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

CHRISTIAN PASCAL, et al.,  
  
Plaintiffs,  
  
vs.  
  
NISSAN NORTH AMERICA, INC.,  
  
Defendant.

**Case No. 8:20-cv-00492-JLS-JDE**  
  
**STIPULATED PROTECTIVE ORDER**  
  
Judge: Honorable Josephine L. Staton  
Magistrate Judge: Hon. John D. Early  
Courtroom: 10A (Santa Ana)

Pursuant to the Stipulation and Proposed Protective Order lodged by Plaintiffs Cristian Pascal and Maria Mengoni (“Plaintiffs”), Defendant Nissan North America, Inc. (“Defendant”), and third-party Nissan Motor Company, Limited (collectively “the parties”) on October 18, 2021 (Dkt. 70-1), and for good cause shown therein, the Court finds and orders as follows.

**1. PURPOSES AND LIMITATIONS**

1.1 Disclosure and discovery in this action may involve production of confidential, proprietary, or private information for which protection from public

1 disclosure and from use for any purpose other than pursuing this litigation may be  
2 warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the  
3 following Stipulated Protective Order. The parties acknowledge that this Order does not  
4 confer blanket protection on all disclosures or discovery and that the protection it affords  
5 extends only to the information or items that are entitled to be treated as confidential  
6 under the applicable legal principles.

7 1.2 The Parties agree to take care to limit any designation to specific material  
8 that qualifies under the appropriate standards below. To the extent it is practical to do so,  
9 the designating Party must designate for protection only those parts of the material,  
10 documents, items, or oral or written communications that qualify.

11 1.3 Furthermore, the parties acknowledge that neither this Order nor any  
12 confidentiality designation pursuant to it constitutes a ruling by this Court that any  
13 specific information is, in fact, confidential. Nor does this Order, or any confidentiality  
14 designation pursuant to it, entitle any party to file any information under seal.

15 1.4 Other than marking the document "CONFIDENTIAL" and making other  
16 obvious redactions as appropriate, the Producing Party represents that the document is a  
17 true and correct copy of the original. This designation will also encompass the following:  
18 (1) any information copied or extracted from Covered Information; (2) all copies,  
19 excerpts, summaries, or compilations of Covered Information; and (3) any out-of-court  
20 testimony or presentations by Parties or their Counsel that reveals Covered Information.

## 21 2. CONFIDENTIAL INFORMATION

22 2.1 As used in this order, "Confidential Information" shall mean information or  
23 tangible things for which there is good cause for confidentiality. Confidential Information  
24 includes without limitation: technical data, trade secrets, know-how, research, product or  
25 service ideas or plans, software codes and designs, algorithms, developments, inventions,  
26 patent applications, laboratory notebooks, processes, formulas, techniques, mask works,  
27 engineering designs and drawings, hardware configuration information, agreements with  
28 third parties, lists of, or information relating to, employees and consultants including, but  
not limited to, the names, contact information, jobs, compensation, and expertise of such

1 employees and consultants, lists of, or information relating to, suppliers and customers,  
2 price lists, pricing methodologies, cost data, market share data, marketing plans, licenses,  
3 contract information, business plans, financial forecasts, historical financial data, budgets  
4 or any other confidential business or financial information, including, without limitation:  
5 information regarding confidential business practices, or other confidential research,  
6 development, or commercial information (including information implicating privacy  
7 rights of third parties), information otherwise generally unavailable to the public, or  
8 which may be privileged or otherwise protected from disclosure under state or federal  
9 statutes, court rules, case decisions, or common law. “Confidential Information” does not  
10 include any information that:

- 11 a. is publicly available at the time of disclosure;
- 12 b. becomes publicly available after disclosure through no fault of the Receiving  
13 Party (defined below);
- 14 c. was known to the Receiving Party prior to disclosure; or
- 15 d. the Receiving Party lawfully receives at a later date from a third party  
16 without restriction as to disclosure.

