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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

N. N. D., a minor, by and through his  
Guardian Ad Litem, DAVID NUNO,

Case No. 2:16-cv-7267 DSF (GJSx)

Plaintiff,

v.

STIPULATED PROTECTIVE  
ORDER<sup>1</sup>

AMERICAN AIRLINES, INC., a  
Delaware Corporation, AMERICAN  
AIRLINES GROUP, INC., a Delaware  
Corporation, and DOES 1-100,  
inclusive,

Defendant.

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<sup>1</sup> This Stipulated Protective Order is substantially based on the model protective order provided under Magistrate Judge Gail J. Standish's Procedures.

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1. A. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles.

B. GOOD CAUSE STATEMENT

This action is likely to involve confidential material and/or proprietary information for which special protection from public disclosure and from use for any purpose other than prosecution of this action is warranted. Without waiving any objections any party may have to the discovery request or documents sought, and without agreeing that such documents will be produced as described in this paragraph, such confidential and proprietary materials and information may consist of, among other things, plaintiff's medical records, defendant's manuals, training materials, employee files, passenger contact information, or commercial information (including information implicating privacy rights of third parties), information otherwise generally unavailable to the public, or which may be privileged or otherwise protected from disclosure under state or federal statutes, court rules, case decisions, or common law. Accordingly, to expedite the flow of information, to facilitate the prompt resolution of disputes over confidentiality of discovery materials, to adequately protect information the parties are entitled to keep confidential, to ensure that the parties are permitted reasonable necessary uses of such material in preparation for and

1 in the conduct of trial, to address their handling at the end of the litigation, and serve  
2 the ends of justice, a protective order for such information is justified in this matter. It  
3 is the intent of the parties that information will not be designated as confidential for  
4 tactical reasons and that nothing be so designated without a good faith belief that it  
5 has been maintained in a confidential, non-public manner, and there is good cause  
6 why it should not be part of the public record of this case.

7  
8 C. ACKNOWLEDGMENT OF PROCEDURE FOR FILING UNDER SEAL

9 The parties further acknowledge, as set forth in Section 12.3, below, that this  
10 Stipulated Protective Order does not entitle them to file confidential information  
11 under seal; Local Civil Rule 79-5 sets forth the procedures that must be followed and  
12 the standards that will be applied when a party seeks permission from the court to file  
13 material under seal.

14 There is a strong presumption that the public has a right of access to judicial  
15 proceedings and records in civil cases. In connection with non-dispositive motions,  
16 good cause must be shown to support a filing under seal. *See Kamakana v. City and*  
17 *County of Honolulu*, 447 F.3d 1172, 1176 (9th Cir. 2006), *Phillips v. Gen. Motors*  
18 *Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002), *Makar-Welbon v. Sony Electrics, Inc.*,  
19 187 F.R.D. 576, 577 (E.D. Wis. 1999) (even stipulated protective orders require good  
20 cause showing), and a specific showing of good cause or compelling reasons with  
21 proper evidentiary support and legal justification, must be made with respect to  
22 Protected Material that a party seeks to file under seal. The parties' mere designation  
23 of Disclosure or Discovery Material as CONFIDENTIAL does not—without the  
24 submission of competent evidence by declaration, establishing that the material  
25 sought to be filed under seal qualifies as confidential, privileged, or otherwise  
26 protectable—constitute good cause.

27 Further, if a party requests sealing related to a dispositive motion or trial, then  
28 compelling reasons, not only good cause, for the sealing must be shown, and the relief

1 sought shall be narrowly tailored to serve the specific interest to be protected. *See*  
2 *Pintos v. Pacific Creditors Ass'n*, 605 F.3d 665, 677-79 (9th Cir. 2010). For each  
3 item or type of information, document, or thing sought to be filed or introduced under  
4 seal in connection with a dispositive motion or trial, the party seeking protection must  
5 articulate compelling reasons, supported by specific facts and legal justification, for  
6 the requested sealing order. Again, competent evidence supporting the application to  
7 file documents under seal must be provided by declaration.

8 Any document that is not confidential, privileged, or otherwise protectable in  
9 its entirety will not be filed under seal if the confidential portions can be redacted. If  
10 documents can be redacted, then a redacted version for public viewing, omitting only  
11 the confidential, privileged, or otherwise protectable portions of the document, shall  
12 be filed. Any application that seeks to file documents under seal in their entirety  
13 should include an explanation of why redaction is not feasible.

## 14 15 2. DEFINITIONS

16 2.1 Action: *N.N.D. v. American Airlines, Inc., et. al.*, Case No.  
17 **2:16-cv-7267 DSF (GJSx)**

18 2.2 Challenging Party: a Party or Non-Party that challenges the designation  
19 of information or items under this Order.

