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10
 11 **UNITED STATES DISTRICT COURT**
 12 **CENTRAL DISTRICT OF CALIFORNIA**

13 **ARMINAK SOLUTIONS, LLC**, a
 California Limited Liability Company,

14
 15 Plaintiff,

16 v.

17 **7-ELEVEN, INC.**, a Texas Corporation;
PUGS HOLDING, LLC, a Delaware
 18 Limited Liability Company; and DOES 1
 through 20, inclusive,

19 Defendant.

Case No. 2:17-cv-01820-RGK (PJWx)

DISCOVERY MATTER:

**REVISED STIPULATED PROTECTIVE
 ORDER**

Honorable Patrick J. Walsh

20
 21 1. **A. PURPOSES AND LIMITATIONS**

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

1 under the applicable legal principles. The parties further acknowledge, as set forth in Section 12.3,
2 below, that this Stipulated Protective Order does not entitle them to file confidential or counsel
3 only information under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed
4 and the standards that will be applied when a party seeks permission from the court to file material
5 under seal.

6 B. GOOD CAUSE STATEMENT

7 This action is likely to involve trade secrets, proprietary business information,
8 competitively sensitive information, or other information the disclosure of which would, in good
9 faith judgment of the Party, or as appropriate, Non-Party, designated the material as confidential or
10 confidential-counsel only, be detrimental to the conduct of that Party's or Non-Party's business or
11 the business of any of that Party's or Non-Party's customers or clients including vendor/customer
12 and pricing lists and other valuable research, development, commercial, financial, technical and/or
13 proprietary information for which special protection from public disclosure and from use for any
14 purpose other than prosecution of this action is warranted. Such confidential and proprietary
15 materials and information consist of, among other things, confidential business or financial
16 information, information regarding confidential business practices, or other confidential research,
17 development, or commercial information (including information implicating privacy rights of third
18 parties), information otherwise generally unavailable to the public, or which may be privileged or
19 otherwise protected from disclosure under state or federal statutes, court rules, case decisions, or
20 common law. Confidential-counsel only materials and information consist of, among other things,
21 information or documents that the disclosing party or non-party believes in good faith contains or
22 reflects trade secrets, sensitive personally identifiable information, information that is designated
23 by regulation to require notification in the event of an unauthorized access, marketing plans or
24 strategies, business plans, supplier and factory information, pricing plans, strategic plans,
25 distribution agreements, manufacturing agreements, manufacturing processes, manufacturing
26 drawings, employee files, research and development or merchandising of products and technical
27 matters not yet released or sold, financial information or projections, including, without limitation,
28 profitability reports or estimates, sales reports, sales margins, budgets, or other documents relating

1 to total revenue earned. Accordingly, to expedite the flow of information, to facilitate the prompt
2 resolution of disputes over confidentiality of discovery materials, to adequately protect information
3 the parties are entitled to keep confidential, to ensure that the parties are permitted reasonable
4 necessary uses of such material in preparation for and in the conduct of trial, to address their
5 handling at the end of the litigation, and serve the ends of justice, a protective order for such
6 information is justified in this matter. It is the intent of the parties that information will not be
7 designated as confidential or confidential-counsel only for tactical reasons and that nothing be so
8 designated without a good faith belief that it has been maintained in a confidential, non-public
9 manner, and there is good cause why it should not be part of the public record of this case.

10 2. DEFINITIONS

11 2.1 Action: The pending case styled *Arminak Solutions, LLC v. 7-Eleven, Inc., Pugs*
12 *Holding, LLC*, Case No. 2:17-cv-01820-RGK (PJWx).

13 2.2 Challenging Party: a Party or Non-Party that challenges the designation of
14 information or items under this Order.

15 2.3 “CONFIDENTIAL” Information or Items: information (regardless of how it is
16 generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of
17 Civil Procedure 26(c), and as specified above in the Good Cause Statement.

18 2.4 “CONFIDENTIAL-COUNSEL ONLY” Information or Items: information
19 (regardless of how it is generated, stored or maintained) or tangible things that qualify for
20 protection under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause
21 Statement.

22 2.5 Counsel: Outside Counsel of Record and House Counsel (as well as their support
23 staff).

24 2.6 Designating Party: a Party or Non-Party that designates information or items that it
25 produces in disclosures or in responses to discovery as “CONFIDENTIAL” or “CONFIDENTIAL-
26 COUNSEL ONLY.”

27 2.7 Disclosure or Discovery Material: all items or information, regardless of the
28 medium or manner in which it is generated, stored, or maintained (including, among other things,

1 testimony, transcripts, and tangible things), that are produced or generated in disclosures or
2 responses to discovery in this matter.

3 2.8 Expert: a person with specialized knowledge or experience in a matter pertinent to
4 the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a
5 consultant in this Action.

6 2.9 House Counsel: attorneys and attorney support staff who are employees of a party to
7 this Action. House Counsel does not include Outside Counsel of Record or any other outside
8 counsel.

9 2.10 Non-Party: any natural person, partnership, corporation, association, or other legal
10 entity not named as a Party to this action.

