

1 Michael E. Murphy, Esq. (Bar #174408)
 Brock Christensen, Esq. (Bar #216237)
 2 SIMS LAW FIRM, LLP
 19712 MacArthur Boulevard, Suite 120
 3 Irvine, California 92612
 (949) 253-7900
 4 (949) 253-7930 - FAX

5 Attorneys for Defendant NATIONAL RAILROAD PASSENGER
 CORPORATION, service mark AMTRAK, and UNION PACIFIC RAILROAD
 6 COMPANY

7

8 UNITED STATES DISTRICT COURT
 9 CENTRAL DISTRICT OF CALIFORNIA

10

11 RICHARD TEISHER, Individually and
 as Successor in Interest of Decedent
 12 KATHLEEN TEISHER, ZACHARY
 TEISHER, Individually and as Successor
 13 in Interest of Decedent KATHLEEN
 TEISHER, GRANT TEISHER,
 14 Individually and as Successor in Interest
 of Decedent KATHLEEN TEISHER,
 15 TRAVIS TEISHER, Individually and as
 Successor in Interest of Decedent
 16 KATHLEEN TEISHER,

Case No.: 2:16-cv-08556-PLA

**NON-DISCLOSURE
 AGREEMENT AND
 STIPULATED PROTECTIVE
 ORDER**

17 Plaintiffs,

18 vs.

19 NATIONAL RAILROAD PASSENGER
 CORPORATION, Individually and dba
 20 AMTRAK, UNION PACIFIC
 RAILROAD COMPANY, COUNTY OF
 21 SANTA BARBARA, CITY OF
 CARPINTERIA, STATE OF
 22 CALIFORNIA, and DOES 1 through
 100, inclusive,

Complaint Filed: 11/2/2016
 Date Removed: 11/16/2016
 Trial Date: None

23 Defendants.

24

25

26 ///

27 ///

28 ///

1 2. The Electronic Data Recording (EDR) of the subject incident, bearing
2 production Bates Number Amtrak 000002, including the substance and content
3 thereof, is considered sensitive and confidential information that is subject to the
4 terms of this Non-Disclosure Agreement and Stipulated Protective Order.

5 3. The LDVR and EDR are sensitive and proprietary property of Amtrak
6 and may be used solely for the purpose of this litigation subject to the terms of this
7 agreement and, if applicable, order. The transmission or production of the LDVR
8 and EDR by Amtrak does not create any interest or right, intellectual or otherwise,
9 in the LDVR or EDR and shall not result in any waiver by Amtrak of its property
10 rights, intellectual or otherwise, or of the developer, manufacturer, and/or
11 distributor of the software.

12 4. The terms "LDVR" and "EDR" as used in this order specifically
13 includes any and all CDs, DVDs, paper and electronic copies, transcripts, prints,
14 negatives, recordings, duplicates, and summaries of the LDVR and EDR.

15 5. Prior to producing the LDVR and EDR, or any part thereof, to any
16 party to this lawsuit or to any related matter, Amtrak shall stamp the LDVR and
17 EDR with the word "Confidential" or other similar language, and in the event that
18 there is a deposition or other testimony regarding the LDVR or EDR, or any part
19 thereof, in this lawsuit or any related matter, a copy of this agreement shall be
20 provided to the court reporter by the party introducing the LDVR or EDR into the
21 record, and those parts of the transcript shall be kept "Confidential."

22 6. Counsel of record who receive any form of the LDVR and/or EDR
23 from counsel of record for Amtrak shall not, except as provided in Paragraph 7,
24 divulge or disclose the LDVR and/or EDR, or any part thereof, to any person or
25 entity other than their clients or individuals employed by them to assist in the
26 preparation or trial of this case, if any – such as secretaries or legal assistants who
27 work with and for the attorneys – and who have a need to know the content of the
28 LDVR and/or EDR for purposes of this lawsuit. In addition, counsel of record

1 who receive any form of the LDVR and/or EDR from counsel of record for
2 Amtrak may disclose it, or any part thereof, to consulting or testifying expert
3 witnesses who are employed to assist in the preparation or trial of this case subject
4 to the requirements in Paragraph 7.

5 7. Counsel receiving the LDVR and/or EDR, on behalf of themselves,
6 their secretaries, legal assistants, and staff, shall provide to counsel for Amtrak the
7 signed acknowledgment (Exhibit A) that they have reviewed and understand this
8 Non-Disclosure Agreement and Stipulated Protective Order; that they agree to be
9 bound by all of its terms; that they agree to be subject to the jurisdiction of this
10 Court with respect to any claimed violations of this Non-Disclosure Agreement
11 and Stipulated Protective Order; that they will not reveal the Confidential
12 Information, or any part thereof, to any other person or entity; and that they will
13 not discuss the Confidential Information, or any part thereof, with anyone other
14 than the counsel of record who retained them. Consulting or testifying experts
15 must sign the acknowledgment before counsel provides them with the LDVR
16 and/or EDR. Counsel shall keep the acknowledgment signed by any testifying or
17 consulting expert provided the LDVR and/or EDR pursuant to this stipulation as
18 Exhibit A.

