) business days thereafter. If any disputes remain, the  
27 parties shall meet and confer within four (4) business days of the Designating Party's  
28 response in an effort to resolve such disputes. If any disputes remain unresolved, the

1 Challenging Party shall bring a motion seeking to remove the confidentiality  
2 designation pursuant to Local Rule 37. The Designating Party shall provide its  
3 portion of a joint stipulation to the Challenging Party pursuant to Local Rule 37-2.2  
4 within five (5) business days after the parties meet and confer. Such motion shall  
5 thereafter be governed by Local Rule 37-2.2 through 37-4. This Protective Order  
6 shall not be deemed to prejudice the Parties in any way in any future application for  
7 modification of this Protective Order.

8 17. This Protective Order is entered solely for the purpose of facilitating the  
9 exchange of documents and information between the Parties to this action without  
10 involving the Court unnecessarily in the process. Nothing in this Protective Order nor  
11 in the production of any information or document under the terms of this Protective  
12 Order nor any proceedings pursuant to this Protective Order shall be deemed to have  
13 the effect of any admission or waiver by any Party or any Third Party or of altering  
14 the confidentiality or non-confidentiality of any such document or information or  
15 altering any existing obligation of any Party or any Third Party or the absence thereof,  
16 or to impact in any way a Party's right to object to any discovery requests on any  
17 grounds, including attorney-client privilege, work product immunity, or any other  
18 protection provided under the law.

19 18. While this Stipulation is for the Court's consideration and approval as an  
20 order, it shall also be construed to create a contract between the Parties or between the  
21 Parties and their respective counsel.

22 19. This Protective Order shall survive the final termination of this action  
23 and the Court shall retain jurisdiction to resolve any dispute concerning the use of  
24 information disclosed hereunder. Upon termination of this action; Counsel for the  
25 Parties shall assemble and return to each other all documents, materials, and  
26 deposition transcripts designated as Confidential. Alternatively, Counsel may agree to  
27 destroy all documents, materials, and deposition transcripts designated as  
28 Confidential, and provide written affirmation of such to opposing Counsel.

1           20. This Stipulation and Order may be executed in one or more identical  
2 counterparts, each of which shall be deemed to be an original, but all of which  
3 together shall constitute one and the same instrument. Facsimile signatures of any  
4 Party upon the signature page of this Stipulation and Order shall be binding upon the  
5 Parties hereto and may be submitted as though such signatures were original  
6 signatures.

7           21. In the event a party inadvertently discloses or produces any Confidential  
8 materials without designation, such inadvertent disclosure does not constitute a waiver  
9 of confidentiality status. A party may designate such documents/information  
10 Confidential within a reasonable time after such inadvertent disclosure.

11           22. If a party wishes to use another party's Confidential Materials at trial, the  
12 party shall advise the other party's counsel prior to offering the documents, with  
13 advance notice if reasonably practicable. The proponent of confidentiality then may  
14 move to file the documents under seal. The proponent also may move the Court to  
15 restrict access to the courtroom while the "confidential" documents are discussed.  
16 The other parties need not join in such motions.

17           23. In the event that a party is served with a subpoena by any person, firm,  
18 corporation, or other entity who is not a party to this action, is not a signatory to this  
19 Order, or otherwise is not bound by this Order, which seeks to compel production of  
20 Confidential documents, the party upon whom the subpoena is served shall give  
21 written notice of the subpoena to the party who has asserted that the information or  
22 documents sought by the subpoena is Confidential. The written notice required by this  
23 Paragraph shall be given no later than seven (7) days after receipt of the subpoena, or  
24 before the production date set forth in the subpoena, whichever is earlier. The party  
25 who designated the subject information or documents as Confidential shall have the  
26 responsibility to obtain from the Court an order quashing the subpoena, a protective  
27 order, and/or such other relief as will protect the confidential nature of the subject  
28 information or documents. If such a motion is filed before the requested production

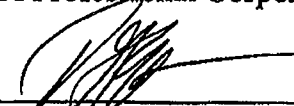


1 date, the party upon whom the subpoena, discovery request, or order is served shall  
2 not produce the subject information or documents requested in the subpoena,  
3 discovery request, or order until after such time as the Court rules on the motion to  
4 quash the subpoena or motion for protective order. If an order quashing the subpoena  
5 or motion for protective order is obtained, the party upon whom the subpoena,  
6 discovery request, or order is served shall comply with the order. If no motion to  
7 quash or motion for protective order is filed before the scheduled production date set  
8 forth in the subpoena, discovery request, or order, or if the motion to quash the  
9 subpoena or motion for protective order is denied, the party upon whom the subpoena,  
10 discovery request, or order is served may comply with the same without being deemed  
11 to have violated this Order.

12 24. This Stipulated Protective Order may be modified only if such  
13 modification is in writing, signed by the parties, and approved by an order of the  
14 Court.

15  
16 Dated: December 8, 2014

LITTLER MENDELSON  
A Professional Corporation

  
\_\_\_\_\_  
Mark W. Robbins  
Danielle G. Eanet  
Attorneys for Defendant  
SOCIÉTÉ AIR FRANCE

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23 Dated: December 3, 2014

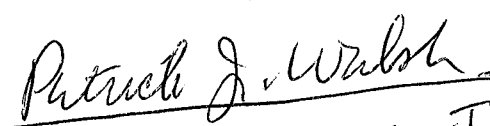
FRAIGUN LAW GROUP

  
\_\_\_\_\_  
Marina Kats Fraigon  
Attorneys for Plaintiff

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28 IT IS SO ORDERED.

8.

Dated: 12/10/14

  
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U.S. MAGISTRATE JUDGE

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Attachment A  
NONDISCLOSURE AGREEMENT

I, \_\_\_\_\_, do solemnly swear that I am fully familiar with the terms of the Stipulation and Protective Order entered in MARIAMA DIALLO v. AIR FRANCE-KLM; and DOES 1 through 25, inclusive, United States District Court for the Central District of California, Civil Action No. 2:14-cv-04749-PSG-PJW, and hereby agree to comply with and be bound by the terms and conditions of said Order unless and until modified by further order of this Court. I hereby consent to the jurisdiction of said Court for purposes of enforcing this Protective Order.

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

\_\_\_\_\_  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

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