20 2.3 “CONFIDENTIAL” Information or Items: information (regardless of  
21 how it is generated, stored or maintained) or tangible things that qualify for protection  
22 under Federal Rule of Civil Procedure 26(c), and as specified above in the Good  
23 Cause Statement.

24 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as  
25 their support staff).

26 2.5 Designating Party: a Party or Non-Party that designates information or  
27 items that it produces in disclosures or in responses to discovery as  
28 “CONFIDENTIAL.”

1           2.6    Disclosure or Discovery Material: all items or information, regardless of  
2 the medium or manner in which it is generated, stored, or maintained (including,  
3 among other things, testimony, transcripts, and tangible things), that are produced or  
4 generated in disclosures or responses to discovery in this matter.

5           2.7    Expert: a person with specialized knowledge or experience in a matter  
6 pertinent to the litigation who has been retained by a Party or its counsel to serve as an  
7 expert witness or as a consultant in this Action.

8           2.8    House Counsel: attorneys who are employees of a party to this Action.  
9 House Counsel does not include Outside Counsel of Record or any other outside  
10 counsel.

11          2.9    Non-Party: any natural person, partnership, corporation, association or  
12 other legal entity not named as a Party to this action.

13          2.10 Outside Counsel of Record: attorneys who are not employees of a party  
14 to this Action but are retained to represent or advise a party to this Action and have  
15 appeared in this Action on behalf of that party or are affiliated with a law firm that has  
16 appeared on behalf of that party, and includes support staff.

17          2.11 Party: any party to this Action, including all of its officers, directors,  
18 employees, consultants, retained experts, and Outside Counsel of Record (and their  
19 support staffs).

20          2.12 Producing Party: a Party or Non-Party that produces Disclosure or  
21 Discovery Material in this Action.

22          2.13 Professional Vendors: persons or entities that provide litigation support  
23 services (e.g., photocopying, videotaping, translating, preparing exhibits or  
24 demonstrations, and organizing, storing, or retrieving data in any form or medium)  
25 and their employees and subcontractors.

26          2.14 Protected Material: any Disclosure or Discovery Material that is  
27 designated as “CONFIDENTIAL.”

28          2.15 Receiving Party: a Party that receives Disclosure or Discovery Material

1 from a Producing Party.

2

3 3. SCOPE

4 The protections conferred by this Stipulation and Order cover not only  
5 Protected Material (as defined above), but also (1) any information copied or  
6 extracted from Protected Material; (2) all copies, excerpts, summaries, or  
7 compilations of Protected Material; and (3) any testimony, conversations, or  
8 presentations by Parties or their Counsel that might reveal Protected Material.

9 Any use of Protected Material at trial shall be governed by the orders of the trial  
10 judge. This Order does not govern the use of Protected Material at trial.

11

12 4. DURATION

13 Once a case proceeds to trial, information that was designated as  
14 CONFIDENTIAL or maintained pursuant to this protective order used or introduced  
15 as an exhibit at trial becomes public and will be presumptively available to all  
16 members of the public, including the press, unless compelling reasons supported by  
17 specific factual findings to proceed otherwise are made to the trial judge in advance of  
18 the trial. *See Kamakana*, 447 F.3d at 1180-81 (distinguishing “good cause” showing  
19 for sealing documents produced in discovery from “compelling reasons” standard  
20 when merits-related documents are part of court record). Accordingly, the terms of  
21 this protective order do not extend beyond the commencement of the trial.

22

23 5. DESIGNATING PROTECTED MATERIAL

24 5.1 Exercise of Restraint and Care in Designating Material for Protection.

25 Each Party or Non-Party that designates information or items for protection under this  
26 Order must take care to limit any such designation to specific material that qualifies  
27 under the appropriate standards. The Designating Party must designate for protection  
28 only those parts of material, documents, items or oral or written communications that

1 qualify so that other portions of the material, documents, items or communications for  
2 which protection is not warranted are not swept unjustifiably within the ambit of this  
3 Order.

4 Mass, indiscriminate or routinized designations are prohibited. Designations  
5 that are shown to be clearly unjustified or that have been made for an improper  
6 purpose (e.g., to unnecessarily encumber the case development process or to impose  
7 unnecessary expenses and burdens on other parties) may expose the Designating  
8 Party to sanctions.

9 If it comes to a Designating Party's attention that information or items that it  
10 designated for protection do not qualify for protection, that Designating Party must  
11 promptly notify all other Parties that it is withdrawing the inapplicable designation.

12 5.2 Manner and Timing of Designations. Except as otherwise provided in  
13 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise  
14 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection  
15 under this Order must be clearly so designated before the material is disclosed or  
16 produced.