### 17 **3. ADDITIONAL DEFINITIONS**

- 18 (a) Challenging Party: a Party that challenges a Designating Party’s  
19 confidentiality designation.
- 20 (b) Counsel: Outside Counsel of Record and House Counsel (as well as their  
21 support staff).
- 22 (c) Designating Party: a Party or Non-Party that designates information or items  
23 that it produces in disclosures or in responses to discovery as  
24 “CONFIDENTIAL.” The Party or Non -Party designating information or  
25 items as confidential bear the burden of establishing good cause for the  
26 confidentiality of all such information or items.
- 27 (d) Disclosure or Discovery Material: all items or information, regardless of the  
28 medium or manner in which it is generated, stored, or maintained (including,

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

3 (e) Expert: a person with specialized knowledge or experience in a matter  
4 pertinent to the litigation who has been retained by a Party or its counsel to  
5 serve as an expert witness, testifying or non-testifying, or as a consultant in  
6 this Action, including any person specifically retained to provide expert  
7 opinions in a hybrid capacity. This definition includes consultants. Each  
8 such Expert, will agree to be bound by the terms of this Protective Order

9 (f) House Counsel: attorneys who are employees of a party to this Action.  
10 House Counsel does not include Outside Counsel of Record or any other  
11 outside counsel.

12 (g) Non-party: any natural person, partnership, corporation, association or other  
13 legal entity not named as a Party to this action other than Nissan Motor  
14 Company, Limited.

15 (h) Outside Counsel of Record: attorneys who are not employees of a party to  
16 this Action but are retained to represent a party to this Action and have  
17 appeared in this Action on behalf of that party or are affiliated with a law  
18 firm that has appeared on behalf of that party, and includes support staff.

19 (i) Party: any party to this action, including all of its officers, directors,  
20 consultants, retained experts, and counsel (and their support staff).

21 (j) Producing Party: a Party or Non-party that produces Disclosure or Discovery  
22 Material in this action.

23 (k) Professional Vendors: persons or entities that provide litigation support  
24 services (e.g., photocopying, videotaping, translating, preparing exhibits or  
25 demonstrations, and organizing, storing, or retrieving data in any form or  
26 medium) and their employees and subcontractors, or a professional jury or  
27 trial consultants retained in connection with this litigation.  
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1 (l) Protected Material: any Disclosure or Discovery Material that is designated  
2 as “CONFIDENTIAL.” Unless the confidentiality designation is challenged  
3 and (a) the Court decides such material is not entitled to protection as  
4 confidential; or (c) the Designating Party withdraws its confidentiality  
5 designation in writing.

6 (m) Receiving Party: a Party that receives Disclosure or Discovery Material from  
7 a Producing Party

8 **4. SCOPE**

9 4.1 The protections conferred by this Stipulation and Order cover not only  
10 Protected Material (as defined above), but also (1) any information copied or extracted  
11 from Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected  
12 Material; and (3) any testimony, conversations, or presentations by Parties or their  
13 Counsel that might reveal Protected Material.

14 Any use of Protected Material at trial shall be governed by the orders of the trial  
15 judge and other applicable authorities. This Order does not govern the use of Protected  
16 Material at trial.

17 **5. DESIGNATING MATERIAL AS CONFIDENTIAL**

18 5.1 Exercise of Restraint and Care in Designating Material for Protection: The  
19 designation of material as confidential shall constitute a representation to the Court that  
20 the Designating Party and its counsel believe in good faith that the information  
21 constitutes Confidential Information. Parties and Non-Parties shall make a good faith  
22 effort to designate information in a way that provides the greatest level of disclosure  
23 possible, while still preserving the confidentiality of Confidential Information. Each Party  
24 or Non-Party that designates information or items for protection under this Order must in  
25 good faith take care to limit any such designation to specific material that qualifies under  
26 the appropriate standards. The Designating Party must designate for protection only those  
27 parts of material, documents, items or oral or written communications that qualify so that  
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1 other portions of the material, documents, items or communications for which protection  
2 is not warranted are not swept unjustifiably within the ambit of this Order.

3 Mass, indiscriminate, or routinized designations are strictly prohibited.  
4 Designations that are shown to be clearly unjustified *or* that have been made for an  
5 improper purpose (*e.g.*, to unnecessarily encumber or delay the case development  
6 process, or to impose unnecessary expenses and burdens on other parties) may subject the  
7 Designating Party to sanctions upon appropriate motion to the Court.

8 If it comes to a Designating Party's attention that information that it designated  
9 confidential does not qualify for protection, that Designating Party must promptly notify  
10 all other parties that it is withdrawing the mistaken designation.

11 5.2 Manner and Timing of Designations. Except as otherwise provided in this  
12 Order, or as otherwise stipulated or ordered, material that qualifies for protection under  
13 this Order must be clearly designated confidential before the material is disclosed or  
14 produced.

15 5.3 Designation in conformity with this Order requires:

16 (a) For information in documentary form (*e.g.*, paper or electronic  
17 documents, but excluding transcripts of depositions or other pretrial or trial proceedings),  
18 that the Producing Party affix at a minimum, the legend "CONFIDENTIAL" (hereinafter  
19 "CONFIDENTIAL legend"), to each page that contains protected material. If only a  
20 portion of the material on a page qualifies for protection, the Producing Party also must  
21 clearly identify the protected portion(s) (*e.g.*, by making appropriate markings in the  
22 margins).

