

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

MARGARITA MUNOZ, an  
individual, and FRANCISCO  
MUNOZ, an individual,

Plaintiffs,

vs.

NISSAN NORTH AMERICA, INC.,  
a Delaware Corporation, and DOES 1  
through 10, inclusive,

Defendants.

Case No.: 8:23-cv-00532-FWS-JDE

STIPULATED PROTECTIVE  
ORDER

Based on the parties' Stipulation (Dkt. 22) and for good cause shown, the Court finds and orders as follows.

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to

1 discovery and that the protection it affords from public disclosure and use extends  
2 only to the limited information or items that are entitled to confidential treatment  
3 under the applicable legal principles. The parties further acknowledge, as set forth  
4 in Section 12.3, below, that this Stipulated Protective Order does not entitle them to  
5 file confidential information under seal; Civil Local Rule 79-5 sets forth the  
6 procedures that must be followed and the standards that will be applied when a party  
7 seeks permission from the court to file material under seal.

8 2. GOOD CAUSE STATEMENT

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

21 3. ACKNOWLEDGMENT OF UNDER SEAL FILING PROCEDURE

22 The parties further acknowledge, as set forth in Section 14.3, below, that  
23 this Stipulated Protective Order does not entitle them to file confidential  
24 information under seal; Local Civil Rule 79-5 sets forth the procedures that  
25 must be followed and the standards that will be applied when a party seeks  
26 permission from the court to file material under seal. There is a strong  
27 presumption that the public has a right of access to judicial proceedings and  
28 records in civil cases. In connection with non-dispositive motions, good cause

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

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

22 Any document that is not confidential, privileged, or otherwise  
23 protectable in its entirety will not be filed under seal if the confidential portions  
24 can be redacted. If documents can be redacted, then a redacted version for  
25 public viewing, omitting only the confidential, privileged, or otherwise  
26 protectable portions of the document, shall be filed. Any application that seeks  
27 to file documents under seal in their entirety should include an explanation of  
28 why redaction is not feasible.

1     4.     DEFINITIONS

2             4.1     Action: The pending federal lawsuit entitled *Margarita Munoz and*  
3 *Francisco Munoz v. Nissan North America, Inc.*, Case No. 8:23-cv-00532-FWS-  
4 JDE.

5             4.2     Challenging Party: a Party or Non-Party that challenges the  
6 designation of information or items under this Order.

7             4.3     “CONFIDENTIAL” Information or Items: information (regardless of  
8 how it is generated, stored or maintained) or tangible things that qualify for  
9 protection under Federal Rule of Civil Procedure 26(c), and as specified above in  
10 the Good Cause Statement.

11            4.4     Counsel: Outside Counsel of Record and House Counsel (as well as  
12 their support staff).

13            4.5     Designating Party: a Party or Non-Party that designates information or  
14 items that it produces in disclosures or in responses to discovery as  
15 “CONFIDENTIAL.”

16            4.6     Disclosure or Discovery Material: all items or information, regardless  
17 of the medium or manner in which it is generated, stored, or maintained (including,  
18 among other things, testimony, transcripts, and tangible things) that are produced or  
19 generated in disclosures or responses to discovery in this matter.

20            4.7     Expert: a person with specialized knowledge or experience in a matter  
21 pertinent to the litigation who has been retained by a Party or its counsel to serve as  
22 an expert witness or as a consultant in this Action.

23            4.8     House Counsel: attorneys who are employees of a party to this Action.  
24 House Counsel does not include Outside Counsel of Record or any other outside  
25 counsel.

26            4.9     Non-Party: any natural person, partnership, corporation, association or  
27 other legal entity not named as a Party to this action.

28            4.10    Outside Counsel of Record: attorneys who are not employees of a

1 party to this Action but are retained to represent or advise a party to this Action and  
2 have appeared in this Action on behalf of that party or are affiliated with a law firm  
3 that has appeared on behalf of that party, and includes support staff.

4 4.11 Party: any party to this Action, including all of its officers, directors,  
5 employees, consultants, retained experts, and Outside Counsel of Record (and their  
6 support staffs).

7 4.12 Producing Party: a Party or Non-Party that produces Disclosure or  
8 Discovery Material in this Action.

