

1 Pursuant to Federal Rule of Civil Procedure 26(c), Defendants Superior
2 Performers, Inc., d/b/a NAA Insurance Agency, and Andy Spencer Albright
3 (collectively the “Defendants”) and Plaintiff Dallas R. Ritter (the parties shall be
4 referred to collectively as the “Parties”), by and through their undersigned counsel
5 of record, hereby stipulate and agree to the request for, and entry of, the following
6 Stipulated Protective Order governing the production, use, and disclosure of
7 confidential information in this action:

8 **STATEMENT OF GOOD CAUSE**

9 1. Plaintiff has brought a class action alleging unlawful practices by
10 Defendants in the sale of life insurance products, especially involving the use of
11 customer information and “leads,” which are information developed by Defendants
12 indicating a prospective purchaser of insurance. To support their defenses to
13 Plaintiff’s claims, Defendants intend to produce various documents and tangible
14 things in their possession, custody, and/or control including documents relating to
15 the generation and distribution of leads generally, specific leads, sales information,
16 financial information, commission structures, and confidential contracts with
17 insurance carriers which Defendants represent. Some of the aforementioned
18 information is proprietary, commercially sensitive, and private, and would result in
19 competitive harm to Defendants in the insurance industry if disclosed at any time.

20 2. Similarly, in response to Defendants’ discovery requests, Plaintiff will
21 produce certain documents and tangible things in his possession, custody, and/or
22 control including those relating to his health and other personal information.

23 3. The Parties consider the aforementioned information to be proprietary,
24 commercially sensitive, and/or private. To address these concerns and avoid
25 lengthy and expensive litigation over the issue, the Parties agree that a mutually
26 agreeable protective order will speed the discovery and litigation processes.
27 Therefore, the Parties believe good cause exists for designating such information
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1 “Confidential” or “Highly Confidential – Attorneys’ Eyes Only,” as defined in
2 Paragraphs 7 and 8 below.

3 **PURPOSES AND LIMITATIONS**

4 4. Disclosures, court filings, and discovery activity in this action are likely
5 to involve production of confidential, privileged, proprietary, trade secret, or private
6 information for which special protection from public disclosure and from use for
7 any purpose other than prosecuting this litigation would be warranted. This Order
8 does not confer blanket protection on all disclosures or responses to discovery and
9 the protection it affords extends only to the limited information or items that are
10 entitled under the applicable legal principles to treatment as confidential.

11 (a) *Exercise of restraint and care in designating protected material:*
12 Each party or non-party that designates information or items for protection under
13 this Order must take care to limit any such designation to specific material that
14 qualifies under the appropriate standards.

15 (b) *Mass, indiscriminate, or routine designations are prohibited:*
16 Designations should be justified and not made for an improper purpose (e.g., to
17 unnecessarily encumber or retard the case development process, or to impose
18 unnecessary expenses and burdens on other parties). If it comes to a party’s or a
19 non-party’s attention that information or items that it designated for protection do
20 not qualify for protection at all, or do not qualify for the level of protection initially
21 asserted, that party or non-party must promptly notify all other parties that it is
22 withdrawing the mistaken designation.

23 (c) *Filing Under Seal:* The Parties will endeavor to file, when
24 possible, redacted versions of documents containing irrelevant “Confidential” or
25 “Highly Confidential – Attorneys’ Eyes Only” Information, rather than seeking to
26 file the entire document under seal.

1 information satisfies the criteria for designation as “Confidential Information”
2 pursuant to Paragraph 6 above, and (b) the designating party or non-party believes,
3 in good faith, the disclosure of the information is likely to cause harm to the
4 competitive position of the designating party or non-party holding proprietary rights
5 thereto. Such “Highly Confidential – Attorneys’ Eyes Only” Information may
6 include, without limitation: trade secrets, including confidential technical
7 information, practices, and methods used in the development, production,
8 distribution, and pricing of leads; the specifics of Defendants’ agreements with its
9 insurance carriers; Defendants’ confidential commission information.

10 8. For purposes of this Stipulated Protective Order, “Confidential
11 Information” and “Highly Confidential – Attorneys’ Eyes Only” Information are
12 collectively referred to as “Protected Information.”