17 Designation in conformity with this Order requires:

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

25 A Party or Non-Party that makes original documents available for inspection  
26 need not designate them for protection until after the inspecting Party has indicated  
27 which documents it would like copied and produced. During the inspection and  
28 before the designation, all of the material made available for inspection shall be

1 deemed “CONFIDENTIAL.” After the inspecting Party has identified the documents  
2 it wants copied and produced, the Producing Party must determine which documents,  
3 or portions thereof, qualify for protection under this Order. Then, before producing  
4 the specified documents, the Producing Party must affix the “CONFIDENTIAL  
5 legend” to each page that contains Protected Material. If only a portion of the  
6 material on a page qualifies for protection, the Producing Party also must clearly  
7 identify the protected portion(s) (e.g., by making appropriate markings in the  
8 margins).

9 (b) for testimony given in depositions that the Designating Party identifies  
10 the Disclosure or Discovery Material on the record, before the close of the deposition  
11 all protected testimony.

12 (c) for information produced in some form other than documentary and for  
13 any other tangible items, that the Producing Party affix in a prominent place on the  
14 exterior of the container or containers in which the information is stored the legend  
15 “CONFIDENTIAL.” If only a portion or portions of the information warrants  
16 protection, the Producing Party, to the extent practicable, shall identify the protected  
17 portion(s).

18 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent  
19 failure to designate qualified information or items does not, standing alone, waive the  
20 Designating Party’s right to secure protection under this Order for such material.  
21 Upon timely correction of a designation, the Receiving Party must make reasonable  
22 efforts to assure that the material is treated in accordance with the provisions of this  
23 Order.

## 24 25 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

26 6.1 Timing of Challenges. Any Party or Non-Party may challenge a  
27 designation of confidentiality at any time that is consistent with the Court’s  
28 Scheduling Order.



1           6.2    Meet and Confer. The Challenging Party shall initiate the dispute  
2 resolution process under Local Rule 37.1 et seq.

3           6.3    The burden of persuasion in any such challenge proceeding shall be on  
4 the Designating Party. Frivolous challenges, and those made for an improper purpose  
5 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may  
6 expose the Challenging Party to sanctions. Unless the Designating Party has waived  
7 or withdrawn the confidentiality designation, all parties shall continue to afford the  
8 material in question the level of protection to which it is entitled under the Producing  
9 Party’s designation until the Court rules on the challenge.

10   7.    ACCESS TO AND USE OF PROTECTED MATERIAL

11           7.1    Basic Principles. A Receiving Party may use Protected Material that is  
12 disclosed or produced by another Party or by a Non-Party in connection with this  
13 Action only for prosecuting, defending or attempting to settle this Action. Such  
14 Protected Material may be disclosed only to the categories of persons and under the  
15 conditions described in this Order. When the Action has been terminated, a  
16 Receiving Party must comply with the provisions of section 13 below (FINAL  
17 DISPOSITION).

18           Protected Material must be stored and maintained by a Receiving Party at a  
19 location and in a secure manner that ensures that access is limited to the persons  
20 authorized under this Order.

21           7.2    Disclosure of “CONFIDENTIAL” Information or Items. Unless  
22 otherwise ordered by the court or permitted in writing by the Designating Party, a  
23 Receiving Party may disclose any information or item designated  
24 “CONFIDENTIAL” only to:

25           (a) the Receiving Party’s Outside Counsel of Record in this Action, as well  
26 as employees of said Outside Counsel of Record to whom it is reasonably necessary  
27 to disclose the information for this Action;

28           (b) the officers, directors, and employees (including House Counsel) of the

1 Receiving Party to whom disclosure is reasonably necessary for this Action;

2 (c) Experts (as defined in this Order) of the Receiving Party to whom  
3 disclosure is reasonably necessary for this Action and who have signed the  
4 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

5 (d) the court and its personnel;

6 (e) court reporters and their staff;

7 (f) professional jury or trial consultants, mock jurors, and Professional  
8 Vendors to whom disclosure is reasonably necessary for this Action and who have  
9 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

10 (g) the author or recipient of a document containing the information or a  
11 custodian or other person who otherwise possessed or knew the information;

12 (h) during their depositions, witnesses, and attorneys for witnesses, in the  
13 Action to whom disclosure is reasonably necessary provided: (1) the deposing party  
14 requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they will  
15 not be permitted to keep any confidential information unless they sign the  
16 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise  
17 agreed by the Designating Party or ordered by the court. Pages of transcribed  
18 deposition testimony or exhibits to depositions that reveal Protected Material may be  
19 separately bound by the court reporter and may not be disclosed to anyone except as  
20 permitted under this Stipulated Protective Order; and

21 (i) any mediator or settlement officer, and their supporting personnel,  
22 mutually agreed upon by any of the parties engaged in settlement discussions.