9 4.13 Professional Vendors: persons or entities that provide litigation  
10 support services (e.g., photocopying, videotaping, translating, preparing exhibits or  
11 demonstrations, and organizing, storing, or retrieving data in any form or medium)  
12 and their employees and subcontractors.

13 4.14 Protected Material: any Disclosure or Discovery Material that is  
14 designated as “CONFIDENTIAL.”

15 4.15 Receiving Party: a Party that receives Disclosure or Discovery  
16 Material from a Producing Party.

## 17 5. SCOPE

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

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

## 25 6. DURATION

26 Even after final disposition of this litigation, the confidentiality obligations  
27 imposed by this Order will remain in effect until a Designating Party agrees  
28 otherwise in writing or a court order otherwise directs. Final disposition will be

1 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with  
2 or without prejudice; and (2) final judgment herein after the completion and  
3 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,  
4 including the time limits for filing any motions or applications for extension of time  
5 pursuant to applicable law.

6 7. DESIGNATING PROTECTED MATERIAL

7 7.1 Exercise of Restraint and Care in Designating Material for Protection.

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

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

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

23 7.2 Manner and Timing of Designations. Except as otherwise provided in  
24 this Order (*see, e.g.*, second paragraph of section 5.2(a) below), or as otherwise  
25 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection  
26 under this Order must be clearly so designated before the material is disclosed or  
27 produced.

28 Designation in conformity with this Order requires:

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

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

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

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

1           7.3    Inadvertent Failures to Designate. If timely corrected, an inadvertent  
2 failure to designate qualified information or items does not, standing alone, waive  
3 the Designating Party’s right to secure protection under this Order for such material.  
4 Upon timely correction of a designation, the Receiving Party must make reasonable  
5 efforts to assure that the material is treated in accordance with the provisions of this  
6 Order.

7    8.    CHALLENGING CONFIDENTIALITY DESIGNATIONS

8           8.1    Timing of Challenges. Any Party or Non-Party may challenge a  
9 designation of confidentiality at any time that is consistent with the Court’s  
10 Scheduling Order.

11          8.2    Meet and Confer. The Challenging Party shall initiate the dispute  
12 resolution process under Local Rule 37.1 et seq.

13          8.3    The burden of persuasion in any such challenge proceeding shall be on  
14 the Designating Party. Frivolous challenges, and those made for an improper  
15 purpose (e.g., to harass or impose unnecessary expenses and burdens on other  
16 parties) may expose the Challenging Party to sanctions. Unless the Designating  
17 Party has waived or withdrawn the confidentiality designation, all parties shall  
18 continue to afford the material in question the level of protection to which it is  
19 entitled under the Producing Party’s designation until the Court rules on the  
20 challenge.

21    9.    ACCESS TO AND USE OF PROTECTED MATERIAL

22          9.1    Basic Principles. A Receiving Party may use Protected Material that is  
23 disclosed or produced by another Party or by a Non-Party in connection with this  
24 Action only for prosecuting, defending or attempting to settle this Action. Such  
25 Protected Material may be disclosed only to the categories of persons and under the  
26 conditions described in this Order. When the Action has been terminated, a  
27 Receiving Party must comply with the provisions of section 13 below (FINAL  
28 DISPOSITION).



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

4 9.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless  
5 otherwise ordered by the court or permitted in writing by the Designating Party, a  
6 Receiving Party may disclose any information or item designated  
7 “CONFIDENTIAL” only to:

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

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

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

16 (d) the court and its personnel;

17 (e) court reporters and their staff;

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

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

23 (h) during their depositions, witnesses, and attorneys for witnesses, in the  
24 Action to whom disclosure is reasonably necessary provided: (1) the deposing party  
25 requests that the witness sign the form attached as Exhibit A hereto; and (2) they  
26 will not be permitted to keep any confidential information unless they sign the  
27 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise  
28 agreed by the Designating Party or ordered by the court. Pages of transcribed

1 deposition testimony or exhibits to depositions that reveal Protected Material may  
2 be separately bound by the court reporter and may not be disclosed to anyone except  
3 as permitted under this Stipulated Protective Order; and

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

6  
7 10. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED  
8 IN OTHER LITIGATION

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

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

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

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

20 If the Designating Party timely seeks a protective order, the Party served with  
21 the subpoena or court order shall not produce any information designated in this  
22 action as “CONFIDENTIAL” before a determination by the court from which the  
23 subpoena or order issued, unless the Party has obtained the Designating Party’s  
24 permission. The Designating Party shall bear the burden and expense of seeking  
25 protection in that court of its confidential material and nothing in these provisions  
26 should be construed as authorizing or encouraging a Receiving Party in this Action  
27 to disobey a lawful directive from another court.