13 9. Protected Information shall be used only for the purpose of litigation of
14 this action and shall not be used for any other purpose whatsoever.

15 **PERSONS TO WHOM CONFIDENTIAL INFORMATION**
16 **MAY BE DISCLOSED**

17 10. Information designated as “Confidential” may be disclosed,
18 summarized, described, characterized, or otherwise communicated or made
19 available in whole or in part only to Qualified Persons. For purposes of this
20 Stipulated Protective Order, “Qualified Persons” shall mean the following:

21 (a) Counsel for any party hereto, including in-house counsel, and all
22 partners, associates or of-counsel attorneys of counsel’s law firm and all paralegal
23 assistants, stenographic and clerical employees thereof when operating under the
24 direct supervision of such partners, associates or of-counsel attorneys.

25 (b) Court and Mediator personnel, including stenographic reporters
26 engaged in such proceedings as are necessarily incident to the preparation for trial
27 and/or trial of this action.

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1 (c) Any party to this action, including but not limited to any partner,
2 employee or representative thereof.

3 (d) Persons noticed for depositions or designated as trial witnesses,
4 or those whom counsel of record in good faith expect to testify at trial or deposition,
5 only to the extent reasonably necessary in preparing to testify and who have, prior to
6 the disclosure, signed the statement attached hereto as Exhibit "A" attesting to the
7 fact that they have reviewed and agreed to be bound by the provisions of this
8 Stipulated Protective Order. Such persons shall not be permitted to make copies of
9 or otherwise have copies or duplicates of any documents or information designated
10 as "Confidential."

11 (e) Persons whose depositions are being taken in this action, who
12 have, prior to the commencement of their deposition, signed the statement attached
13 hereto as Exhibit "A" (which is to be made part of the official transcript of that
14 deposition) attesting to the fact that they have reviewed and agreed to be bound by
15 the provisions of this Stipulated Protective Order. In the event a deponent does not
16 sign Exhibit "A" prior to the commencement of his or her deposition, no
17 information designated as "Confidential" shall be shown to the deponent and his or
18 her deposition shall not be considered complete until the deposing party has an
19 opportunity to raise the issue with the Court.

20 (f) Independent experts or consultants (not regularly employed by or
21 otherwise associated with a party) who are retained to assist in the handling of this
22 action to furnish technical or expert advice or to give expert testimony at trial, only
23 to the extent that the information is pertinent to the expert's or consultant's opinions,
24 provided that disclosure of Confidential Information to such experts or consultants
25 shall be made only on the following conditions:

26 i. Prior to any Confidential Information being disclosed to
27 any expert or consultant, counsel of record shall be required to obtain from said
28 expert or consultant a signed statement, in the form of Exhibit "A" attached hereto

1 (which shall be maintained by counsel of record for that party), attesting to the fact
2 that the expert or consultant has reviewed and agreed to be bound by the provisions
3 of this Stipulated Protective Order.

4 ii. In the event a consulting expert becomes a testifying
5 expert, a copy of the expert’s executed statement in the form of Exhibit “A” must be
6 provided to opposing counsel in advance of the expert testifying at deposition or
7 trial.

8 (g) Outside copy and litigation support vendors who have, prior to
9 the disclosure of such information, signed the statement attached hereto as Exhibit
10 “A.”

11 11. Information designated as “Highly Confidential – Attorneys’ Eyes
12 Only” may be disclosed, summarized, described, characterized, or otherwise
13 communicated or made available in whole or in part only to the following persons:

14 (a) Counsel for any party hereto, including in-house counsel, and all
15 partners, associates or of-counsel attorneys of counsel’s law firm and all paralegal
16 assistants, stenographic and clerical employees thereof when operating under the
17 direct supervision of such partners, associates or of-counsel attorneys.

18 (b) Court and Mediator personnel, including stenographic reporters
19 engaged in such proceedings as are necessarily incident to the preparation for trial
20 and/or trial of this action.