23 A Party or Non-Party that makes original documents available for inspection need  
24 not designate them for protection until after the inspecting Party has indicated which  
25 documents it would like copied and produced. During the inspection and before the  
26 designation, all of the material made available for inspection shall be deemed  
27 "CONFIDENTIAL." After the inspecting Party has identified the documents it wants  
28 copied and produced, the Producing Party must determine which documents, or portions  
thereof, qualify for protection under this Order. Then, before producing the specified

1 documents, the Producing Party must affix the “CONFIDENTIAL legend” to each page  
2 that contains Protected Material. If only a portion of the material on a page qualifies for  
3 protection, the Producing Party also must clearly identify the protected portion(s) (e.g.,  
4 by making appropriate markings in the margins).

5 (b) For testimony given in deposition proceedings, the Party or Non-party  
6 offering or sponsoring the testimony must identify within thirty days of the receipt of the  
7 transcript, all confidential testimony.

8 (c) For information produced in some form other than documentary and  
9 for any other tangible items, the Producing Party must affix in a prominent place on the  
10 exterior of the container or containers in which the information or item is stored the  
11 legend “CONFIDENTIAL.” If only a portion or portions of the information warrants  
12 protection, the Producing Party, to the extent practicable, shall identify the protected  
13 portion(s) so as not to interfere with the viewing or use of the non-protected portions of  
14 the evidence.

15 5.4 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure  
16 to designate information or items as confidential does not waive the Designating Party’s  
17 right to secure protection under this Order for such material. Upon timely correction of a  
18 designation, the Receiving Party must make reasonable efforts to assure that the material  
19 is treated in accordance with the provisions of this Order.

## 20 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

21 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation  
22 of confidentiality at any time that is consistent with the Court’s Scheduling Order.

23 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution  
24 process under Local Rule 37-1 et seq.

25 6.3 Joint Stipulation. Any challenge submitted to the Court shall be via a joint  
26 stipulation pursuant to Local Rule 37-2.

27 6.4 The burden of persuasion in any such challenge proceeding shall be on the  
28 Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to  
harass or impose unnecessary expenses and burdens on other parties) may expose the

1 Challenging Party to sanctions. Frivolous designations, and those made for an improper  
2 purpose (e.g. to harass or impose unnecessary expenses and burdens on other parties)  
3 may expose the Designating Party to sanctions. Unless the Designating Party has waived  
4 or withdrawn the confidentiality designation, all parties shall continue to afford the  
5 material in question the level of protection to which it is entitled under the Producing  
6 Party’s designation until the Court rules on the challenge.

7 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

8 7.1 Basic Principles. A Receiving Party may use Protected Material that is  
9 disclosed or produced by another Party or by a Non-Party in connection with this Action  
10 only for prosecuting, defending or attempting to settle this Action. Such Protected  
11 Material may be disclosed only to the categories of persons and under the conditions  
12 described in this Order. When the Action has been terminated, a Receiving Party must  
13 comply with the provisions of section 15 below (FINAL DISPOSITION).

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

17 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise  
18 ordered by the court or permitted in writing by the Designating Party, a Receiving Party  
19 may disclose any information or item designated “CONFIDENTIAL” only to the  
20 following Qualified Persons:

- 21 (a) The Receiving Party’s Outside Counsel of Record in this Action, as well  
22 as employees of said Outside Counsel of Record to whom it is reasonably  
23 necessary to disclose the information for this Action;
- 24 (b) The officers, directors, and employees (including House Counsel) of the  
25 Receiving Party to whom disclosure is reasonably necessary for this  
26 Action;
- 27 (c) Experts (as defined in this Order) of the Receiving Party, including  
28 associated personnel necessary to assist Experts in these proceedings, such

1 as litigation assistants, paralegals, and secretarial and other clerical  
2 personnel, so long as such Expert has signed the “Acknowledgment and  
3 Agreement to Be Bound by Stipulated Protective Order” (Exhibit A);

4 (d) The Court and its personnel;

5 (e) Court reporters and their staff;

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

10 (g) The author or recipient of a document containing the information or a  
11 custodian or other person who otherwise possessed or knew the  
12 information;

