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 18 SCHENASI

19 UNITED STATES DISTRICT COURT
 20 CENTRAL DISTRICT OF CALIFORNIA—WESTERN DIVISION

21 FCA US LLC, a Delaware Limited
 Liability Company,
 22
 Plaintiff,
 23
 v.
 24 SCAT ENTERPRISES, INC., a
 25 California corporation; PHILIP
 26 THOMAS LIEB, an individual; CRAIG
 SCHENASI, an individual, and DOES 1
 through 5, inclusive,
 27
 Defendants.
 28

Case No. 2:16-cv-8012-JFW-RAO
**STIPULATED PROTECTIVE
 ORDER RE CONFIDENTIAL
 INFORMATION**

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Page

1.	DEFINITIONS.....	1
2.	DESIGNATION OF CONFIDENTIAL INFORMATION.....	2
3.	DEPOSITIONS.....	3
4.	DISCLOSURE OF DESIGNATED CONFIDENTIAL INFORMATION.....	5
5.	CHALLENGING A DESIGNATION.....	8
6.	INADVERTENT FAILURE TO DESIGNATE.....	10
7.	CUSTODY AND DISPOSITION OF DESIGNATED CONFIDENTIAL INFORMATION.....	12
8.	MISCELLANEOUS PROVISIONS.....	13
9.	FILING OR LODGING UNDER SEAL.....	14
10.	GOOD CAUSE STATEMENT.....	15

1 I.

2 **STIPULATION RE CONFIDENTIAL INFORMATION**

3 IT IS HEREBY STIPULATED by the parties in this action, by and through
4 their respective attorneys of record and pursuant to FED. R. CIV. P. 26(c)(1) and 29
5 and C.D. CAL. LOCAL RULE 79-5.1, that discovery in this case of confidential
6 information shall be had on the following terms and conditions:

7 **1. DEFINITIONS.**

8 1.1 As used herein, the term "confidential information" means: (a) any type
9 of information that has not been made generally available to the public and the
10 disclosure of which the disclosing party or non-party contends would cause serious
11 harm to the disclosing party's or non-party's business operations or interests,
12 including, but not limited to, contracts for personal services, customer lists, customer
13 data, costs of goods or services sold, manufacturing or other costs of doing business,
14 employee salaries, personnel file information, marketing plans, financial performance
15 data, sales records, inventory sheets, and manufacturing, product development, and
16 business development strategies; (b) data derived from such confidential information,
17 including any summaries, compilations, quotes, or paraphrases thereof; and (c) any
18 other oral, written, or recorded material that consists of or contains trade secrets (as
19 defined in CAL. CIV. CODE § 3426.1(d)) or other confidential research, development,
20 or commercial information (as defined in FED. R. CIV. P. 26(c)(1)(G)).

21 1.2 As used herein, the terms "document", "documents", "tangible things",
22 "recordings", and "photographs" mean documents, writings, tangible things,
23 recordings, and photographs as defined in FED. R. CIV. P. 34(a) and FED. R. EVID.
24 1001, and include, but are not limited to, records, exhibits, reports, samples,
25 transcripts, video or audio recordings, disks, affidavits, briefs, summaries, notes,
26 abstracts, drawings, company records and reports, answers to interrogatories,
27 responses to requests for admissions, and motions, including copies or computer-
28 stored versions of any of the foregoing.

1 1.3 As used herein, the term "designating party" means a party or non-party
2 that designates information or items that he, she, or it produces in disclosures or in
3 responses to discovery as CONFIDENTIAL, CONFIDENTIAL - COUNSEL ONLY,
4 or CONFIDENTIAL - OAE¹ ONLY, as defined below. Any non-party wishing to so
5 designate information or items must execute the declaration entitled *Declaration*
6 *Confirming Compliance With Stipulated Protective Order Re Designation Of*
7 *Confidential Information ("Compliance Declaration")* attached hereto as EXHIBIT
8 A.

