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25 JAREMY CLAUSSEN

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

29	JAREMY CLAUSSEN, an individual)	Case No. 1:19-CV-01761-NONE-SKO
30)	
31	Plaintiff)	STIPULATION AND
32)	PROTECTIVE ORDER –
33	vs.)	CONFIDENTIAL DESIGNATION
34)	ONLY
35	FCA US LLC; a Delaware Limited Liability)	
36	Company; CENTRAL VALLEY)	
37	AUTOMOTIVE, INC. dba CENTRAL)	Sup. Ct. Comp. filed: Nov. 12, 2019
38	VALLEY CHRYSLER DODGE JEEP RAM)	Trial Date: None set
39	FIAT, a Delaware Corporation; and DOES 1)	
40	through 20, inclusive)	Doc. 23
41)	
42	Defendants.)	

1 **IT IS HEREBY STIPULATED** by and between the Parties to *Jaremy Claussen v. FCA*
2 *US LLC, et al.*, by and through their respective counsel of record, that in order to facilitate the
3 exchange of information and documents which may be subject to confidentiality limitations on
4 disclosure due to federal laws, state laws, and privacy rights, the Parties stipulate as follows:

5 1. In this Stipulation and Protective Order, the words set forth below shall have the
6 following meanings:

- 7 a. “Proceeding” means the above-entitled proceeding, *Jaremy Claussen v. FCA US*
8 *LLC, et al.* (United States District Court for the Eastern District of California,
9 Case No. 1:19-CV-01761-NONE-SKO).
- 10 b. “Court” means the any judge in United States District Court for the Eastern
11 District of Californian for which this matter is assigned or before which any
12 matter is heard, or any other judge to which this Proceeding may be assigned,
13 including Court staff participating in such proceedings.
- 14 c. “Confidential” means any information which is in the possession of a Designating
15 Party who believes in good faith that such information is entitled to confidential
16 treatment under applicable law.
- 17 d. “Confidential Materials” means any Documents, Testimony or Information as
18 defined below designated as “Confidential” pursuant to the provisions of this
19 Stipulation and Protective Order.
- 20 e. “Designating Party” means the Party that designates Materials as “Confidential.”
- 21 f. “Disclose” or “Disclosed” or “Disclosure” means to reveal, divulge, give, or make
22 available Materials, or any part thereof, or any information contained therein.
- 23 g. “Documents” means (i) any “Writing,” “Recording,” “Photograph,” “Original,”
24 and “Duplicate” as those terms are defined by the Federal Rules of Evidence Rule
25 1001, which have been produced in discovery in this Proceeding by any person,
26 and (ii) any copies, reproductions, or summaries of all or any part of the foregoing
- 27 h. “Information” means the content of Documents or Testimony.
- 28 i. “Testimony” means all depositions, declarations or other testimony taken or used
in this Proceeding.

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2. The Designating Party shall have the right to designate as “Confidential” any Documents, Testimony or Information that the Designating Party in good faith believes to contain non-public information that is entitled to confidential treatment under applicable law.

3. The entry of this Stipulation and Protective Order does not alter, waive, modify, or abridge any right, privilege or protection otherwise available to any Party with respect to the discovery of matters, including but not limited to any Party’s right to assert the attorney-client privilege, the attorney work product doctrine, or other privileges, or any Party’s right to contest any such assertion.

4. Pursuant to Civil Local Rules 141.1(c) the documents subject to protective include proprietary information developed and maintained by FCA, including but not limited to, internal policies and procedures, customer assistance manuals, organizational information, internal warranty manuals, dealer policy manuals, warranty data, and customer service manuals. These documents related to internal procedures and policies developed by FCA are not public information. These documents contain proprietary information developed by FCA for its policies and procedures for use by FCA only. Said proprietary information is confidential and requires a protective order to preclude FCA’s competitors and others from obtaining access to said information. Moreover, a protective order sanctioned by the Court is necessary to protect FCA’s interests and provide a quick and efficient remedy should a violation of the protective order occur.