19 8. Any person who receives the LDVR and/or EDR in accordance with
20 paragraphs 6 and 7 above, shall use it solely for the purposes of this lawsuit except
21 as expressly authorized by this Court, and the recipients thereof shall not use, give,
22 show, divulge, or otherwise disclose the LDVR and/or EDR, or any part thereof,
23 or any paper or electronic copies, transcripts, prints, negatives, recordings, or
24 summaries of the LDVR and/or EDR, to any other person or entity.

25 9. Prior to lodging or filing the LDVR and/or EDR, or any part thereof,
26 with the Court as an exhibit or otherwise, the filing party shall give at least ten
27 (10) days notice to counsel for Amtrak so that Amtrak may move the Court to have

28 ///

1 the LDVR and/or EDR sealed. Upon filing of a motion to seal, the LDVR and/or
2 EDR will be treated as sealed pending the Court's ruling on such motion.

3 10. Within 30 days after the termination of this lawsuit, including any
4 appeals, by final judgment, settlement or otherwise, counsel of record for any
5 party who received the LDVR and/or EDR from counsel of record for Amtrak
6 shall retrieve all such LDVR and/or EDR paper and electronic copies, transcripts,
7 prints, negatives, recordings and summaries thereof that are in the possession of
8 any other person or entity, including their employees, consultants and expert
9 witnesses; shall return to counsel of record for Amtrak all copies of the LDVR
10 and/or EDR; and shall certify under penalty of perjury, in writing, to counsel of
11 record for Amtrak that they have complied with this Paragraph 10.

12 11. No person who receives any form of the LDVR and/or EDR shall sell,
13 offer, advertise, publicize or provide, under any circumstances or conditions, the
14 LDVR and/or EDR, or any part thereof, to any person or entity other than in
15 accordance with the provisions of this Non-Disclosure Agreement and Stipulated
16 Protective Order. No person who receives any form of the LDVR and/or EDR
17 shall make it available, copy it, or disseminate it to any electronic media, including
18 but not limited to the internet.

19 12. In the event that the LDVR and/or EDR, or any part thereof, appears
20 in any form, in the hands of an unauthorized person or entity in any proceeding or
21 forum other than this lawsuit as a result of an unauthorized disclosure by any
22 recipient of the LDVR and/or EDR, including counsel of record and the plaintiff,
23 such shall be considered a direct violation of the provisions of this Non-Disclosure
24 Agreement and Stipulated Protective Order, for which any and all appropriate
25 sanctions and legal remedies may be imposed against the offending recipient who
26 disclosed the LDVR and/or EDR in an unauthorized manner or who disclosed it to
27 an unauthorized person or entity.

28 ///

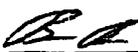
1 13. Nothing in this Non-Disclosure Agreement and Stipulated Protective
2 Order is intended to deny any party the right to an open and public trial of the
3 issues in this lawsuit and the Court will address use of the LDVR and/or EDR as
4 evidence and/or additional protections of the LDVR and/or EDR, if necessary, at
5 time of trial.

6 14. If the Court refuses to accept this Non-Disclosure Agreement and
7 Stipulated Protective Order for any reason, each and all of the provisions of this
8 Non-Disclosure Agreement and Stipulated Protective Order still are effective and
9 legally binding on the parties to this Non-Disclosure Agreement and Stipulated
10 Protective Order.

11 SO STIPULATED AND AGREED:

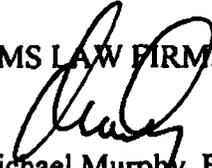
12
13 Date: March 14, 2017

DAG LAW FIRM

14
15 
16 Boris Briskin, Esq.
Attorneys for Plaintiffs

17 Date: March 28, 2017

SIMS LAW FIRM, LLP

18
19 
20 Michael Murphy, Esq.
21 Attorneys for NATIONAL RAILROAD
PASSENGER CORPORATION, service
22 mark AMTRAK, and UNION PACIFIC
RAILROAD COMPANY

23 Dated: March __, 2017

PROCTER & SHYER, LLP

24
25 James N. Procter II
26 Attorneys for Defendant CITY OF
27 CARPINTERIA
28

1 13. Nothing in this Non-Disclosure Agreement and Stipulated Protective
2 Order is intended to deny any party the right to an open and public trial of the
3 issues in this lawsuit and the Court will address use of the LDVR and/or EDR as
4 evidence and/or additional protections of the LDVR and/or EDR, if necessary, at
5 time of trial.

6 14. If the Court refuses to accept this Non-Disclosure Agreement and
7 Stipulated Protective Order for any reason, each and all of the provisions of this
8 Non-Disclosure Agreement and Stipulated Protective Order still are effective and
9 legally binding on the parties to this Non-Disclosure Agreement and Stipulated
10 Protective Order.