9 **2. DESIGNATION OF CONFIDENTIAL INFORMATION.**

10 2.1 This Protective Order applies to all discovery responses, documents,
11 testimony, and other materials containing confidential information disclosed in this
12 action that are designated by a party or non-party as CONFIDENTIAL,
13 CONFIDENTIAL - COUNSEL ONLY, or CONFIDENTIAL - OAE ONLY, as
14 defined below, whether such disclosure is by order of the Court or by response to
15 questions in a deposition, written interrogatories, requests for the production of
16 documents and other tangible things, requests for admission, deposition notices,
17 subpoenas to produce documents, things or tangible items, or any other discovery
18 undertaken in this action.

19 2.2 Any party or non-party may protect information he , she, or it believes
20 constitutes his, her, or its confidential information by designating such information as
21 CONFIDENTIAL, CONFIDENTIAL - COUNSEL ONLY, or CONFIDENTIAL -
22 OAE ONLY, as defined below, prior to or at the time of disclosure of such
23 information. Such designation shall be accomplished by placing the notation
24 CONFIDENTIAL, CONFIDENTIAL - COUNSEL ONLY, or CONFIDENTIAL -
25 OAE ONLY on every page of each document or portion thereof so designated. In the
26 case of confidential information disclosed in a non-paper medium (*e.g.*, videotape,

27 _____
28 ¹ "Outside Attorneys' Eyes".

1 audiotape, computer disks, *etc.*), the notation CONFIDENTIAL, CONFIDENTIAL -
2 COUNSEL ONLY, or CONFIDENTIAL - OAE ONLY shall be affixed to the outside
3 of the medium or its container so as to clearly give notice of the designation. Such
4 designation is deemed to apply to the document itself and to the confidential
5 information contained therein.

6 2.3 Confidential information so designated shall be used only for the
7 purposes of this litigation and may not be used by any party or non-party to whom or
8 which that information is produced or disclosed for research, development, sales,
9 marketing, publicity or competitive purposes, or any other purpose. Confidential
10 information so designated shall not be disclosed to anyone other than those persons
11 identified in Paragraphs 4.3 and 4.4, below, except as may be ordered by the Court or
12 agreed to in writing by the designating party or non-party. If any information
13 designated by a party or non-party as confidential is used by a party to whom or
14 which it has been produced or disclosed as part of a paper filed or lodged with the
15 Court in this action or in a response to a discovery request in this action, the party
16 using that information shall take all reasonable steps to preserve the continued
17 confidentiality of that designated confidential information. This includes maintaining
18 the designation of confidentiality in all places where that information is so used and
19 requesting that such information be filed or lodged with the Court under seal in
20 accordance with the procedures of C.D. CAL. LOCAL RULE 79-5.1.

21 2.4 The parties and any non-parties asked to produce confidential
22 information shall use reasonable care to avoid designating any materials as
23 CONFIDENTIAL, CONFIDENTIAL - COUNSEL ONLY, or CONFIDENTIAL -
24 OAE ONLY that are (a) not entitled to such designation, or (b) are generally available
25 to the public.

26 **3. DEPOSITIONS.**

27 3.1 With respect to the examination of witnesses upon oral deposition, when
28 designated confidential information is supplied to the deponent, or when the

1 deponent's testimony contains, reflects, or comments on designated confidential
2 information, the deposition reporter and/or videotape operator shall be informed of
3 this Protective Order by the party seeking to invoke its protection, and will be
4 required to agree to be bound by its terms in accordance with Paragraph 4.5, below.
5 The reporter and/or videotape operator then shall place on the cover of any deposition
6 transcript or videotape that contains any designated confidential information the
7 words "CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A COURT
8 PROTECTIVE ORDER", "CONTAINS CONFIDENTIAL - COUNSEL ONLY
9 INFORMATION SUBJECT TO A COURT PROTECTIVE ORDER", or
10 "CONTAINS CONFIDENTIAL - OAE ONLY INFORMATION SUBJECT TO A
11 COURT PROTECTIVE ORDER, depending on the designation made by the
12 designating party or non-party. Counsel of record for the parties then shall take
13 appropriate steps to prevent any portions of any deposition transcript or videotape
14 designated CONFIDENTIAL, CONFIDENTIAL - COUNSEL ONLY, or
15 CONFIDENTIAL - OAE ONLY from being disclosed to any person, except as
16 provided in this Protective Order.