1 11. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE  
2 PRODUCED IN THIS LITIGATION

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

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

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

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

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

20 (c) If the Non-Party fails to seek a protective order from this court within  
21 14 days of receiving the notice and accompanying information, the Receiving Party  
22 may produce the Non-Party’s confidential information responsive to the discovery  
23 request. If the Non-Party timely seeks a protective order, the Receiving Party shall  
24 not produce any information in its possession or control that is subject to the  
25 confidentiality agreement with the Non-Party before a determination by the court.  
26 Absent a court order to the contrary, the Non-Party shall bear the burden and  
27 expense of seeking protection in this court of its Protected Material.  
28

1 12. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

10 13. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE  
11 PROTECTED MATERIAL

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

22 14. MISCELLANEOUS

23 14.1 Right to Further Relief. Nothing in this Order abridges the right of any  
24 person to seek its modification by the Court in the future.

25 14.2 Right to Assert Other Objections. By stipulating to the entry of this  
26 Protective Order, no Party waives any right it otherwise would have to object to  
27 disclosing or producing any information or item on any ground not addressed in this  
28

1 Stipulated Protective Order. Similarly, no Party waives any right to object on any  
2 ground to use in evidence of any of the material covered by this Protective Order.

3 14.3 Filing Protected Material. A Party that seeks to file under seal any  
4 Protected Material must comply with Local Civil Rule 79-5. Protected Material  
5 may only be filed under seal pursuant to a court order authorizing the sealing of the  
6 specific Protected Material at issue. If a Party's request to file Protected Material  
7 under seal is denied by the court, then the Receiving Party may file the information  
8 in the public record unless otherwise instructed by the court.

9 15. FINAL DISPOSITION

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

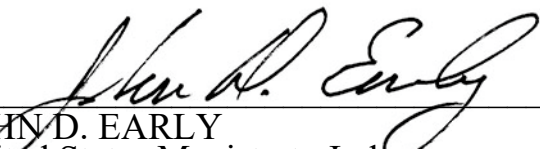
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

16. VIOLATION

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

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: November 22, 2023

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

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3  
4 I, \_\_\_\_\_ [print or type full name], of  
5 \_\_\_\_\_ [print or type full address], declare under penalty of perjury  
6 that I have read in its entirety and understand the Stipulated Protective Order that  
7 was issued by the United States District Court for the Central District of California  
8 on November 22, 2023, in the case of **Margarita Munoz and Francisco Munoz v.**  
9 **Nissan North America, Inc., Case No. 8:23-cv-00532-FWS-JDE.** I agree to  
10 comply with and to be bound by all the terms of this Stipulated Protective Order and  
11 I understand and acknowledge that failure to so comply could expose me to  
12 sanctions and punishment in the nature of contempt. I solemnly promise that I will  
13 not disclose in any manner any information or item that is subject to this Stipulated  
14 Protective Order to any person or entity except in strict compliance with the  
15 provisions of this Order.

16 I further agree to submit to the jurisdiction of the United States District Court for the  
17 Central District of California for enforcing the terms of this Stipulated Protective  
18 Order, even if such enforcement proceedings occur after termination of this action.

19 I hereby appoint \_\_\_\_\_ [print/type full name] of  
20 \_\_\_\_\_ [print/type full address and telephone  
21 number] as my California agent for service of process in connection with this action  
22 or any proceedings related to enforcement of this Stipulated Protective Order.

23 Date: \_\_\_\_\_

24 City and State where sworn and signed: \_\_\_\_\_

25  
26 Printed name: \_\_\_\_\_

27  
28 Signature: \_\_\_\_\_