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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PAUL STOCKINGER, ELIZABETH
STOCKINGER, GAILYN
KENNEDY, BASUDEB DEY,
ELIEZER CASPER, and YVETTE
ALLEY on behalf of themselves and
all others similarly situated,

Plaintiffs,

v.

TOYOTA MOTOR SALES, U.S.A.,
INC., a California corporation,

Defendant.

Case No.: 17-cv-00035-VAP-KS

**[PROPOSED] STIPULATED ORDER
REGARDING THE DISCLOSURE OF
PRIVILEGED INFORMATION**

Hon. Virginia A. Phillips
Hon. Karen Stevenson (Magistrate Judge)

Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure and based on the parties' Amended Proposed Stipulated Order Regarding The Disclosure of Privileged Information ("Stipulation") filed on October 26 , 2017, the terms of the Stipulation to which the parties have agreed are adopted as an order of this Court (which generally shall govern the pretrial phase of this action) except to the extent, as

1 set forth below, that those terms have been modified by the Court's amendment of
2 paragraphs 4 of the Stipulation, shown in bold.

3
4 Plaintiffs Paul Stockinger, Elizabeth Stockinger, Gailyn Kennedy, Basudeb Dey,
5 Eliezer Casper and Yvette Alley ("Plaintiffs") and Defendant Toyota Motor Sales, U.S.A.,
6 Inc. ("Toyota") (collectively, "Parties"), by and through their respective counsel, have
7 jointly stipulated to the terms of Stipulated Order Governing the Disclosure of Privileged
8 Information, and with the Court being fully advised as to the same, it is hereby
9 ORDERED:

10 **I. APPLICABILITY**

11 1. This Order shall be applicable to and govern all documents produced in
12 response to requests for production of documents or subpoena pursuant to the Federal
13 Rules, (collectively "Information").

14 **II. PRODUCTION OF DOCUMENTS CONTAINING POTENTIALLY**
15 **PRIVILEGED INFORMATION**

16 2. The production of any privileged or otherwise protected or exempted
17 Information, as well as the production of Information without an appropriate designation
18 of privilege, shall not be deemed a waiver or impairment of any claim of privilege or
19 protection, including, but not limited to, the attorney-client privilege, the protection
20 afforded to work product materials, or the subject matter thereof, or the confidential nature
21 of any such Information and any related material.

22 3. The producing party must notify the receiving party promptly, in writing,
23 upon discovery that privileged or otherwise protected Information has been produced (the
24 "Identified Material"). Upon receiving written notice from the producing party that
25 privileged and/or work product material has been produced, all such information, and all
26 copies thereof, shall be returned to the producing party or destroyed within ten (10)

1 business days of receipt of such notice. The receiving party shall also attempt, in good
2 faith, to retrieve and return or destroy all copies of the Identified Materials in electronic
3 format. The receiving party may make no use of the privileged content contained in
4 Identified Materials during any aspect of this matter or any other matter, including in
5 depositions or at trial, unless (a) the producing party agrees in writing that the information
6 is not privileged, or (b) the Court rules that the information is not privileged. The
7 producing party will provide a privilege log providing information required by the Federal
8 Rules of Civil Procedure and applicable case law to the receiving party when the
9 producing party provides the receiving party notice of the Identified Materials. The
10 receiving party may contest the privilege or work product designation by the producing
11 party, and the receiving party shall give the producing party written notice of the reason
12 for said disagreement. The receiving party may not challenge the privilege or immunity
13 claim by arguing that the disclosure itself is a waiver of any applicable privilege. In that
14 instance, the receiving party shall, within thirty (30) business days from the initial notice
15 by the producing party, seek an Order from the Court compelling the production of the
16 Identified Material. **Before filing a motion, the parties must comply with the Court's**
17 **pre-motion conference procedures, available at [schedules-procedures](http://www.cacd.uscourts.gov/judges-
18 <a href=).**

19 4. If no such Order is sought, upon expiration of the thirty (30) day period then
20 all copies of the disputed Identified Material shall be returned in accordance with this
21 Section.

22 5. Any analyses, memoranda or notes which were internally generated based
23 upon such produced information shall immediately be placed in sealed envelopes, and
24 shall be destroyed in the event that (a) the receiving party does not contest that the
25 information is privileged, or (b) the Court rules that the information is privileged. Such
26

1 analyses, memoranda or notes may only be removed from the sealed envelopes and
2 returned to its intended purpose in the event that (a) the producing party agrees in writing
3 that the information is not privileged, or (b) the Court rules that the information is not
4 privileged.

5 **III. PRIVILEGE LOGGING**

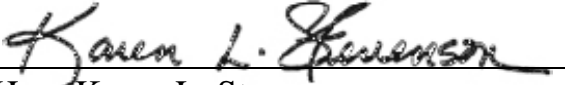
6 6. The following documents presumptively need not be included on a privilege
7 log:

- 8 (a) Written or oral communications between a party and its litigation
9 counsel in this Action after commencement of this action; or
- 10 (b) Work product created by litigation counsel, or by an agent of litigation
11 counsel (other than a party) in this action after commencement of this
12 action.

13 7. An email thread for which a party claims a privilege may be logged in a
14 single entry. With respect to e-mail threads for which a party claims a privilege, the
15 parties shall log the “last-in-time” e-mail in each string provided that (a) each separate
16 communication in the chain is at some point logged as the “last-in-time” e-mail, and (b)
17 the privilege log notes that the e-mail communication is part of a string. If an embedded e-
18 mail communication is not otherwise available, then it must separately be identified and
19 logged.

20 **IT IS SO ORDERED.**

21 **DATED: November 7, 2017**

22 
23 Hon. Karen L. Stevenson
24 United States Magistrate Judge
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