5. Any Documents, Testimony or Information to be designated as “Confidential” must be clearly so designated before the Document, Testimony or Information is Disclosed or produced. The parties may agree that the case name and number are to be part of the “Confidential” designation. The” Confidential” designation should not obscure or interfere with the legibility of the designated Information.

a. For Documents (apart from transcripts of depositions or other pretrial or trial proceedings), the Designating Party must affix the legend “Confidential” on each page of any Document containing such designated Confidential Material.

b. For Testimony given in depositions the Designating Party may either:

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- i. Identify on the record, before the close of the deposition, all “Confidential” Testimony, by specifying all portions of the Testimony that qualify as “Confidential;” or
 - ii. Designate the entirety of the Testimony at the deposition as “Confidential” (before the deposition is concluded) with the right to identify more specific portions of the Testimony as to which protection is sought within 30 days following receipt of the deposition transcript. In circumstances where portions of the deposition Testimony are designated for protection, the transcript pages containing “Confidential” Information may be separately bound by the court reporter, who must affix to the top of each page the legend “Confidential,” as instructed by the Designating Party.
 - c. For Information produced in some form other than Documents, and for any other tangible items, including, without limitation, compact discs or DVDs, the Designating Party must affix in a prominent place on the exterior of the container or containers in which the Information or item is stored the legend “Confidential.” If only portions of the Information or item warrant protection, the Designating Party, to the extent practicable, shall identify the “Confidential” portions.
6. The inadvertent production by any of the undersigned Parties or non-Parties to the Proceedings of any Document, Testimony or Information during discovery in this Proceeding without a “Confidential” designation, shall be without prejudice to any claim that such item is “Confidential” and such Party shall not be held to have waived any rights by such inadvertent production. The production of any Document, Testimony, or Information which was produced prior to entry of Order of this Stipulation, but that a Designating Party believes, in good faith, that the Document, Testimony, or Information warrants a Confidential designation, the Designating Party shall have twenty (20) days after the executed Order of this Stipulation to reproduce any previously produced Documents, Testimony or Information with a Confidential designation or otherwise information the non-Designating parties of the Confidential designation (the “Prior Production Notice”). In the event that any Document, Testimony or Information that is subject to a “Confidential” designation is inadvertently or previously produced without such

1 designation, the Party that inadvertently produced the document shall give written notice of such
2 inadvertent production within twenty (20) days of discovery of the inadvertent production,
3 together with a further copy of the subject Document, Testimony or Information designated as
4 “Confidential” (the “Inadvertent Production Notice”). Upon receipt of such Prior Production or
5 Inadvertent Production Notice(s), the Party that received the referenced Document(s), Testimony
6 or Information shall promptly destroy the referenced Document(s), Testimony or Information
7 and all copies thereof, or, at the expense of the producing Party, return such together with all
8 copies of such Document, Testimony or Information to counsel for the producing Party and shall
9 retain only the “Confidential” designated Materials. Should the receiving Party choose to destroy
10 such inadvertently or previously produced Document, Testimony or Information, the receiving
11 Party shall notify the producing Party in writing of such destruction within ten (10) days of
12 receipt of written notice of the prior and/or inadvertent production. This provision is not intended
13 to apply to any inadvertent production of any Information protected by attorney-client or work
14 product privileges. In the event that this provision conflicts with any applicable law regarding
15 waiver of confidentiality through the inadvertent production of Documents, Testimony or
16 Information, such law shall govern.

