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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

ANTHONY ROBERT PHOENIX,
et al.,

Plaintiffs,

vs.

TOYOTA ARENA LLC, et al.,

Defendants.

Case No. 8:23-cv-02403-JWH-JDE

**STIPULATED PROTECTIVE
ORDER**

[Discovery Document: Referred to
Magistrate Judge John D. Early]

Action filed: December 19, 2023

Based on the parties' Stipulation (Dkt. 57) 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 pursuing this litigation may be warranted. Specifically, because Plaintiffs' claims concern disability discrimination, including alleged policy and architectural barriers to access, and interactions that occurred at Defendants' facility, Plaintiffs contend that discovery in this matter will necessarily involve Defendants' financial records, Defendants' employment records, and/or other documents which Defendants contend are confidential, proprietary or involve private

1 information. Discovery in this matter will also necessarily involve documents which
2 include sensitive information or documents regarding Plaintiffs which they contend
3 are confidential, proprietary or involve private information. Accordingly, the parties
4 hereby stipulate to and petition the Court to enter the following Stipulated Protective
5 Order. The parties acknowledge that this Order does not confer blanket protections
6 on all disclosures or responses to discovery and that the protection it affords from
7 public disclosure and use extends only to the limited information or items that are
8 entitled to confidential treatment under the applicable legal principles. The parties
9 further acknowledge that, as set forth below, this Stipulated Protective Order does not
10 entitle them to file confidential information under seal, Civil Local Rules 79-5 sets
11 forth procedures that must be followed and standards that will be applied when a party
12 seek permission from the court to file material under seal.

13 2. GOOD CAUSE STATEMENT

14 This Action is likely to involve data and schematics for critical infrastructure,
15 personal identifiable information and personnel records, trade secrets, customer and
16 pricing lists, and other valuable research, development, commercial, financial,
17 technical, and/or proprietary information of parties to this Action or any third party,
18 as well as documents that may be subject to confidentiality agreements for which
19 special protection from public disclosure and from use for any purpose other than
20 prosecution of this Action is warranted. Such confidential and proprietary materials
21 and information consist of, among other things, confidential business or financial
22 information, information regarding confidential business practices, or other
23 confidential research, development, or commercial information (including
24 information implicating privacy rights of third parties), information otherwise
25 generally unavailable to the public, or which may be privileged or otherwise protected
26 from disclosure under state or federal statutes, court rules, case decisions, or common
27 law. Accordingly, to expedite the flow of information, to facilitate the prompt
28 resolution of disputes over confidentiality of discovery materials, to adequately

1 protect information the parties are entitled to keep confidential, to ensure that the
2 parties are permitted reasonable necessary uses of such material in preparation for and
3 in the conduct of trial, to address their handling at the end of the litigation, and serve
4 the ends of justice, a protective order for such information is justified in this matter.
5 It is the intent of the parties that information will not be designated as confidential for
6 tactical reasons and that nothing be so designated without a good faith belief that it
7 has been maintained in a confidential, non-public manner, and there is good cause
8 why it should not be part of the public record of this case.

9 3. ACKNOWLEDGMENT OF UNDER SEAL FILING PROCEDURE

10 The parties further acknowledge, as set forth in Section 14.3 below, that this
11 Stipulated Protective Order does not entitle them to file confidential information
12 under seal; Local Civil Rule 79-5 sets forth the procedures that must be followed and
13 the standards that will be applied when a party seeks permission from the court to file
14 material under seal. There is a strong presumption that the public has a right of access
15 to judicial proceedings and records in civil cases. In connection with non-dispositive
16 motions, good cause must be shown to support a filing under seal. See *Kamakana v.*
17 *City and County of Honolulu*, 447 F.3d 1172, 1176 (9th Cir. 2006), *Phillips v. Gen.*
18 *Motors Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002), *Makar-Welbon v. Sony*
19 *Electrics, Inc.*, 187 F.R.D. 576, 577 (E.D. Wis. 1999) (even stipulated protective
20 orders require good cause showing), and a specific showing of good cause or
21 compelling reasons with proper evidentiary support and legal justification, must be
22 made with respect to Protected Material that a party seeks to file under seal. The
23 parties' mere designation of Disclosure or Discovery Material as CONFIDENTIAL
24 does not— without the submission of competent evidence by declaration, establishing
25 that the material sought to be filed under seal qualifies as confidential, privileged, or
26 otherwise protectable—constitute good cause.