17 3.2 As noted in Paragraph 2.4, above, and Paragraphs 4.2 and 5.1, below, the
18 parties are obligated to only designate as CONFIDENTIAL, CONFIDENTIAL -
19 COUNSEL ONLY, or CONFIDENTIAL - OAE ONLY information that constitutes
20 "confidential information" (as defined in Paragraph 1.1, above) and are obligated to
21 not overuse such designations. In order to give the parties time to designate testimony
22 given at a deposition as CONFIDENTIAL, CONFIDENTIAL - COUNSEL ONLY,
23 or CONFIDENTIAL - OAE ONLY, if appropriate, all testimony at a deposition shall
24 be presumed to be designated CONFIDENTIAL - OAE ONLY for only thirty (30)
25 days following receipt of a copy of the deposition transcript. If any party then desires
26 to designate portions of that transcript as CONFIDENTIAL, CONFIDENTIAL -
27 COUNSEL ONLY, or CONFIDENTIAL - OAE ONLY, then it must do so within
28 those thirty (30) days by providing all parties with a written list of those selected

1 portions of the deposition transcript, and any exhibits attached thereto, that the party
2 has designated CONFIDENTIAL, CONFIDENTIAL - COUNSEL ONLY, or
3 CONFIDENTIAL - OAE ONLY.

4 3.3 Each deponent to whom any party proposes to disclose designated
5 confidential information of another party or non-party at a deposition, or other
6 proceeding shall be given a copy of this Protective Order and informed of its contents.
7 The parties shall take all reasonable steps to have such witnesses sign the *Compliance*
8 *Declaration* attached hereto as EXHIBIT A and referenced herein. The provisions of
9 this Protective Order do not govern use of designated confidential information at trial
10 and use of designated confidential information at trial shall be governed by order(s) of
11 the trial judge.

12 3.4 If designated confidential information is to be discussed or disclosed in a
13 deposition, any party claiming such confidentiality may exclude from the room any
14 person who is not entitled to receive such confidential information during that portion
15 of the deposition in which the confidential information is actually discussed or
16 disclosed.

17 **4. DISCLOSURE OF DESIGNATED CONFIDENTIAL INFORMATION.**

18 4.1 The parties, counsel for the parties, and all persons who execute the
19 *Compliance Declaration* shall maintain all designated confidential information in
20 confidence and shall not disclose such information, directly or indirectly, to any
21 person except as provided in this Protective Order.

22 4.2 While the disclosure of confidential information designated
23 CONFIDENTIAL, CONFIDENTIAL - COUNSEL ONLY, or CONFIDENTIAL -
24 OAE ONLY to persons not authorized by this Protective Order could, by definition,
25 be prejudicial to the business, operations, or interests of the designating party or non-
26 party, the CONFIDENTIAL, CONFIDENTIAL - COUNSEL ONLY, and
27 CONFIDENTIAL - OAE ONLY designations should not be overused.
28

1 4.3 **Access to confidential information designated as CONFIDENTIAL:**

2 Such access shall be limited to the following persons:

3 4.3.1 **Counsel** for the parties, which includes: (a) **counsel of record** for
4 the parties, namely **outside attorneys** who have made an appearance in this action,
5 and their in-house support personnel; and (b) **in-house counsel** for FCA US LLC
6 ("**FCA**"), namely **Donna L. Berry**, Chief Trademark Counsel for FCA, **Amanda L.**
7 **Conti-Duhaime**, Senior Staff Counsel for FCA, and **Kristen Spano**, Senior Staff
8 Counsel for FCA, so long as each holds only a position as an in-house attorney and
9 not a business, sales, or marketing position at FCA. For purposes of clarification, at
10 the time of entry of this Protective Order Scat Enterprises, Inc. does not have any in-
11 house attorneys. If any outside vendors (*e.g.*, copy services) are used as support
12 personnel for counsel for the parties, they shall comply with the requirements of
13 Paragraph 4.5, below.

