

United States District Court
Central District of California

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MELIZA DE JESUS,

Plaintiff,

v.

BMW OF NORTH AMERICA, LLC, a
Delaware Limited Liability Company

Defendants.

Case No. CV 23-0483-JPR
Hon. Jean P. Rosenbluth

**STIPULATION AND PROTECTIVE
ORDER**

Complaint Filed: November 19, 2023
Trial: April 28, 2025

1 1. PURPOSES AND LIMITATIONS

2 Disclosure and discovery activity in this action are likely to involve production of
3 confidential, proprietary, or private information for which special protection from public disclosure
4 and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly,
5 the parties hereby stipulate to and petition the court to enter the following Stipulated Protective
6 Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures
7 or responses to discovery and that the protection it affords from public disclosure and use extends
8 only to the limited information or items that are entitled to confidential treatment under the
9 applicable legal principles. The parties further acknowledge, as set forth in Section 12.3, below, that
10 this Stipulated Protective Order does not entitle them to file confidential information under seal;
11 Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards that will be
12 applied when a party seeks permission from the court to file material under seal.

13 2. DEFINITIONS

14 2.1 Challenging Party: a Party or Non-Party that challenges the designation of
15 information or items under this Order.

16 2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is
17 generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of
18 Civil Procedure 26(c).

19 2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as well
20 as their support staff).

21 2.4 Designating Party: a Party or Non-Party that designates information or items that it
22 produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

23 2.5 Disclosure or Discovery Material: all items or information, regardless of the medium
24 or manner in which it is generated, stored, or maintained (including, among other things, testimony,
25 transcripts, and tangible things), that are produced or generated in disclosures or responses to
26 discovery in this matter.

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1 2.6 Expert: a person with specialized knowledge or experience in a matter pertinent to the
2 litigation who has been retained by a Party or its counsel to serve as an expert witness or as a
3 consultant in this action.

4 2.7 House Counsel: attorneys who are employees of a party to this action. House Counsel
5 does not include Outside Counsel of Record or any other outside counsel.

6 2.8 Non-Party: any natural person, partnership, corporation, association, or other legal
7 entity not named as a Party to this action.

8 2.9 Outside Counsel of Record: attorneys who are not employees of a party to this action
9 but are retained to represent or advise a party to this action and have appeared in this action on
10 behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.

11 2.10 Party: any party to this action, including all of its officers, directors, employees,
12 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

13 2.11 Producing Party: a Party or Non-Party that produces Disclosure or Discovery
14 Material in this action.

15 2.12 Professional Vendors: persons or entities that provide litigation support services (e.g.,
16 photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing,
17 storing, or retrieving data in any form or medium) and their employees and subcontractors.

18 2.13 Protected Material: any Disclosure or Discovery Material that is designated as
19 “CONFIDENTIAL.”

20 2.14 Receiving Party: a Party that receives Disclosure or Discovery Material from a
21 Producing Party.

22 3. SCOPE

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

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1 However, the protections conferred by this Stipulation and Order do not cover the following
2 information: (a) any information that is in the public domain at the time of disclosure to a Receiving
3 Party or becomes part of the public domain after its disclosure to a Receiving Party as a result of
4 publication not involving a violation of this Order, including becoming part of the public record
5 through trial or otherwise; and (b) any information known to the Receiving Party prior to the
6 disclosure or obtained by the Receiving Party after the disclosure from a source who obtained the
7 information lawfully and under no obligation of confidentiality to the Designating Party. Any use of
8 Protected Material at trial shall be governed by a separate agreement or order.

9 4. DURATION

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

16 5. DESIGNATING PROTECTED MATERIAL

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

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

3 If it comes to a Designating Party’s attention that information or items that it designated for
4 protection do not qualify for protection, that Designating Party must promptly notify all other Parties
5 that it is withdrawing the mistaken designation.

6 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order (see,
7 e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or
8 Discovery Material that qualifies for protection under this Order must be clearly so designated
9 before the material is disclosed or produced.

10 Designation in conformity with this Order requires:

11 (a) For information in documentary form (e.g., paper or electronic documents, but
12 excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing Party
13 affix the legend “CONFIDENTIAL” to each page that contains protected material. If only a portion
14 or portions of the material on a page qualifies for protection, then to the extent practicable the
15 Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate
16 markings in the margins).

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

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1 (b) for testimony given in deposition or in discovery-related proceedings, that the
2 Designating Party identify on the record, before the close of the deposition, hearing, or other
3 proceeding, all protected testimony.

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

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

14 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

15 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of
16 confidentiality at any time consistent with the Court’s scheduling order . Unless a prompt challenge
17 to a Designating Party’s confidentiality designation is necessary to avoid foreseeable, substantial
18 unfairness, unnecessary economic burdens, or a significant disruption or delay of the litigation, a
19 Party does not waive its right to challenge a confidentiality designation by electing not to mount a
20 challenge promptly after the original designation is disclosed.

21 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process
22 by providing written notice of each designation it is challenging and describing the basis for each
23 challenge. To avoid ambiguity as to whether a challenge has been made, the written notice must
24 recite that the challenge to confidentiality is being made in accordance with this specific paragraph
25 of the Protective Order as well as Local Rule 37. The parties shall attempt to resolve each challenge
26 in good faith and must begin the process as directed by Local Rule 37. In conferring, the
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1 the court or permitted in writing by the Designating Party, a Receiving Party may disclose any
2 information or item designated “CONFIDENTIAL” only to:

3 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as employees
4 of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for
5 this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” that is
6 attached hereto as Exhibit A;

7 (b) the officers, directors, and employees (including House Counsel) of the Receiving
8 Party to whom disclosure is reasonably necessary for this litigation and who have signed the
9 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

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

13 (d) the court and its personnel;

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

17 (f) during their depositions, witnesses in the action to whom disclosure is reasonably
18 necessary and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A),
19 unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed
20 deposition testimony or exhibits to depositions that reveal Protected Material must be separately
21 bound by the court reporter and may not be disclosed to anyone except as permitted under this
22 Stipulated Protective Order.