27 Further, if a party requests sealing related to a dispositive motion or trial, then
28 compelling reasons, not only good cause, for the sealing must be shown, and the relief

1 sought shall be narrowly tailored to serve the specific interest to be protected. See
2 *Pintos v. Pacific Creditors Ass’n.*, 605 F.3d 665, 677-79 (9th Cir. 2010). For each
3 item or type of information, document, or thing sought to be filed or introduced under
4 seal, the party seeking protection must articulate compelling reasons, supported by
5 specific facts and legal justification, for the requested sealing order. Again, competent
6 evidence supporting the application to file documents under seal must be provided by
7 declaration.

8 Any document that is not confidential, privileged, or otherwise protectable in
9 its entirety will not be filed under seal if the confidential portions can be redacted. If
10 documents can be redacted, then a redacted version for public viewing, omitting only
11 the confidential, privileged, or otherwise protectable portions of the document, shall
12 be filed. Any application that seeks to file documents under seal in their entirety
13 should include an explanation of why redaction is not feasible.

14 4. DEFINITIONS

15 4.1 Action: this pending federal lawsuit: *Phoenix, et al. v. Toyota Arena*
16 *LLC, et al.*, Case No. 8:23-cv-02403-JWH-JDE.

17 4.2 Challenging Party: a Party or Non-Party that challenges the designation
18 of information or items under this Order.

19 4.3 “CONFIDENTIAL” Information or Items: information (regardless of
20 how it is generated, stored or maintained) or tangible things that qualify for protection
21 under Federal Rule of Civil Procedure 26(c), and as specified above in the Good
22 Cause Statement.

23 4.4 Counsel: Outside Counsel of Record, House Counsel, and City of
24 Ontario’s Counsel (as well as their support staff).

25 4.5 Designating Party: a Party or Non-Party that designates information or
26 items that it produces in disclosures or in responses to discovery as
27 “CONFIDENTIAL.”

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1 4.6 Disclosure or Discovery Material: all items or information, regardless of
2 the medium or manner in which it is generated, stored, or maintained (including,
3 among other things, testimony, transcripts, and tangible things), that are produced or
4 generated in disclosures or responses to discovery.

5 4.7 Expert: a person with specialized knowledge or experience in a matter
6 pertinent to the litigation who has been retained by a Party or its counsel to serve as
7 an expert witness or as a consultant in this Action.

8 4.8 House Counsel: attorneys who are employees of a party to this Action.
9 House Counsel does not include Outside Counsel of Record or any other outside
10 counsel.

11 4.9 Non-Party: any natural person, partnership, corporation, association or
12 other legal entity not named as a Party to this Action.

13 4.10 Outside Counsel of Record: attorneys who are not employees of a party
14 to this Action but are retained to represent a party to this Action and have appeared in
15 this Action on behalf of that party or are affiliated with a law firm that has appeared
16 on behalf of that party, and includes support staff.

17 4.11 Party: any party to this Action, including all of its officers, directors,
18 employees, consultants, retained experts, and Outside Counsel of Record (and their
19 support staffs).

20 4.12 Producing Party: a Party or Non-Party that produces Disclosure or
21 Discovery Material in this Action.

22 4.13 Professional Vendors: persons or entities that provide litigation support
23 services (e.g., photocopying, videotaping, translating, preparing exhibits or
24 demonstrations, and organizing, storing, or retrieving data in any form or medium)
25 and their employees and subcontractors.

26 4.14 Protected Material: any Disclosure or Discovery Material that is
27 designated as “CONFIDENTIAL.”

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1 4.15 Receiving Party: a Party that receives Disclosure or Discovery Material
2 from a Producing Party.