14 4.3.2 Pursuant to Paragraphs 4.5 and 4.6, below, **consultants** requested
15 by the parties' counsel of record to furnish expert or litigation support services in this
16 litigation. Any such consultants shall comply with the requirements of Paragraphs 4.5
17 and 4.6, below.

18 4.3.3 Pursuant to Paragraphs 3.1 through 3.4, above, and Paragraph 4.5,
19 below, **deponents** at their depositions on a need-to-know basis. Counsel of record
20 should have a good faith belief that such disclosure is necessary before disclosing
21 designated confidential information to the deponent.

22 4.3.4 The **parties** to this action.

23 4.3.5 The **Court** and **Jury**.

24 4.4 **Access to confidential information designated as CONFIDENTIAL -**

25 **COUNSEL ONLY:** Such access shall be limited to those persons described in
26 Paragraphs 4.3.1 (counsel of record and in-house counsel), 4.3.2 (consultants), and
27 4.3.5 (the Court and Jury), above. No deponent shall be given access to confidential
28 information designated CONFIDENTIAL - COUNSEL ONLY by any other party or

1 non-party unless (a) that deponent is first established to be the author or the sender,
2 recipient or custodian of the information, or (b) the designating party or non-party
3 agrees to give the deponent access in writing and the deponent complies with the
4 requirements of Paragraph 4.5, below. No party may have a present or former
5 employee, director, or officer act as a consultant to furnish expert or litigation support
6 services in this litigation in order to get around this restriction. (See Paragraph 4.3.2,
7 above.)

8 4.5 **Access to confidential information designated as CONFIDENTIAL -**
9 **OAE ONLY:** Such access shall be limited to those persons described in Paragraphs
10 4.3.1(a) (counsel of record), 4.3.2 (consultants), and 4.3.5 (the Court and Jury),
11 above. No deponent shall be given access to confidential information designated
12 CONFIDENTIAL - OAE ONLY by any other party or non-party unless (a) that
13 deponent is first established to be the author or the sender, recipient or custodian of
14 the information, or (b) the designating party or non-party agrees to give the deponent
15 access in writing and the deponent complies with the requirements of Paragraph 4.5,
16 below. No party may have a present or former employee, director, or officer act as a
17 consultant to furnish expert or litigation support services in this litigation in order to
18 get around this restriction. (See Paragraph 4.3.2, above.)

19 4.6 Each (a) outside vendor authorized pursuant to Paragraph 4.3.1, above,
20 (b) consultant authorized pursuant to Paragraph 4.3.2, above, (c) deponent authorized
21 pursuant to Paragraph 4.3.3, 4.4(b), or 4.5(b), above, and (d) party authorized
22 pursuant to Paragraph 4.3.4, above, shall, prior to being given access to designated
23 confidential information, acknowledge in writing his or her familiarity with the terms
24 of this Protective Order and execute the *Compliance Declaration*, attached hereto as
25 EXHIBIT A.

26 4.7 If a party or his, her, or its counsel of record wants to disclose another
27 party's or a non-party's designated confidential information to a consultant described
28 in Paragraph 4.3.2, above, disclosure shall be allowed only if the party desiring such

1 disclosure obtains the designating party's consent or a court order. The following
2 procedure shall apply to obtaining consent for such disclosure:

3 4.7.1 Notice of the name, address, telephone number and title or
4 position of such consultant, a *curriculum vitae* for the consultant, notice of any
5 previous or current personal, professional, or employment-related relationship with a
6 party to this action, a list of all other cases in which, during the previous four years,
7 the consultant testified as an expert at trial or by deposition, and a signed copy of the
8 *Compliance Declaration*, attached hereto as EXHIBIT A, shall be served in writing
9 by e-mail on counsel of record for the designating party for such party's consent to
10 disclosure of confidential information to such consultant.