23 (g) the author or recipient of a document containing the information or a custodian or
24 other person who otherwise possessed or knew the information.

25 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
26 LITIGATION

1 Non-Party not to produce the Non-Party’s confidential information, then the Party shall:

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

4 (2) promptly provide the Non-Party with a copy of the Stipulated Protective Order in
5 this litigation, the relevant discovery request(s), and a reasonably specific description of the
6 information requested; and

7 (3) make the information requested available for inspection by the Non-Party.

8 (c) If the Non-Party fails to object or seek a protective order from this court within 21
9 days of receiving the notice and accompanying information, the Receiving Party may produce the
10 Non-Party’s confidential information responsive to the discovery request. If the Non-Party timely
11 seeks a protective order, the Receiving Party shall not produce any information in its possession or
12 control that is subject to the confidentiality agreement with the Non-Party before a determination by
13 the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of
14 seeking protection in this court of its Protected Material.

15 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

23 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
24 MATERIAL

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

7 12. MISCELLANEOUS

8 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek
9 its modification by the court in the future.

10 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order
11 no Party waives any right it otherwise would have to object to disclosing or producing any
12 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no
13 Party waives any right to object on any ground to use in evidence of any of the material covered by
14 this Protective Order.

15 12.3 Filing Protected Material. Without written permission from the Designating Party or a
16 court order secured after appropriate notice to all interested persons, a Party may not file in the
17 public record in this action any Protected Material. A Party that seeks to file under seal any Protected
18 Material must comply with Civil Local Rule 79-5. Protected Material may only be filed under seal
19 pursuant to a court order authorizing the sealing of the specific Protected Material at issue. Pursuant
20 to Civil Local Rule 79-5, a sealing order will issue only upon a request establishing that the
21 Protected Material at issue is privileged, protectable as a trade secret, or otherwise entitled to
22 protection under the law. If a Receiving Party's request to file Protected Material under seal pursuant
23 to Civil Local Rule 79-5 is denied by the court, then the Receiving Party may file the information in
24 the public record pursuant to Civil Local Rule 79-5 unless otherwise instructed by the court.

25 13. FINAL DISPOSITION

26 Within 60 days after the final disposition of this action, as defined in paragraph 4, each
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1 Receiving Party must return all Protected Material to the Producing Party or destroy such material.
2 As used in this subdivision, “all Protected Material” includes all copies, abstracts, compilations,
3 summaries, and any other format reproducing or capturing any of the Protected Material. Whether
4 the Protected Material is returned or destroyed, the Receiving Party must submit a written
5 certification to the Producing Party (and, if not the same person or entity, to the Designating Party)
6 by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected Material
7 that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies,
8 abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected
9 Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all
10 pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda,
11 correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant
12 and expert work product, even if such materials contain Protected Material. Any such archival copies
13 that contain or constitute Protected Material remain subject to this Protective Order as set forth in
14 Section 4 (DURATION).

15 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

16 **CALIFORNIA CONSUMER ATTORNEYS, P.C.**

17
18 DATED: 10/17/2024

/s/ Andrew Yung
Michael H. Rosenstein
Sepehr Daghighian
Alastair F. Hamblin
Attorneys for Plaintiff

19
20
21 **CLARK HILL LLP**

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23 DATED: 10/22/2024

/s/ C. Brian Wagner
Brian M. Hom
C. Brian Wagner
Christopher D. Higashi
Attorneys for Defendant

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: 10/25/2024



Hon. Jean P. Rosenbluth
United States Magistrate Judge

1 **EXHIBIT A**

2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

3 I, _____ [print or type full name], of _____ [print or
4 type full address], declare under penalty of perjury that I have read in its entirety and understand the
5 Stipulated Protective Order that was issued by the United States District Court for the Northern
6 District of California on _____ [date] in the case of **MELIZA DE JESUS v. BMW OF**
7 **NORTH AMERICA, LLC, United States District Court, Central District of California, Court**
8 **Case No. CV 23-0483-JPR**. I agree to comply with and to be bound by all the terms of this
9 Stipulated Protective Order and I understand and acknowledge that failure to so comply could
10 expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not
11 disclose in any manner any information or item that is subject to this Stipulated Protective Order to
12 any person or entity except in strict compliance with the provisions of this Order.

13 I further agree to submit to the jurisdiction of the United States District Court for the Northern
14 District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even
15 if such enforcement proceedings occur after termination of this action.

16 I hereby appoint _____ [print or type full name] of
17 _____ [print or type full address and telephone number] as
18 my California agent for service of process in connection with this action or any proceedings related
19 to enforcement of this Stipulated Protective Order.

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21 _____ (date)

22 City and State where sworn and signed: _____

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24 Printed name: _____

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26 Signature: _____

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CERTIFICATE OF SERVICE

I, hereby certify that on the 22nd day of October 2024, I electronically filed the foregoing **STIPULATION AND PROTECTIVE ORDER** with the Clerk of the Court Using the CM/ECF System; in accordance with the F.R.C.P. 5(b)(2)(D) and the Court’s Local Rule of the Court for the United States District Court. All parties who have appeared specially or generally in the case will be served by the CM/ECF System Court.

/s/ Carlyn Falls _____
Carlyn Falls