3 5. SCOPE

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

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

12 6. DURATION

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

22 7. DESIGNATING PROTECTED MATERIAL

23 7.1 Exercise of Restraint and Care in Designating Material for Protection.
24 Each Party or Non-Party that designates information or items for protection under this
25 Order must take care to limit any such designation to specific material that qualifies
26 under the appropriate standards. The Designating Party must designate for protection
27 only those parts of material, documents, items or oral or written communications that
28 qualify so that other portions of the material, documents, items or communications

1 for which protection is not warranted are not swept unjustifiably within the ambit of
2 this Order.

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

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

11 7.2 Manner and Timing of Designations. Except as otherwise provided in
12 this Order, or as otherwise stipulated or ordered, Disclosure of Discovery Material
13 that qualifies for protection under this Order must be clearly so designated before the
14 material is disclosed or produced.

15 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
18 proceedings), that the Producing Party affix at a minimum, the legend
19 "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that
20 contains protected material. If only a portion of the material on a page qualifies for
21 protection, the Producing Party also must clearly identify the protected portion(s)
22 (e.g., by making appropriate markings in the margins).

23 A Party or Non-Party that makes original documents available for inspection
24 need not designate them for protection until after the inspecting Party has indicated
25 which documents it would like copied and produced. During the inspection and before
26 the 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

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

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

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

15 7.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
16 failure to designate qualified information or items does not, standing alone, waive the
17 Designating Party’s right to secure protection under this Order for such material.
18 Upon timely correction of a designation, the Receiving Party must make reasonable
19 efforts to assure that the material is treated in accordance with this Order.

20 8. CHALLENGING CONFIDENTIALITY DESIGNATIONS

21 8.1 Timing of Challenges. Any Party or Non-Party may challenge a
22 designation of confidentiality at any time that is consistent with the Court’s
23 Scheduling Order.

24 8.2 Meet and Confer. The Challenging Party shall initiate the dispute
25 resolution process under Local Rule 37-1 et seq.

26 8.3 Joint Stipulation. Any challenge submitted to the Court shall be via
27 a joint stipulation pursuant to Local Rule 37-2.

28 / / /

1 8.4 The burden of persuasion in any such challenge proceeding shall be on
2 the Designating Party. Frivolous challenges, and those made for an improper purpose
3 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
4 expose the Challenging Party to sanctions. Unless the Designating Party has waived
5 or withdrawn the confidentiality designation, all parties shall continue to afford the
6 material in question the level of protection to which it is entitled under the Producing
7 Party’s designation until the Court rules on the challenge.

8 9. ACCESS TO AND USE OF PROTECTED MATERIAL

9 9.1 Basic Principles. A Receiving Party may use Protected Material that is
10 disclosed or produced by another Party or by a Non-Party in connection with this
11 Action only for prosecuting, defending or attempting to settle this Action. Such
12 Protected Material may be disclosed only to the categories of persons and under the
13 conditions described in this Order. When the Action has been terminated, a Receiving
14 Party must comply with the provisions of section 15 below (FINAL DISPOSITION).

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

18 9.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
19 otherwise ordered by the court or permitted in writing by the Designating Party, a
20 Receiving Party may disclose any information or item designated
21 “CONFIDENTIAL” only to:

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

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

27 (c) Experts (as defined in this Order) of the Receiving Party to whom
28 disclosure is reasonably necessary for this Action and who have signed the

1 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

2 (d) the court and its personnel;

3 (e) court reporters and their staff;

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

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

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

18 (i) any mediators or settlement officers and their supporting
19 personnel, mutually agreed upon by any of the parties engaged in settlement
20 discussions.

21 10. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
22 IN OTHER LITIGATION

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

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

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

5 (c) cooperate with respect to all reasonable procedures sought to be
6 pursued by the Designating Party whose Protected Material may be affected. If the
7 Designating Party timely seeks a protective order, the Party served with the subpoena
8 or court order shall not produce any information designated in this Action as
9 “CONFIDENTIAL” before a determination by the court from which the subpoena or
10 order issued, unless the Party has obtained the Designating Party’s permission. The
11 Designating Party shall bear the burden and expense of seeking protection in that court
12 of its confidential material and nothing in these provisions should be construed as
13 authorizing or encouraging a Receiving Party in this Action to disobey a lawful
14 directive from another court.