11 SO STIPULATED AND AGREED:

12
13 Date: March __, 2017

DAG LAW FIRM

14

15

Boris Briskin, Esq.
Attorneys for Plaintiffs

16

17

18 Date: March __, 2017

SIMS LAW FIRM, LLP

19

20

Michael Murphy, Esq.
Attorneys for NATIONAL RAILROAD
PASSENGER CORPORATION, service
mark AMTRAK, and UNION PACIFIC
RAILROAD COMPANY

21

22

23 Dated: March 19, 2017

PROCTER & SHYER, LLP

24


James N. Procter II
Attorneys for Defendant CITY OF
CARPINTERIA

25

26

27

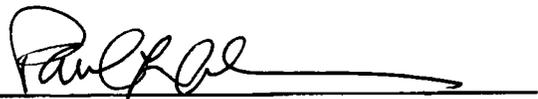
28

~~PROPOSED~~ ORDER

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

The Court having considered this matter and having found that all parties, by and through their respective attorneys, have agreed to this Non-Disclosure Agreement and Stipulated Protective Order, and having found good cause as stated by the parties, hereby enters its order pursuant to the agreed upon terms as set forth above. The Court further orders that the LDVR and EDR shall not, under any circumstances, be copied or disseminated to any electronic media, including but not limited to the internet.

SO ORDERED AND ADJUDGED, this the 29TH day of
MARCH, 2017.



Hon. Paul L. Abrams,
MAGISTRATE JUDGE OF THE UNITED
STATES DISTRICT COURT

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

EXHIBIT A

ACKNOWLEDGMENT OF RECIPIENT

I, the undersigned, on behalf of myself, my employees, secretaries, assistants, staff and associates, hereby acknowledge that I have received a copy of the Locomotive Digital Video Recording (LDVR), produced in the case of "RICHARD TEISHER, Individually and as Successor in Interest of Decedent KATHLEEN TEISHER, ZACHARY TEISHER, Individually and as Successor in Interest of Decedent KATHLEEN TEISHER, GRANT TEISHER, Individually and as Successor in Interest of Decedent KATHLEEN TEISHER, TRAVIS TEISHER, Individually and as Successor in Interest of Decedent KATHLEEN TEISHER, Plaintiffs, vs. NATIONAL RAILROAD PASSENGER CORPORATION, Individually and dba AMTRAK, UNION PACIFIC RAILROAD COMPANY, COUNTY OF SANTA BARBARA, CITY OF CARPINTERIA, STATE OF CALIFORNIA, and DOES 1 through 100, inclusive, Defendants" being Civil Action No. 2:16-cv-08556-DMG-AJW, in the United States District Court, Central District of California; that such LDVR and EDR is subject to a Non-Disclosure Agreement and Stipulated Protective Order agreed to by the parties and/or entered by the Court in such lawsuit; that I have reviewed such Non-Disclosure Agreement and Stipulated Protective Order and agree to its terms; that I will keep it and all copies and/or parts thereof strictly confidential as provided in such Non-Disclosure Agreement and Stipulated Protective Order; and that I agree to comply strictly with all terms and conditions of such Non-Disclosure Agreement and Stipulated Protective Order, a copy of which is attached hereto. I further agree to immediately provide counsel for Amtrak a second copy of this form at the address provided below.

SIGNATURE

PRINT NAME

DATE

COUNSEL FOR AMTRAK:
Michael E. Murphy
SIMS LAW FIRM, LLP
19712 MacArthur Blvd., Suite 120
Irvine, CA 92612
(949) 253-7900
(949) 253-7930 - FAX

SERVICE LIST
Teisher, et al. v. Amtrak, et al.

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

Boris Briskin, Esq.
DAG LAW FIRM
6300 Wilshire Blvd., Suite 1400
Los Angeles, CA 90048
(323) 930-2020
(323) 930-2225 - Facsimile
Attorneys for Plaintiffs **RICHARD TEISHER**, Individually and as Successor in Interest of Decedent **KATHLEEN TEISHER**, **ZACHARY TEISHER**, Individually and as Successor in Interest of Decedent **KATHLEEN TEISHER**, **GRANT TEISHER**, Individually and as Successor in Interest of Decedent **KATHLEEN TEISHER**, **TRAVIS TEISHER**, Individually and as Successor in Interest of Decedent **KATHLEEN TEISHER**

~~**Julius Abarise, Esq.**
Deputy County Counsel
Santa Barbara County Counsel
105 East Anapamu Street, Suite 201
Santa Barbara, CA 93101
(805) 568-2950
Attorneys for Defendant **COUNTY OF SANTA BARBARA**~~

James N. Procter II, Esq.
Matthew A. Zavala, Esq.
PROCTER & SHYER, LLP
300 Esplanade Drive, Suite 1500
Oxnard, CA 93036
(805) 278-0920
(805) 278-0289 - Facsimile
Attorneys for Defendant **CITY OF CARPINTERIA**