21 (c) Persons noticed for depositions or designated as trial witnesses,
22 or those whom counsel of record in good faith expect to testify at trial or deposition,
23 only to the extent reasonably necessary in preparing to testify and who have, prior to
24 the disclosure, signed the statement attached hereto as Exhibit “A” attesting to the
25 fact that they have reviewed and agreed to be bound by the provisions of this
26 Stipulated Protective Order. Such persons shall not be permitted to make copies of
27 or otherwise have copies or duplicates of any documents or information designated
28 as “Highly Confidential – Attorneys’ Eyes Only.”

1 (d) Persons whose depositions are being taken in this action, who
2 have, prior to the commencement of their deposition, signed the statement attached
3 hereto as Exhibit “A” (which is to be made part of the official transcript of that
4 deposition) attesting to the fact that they have reviewed and agreed to be bound by
5 the provisions of this Stipulated Protective Order. In the event a deponent does not
6 sign Exhibit “A” prior to the commencement of his or her deposition, no
7 information designated as “Highly Confidential – Attorneys’ Eyes Only” shall be
8 shown to the deponent and his or her deposition shall not be considered complete
9 until the deposing party has an opportunity to raise the issue with the Court.

10 (e) Independent experts or consultants (not regularly employed by or
11 otherwise associated with a party) who are retained to assist in the handling of this
12 action to furnish technical or expert advice or to give expert testimony at trial, only
13 to the extent that the information is pertinent to the expert’s or consultant’s opinions,
14 provided that disclosure of “Highly Confidential – Attorneys’ Eyes Only”
15 Information to such experts or consultants shall be made only on the following
16 conditions:

17 i. Prior to any “Highly Confidential – Attorneys’ Eyes Only”
18 Information being disclosed to any expert or consultant, counsel of record shall be
19 required to obtain from said expert or consultant a signed statement, in the form of
20 Exhibit “A” attached hereto (which shall be maintained by counsel of record for that
21 party), attesting to the fact that the expert or consultant has reviewed and agreed to
22 be bound by the provisions of this Stipulated Protective Order.

23 ii. In the event a consulting expert becomes a testifying
24 expert, a copy of the expert’s executed statement in the form of Exhibit “A” must be
25 provided to opposing counsel in advance of the expert testifying at deposition or
26 trial.

27 (f) Plaintiff, to the limited extent that he may review at his counsel’s
28 office documents or information produced by Defendants and designated as “Highly

1 Confidential – Attorneys’ Eyes Only” solely for the purpose of aiding in the
2 preparation of pleadings or filings or his own deposition in this litigation. Plaintiff
3 shall not be permitted to make copies of or remove from his counsel’s office any
4 documents or information designated as “Highly Confidential – Attorneys’ Eyes
5 Only.”

6 (g) Representatives of Defendants (including employees), to the
7 limited extent that such representative may review at Defendants’ counsel’s office
8 documents or information designated as “Highly Confidential – Attorneys’ Eyes
9 Only” solely for the purpose of aiding in the preparation of pleadings or filings or
10 his/her own deposition in this litigation. Such representative shall not be permitted
11 to make copies of or remove from counsel’s office any documents or information
12 produced by Plaintiff and designated as “Highly Confidential – Attorneys’ Eyes
13 Only.”

14 (h) The author of the document and any authorized recipient of such
15 document in the ordinary course of business.

16 (i) Outside copy and litigation support vendors who have, prior to
17 the disclosure of such information, signed the statement attached hereto as Exhibit
18 “A.”(j) Any other person agreed to in writing by the designating Party or
19 allowed through Court Order, who has, prior to the disclosure of such information,
20 signed the statement attached hereto as Exhibit “A.”

21 12. A copy of any signed Exhibit “A” shall be provided by the receiving
22 party’s counsel to the designating party’s counsel, with the exception of those noted
23 in paragraphs 10(f)(i) and 11(e)(i).

24 **METHOD OF DESIGNATING CONFIDENTIAL INFORMATION**

25 13. The party or third party seeking protection may designate information
26 as “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” by placing or
27 affixing to each designated page of the Document or Transcript, prior to production,
28 the notation “Confidential” or “Highly Confidential – Attorneys’ Eyes Only,”

1 respectively. Such designation shall constitute a representation by counsel for the
2 party or third party making the designation that the Document or the Transcript, or
3 any portion thereof so designated, constitutes “Confidential” or “Highly
4 Confidential – Attorneys’ Eyes Only” information as defined in paragraphs 6 and 7,
5 respectively, of this Stipulated Protective Order.

