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 12 NISSAN NORTH AMERICA, INC.

13 UNITED STATES DISTRICT COURT
 14 CENTRAL DISTRICT OF CALIFORNIA

15 FELIPE AQUINO RODRIGUEZ, an
 16 individual, and ELIDA RAMOS
 17 MARQUEZ, an individual

18 Plaintiffs,

19 v.

20 NISSAN NORTH AMERICA, INC.,
 21 a California Corporation, and DOES
 22 1 through 10, inclusive,

23 Defendant.

Case No. 2:21-cv-09669-SPG-RAO

STIPULATED PROTECTIVE
 ORDER¹

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 28 ¹ This Stipulated Protective Order is substantially based on the model protective order provided under Magistrate Judge Rozella A. Oliver’s Procedures.

1 A. PURPOSES AND LIMITATIONS

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

11 B. GOOD CAUSE STATEMENT

12 In light of the nature of the claims and allegations in this case and the
13 parties' representations that discovery in this case will involve the production of
14 confidential records, and in order to expedite the flow of information, to facilitate
15 the prompt resolution of disputes over confidentiality of discovery materials, to
16 adequately protect information the parties are entitled to keep confidential, to
17 ensure that the parties are permitted reasonable necessary uses of such material in
18 connection with this action, to address their handling of such material at the end of
19 the litigation, and to serve the ends of justice, a protective order for such
20 information is justified in this matter. The parties shall not designate any
21 information/documents as confidential without a good faith belief that such
22 information/documents have been maintained in a confidential, non-public
23 manner, and that there is good cause or a compelling reason why it should not be
24 part of the public record of this case.

25 C. ACKNOWLEDGMENT OF PROCEDURE FOR FILING UNDER SEAL

26 The parties further acknowledge, as set forth in Section 12.3, below, that
27 this Stipulated Protective Order does not entitle them to file confidential
28 information under seal; Local Civil Rule 79-5 sets forth the procedures that must

1 be followed and the standards that will be applied when a party seeks permission
2 from the court to file material under seal.

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

16 Further, if a party requests sealing related to a dispositive motion or trial,
17 then compelling reasons, not only good cause, for the sealing must be shown, and
18 the relief sought shall be narrowly tailored to serve the specific interest to be
19 protected. *See Pintos v. Pacific Creditors Ass'n*, [605 F.3d 665, 677-79](#) (9th Cir.
20 [2010](#)). For each item or type of information, document, or thing sought to be filed
21 or introduced under seal in connection with a dispositive motion or trial, the party
22 seeking protection must articulate compelling reasons, supported by specific facts
23 and legal justification, for the requested sealing order. Again, competent evidence
24 supporting the application to file documents under seal must be provided by
25 declaration.

26 Any document that is not confidential, privileged, or otherwise protectable
27 in its entirety will not be filed under seal if the confidential portions can be
28 redacted. If documents can be redacted, then a redacted version for public

1 viewing, omitting only the confidential, privileged, or otherwise protectable
2 portions of the document shall be filed. Any application that seeks to file
3 documents under seal in their entirety should include an explanation of why
4 redaction is not feasible.

5 2. DEFINITIONS

6 2.1 Action: *Rodriguez v. Nissan North America, Inc.*, 2:21-cv-09669-
7 SPG-RAO

8 2.2 Challenging Party: a Party or Non-Party that challenges the
9 designation of information or items under this Order.

10 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
11 how it is generated, stored or maintained) or tangible things that qualify for
12 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
13 the Good Cause Statement.

14 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
15 their support staff).

16 2.5 Designating Party: a Party or Non-Party that designates information
17 or items that it produces in disclosures or in responses to discovery as
18 “CONFIDENTIAL.”

19 2.6 Disclosure or Discovery Material: all items or information,
20 regardless of the medium or manner in which it is generated, stored, or maintained
21 (including, among other things, testimony, transcripts, and tangible things) that are
22 produced or generated in disclosures or responses to discovery in this matter.

23 2.7 Expert: a person with specialized knowledge or experience in a
24 matter pertinent to the litigation who has been retained by a Party or its counsel to
25 serve as an expert witness or as a consultant in this Action.

26 2.8 House Counsel: attorneys who are employees of a party to this
27 Action. House Counsel does not include Outside Counsel of Record or any other
28 outside counsel.

1 2.9 Non-Party: any natural person, partnership, corporation, association
2 or other legal entity not named as a Party to this action.

3 2.10 Outside Counsel of Record: attorneys who are not employees of a
4 party to this Action but are retained to represent or advise a party to this Action
5 and have appeared in this Action on behalf of that party or are affiliated with a law
6 firm that has appeared on behalf of that party, and includes support staff.

7 2.11 Party: any party to this Action, including all of its officers, directors,
8 employees, consultants, retained experts, and Outside Counsel of Record (and their
9 support staffs).