17 7. In the event that counsel for a Party receiving Documents, Testimony or
18 Information in discovery designated as “Confidential” objects to such designation with respect to
19 any or all of such items, said counsel shall advise counsel for the Designating Party, in writing,
20 of such objections, the specific Documents, Testimony or Information to which each objection
21 pertains, and the specific reasons and support for such objections (the “Designation Objections”).
22 Counsel for the Designating Party shall have thirty (30) days from receipt of the written
23 Designation Objections to either (a) agree in writing to de-designate Documents, Testimony or
24 Information pursuant to any or all of the Designation Objections and/or (b) file a motion with the
25 Court seeking to uphold any or all designations on Documents, Testimony or Information
26 addressed by the Designation Objections (the “Designation Motion”). Pending a resolution of the
27 Designation Motion by the Court, any and all existing designations on the Documents,
28 Testimony or Information at issue in such Motion shall remain in place. The Designating Party
shall have the burden on any Designation Motion of establishing the applicability of its

1 “Confidential” designation. In the event that the Designation Objections are neither timely
2 agreed to nor timely addressed in the Designation Motion, then such Documents, Testimony or
3 Information shall be de-designated in accordance with the Designation Objection applicable to
4 such material.

5 8. Access to and/or Disclosure of Confidential Materials designated as
6 “Confidential” shall be permitted only to the following persons:

- 7 a. The Court;
- 8 b. (1) Attorneys of record in the Proceedings and their affiliated attorneys,
9 paralegals, clerical and secretarial staff employed by such attorneys who are
10 actively involved in the Proceedings and are not employees of any Party. (2) In-
11 house counsel to the undersigned Parties and the paralegal, clerical and secretarial
12 staff employed by such counsel. Provided, however, that each non-lawyer given
13 access to Confidential Materials shall be advised that such Materials are being
14 Disclosed pursuant to, and are subject to, the terms of this Stipulation and
15 Protective Order and that they may not be Disclosed other than pursuant to its
16 terms;
- 17 c. Those officers, directors, partners, members, employees and agents of all non-
18 designating Parties that counsel for such Parties deems necessary to aid counsel in
19 the prosecution and defense of this Proceeding; provided, however, that prior to
20 the Disclosure of Confidential Materials to any such officer, director, partner,
21 member, employee or agent, counsel for the Party making the Disclosure shall
22 deliver a copy of this Stipulation and Protective Order to such person, shall
23 explain that such person is bound to follow the terms of such Order, and shall
24 secure the signature of such person on a statement in the form attached hereto as
Exhibit A;
- 25 d. Court reporters in this Proceeding (whether at depositions, hearings, or any other
26 proceeding);
- 27 e. Any deposition, trial or hearing witness in the Proceeding who previously has had
28 access to the Confidential Materials, or who is currently or was previously an

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officer, director, partner, member, employee or agent of an entity that has had access to the Confidential Materials;

f. Any deposition or non-trial hearing witness in the Proceeding who previously did not have access to the Confidential Materials; provided, however, that each such witness given access to Confidential Materials shall be advised that such Materials are being Disclosed pursuant to, and are subject to, the terms of this Stipulation and Protective Order and that they may not be Disclosed other than pursuant to its terms;

g. Mock jury participants, provided, however, that prior to the Disclosure of Confidential Materials to any such mock jury participant, counsel for the Party making the Disclosure shall deliver a copy of this Stipulation and Protective Order to such person, shall explain that such person is bound to follow the terms of such Order, and shall secure the signature of such person on a statement in the form attached hereto as **Exhibit A**.

h. Outside experts or expert consultants consulted by the undersigned Parties or their counsel in connection with the Proceeding, whether or not retained to testify at any oral hearing; provided, however, that prior to the Disclosure of Confidential Materials to any such expert or expert consultant, counsel for the Party making the Disclosure shall deliver a copy of this Stipulation and Protective Order to such person, shall explain its terms to such person, and shall secure the signature of such person on a statement in the form attached hereto as **Exhibit A**. It shall be the obligation of counsel, upon learning of any breach or threatened breach of this Stipulation and Protective Order by any such expert or expert consultant, to promptly notify counsel for the Designating Party of such breach or threatened breach; and

i. Any other person that the Designating Party agrees to in writing.

9. Confidential Materials shall be used by the persons receiving them only for the purposes of preparing for, conducting, participating in the conduct of, and/or prosecuting and/or defending the Proceeding, and not for any business or other purpose whatsoever.