11 4.7.2 Consent to the disclosure shall not be unreasonably withheld, and
12 shall be granted or denied, by e-mail to all counsel of record in this action, within
13 seven (7) days of receipt of the notice by e-mail. A failure to respond within that
14 seven-day period shall operate as consent.

15 4.7.3 If any objection to disclosing confidential information to such an
16 identified consultant is made within that seven-day period, and that objection cannot
17 be resolved by agreement between the party seeking disclosure and the designating
18 party, the party seeking disclosure of the confidential information may move the
19 Court for an order allowing such disclosure, in accordance with the procedures set
20 forth in C.D. CAL. LOCAL RULES 37-1 through 37-4.

21 4.8 Nothing herein shall prohibit a party, or his, her, or its counsel of record,
22 from disclosing a document that contains confidential information to a person
23 established to be the author or the sender, recipient or custodian of the information,
24 and the person complies with the requirements of Paragraph 4.5, above.

25 **5. CHALLENGING A DESIGNATION.**

26 5.1 As stated above in Paragraph 1.1, the term "confidential information", as
27 defined herein, is directed at information that, if disclosed other than as provided in
28 this Protective Order, would cause serious harm to the designating party's business

1 operations or interests. As further stated above in Paragraph 2.4, designating parties
2 and non-parties shall use reasonable care to avoid designating any materials as
3 CONFIDENTIAL, CONFIDENTIAL - COUNSEL ONLY, or CONFIDENTIAL -
4 OAE ONLY that are (a) not entitled to such designation, or (b) are generally available
5 to the public. As further stated above in Paragraph 4.2, the CONFIDENTIAL,
6 CONFIDENTIAL - COUNSEL ONLY, and CONFIDENTIAL - OAE ONLY
7 designations should not be overused. In furtherance of the goal of using the
8 confidentiality designations provided for herein as little as possible, the parties and
9 any non-parties asked to produce confidential information agree that they will actively
10 work to avoid the over-designation of information produced in discovery in this
11 action.

12 5.1.1 With respect to confidential information that will be designated as
13 subject to the more restrictive confidentiality designation allowed herein,
14 CONFIDENTIAL - COUNSEL ONLY, the parties and any non-parties asked to
15 produce confidential information agree that they will use that more restrictive
16 designation only if the designating party reasonably and in good faith believes that the
17 material being designated contains: (a) trade secrets; or (b) highly confidential, non-
18 public, personal or proprietary business information, the disclosure of either of which
19 would be especially detrimental or harmful to the producing party or non-party if
20 disclosed beyond the limited class of permitted recipients as delineated herein.

21 5.1.2 With respect to confidential information that will be designated as
22 subject to the most restrictive confidentiality designation allowed herein,
23 CONFIDENTIAL - OAE ONLY, the parties and any non-parties asked to produce
24 confidential information agree that they will use that most restrictive designation only
25 if the designating party reasonably and in good faith believes that the material being
26 designated contains: (a) trade secrets; or (b) highly confidential, non-public,
27 personal or proprietary business information, the disclosure of either of which would
28

1 be highly detrimental or harmful to the producing party or non-party if disclosed
2 beyond the limited class of permitted recipients as delineated herein.

3 5.2 If only a portion of a document contains matter that meets either of these
4 standards, then only that portion will be designated CONFIDENTIAL - COUNSEL
5 ONLY or CONFIDENTIAL - OAE ONLY, whichever is appropriate, and the balance
6 of the document will either not be designated or will be designated CONFIDENTIAL,
7 whichever is appropriate.

8 5.3 In the event that counsel of record for any party at any time believes that
9 designated confidential information should not be so designated, or that a different
10 designation should be employed, such counsel shall employ the procedures of C.D.
11 CAL. LOCAL RULES 37-1 through 37-4 to resolve that dispute. The designating party
12 shall bear the burden of persuasion that it has properly designated the subject
13 materials under the standards set forth herein. The Court may impose a monetary
14 sanction under FED. R. CIV. P. 37(a)(3)(A) and C.D. CAL. LOCAL RULE 37-4 against
15 any party, person, or counsel of record who unsuccessfully makes or opposes such a
16 motion in accordance with the Rules.