13 (h) Litigation support services, including outside copying services, court  
14 reporters, stenographers, videographers, or companies engaged in the  
15 business of supporting computerized or electronic litigation discovery or  
16 trial preparation, retained by a Party or its counsel for the purpose of  
17 assisting that Party in these proceedings, for whom a company  
18 representative has signed the “Acknowledgment and Agreement to Be  
19 Bound by Protective Order” (Exhibit A);

20 (i) Other Professional Vendors to whom disclosure is reasonably necessary  
21 for this litigation and for whom a company representative has signed the  
22 “Acknowledgment and Agreement to Be Bound by Stipulated Protective  
23 Order” (Exhibit A);

24 (j) Actual or Potential Witness in the Action who has signed the  
25 “Acknowledgment and Agreement to Be Bound by Stipulated Protective  
26 Order” (Exhibit A), provided that counsel believes, in good faith, that  
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1 such disclosure is reasonably necessary for the prosecution or defense of  
2 these proceedings;

- 3 (k) During their depositions, witnesses, and attorneys for witnesses, in the  
4 Action to whom disclosure is reasonably necessary provided: (1) the  
5 deposing party requests that the witness sign the form attached as Exhibit  
6 A hereto; and (2) they will not be permitted to keep any confidential  
7 information unless they sign the “Acknowledgment and Agreement to Be  
8 Bound” (Exhibit A), unless otherwise agreed by the Designating Party or  
9 ordered by the court. Pages of transcribed deposition testimony or exhibits  
10 to depositions that reveal Protected Material may be separately bound by  
11 the court reporter and may not be disclosed to anyone except as permitted  
12 under this Stipulated Protective Order any mediator or arbitrator  
13 appointed by the Court or selected by mutual agreement of the parties and  
14 the mediator or arbitrator’s secretarial and clerical personnel, provided  
15 that a company representative for the mediator or arbitrator has signed the  
16 “Acknowledgment and Agreement to Be Bound by Stipulated Protective  
17 Order” (Exhibit A); and  
18  
19 (l) any mediators or settlement officers and their supporting personnel,  
20 mutually agreed upon by any of the parties engaged in settlement  
21 discussions.

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

24 8.1 If a Receiving Party is served with a subpoena or an order issued in other  
25 litigation that would compel disclosure of Protected Material, the Receiving Party must  
26 so notify the Designating Party in writing (by e-mail, if possible) within five (5) business  
27 days after receiving the subpoena or order. Such notification must include a copy of the  
28 subpoena or court order.

1           8.2    The Receiving Party also must promptly notify in writing the party that  
2 caused the subpoena or order to issue that some or all the material covered by the  
3 subpoena or order is the subject of this Protective Order. Such notification shall include a  
4 copy of this Stipulated Protective Order. In addition, the Receiving Party must deliver a  
5 copy of this Stipulated Protective Order promptly to the party in the other action that  
6 caused the subpoena or order to issue.

7           8.3    The Receiving Party must also cooperate with respect to all reasonable  
8 procedures sought to be pursued by the Designating Party whose Protected Material may  
9 be affected. If the Designating Party timely asserts an objection, seeks a protective order  
10 from the court where the subpoena or order issued, or otherwise requests that the Party  
11 served with the subpoena or court order shall not produce any Protected Material before a  
12 determination by that court, then the Party served with the subpoena or court order shall  
13 not produce any Protected Material before a determination by that court, unless the Party  
14 has obtained the Designating Party’s prior written permission. The Designating Party  
15 shall bear the burden and expense of seeking protection in that court of its confidential  
16 material—and nothing in these provisions should be construed as authorizing or  
17 encouraging a Receiving Party in this action to disobey a lawful directive from another  
18 court.

19           **9.     A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**  
20           **PRODUCED IN THIS LITIGATION**

21           9.1    The terms of this Order are applicable to information produced by a Non-  
22 Party in this Action and designated as “CONFIDENTIAL.” Such information produced  
23 by Non-Parties in connection with this litigation is protected by the remedies and relief  
24 provided by this Order. Nothing in these provisions should be construed as prohibiting a  
25 Non-Party from seeking additional protections.

26           9.2    In the event that a Party is required, by a discovery request, to produce a  
27 Non-Party’s confidential information in its possession, and the Party is subject to an  
28 agreement with the Non-Party not to produce the Non-Party’s confidential information,  
then the Party shall:

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

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

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

9 9.3 If the Non-Party fails to seek a protective order from this court within 14  
10 days of receiving the notice and accompanying information, the Receiving Party may  
11 produce the Non-Party's confidential information responsive to the discovery request. If  
12 the Non-Party timely seeks a protective order, the Receiving Party shall not produce any  
13 information in its possession or control that is subject to the confidentiality agreement  
14 with the Non-Party before a determination by the court. Absent a court order to the  
15 contrary, the Non-Party shall bear the burden and expense of seeking protection in this  
16 court of its Protected Material.