6 (a) An inadvertent failure to designate an item as “Confidential” or
7 “Highly Confidential – Attorneys’ Eyes Only” shall not be deemed a waiver of the
8 rights afforded by this Stipulated Protective Order. A party or third party that
9 inadvertently fails to mark an item as “Confidential” or “Highly Confidential –
10 Attorneys’ Eyes Only” at the time of production may thereafter inform the other
11 Parties of the error and designate the item “Confidential” or “Highly Confidential –
12 Attorneys’ Eyes Only” at that time. Such designation and notice thereof shall be
13 made in writing, accompanied by substitute copies of any documents appropriately
14 marked as “Confidential” or “Highly Confidential – Attorneys’ Eyes Only.”

15 (b) Upon receipt of the substitute copies, the receiving party shall
16 treat the item according to its designation until further written agreement of the
17 parties or order of the Court. Within five (5) days of receipt of the substitute copies,
18 the receiving party shall return or destroy the previous unmarked items and all
19 copies thereof, and/or shall destroy any items or copies thereof containing notes of
20 counsel for the receiving party. In addition, the receiving party shall make
21 reasonable efforts to recover all non-designated versions of any Document and to
22 notify all receivers of the non-designated versions of the Document. Provided the
23 receiving party and its counsel act in good faith to secure compliance with the terms
24 of this Protective Order, the receiving party and its counsel shall incur no liability
25 for disclosures made prior to notice of such designation. The designating party may
26 request in writing, and the receiving party shall within 10 days of such a request
27 provide in writing, an identification of all persons not qualified under this Protective
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1 Order who have received “Confidential Information” or “Highly Confidential –
2 Attorneys’ Eyes Only” Information prior to the time it was so designated.

3 (c) All items produced prior to the filing and entry of this Stipulated
4 Protective Order may be designated as “Confidential” or “Highly Confidential –
5 Attorneys’ Eyes Only” within fifteen (15) days of the filing and entry.

6 14. If a party wishes to designate testimony or an exhibit as “Confidential”
7 or “Highly Confidential – Attorneys’ Eyes Only” during the course of a deposition
8 in this action, it shall do so by stating such designation on the record. Counsel for
9 the party designating the testimony or exhibit as “Confidential” or “Highly
10 Confidential – Attorneys’ Eyes Only” shall make reasonable arrangements to have
11 only the persons designated in paragraphs 10 and 11 above, respectively, present
12 during the testimony containing Protected Information and/or presentation,
13 quotation or reference to the exhibit containing Protected Information. In addition,
14 after a deposition, counsel for any party or non-party may designate a deposition as
15 “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” by serving upon
16 counsel for each party a written list of the specific portions as to which such status is
17 claimed. Such written list must be served within ten (10) business days after
18 transmittal to counsel of the transcript of such testimony.

19 15. When information designated as “Confidential” is incorporated into a
20 Transcript of a deposition, arrangements shall be made by the designating Party’s
21 counsel with the attending reporter to label “Confidential” those portions of the
22 Transcript containing such information and only those portions containing such
23 information. Such designated portions of the Transcripts (and all copies thereof)
24 shall be separately bound by the court reporter and shall thereafter be subject to the
25 same provisions herein as applied to any other Confidential Information.

26 16. When “Highly Confidential – Attorneys’ Eyes Only” Information is
27 incorporated into a Transcript of a deposition, arrangements shall be made by the
28 designating Party’s counsel with the attending reporter to label “Highly Confidential

1 – Attorneys’ Eyes Only” those portions of the Transcript containing such
2 information and only those portions containing such information. Such designated
3 portions of the Transcript (and all copies thereof) shall be separately bound by the
4 court reporter and shall thereafter be subject to the same provisions herein as apply
5 to any other “Highly Confidential – Attorneys’ Eyes Only” Information.