17 5.4 For documents that any party might wish to file with the Court under
18 seal, that party shall employ the procedures of C.D. CAL. LOCAL RULE 79-5.1 and
19 comply with the requirements of Paragraph 9, below.

20 5.5 No party shall be obliged to challenge the propriety of a
21 CONFIDENTIAL, CONFIDENTIAL - COUNSEL ONLY, or CONFIDENTIAL -
22 OAE ONLY designation, and a failure to do so shall not preclude a subsequent attack
23 on the propriety of such designation.

24 **6. INADVERTENT FAILURE TO DESIGNATE.**

25 6.1 The inadvertent failure to designate confidential information as
26 CONFIDENTIAL, CONFIDENTIAL - COUNSEL ONLY, or CONFIDENTIAL -
27 OAE ONLY prior to or at the time of disclosure shall not operate as a waiver of a
28

1 party's or non-party's right to designate such information as CONFIDENTIAL,
2 CONFIDENTIAL - COUNSEL ONLY, or CONFIDENTIAL - OAE ONLY.

3 6.2 In the event that confidential information is designated as
4 CONFIDENTIAL, CONFIDENTIAL - COUNSEL ONLY, or CONFIDENTIAL -
5 OAE ONLY after disclosure under Paragraph 6.1, above, the receiving party shall
6 employ reasonable efforts to ensure that all previously disclosed information is
7 subsequently treated as CONFIDENTIAL, CONFIDENTIAL - COUNSEL ONLY, or
8 CONFIDENTIAL - OAE ONLY, as appropriate, pursuant to the terms of this
9 Protective Order. The parties, however, agree and understand that until the receiving
10 party receives actual notice of the disclosing party's or non-party's purported
11 inadvertent failure to designate confidential information as CONFIDENTIAL,
12 CONFIDENTIAL - COUNSEL ONLY, or CONFIDENTIAL - OAE ONLY, such
13 information is presumptively non-confidential and not subject to the terms of this
14 Protective Order.

15 6.3 Should any document or information designated as CONFIDENTIAL,
16 CONFIDENTIAL - COUNSEL ONLY, or CONFIDENTIAL - OAE ONLY be
17 disclosed, through inadvertence or otherwise, to any person or party not authorized to
18 see such materials under this Protective Order, then the disclosing party shall use its
19 best efforts to bind such person to the terms of this Protective Order, and shall (a)
20 promptly inform such person of all the provisions of this Protective Order and request
21 immediate return of any designated information disclosed, (b) identify the name,
22 address, telephone number, employer, and title or position of such person
23 immediately to the party or non-party that designated the document or information
24 and state whether the designated information has been returned and is no longer in the
25 possession of the unauthorized person, and (c) request such person to sign the
26 *Compliance Declaration*, attached hereto as EXHIBIT A. The executed *Compliance*
27 *Declaration* shall then promptly be served upon the party or non-party that designated
28 the document or information.

1 6.4 Any claim by a party of inadvertent failure to designate confidential
2 information as CONFIDENTIAL, CONFIDENTIAL - COUNSEL ONLY or
3 CONFIDENTIAL - OAE ONLY shall be made in good faith and not in an attempt to
4 subvert any obligation under this Protective Order to timely and properly designate
5 confidential information as CONFIDENTIAL, CONFIDENTIAL - COUNSEL
6 ONLY, or CONFIDENTIAL - OAE ONLY.