17 9.4 The provisions of this Section 9 set forth above do not apply to third-party  
18 Nissan Motor Company, Limited. Nissan Motor Company, Limited is to be treated as a  
19 "party" for the purposes of the application of this Protective Order.

20 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

21 10.1 If a Receiving Party learns that, by inadvertence or otherwise, it has  
22 disclosed Protected Material to any person or in any circumstance not authorized under  
23 this Stipulated Protective Order, the Receiving Party must promptly (a) notify in writing  
24 the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve  
25 all copies of the Protected Material, (c) inform the person or persons to whom  
26 unauthorized disclosures were made of all the terms of this Order, and (d) request such  
27 person or persons to execute the "Acknowledgment and Agreement to Be Bound by  
28 Stipulated Protective Order" that is attached hereto as Exhibit A.

///

1           **11. ACKNOWLEDGMENT OF UNDER SEAL FILING PROCEDURE**

2           11.1 The parties acknowledge, that this Stipulated Protective Order does not  
3 entitle them to file confidential information under seal; Local Civil Rule 79-5 sets forth  
4 the procedures that must be followed and the standards that will be applied when a party  
5 seeks permission from the court to file material under seal. Protected Material may only  
6 be filed under seal pursuant to a court order authorizing the sealing of the specific  
7 Protected Material.

8           **12. FINAL DISPOSITION**

9           12.1 After the final disposition of this Action, within 60 days of a written request  
10 by the Designating Party, each Receiving Party must return all Protected Material to the  
11 Producing Party or destroy such material. As used in this subdivision, “all Protected  
12 Material” includes all copies, abstracts, compilations, summaries, and any other format  
13 reproducing or capturing any of the Protected Material. Whether the Protected Material is  
14 returned or destroyed, the Receiving Party must submit a written certification to the  
15 Producing Party (and, if not the same person or entity, to the Designating Party) by the  
16 60-day deadline that (1) identifies (by category, where appropriate) all the Protected  
17 Material that was returned or destroyed and (2) affirms that the Receiving Party has not  
18 retained any copies, abstracts, compilations, summaries or any other format reproducing  
19 or capturing any of the Protected Material. Notwithstanding this provision, Counsel are  
20 entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and  
21 hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits,  
22 expert reports, attorney work product, and consultant and expert work product, even if  
23 such materials contain Protected Material. Any such archival copies that contain or  
24 constitute Protected Material remain subject to this Protective Order.

25           **13. VIOLATIONS**

26           13.1 Any violation of this Order may be punished by appropriate measures  
27 including, without limitation, contempt proceedings and/or monetary sanctions.

28           ///

1           **14. MISCELLANEOUS**

2           14.1 Right to Further Relief. Nothing in this Order abridges the right of any  
3 person to seek its modification by the Court in the future.

4           14.2 Right to Assert Other Objections. By stipulating to the entry of this  
5 Protective Order, no Party waives any right it otherwise would have to object to  
6 disclosing or producing any information or item on any ground not addressed in this  
7 Protective Order. Similarly, no Party waives any right to object on any ground to use in  
8 evidence of any of the material covered by this Protective Order.

9           **FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

10  
11  
12 Dated: October 19, 2021



\_\_\_\_\_  
JOHN D. EARLY  
United States Magistrate Judge

**EXHIBIT A**

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

CHRISTIAN PASCAL, et al.,

Plaintiffs,

vs.

NISSAN NORTH AMERICA, INC.,

Defendant.

**Case No. 8:20-cv-00492-JLS-JDE**

***EXHIBIT A TO STIPULATED  
PROTECTIVE ORDER***

Judge: Honorable Josephine L. Staton  
Magistrate Judge: Hon. John D. Early  
Courtroom: 10A (Santa Ana)

I acknowledge that I have read and understand the Stipulated Protective Order entered in this action on \_\_\_\_\_, 2020, and agree to abide by its terms and conditions. Because it is necessary for me in the performance of my duties to have access to Confidential Information that is the subject of the Stipulated Protective Order, I understand and agree that I am personally bound by and subject to all of the terms and provisions of this Order.

Date Signed: \_\_\_\_\_

Signature: \_\_\_\_\_

Name/Entity: \_\_\_\_\_

Address: \_\_\_\_\_

Email Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_