6 **TREATMENT OF CONFIDENTIAL INFORMATION**

7 17. The substance or content of Protected Information, as well as all notes
8 and memoranda relating thereto, shall not be disclosed to anyone other than the
9 persons designated in paragraphs 10 and 11 above, respectively, either during the
10 pendency of this action, or subsequent to its final determination. The Parties and
11 their counsel shall take reasonable precautions to ensure that no unauthorized
12 disclosure of Protected Information occurs. Nothing in this Stipulated Protective
13 Order shall prevent any producing party from using or disclosing its own
14 “Confidential Information” or “Highly Confidential – Attorneys’ Eyes Only”
15 Information.

16 18. If a Party seeks to include or reference any Protected Information in
17 any filings with the Court, the Party must first comply with the procedures and
18 requirements for filing under seal set forth in Civil Local Rule 79-5 for the Central
19 District of California. No Party shall file any documents with Protected Information
20 without complying with these procedures and requirements for filing under seal.

21 19. In the event that this matter proceeds to trial, if any Party seeks to
22 introduce information designated as “Confidential” or “Highly Confidential –
23 Attorneys’ Eyes Only,” the Parties shall meet and confer regarding whether and, if
24 so, in what manner such information can be used and presented at trial. Any use of
25 Protected Information at trial shall be governed by the orders of the trial judge. This
26 Order does not govern the use of Protected Information at trial.

27 20. Upon the final determination of this action (and all appeals), whether
28 by final non-appealable judgment, settlement, or otherwise:

1 (a) The terms of this Stipulated Protective Order shall be binding in
2 perpetuity on all persons designated in paragraphs 10 and 11, and all obligations and
3 duties arising under this Stipulated Protective Order shall survive the termination of
4 this action;

5 (b) Counsel of record for each party receiving Protected Information
6 shall, upon written request by the party that produced the Protected Information,
7 either assemble and return to the disclosing party all Documents designated as
8 “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” or shall assemble
9 and destroy all Documents so designated, including all summaries or other material
10 containing or disclosing Protected Information, the destruction of which shall be
11 confirmed in writing to the party that produced the Protected Information within
12 thirty (30) days of a request for such return or destruction made by that party. All
13 materials returned to the Parties or their counsel by the Court likewise shall be
14 disposed of in accordance with this paragraph. However, nothing herein shall
15 require any party or counsel to disclose to any other Party or counsel any materials
16 protected by the attorney-client privilege or attorney-work product doctrine even if
17 they contain another party’s Protected Information. Such materials shall be
18 destroyed, not returned, in response to a request made pursuant to this Paragraph.
19 Also, nothing herein shall preclude counsel of record from maintaining one copy of
20 all case files in connection with the action even if they contain Protected
21 Information, but such counsel of record shall continue to treat such filings
22 containing Protected Information according to the protections afforded by this
23 Protective Order.

24 (c) In the event any person in receipt of information designated as
25 “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” receives a written
26 request, subpoena, or Court Order seeking disclosure of another party’s “Highly
27 Confidential – Attorneys’ Eyes Only” Information, such person shall immediately
28 upon receipt of such request, subpoena, or Court Order, notify counsel for the

1 designating party of the request, subpoena, or Court Order, and shall provide
2 counsel for the designating party with a copy of the same, unless prohibited by law.

3 **CHALLENGES TO DESIGNATIONS OR PROTECTIVE ORDER**

4 21. No party shall be obligated to challenge the propriety of any
5 designation of “Confidential” or “Highly Confidential – Attorneys’ Eyes Only”
6 Information by another party or non-party, and the failure to do so shall not
7 constitute a waiver or otherwise preclude a subsequent challenge to the designation.
8 In the event a dispute arises regarding this Protective Order or the Parties’ activities
9 relating to it (including but not limited to, challenging the propriety of specific
10 designations, objecting to a Party’s abuse of its ability to designate materials
11 “Confidential” or “Highly Confidential – Attorneys’ Eyes Only,” or seeking a
12 modification of the Protective Order), the Parties shall follow the procedures set
13 forth in Rule 37 of the Federal Rules of Civil Procedure to resolve the dispute unless
14 otherwise ordered by the Court. The party challenging the designations shall treat
15 the materials according to the “Confidential” or “Highly Confidential – Attorneys’
16 Eyes Only” designations unless or until the Court orders otherwise. The party
17 seeking to enforce the “Confidential” or “Highly Confidential – Attorneys’ Eyes
18 Only” designations shall have the burden on the motion to prove the legal and
19 factual basis for upholding the designations. If a party wants to file under seal a
20 motion pursuant to Rule 37 of the Federal Rules of Civil Procedure, it may file a
21 stipulation to that effect or the party seeking to file under seal may file an *ex parte*
22 application making the appropriate request in accordance with paragraph 18 of this
23 Protective Order.