7 **7. CUSTODY AND DISPOSITION OF DESIGNATED CONFIDENTIAL**
8 **INFORMATION.**

9 7.1 Confidential information designated CONFIDENTIAL,
10 CONFIDENTIAL - COUNSEL ONLY, or CONFIDENTIAL - OAE ONLY shall be
11 maintained in the custody of counsel of record for the parties, except for information
12 in the custody of: (a) the Court; (b) any court reporter transcribing testimony given in
13 this action, for the limited purpose of rendering his or her normal transcribing
14 services; and (c) consultants entitled to see such information under the terms of this
15 Protective Order, to the extent necessary for their study, analysis, and preparation of
16 the case. Except for the Court, a person with custody of information designated
17 CONFIDENTIAL, CONFIDENTIAL - COUNSEL ONLY, or CONFIDENTIAL -
18 OAE ONLY shall maintain it in a manner that limits access to it to only those persons
19 entitled under this Protective Order to examine it.

20 7.2 Unless counsel of record agree otherwise in writing, at the conclusion of
21 this litigation, whether by settlement or final decision of the Court of last resort, the
22 parties, counsel for the parties, and all persons who executed the *Compliance*
23 *Declaration* agree that they will destroy or return to the designating party or non-party
24 all copies of any documents, other than attorney work product, containing designated
25 confidential information produced by a party or non-party. Notwithstanding the
26 foregoing, counsel of record shall be permitted to retain a file copy of all pre-trial,
27 trial, and post-trial materials, depositions and deposition exhibits, and document
28 databases. Such file copies must be maintained under the conditions of maintaining

1 CONFIDENTIAL, CONFIDENTIAL - COUNSEL ONLY, or CONFIDENTIAL -
2 OAE ONLY documents as set forth in Paragraph 7.1, above.

3 **8. MISCELLANEOUS PROVISIONS.**

4 8.1 The provisions of this Protective Order apply to all proceedings in this
5 action, including all appeals, alternative dispute resolution procedures, and
6 proceedings upon remand, except that the provisions of this Protective Order do not
7 govern use of designated confidential information at trial and use of designated
8 confidential information at trial shall be governed by order(s) of the trial judge.

9 8.2 A designation of confidentiality pursuant to this Protective Order shall be
10 effective and shall be respected by the parties and all persons in any way involved in
11 these proceedings or to whose attention confidential information shall come unless
12 and until otherwise ordered by the Court or stipulated in writing by the designating
13 party. These obligations of confidentiality and non-disclosure shall survive the
14 conclusion of this action unless and until otherwise ordered by the Court, or until the
15 designating party or non-party stipulates in writing that designated confidential
16 information can be disclosed.

17 8.3 By entering into this Protective Order, no party waives any objections it
18 might have to the production of documents or other information covered by this
19 Protective Order.

20 8.4 No party to this action, by entering into this Protective Order, by
21 designating certain information as CONFIDENTIAL, CONFIDENTIAL - COUNSEL
22 ONLY, or CONFIDENTIAL - OAE ONLY, or by acquiescing in any other party's or
23 non-party's such designation, shall be deemed to have admitted or agreed that any
24 such designated information is, in fact, a trade secret or other confidential research,
25 development, or commercial information.

26 8.5 The Court retains jurisdiction even after termination of this action to
27 enforce this Protective Order and to make such deletions from or amendments,
28 modifications, and additions to the Protective Order as the Court may from time to

1 time deem appropriate. The parties hereto reserve all rights to apply to the Court at
2 any time, before or after termination of this action, for an order modifying this
3 Protective Order or seeking further protection against disclosure or use of claimed
4 confidential information.

5 8.6 In the event that any party receives a subpoena or other process or order
6 to produce CONFIDENTIAL, CONFIDENTIAL - COUNSEL ONLY, or
7 CONFIDENTIAL - OAE ONLY material, such party shall notify the counsel of
8 record of the designating party of the material sought by such subpoena or other
9 process or order, and shall provide counsel of record for the designating party a copy
10 of said subpoena, process, or order. The party asserting the confidential treatment
11 shall have the burden of defending against such subpoena, process, or order. The
12 party receiving the subpoena, process, or order shall be entitled to comply with it
13 except to the extent the designating party asserting the confidential treatment is
14 successful in obtaining an order modifying or quashing such subpoena, process, or
15 order.