1 10. Any Party to the Proceeding (or other person subject to the terms of this
2 Stipulation and Protective Order) may ask the Court, after appropriate notice to the other Parties
3 to the Proceeding, to modify or grant relief from any provision of this Stipulation and Protective
4 Order.

5 11. Entering into, agreeing to, and/or complying with the terms of this Stipulation and
6 Protective Order shall not:

- 7 a. Operate as an admission by any person that any particular Document, Testimony
8 or Information marked “Confidential” contains or reflects trade secrets,
9 proprietary, confidential or competitively sensitive business, commercial,
10 financial or personal information; or
11 b. Prejudice in any way the right of any Party (or any other person subject to the
12 terms of this Stipulation and Protective Order):
13 i. To seek a determination by the Court of whether any particular
14 Confidential Material should be subject to protection as “Confidential”
15 under the terms of this Stipulation and Protective Order; or
16 ii. To seek relief from the Court on appropriate notice to all other Parties to
17 the Proceeding from any provision(s) of this Stipulation and Protective
18 Order, either generally or as to any particular Document, Material or
19 Information.

20 12. Any Party to the Proceeding who has not executed this Stipulation and Protective
21 Order as of the time it is presented to the Court for signature may thereafter become a Party to
22 this Stipulation and Protective Order by its counsel’s signing and dating a copy thereof and filing
23 the same with the Court, and serving copies of such signed and dated copy upon the other Parties
24 to this Stipulation and Protective Order.

25 13. Any Information that may be produced by a non-Party witness in discovery in the
26 Proceeding pursuant to subpoena or otherwise may be designated by such non-Party as
27 “Confidential” under the terms of this Stipulation and Protective Order, and any such designation
28 by a non-Party shall have the same force and effect, and create the same duties and obligations,
as if made by one of the undersigned Parties hereto. Any such designation shall also function as a

1 consent by such producing Party to the authority of the Court in the Proceeding to resolve and
2 conclusively determine any motion or other application made by any person or Party with respect
3 to such designation, or any other matter otherwise arising under this Stipulation and Protective
4 Order.

5 14. If any person subject to this Stipulation and Protective Order who has custody of
6 any Confidential Materials receives a subpoena or other process (“Subpoena”) from any
7 government or other person or entity demanding production of Confidential Materials, the
8 recipient of the Subpoena shall promptly (within 24 hours of receipt) give notice of the same by
9 electronic mail transmission, followed by either express mail or overnight delivery to counsel of
10 record for the Designating Party, and shall furnish such counsel with a copy of the Subpoena.
11 Upon receipt of this notice, the Designating Party may, in its sole discretion and at its own cost,
12 move to quash or limit the Subpoena, otherwise oppose production of the Confidential Materials,
13 and/or seek to obtain confidential treatment of such Confidential Materials from the subpoenaing
14 person or entity to the fullest extent available under law. The recipient of the Subpoena may not
15 produce any Documents, Testimony or Information pursuant to the Subpoena prior to the date
16 specified for production on the Subpoena.

17 15. Nothing in this Stipulation and Protective Order shall be construed to preclude
18 either Party from asserting in good faith that certain Confidential Materials require additional
19 protection. The Parties shall meet and confer to agree upon the terms of such additional
20 protection.

21 16. If, after execution of this Stipulation and Protective Order, any Confidential
22 Materials submitted by a Designating Party under the terms of this Stipulation and Protective
23 Order is Disclosed by a non-Designating Party to any person other than in the manner authorized
24 by this Stipulation and Protective Order, the non-Designating Party responsible for the
25 Disclosure shall bring all pertinent facts relating to the Disclosure of such Confidential Materials
26 to the immediate attention of the Designating Party.

27 17. This Stipulation and Protective Order is entered into without prejudice to the right
28 of any Party to knowingly waive the applicability of this Stipulation and Protective Order to any
Confidential Materials designated by that Party. If the Designating Party uses Confidential

1 Materials in a non-Confidential manner, then the Designating Party shall advise that the
2 designation no longer applies.