11 2.11 Outside Counsel of Record: attorneys who are not employees of a party to this
12 Action but are retained to represent or advise a party to this Action and have appeared in this
13 Action on behalf of that party or are affiliated with a law firm which has appeared on behalf of that
14 party, and includes support staff.

15 2.12 Party: any party to this Action, including all of its officers, directors, employees,
16 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

17 2.13 Producing Party: a Party or Non-Party that produces Disclosure or Discovery
18 Material in this Action.

19 2.14 Professional Vendors: persons or entities that provide litigation support services
20 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing,
21 storing, or retrieving data in any form or medium) and their employees and subcontractors.

22 2.15 Protected Material: any Disclosure or Discovery Material that is designated as
23 “CONFIDENTIAL” or “CONFIDENTIAL-COUNSEL ONLY.”

24 2.16 Receiving Party: a Party that receives Disclosure or Discovery Material from a
25 Producing Party.

26 3. SCOPE

27 The protections conferred by this Stipulation and Order cover not only Protected Material
28 (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all

1 copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony,
2 conversations, or presentations by Parties or their Counsel that might reveal Protected Material.

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

5 4. DURATION

6 Even after final disposition of this litigation, the confidentiality obligations imposed by this
7 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order
8 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and
9 defenses in this Action, with or without prejudice; and (2) final judgment herein after the
10 completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
11 including the time limits for filing any motions or applications for extension of time pursuant to
12 applicable law.

13 5. DESIGNATING PROTECTED MATERIAL

14 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party or
15 Non-Party that designates information or items for protection under this Order must take care to
16 limit any such designation to specific material that qualifies under the appropriate standards. The
17 Designating Party must designate for protection only those parts of material, documents, items, or
18 oral or written communications that qualify so that other portions of the material, documents,
19 items, or communications for which protection is not warranted are not swept unjustifiably within
20 the ambit of this Order.

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

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

28

1 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order
2 (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered,
3 Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so
4 designated before the material is disclosed or produced.

5 Designation in conformity with this Order requires:

6 (a) for information in documentary form (e.g., paper or electronic documents, but
7 excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing Party
8 affix at a minimum, the legend “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”) or
9 “CONFIDENTIAL-COUNSEL ONLY” (hereinafter “CONFIDENTIAL-COUNSEL ONLY
10 legend”), to each page that contains protected material. If only a portion or portions of the material
11 on a page qualifies for protection, the Producing Party also must clearly identify the protected
12 portion(s) (e.g., by making appropriate markings in the margins).

13 A Party or Non-Party that makes original documents available for inspection need not
14 designate them for protection until after the inspecting Party has indicated which documents it
15 would like copied and produced. During the inspection and before the designation, all of the
16 material made available for inspection shall be deemed “CONFIDENTIAL-COUNSEL ONLY”
17 After the inspecting Party has identified the documents it wants copied and produced, the
18 Producing Party must determine which documents, or portions thereof, qualify for protection under
19 this Order. Then, before producing the specified documents, the Producing Party must affix the
20 “CONFIDENTIAL legend” or “CONFIDENTIAL-COUNSEL ONLY legend” to each page that
21 contains Protected Material. If only a portion or portions of the material on a page qualifies for
22 protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making
23 appropriate markings in the margins).

24 (b) for testimony given in depositions that the Designating Party identify the Disclosure
25 or Discovery Material on the record, before the close of the deposition all protected testimony.

26 (c) for information produced in some form other than documentary and for any other
27 tangible items, that the Producing Party affix in a prominent place on the exterior of the container
28 or containers in which the information is stored the legend “CONFIDENTIAL” or

1 “CONFIDENTIAL-COUNSEL ONLY.” If only a portion or portions of the information warrants
2 protection, the Producing Party, to the extent practicable, shall identify the protected portion(s).

3 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
4 designate qualified information or items does not, standing alone, waive the Designating Party’s
5 right to secure protection under this Order for such material. Upon timely correction of a
6 designation, the Receiving Party must make reasonable efforts to assure that the material is treated
7 in accordance with the provisions of this Order.

8 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

9 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of
10 confidentiality at any time that is consistent with the Court’s Scheduling Order.

11 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process
12 under Local Rule 37.1 et seq.

13 6.3 The burden of persuasion in any such challenge proceeding shall be on the
14 Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or
15 impose unnecessary expenses and burdens on other parties) may expose the Challenging Party to
16 sanctions. Unless the Designating Party has waived or withdrawn the confidentiality designation,
17 all parties shall continue to afford the material in question the level of protection to which it is
18 entitled under the Producing Party’s designation until the Court rules on the challenge.

19 7. ACCESS TO AND USE OF PROTECTED MATERIAL

20 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or
21 produced by another Party or by a Non-Party in connection with this Action only for prosecuting,
22 defending, or attempting to settle this Action. Such Protected Material may be disclosed only to the
23 categories of persons and under the conditions described in this Order. When the Action has been
24 terminated, a Receiving Party must comply with the provisions of section 13 below (FINAL
25 DISPOSITION).