10 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
11 Discovery Material in this Action.

12 2.13 Professional Vendors: persons or entities that provide litigation
13 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
14 demonstrations, and organizing, storing, or retrieving data in any form or medium)
15 and their employees and subcontractors.

16 2.14 Protected Material: any Disclosure or Discovery Material that is
17 designated as “CONFIDENTIAL.”

18 2.15 Receiving Party: a Party that receives Disclosure or Discovery
19 Material from a Producing Party.

20 3. SCOPE

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

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

28 4. DURATION

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

11 5. DESIGNATING PROTECTED MATERIAL

12 5.1 Exercise of Restraint and Care in Designating Material for Protection.

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

20 Mass, indiscriminate or routinized designations are prohibited.

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

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

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

6 Designation in conformity with this Order requires:

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

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

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

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

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

13 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

14 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
15 designation of confidentiality at any time that is consistent with the Court’s
16 Scheduling Order.

17 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
18 resolution process under Local Rule 37.1 et seq.

19 6.3 The burden of persuasion in any such challenge proceeding shall be
20 on the Designating Party. Frivolous challenges, and those made for an improper
21 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
22 parties) may expose the Challenging Party to sanctions. Unless the Designating
23 Party has waived or withdrawn the confidentiality designation, all parties shall
24 continue to afford the material in question the level of protection to which it is
25 entitled under the Producing Party’s designation until the Court rules on the
26 challenge.

27 7. ACCESS TO AND USE OF PROTECTED MATERIAL

28 7.1 Basic Principles. A Receiving Party may use Protected Material that

1 is disclosed or produced by another Party or by a Non-Party in connection with
2 this Action only for prosecuting, defending or attempting to settle this Action.
3 Such Protected Material may be disclosed only to the categories of persons and
4 under the conditions described in this Order. When the Action has been
5 terminated, a Receiving Party must comply with the provisions of section 13
6 below (FINAL DISPOSITION).

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

10 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
11 otherwise ordered by the court or permitted in writing by the Designating Party, a
12 Receiving Party may disclose any information or item designated
13 “CONFIDENTIAL” only to:

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

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

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

22 (d) the court and its personnel;

23 (e) court reporters and their staff;

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

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

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

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

12 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
13 IN OTHER LITIGATION

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

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

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

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

25 If the Designating Party timely seeks a protective order, the Party served
26 with the subpoena or court order shall not produce any information designated in
27 this action as “CONFIDENTIAL” before a determination by the court from which
28 the subpoena or order issued, unless the Party has obtained the Designating Party’s

1 permission. The Designating Party shall bear the burden and expense of seeking
2 protection in that court of its confidential material and nothing in these provisions
3 should be construed as authorizing or encouraging a Receiving Party in this Action
4 to disobey a lawful directive from another court.

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

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

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

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

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

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

25 (c) If the Non-Party fails to seek a protective order from this court
26 within 14 days of receiving the notice and accompanying information, the
27 Receiving Party may produce the Non-Party’s confidential information responsive
28 to the discovery request. If the Non-Party timely seeks a protective order, the

1 Receiving Party shall not produce any information in its possession or control that
2 is subject to the confidentiality agreement with the Non-Party before a
3 determination by the court. Absent a court order to the contrary, the Non-Party
4 shall bear the burden and expense of seeking protection in this court of its
5 Protected Material.

6 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

16 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
17 PROTECTED MATERIAL

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

28 12. MISCELLANEOUS

1 12.1 Right to Further Relief. Nothing in this Order abridges the right of
2 any person to seek its modification by the Court in the future.

3 12.2 Right to Assert Other Objections. By stipulating to the entry of this
4 Protective Order, no Party waives any right it otherwise would have to object to
5 disclosing or producing any information or item on any ground not addressed in
6 this Stipulated Protective Order. Similarly, no Party waives any right to object on
7 any ground to use in evidence of any of the material covered by this Protective
8 Order.

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

15 13. FINAL DISPOSITION

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

1 deposition, and hearing transcripts, legal memoranda, correspondence, deposition
2 and trial exhibits, expert reports, attorney work product, and consultant and expert
3 work product, even if such materials contain Protected Material. Any such
4 archival copies that contain or constitute Protected Material remain subject to this
5 Protective Order as set forth in Section 4 (DURATION).

6 14. VIOLATION

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


9 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

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DATED 11/02/2022

Bryan C. Altman
Attorneys for Plaintiffs

DATED: 11/03/2022


Attorneys for Defendant

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: November 4, 2022

Rozella A. Oliver
HON. ROZELLA A. OLIVER
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 *Felipe Aquino Rodriguez and Elida Ramos Marquez v.*
Nissan North America, Inc., No. 2:21-cv-09669-SPG-RAO. 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 agree to submit to the jurisdiction of the United States District Court for
the Central District of California for 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: _____