24 **MISCELLANEOUS PROVISIONS**

25 22. Inadvertent production by any party of a document containing
26 privileged attorney-client or other privileged communications, attorney work
27 product immunity, or other information not subject to discovery, shall not constitute
28 a waiver of any privilege, immunity or other right not to produce such a document.

1 In the event a receiving party discovers or believes it has received information that
2 was inadvertently produced and would normally be subject to a claim of attorney-
3 client privilege or work product immunity, it will bring that fact to the attention of
4 the producing party immediately upon discovery. In the event that a producing
5 party discovers that it has produced either attorney-client privilege or work-product
6 protected documents, it will bring that fact to the attention of the receiving party
7 immediately upon discovery. Upon request by the producing party, the receiving
8 party will promptly return to the producing party any attorney-client privilege or
9 work-product-protected document and any copies that the receiving party may have
10 made, which the producing party will keep separately and preserve. Upon request
11 by the producing party, the receiving party will promptly disclose the names of any
12 individuals who have read or have had access to the attorney-client privilege or
13 work-product-protected document. Further, the receiving party must take
14 reasonable steps to retrieve the information if the receiving party disclosed it before
15 being notified. Return of the documents by the receiving party shall not constitute
16 an admission or concession, or permit any inference, that the returned document or
17 thing is, in fact, properly subject to a claim of attorney-client privilege or work
18 product immunity.

19 23. This Order shall survive the final conclusion of this case and shall
20 continue in full force and effect, and the Court shall retain jurisdiction to enforce
21 this Order. Within ninety (90) days after the final conclusion of this case and all
22 Related Actions all Designated Material shall, upon request of the Designating
23 Entity, be either destroyed or returned to that entity. Notwithstanding any of the
24 foregoing, the parties' counsel may retain any privileged attorney work product they
25 have created which incorporates designated material on the condition that they will
26 maintain the confidentiality of such material and will not use such material in
27 contravention of the provisions of this Order.

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1 24. Nothing in this Stipulated Protective Order shall be construed as an
2 admission as to the relevance, authenticity, foundation, or admissibility of any
3 document, material, transcript, or other information that is not otherwise relevant,
4 authenticated, or admissible, or does not possess an adequate foundation.

5 25. Nothing in this Stipulated Protective Order shall be construed to
6 supersede other protective orders entered in this matter. To the extent that certain
7 information is subject to other protective orders entered in this matter and also
8 qualifies as “Confidential Information” or “Highly Confidential – Attorneys’ Eyes
9 Only” Information pursuant to paragraphs 7 and 8 of this Stipulated Protective
10 Order, such information shall be governed and protected by all applicable protective
11 orders. In addition, nothing in this Stipulated Protective Order shall be construed to
12 restrict the ability of any party to seek an order from this Court imposing further
13 restrictions on the dissemination of “Confidential Information” or “Highly
14 Confidential – Attorneys’ Eyes Only” Information, or seek to rescind, modify, alter,
15 or amend this Stipulated Protective Order with respect to specific information. To
16 the extent that a conflict arises concerning the treatment and level of protection
17 afforded to certain information that is subject to different protective orders, such
18 information shall be governed and treated in accordance with the narrowest
19 protective order affording the most stringent protections for such information.

20 26. Nothing in this Stipulated Protective Order shall bar or otherwise
21 restrict any attorney herein from rendering legal advice to a party in this case.

22 27. The terms herein are Orders of the Court and not merely recitals, with
23 this document containing the entire Stipulation between the Parties. This Stipulated
24 Protective Order can only be changed or terminated in a writing signed by each of
25 the Parties hereto and/or by an Order of the Court.

26 28. By the signature of their undersigned attorneys, the Parties and their
27 counsel stipulate that they will be bound by the foregoing provisions and further
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1 stipulate that this Stipulated Protective Order may be signed, filed and entered by
2 the Court.

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