23  
24 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN  
25 OTHER LITIGATION

26 If a Party is served with a subpoena or a court order issued in other litigation  
27 that compels disclosure of any information or items designated in this Action as  
28 “CONFIDENTIAL,” that Party must:

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

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

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

9 If the Designating Party timely seeks a protective order, the Party served with  
10 the subpoena or court order shall not produce any information designated in this  
11 action as “CONFIDENTIAL” before a determination by the court from which the  
12 subpoena or order issued, unless the Party has obtained the Designating Party’s  
13 permission. The Designating Party shall bear the burden and expense of seeking  
14 protection in that court of its confidential material and nothing in these provisions  
15 should be construed as authorizing or encouraging a Receiving Party in this Action to  
16 disobey a lawful directive from another court.

17  
18 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE  
19 PRODUCED IN THIS LITIGATION

20 (a) The terms of this Order are applicable to information produced by a  
21 Non-Party in this Action and designated as “CONFIDENTIAL.” Such information  
22 produced by Non-Parties in connection with this litigation is protected by the  
23 remedies and relief provided by this Order. Nothing in these provisions should be  
24 construed as prohibiting a Non-Party from seeking additional protections.

25 (b) In the event that a Party is required, by a valid discovery request, to  
26 produce a Non-Party’s confidential information in its possession, and the Party is  
27 subject to an agreement with the Non-Party not to produce the Non-Party’s  
28 confidential information, then the Party shall:

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

4 (2) promptly provide the Non-Party with a copy of the Stipulated  
5 Protective Order in this Action, the relevant discovery request(s), and a reasonably  
6 specific description of the information requested; and

7 (3) make the information requested available for inspection by the  
8 Non-Party, if requested.

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

17  
18 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

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1 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE  
2 PROTECTED MATERIAL

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

13  
14 12. MISCELLANEOUS

15 12.1 Right to Further Relief. Nothing in this Order abridges the right of any  
16 person to seek its modification by the Court in the future.

17 12.2 Right to Assert Other Objections. By stipulating to the entry of this  
18 Protective Order, no Party waives any right it otherwise would have to object to  
19 disclosing or producing any information or item on any ground not addressed in this  
20 Stipulated Protective Order. Similarly, no Party waives any right to object on any  
21 ground to use in evidence of any of the material covered by this Protective Order.

22 12.3 Filing Protected Material. A Party that seeks to file under seal any  
23 Protected Material must comply with Local Civil Rule 79-5. Protected Material may  
24 only be filed under seal pursuant to a court order authorizing the sealing of the  
25 specific Protected Material at issue. If a Party's request to file Protected Material  
26 under seal is denied by the court, then the Receiving Party may file the information in  
27 the public record unless otherwise instructed by the court.

28

1     13.    FINAL DISPOSITION

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

20  
21     14.    VIOLATION

22     Any violation of this Order may be punished by appropriate measures including,  
23 without limitation, contempt proceedings and/or monetary sanctions.

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IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

This 9<sup>th</sup> day of August, 2017.

FRIEDMAN | RUBIN

FORD WALKER HAGGERTY &  
BEHAR

/s/Kenneth Friedman

/s/Tina I. Mangarpan

KENNETH FRIEDMAN, *Pro Hac Vice*  
ALISA BRODKOWITZ, *Pro Hac Vice*

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FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: August 23, 2017



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GAIL J. STANDISH  
UNITED STATES MAGISTRATE JUDGE

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3  
4 I, \_\_\_\_\_ [print or type full name], of  
5 \_\_\_\_\_ [print or type full address], declare under penalty of perjury that  
6 I have read in its entirety and understand the Stipulated Protective Order that was  
7 issued by the United States District Court for the Central District of California on  
8 [date] in the case of [*N.N.D. v. American Airlines, Inc., et. al., Case No.*  
9 **2:16-cv-7267 DSF (GJSx)**]. I agree to comply with and to be bound by all the terms  
10 of this Stipulated Protective Order and I understand and acknowledge that failure to  
11 so comply could expose me to sanctions and punishment in the nature of contempt. I  
12 solemnly promise that I will not disclose in any manner any information or item that  
13 is subject to this Stipulated Protective Order to any person or entity except in strict  
14 compliance with the provisions of this Order.

15 I further agree to submit to the jurisdiction of the United States District Court for the  
16 Central District of California for enforcing the terms of this Stipulated Protective  
17 Order, even if such enforcement proceedings occur after termination of this action. I  
18 hereby appoint \_\_\_\_\_ [print or type full name] of  
19 \_\_\_\_\_ [print or type full address and  
20 telephone number] as my California agent for service of process in connection with  
21 this action or any proceedings related to enforcement of this Stipulated Protective  
22 Order.

23 Date: \_\_\_\_\_

24 City and State where sworn and signed: \_\_\_\_\_

25 Printed name: \_\_\_\_\_

26 Signature: \_\_\_\_\_  
27  
28