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

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

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

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

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

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

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

14 12. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

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

25 When a Producing Party gives notice to Receiving Parties that certain
26 inadvertently produced material is subject to a claim of privilege or other protection,
27 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
28 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure

1 may be established in an e-discovery order that provides for production without prior
2 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
3 parties reach an agreement on the effect of disclosure of a communication or
4 information covered by the attorney-client privilege or work product protection, the
5 parties may incorporate their agreement in the stipulated protective order submitted
6 to the court.

7 14. MISCELLANEOUS

8 14.1 Right to Further Relief. Nothing in this Order abridges the right of any
9 person to seek its modification by the Court in the future.

10 14.2 Right to Assert Other Objections. By stipulating to the entry of this
11 Protective Order, no Party waives any right it otherwise would have to object to
12 disclosing or producing any information or item on any ground not addressed in this
13 Stipulated Protective Order. Similarly, no Party waives any right to object on any
14 ground to use in evidence of any of the material covered by this Protective Order.

15 14.3 Filing Protected Material. A Party that seeks to file under seal any
16 Protected Material must comply with Local Civil Rule 79-5. Protected Material may
17 only be filed under seal pursuant to a court order authorizing the sealing of the specific
18 Protected Material. If a Party's request to file Protected Material under seal is denied
19 by the court, then the Receiving Party may file the information in the public record
20 unless otherwise instructed by the court.

21 15. FINAL DISPOSITION

22 After the final disposition of this Action, as defined in paragraph 6, within 60
23 days of a written request by the Designating Party, each Receiving Party must return
24 all Protected Material to the Producing Party or destroy such material. As used in this
25 subdivision, "all Protected Material" includes all copies, abstracts, compilations,
26 summaries, and any other format reproducing or capturing any of the Protected
27 Material. Whether the Protected Material is returned or destroyed, the Receiving Party
28 must submit a written certification to the Producing Party (and, if not the same person

1 or entity, to the Designating Party) by the 60-day deadline that (1) identifies (by
2 category, where appropriate) all the Protected Material that was returned or destroyed
3 and (2) affirms that the Receiving Party has not retained any copies, abstracts,
4 compilations, summaries or any other format reproducing or capturing any of the
5 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an
6 archival copy of all pleadings, motion papers, trial, deposition, and hearing
7 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert
8 reports, attorney work product, and consultant and expert work product, even if such
9 materials contain Protected Material. Any such archival copies that contain or
10 constitute Protected Material remain subject to this Protective Order as set forth in
11 Section 6 (DURATION).

12 16. VIOLATION

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


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

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18 DATED: October 30, 2024

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JOHN D. EARLY
United States Magistrate Judge

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1 **EXHIBIT A**

2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

3 I, _____ [print or type full name], of _____
4 _____ [print or type full address], declare under penalty of perjury that I have
5 read in its entirety and understand the Stipulated Protective Order that was issued by
6 the United States District Court for the Central District of California on October 30,
7 2024, in the case of *Anthony Robert Phoenix, et al. v. Toyota Arena LLC, et al.*

8 (Case No. 8:23-cv-02403-JWH-JDE.) I agree to comply with and to be bound
9 by all the terms of this Stipulated Protective Order and I understand and
10 acknowledge that failure to so comply could expose me to sanctions and punishment
11 in the nature of contempt. I solemnly promise that I will not disclose in any manner
12 any information or item that is subject to this Stipulated Protective Order to any
13 person or entity except in strict compliance with the provisions of this Order.

14 I further agree to submit to the jurisdiction of the United States District Court
15 for the Central District of California for the purpose of enforcing the terms of this
16 Stipulated Protective Order, even if such enforcement proceedings occur after
17 termination of this action. I hereby appoint _____ [print or type
18 full name] of _____ [print or type full address and
19 telephone number] as my California agent for service of process in connection with
20 this action or any proceedings related to enforcement of this Stipulated Protective
21 Order.

22 Date: _____

23 City and State where sworn and signed: _____

24 Printed Name: _____

25
26 Signature: _____
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