16 8.7 The parties agree that documents they produced in *Scat Enterprises, Inc.*
17 *v. FCA US LLC*, 2:14-cv-07995-GHK-AFM pursuant to the protective order entered
18 in that lawsuit (ECF Dkt. No. 52) may be used in this litigation subject to the
19 protections set forth in said protective order. The foregoing agreement is not, and
20 should not be construed as, a waiver or limitation of any objections either party may
21 have to any such documents, including, but not limited to, objections as to relevance
22 or admissibility.

23 **9. FILING OR LODGING UNDER SEAL.**

24 If any party seeks permission to file or lodge with the Court any documents or
25 things that contain designated confidential information under seal, such materials
26 shall be submitted to the Court in accordance with the procedures and standards set
27 forth in C.D. CAL. LOCAL RULE 79-5 for filing documents under seal. No
28 document(s) may be filed or lodged under seal absent court order pertinent to the

1 specific document(s) or as otherwise permitted pursuant to C.D. CAL. LOCAL RULE
2 79-5.1. This Protective Order does not entitle a party to file designated confidential
3 information under seal, and the parties' mere designation of disclosure or discovery
4 material as CONFIDENTIAL, CONFIDENTIAL - COUNSEL ONLY, or
5 CONFIDENTIAL - OAE ONLY does not—without the submission of competent
6 evidence by declaration, establishing that the material sought to be filed under seal
7 qualifies as confidential, privileged, or otherwise protectable—constitute good cause.
8 Any document that is not confidential, privileged, or otherwise protectable in its
9 entirety will not be filed under seal if the confidential portions can be redacted. If a
10 document 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. Where one party
14 wishes to file or lodge any documents or things with the Court under seal, the other
15 party shall not unreasonably withhold agreement to such filing or lodging under seal.
16 If such agreement is provided, the parties shall submit to the Court a stipulation and
17 proposed order for such filing or lodging under seal. If no such agreement is
18 provided, then the filing or lodging party shall submit an application and proposed
19 order to the Court pursuant to C.D. CAL. LOCAL RULE 79-5.1.

20

21 **10. GOOD CAUSE STATEMENT.**

22 Pursuant to FED. R. CIV. P. 26(c)(7), good cause exists for entry of this
23 Protective Order because the parties to this action (a) either have sought or might seek
24 the discovery of certain information in this action that the parties believe or a non-
25 party believes is sensitive or confidential, (b) believe that unrestricted disclosure or
26 dissemination of such information could cause them or a designating non-party some
27 business or commercial injury, (c) desire an efficient and practicable means to
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EXHIBIT A

**DECLARATION CONFIRMING COMPLIANCE WITH STIPULATED
PROTECTIVE ORDER RE CONFIDENTIAL INFORMATION**

I, _____, hereby declare the following:

1. My address is _____.

2. I have read and I understand the *Stipulated Protective Order Re Confidential Information* ("**Protective Order**"), entered in the action *FCA US LLC v. Scat Enterprises, Inc.*, Case No. 2:16-cv-8012-JFW-RAO (C.D. Cal.) (the "**Action**"), and I agree to be bound by its terms.

3. I understand that this Protective Order requires me to not disclose any information designated as CONFIDENTIAL, CONFIDENTIAL - COUNSEL ONLY, or CONFIDENTIAL - OAE ONLY provided to me in the course of my involvement in the Action to any person not authorized by this Protective Order to receive it.

4. I agree that I shall return all documents containing any information designated as CONFIDENTIAL, CONFIDENTIAL - COUNSEL ONLY, or CONFIDENTIAL - OAE ONLY that have been provided to me, together with any work product including such information, upon demand by the Court or the counsel of record or party who furnished such information to me.

5. I consent to the jurisdiction of the U.S. District Court for the Central District of California, Western Division, with respect to any actions relative to the enforcement of the Protective Order, recognizing that in doing so I subject myself to the full powers of that Court, including the power of imposing sanctions for contempt.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct. Executed on _____, 201_ at _____ (city), _____ (state).

(signature) _____
(printed name) _____