26 Protected Material must be stored and maintained by a Receiving Party at a location and in
27 a secure manner that ensures that access is limited to the persons authorized under this Order.
28

1 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered
2 by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any
3 information or item designated “CONFIDENTIAL” only to:

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

7 (b) the officers, directors, and employees (including House Counsel) of the Receiving
8 Party to whom disclosure is reasonably necessary for this Action;

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

12 (d) the court and its personnel;

13 (e) court reporters and their staff;

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

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

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

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

1 7.3 Disclosure of “CONFIDENTIAL-COUNSEL ONLY” Information or Items. Unless
2 otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party
3 may disclose any information or item designated “CONFIDENTIAL-COUNSEL ONLY” only to:

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

7 (b) House Counsel of the Receiving Party to whom disclosure is reasonably necessary
8 for this Action;

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

12 (d) the court and its personnel;

13 (e) court reporters and their staff;

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

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

19 (h) any mediator or settlement officer, and their supporting personnel, mutually agreed
20 upon by any of the parties engaged in settlement discussions.

21
22 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
23 LITIGATION

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

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

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

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

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

13 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS
14 LITIGATION

15 (a) The terms of this Order are applicable to information produced by a Non-Party in
16 this Action and designated as “CONFIDENTIAL” or “CONFIDENTIAL-COUNSEL ONLY.”
17 Such information produced by Non-Parties in connection with this litigation is protected by the
18 remedies and relief provided by this Order. Nothing in these provisions should be construed as
19 prohibiting a Non-Party from seeking additional protections.

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

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

25 (2) promptly provide the Non-Party with a copy of the Stipulated Protective Order
26 in this Action, the relevant discovery request(s), and a reasonably specific description of the
27 information requested; and
28

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

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

10 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

18 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
19 MATERIAL

20 When a Producing Party gives notice to Receiving Parties that certain inadvertently
21 produced material is subject to a claim of privilege or other protection, the obligations of the
22 Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision
23 is not intended to modify whatever procedure may be established in an e-discovery order that
24 provides for production without prior privilege review. Pursuant to Federal Rule of Evidence
25 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a
26 communication or information covered by the attorney-client privilege or work product protection,
27 the parties may incorporate their agreement in the stipulated protective order submitted to the court.
28

1 12. MISCELLANEOUS

2 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to
3 seek its modification by the Court in the future.

4 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order
5 no Party waives any right it otherwise would have to object to disclosing or producing any
6 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no
7 Party waives any right to object on any ground to use in evidence of any of the material covered by
8 this Protective Order.

9 12.3 Filing Protected Material. A Party that seeks to file under seal any Protected
10 Material must comply with Civil Local Rule 79-5. Protected Material may only be filed under seal
11 pursuant to a court order authorizing the sealing of the specific Protected Material at issue. If a
12 Party's request to file Protected Material under seal is denied by the court, then the Receiving Party
13 may file the information in the public record unless otherwise instructed by the court.

14 13. FINAL DISPOSITION

15 After the final disposition of this Action, as defined in paragraph 4, within 60 days of a
16 written request by the Designating Party, each Receiving Party must return all Protected Material to
17 the Producing Party or destroy such material. As used in this subdivision, "all Protected Material"
18 includes all copies, abstracts, compilations, summaries, and any other format reproducing or
19 capturing any of the Protected Material. Whether the Protected Material is returned or destroyed,
20 the Receiving Party must submit a written certification to the Producing Party (and, if not the same
21 person or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category,
22 where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the
23 Receiving Party has not retained any copies, abstracts, compilations, summaries or any other
24 format reproducing or capturing any of the Protected Material. Notwithstanding this provision,
25 Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and
26 hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports,
27 attorney work product, and consultant and expert work product, even if such materials contain
28

1 Protected Material. Any such archival copies that contain or constitute Protected Material remain
2 subject to this Protective Order as set forth in Section 4 (DURATION).

3 14. Any violation of this Order may be punished by any and all appropriate measures including,
4 without limitation, contempt proceedings and/or monetary sanctions.

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1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

2 DATED: CASSELMAN LAW GROUP

3 By: _____
4 DAVID CASSELMAN
5 KIRK COMER

6 (818) 609-2300
7 Attorneys for Plaintiff
8 ARMINAK SOLUTIONS, LLC

8 DATED: CALL & JENSEN

9 By: _____
10 JULIE R. TROTTER
11 SCOTT SHAW
12 Attorneys for Defendants 7-ELEVEN,
13 INC., and PUGS HOLDING, LLC

13 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

14
15 DATED: August 28, 2017

16 

17 _____
18 Honorable Patrick J. Walsh
19 United States Magistrate Judge

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Central District of California on [date] in the *case of Arminak Solutions, LLC v. 7-Eleven, Inc., Pugs Holding, LLC*, Case No. 2:17-cv-01820-RGK (PJWx). I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further understand that I am to retain all copies of all Protected Material provided to me in the Proceeding in a secure manner, and that all copies of such Protected Material are to remain in my personal custody until termination of my participation in this Action, whereupon the copies of such Protected Material will be returned to counsel who provided me with such Protected Material.

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

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____