3 18. Without written permission from the Designating Party or a court order secured after
4 appropriate notice to all interested persons, a Party may not file in the public record in this action any
5 Protected Material. A Party that seeks to file under seal any Protected Material must comply with Civil
6 Local Rules 140, 141 and 141.1 and with any judge’s standing orders pertaining to Sealing and Protective
7 Orders. Protected Material may only be filed under seal pursuant to a court order authorizing the sealing
8 of the specific Protected Material at issue. Pursuant to Civil Local Rules 140, 141 and 141.1 and with any
9 judge’s standing orders pertaining to Sealing and Protective Orders, a sealing order will issue only upon a
10 request establishing that the Protected Material at issue is privileged, protectable as a trade secret, or
11 otherwise entitled to protection under the law.

12 19. The Parties shall meet and confer regarding the procedures for use of Confidential
13 Materials at trial and shall move the Court for entry of an appropriate order.

14 20. Nothing in this Stipulation and Protective Order shall affect the admissibility into
15 evidence of Confidential Materials or abridge the rights of any person to seek judicial review or
16 to pursue other appropriate judicial action with respect to any ruling made by the Court
17 concerning the issue of the status of Protected Material.

18 21. This Stipulation and Protective Order shall continue to be binding after the
19 conclusion of this Proceeding and all subsequent proceedings arising from this Proceeding,
20 except that a Party may seek the written permission of the Designating Party or may move the
21 Court for relief from the provisions of this Stipulation and Protective Order. To the extent
22 permitted by law, the Court shall retain jurisdiction to enforce, modify, or reconsider this
23 Stipulation and Protective Order, even after the Proceeding is terminated.

24 22. Upon written request made within thirty (30) days after the settlement or other
25 termination of the Proceeding, the undersigned Parties shall have thirty (30) days to either (a)
26 promptly return to counsel for each Designating Party all Confidential Materials and all copies
27 thereof (except that counsel for each Party may maintain in its files, in continuing compliance
28 with the terms of this Stipulation and Protective Order, all work product, one copy of each
pleading filed with the Court, and one copy of each deposition together with the exhibits marked

1 at the deposition), (b) agree with counsel for the Designating Party upon appropriate methods
2 and certification of destruction or other disposition of such Confidential Materials, or (c) as to
3 any Documents, Testimony or other Information not addressed by sub-paragraphs (a) and (b),
4 file a motion seeking a Court order regarding proper preservation of such Materials. To the
5 extent permitted by law the Court shall retain continuing jurisdiction to review and rule upon the
6 motion referred to in sub-paragraph (c) herein.

7 23. After this Stipulation and Protective Order has been signed by counsel for all
8 Parties, it shall be presented to the Court for entry. Counsel agree to be bound by the terms set
9 forth herein with regard to any Confidential Materials that have been produced before the Court
10 signs this Stipulation and Protective Order, including but not limited to, any Documents,
11 Testimony or Information included in a timely Prior Production Notice.

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Gordon Rees Scully Mansukhani, LLP
275 Battery Street, Suite 2000
San Francisco, CA 94111

1 24. The Parties and all signatories to the Certification attached hereto as **Exhibit A**
2 agree to be bound by this Stipulation and Protective Order pending its approval and entry by the
3 Court. In the event that the Court modifies this Stipulation and Protective Order, or in the event
4 that the Court enters a different Protective Order, the Parties agree to be bound by this
5 Stipulation and Protective Order until such time as the Court may enter such a different Order. It
6 is the Parties' intent to be bound by the terms of this Stipulation and Protective Order pending its
7 entry so as to allow for immediate production of Confidential Materials under the terms herein.

8 This Stipulation and Protective Order may be executed in counterparts.

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10 Dated: September 4, 2020

THE DAVID BARRY FIRM

11
12 /s/ Elizabeth Quinn
13 David Barry
14 Elizabeth Quinn
15 Attorney for Plaintiff
16 JAREMY CLAUSSEN

17
18 Dated: September 2, 2020

GORDON REES SCULLY MANSUKHANI, LLP

19 /s/ Eric D. Sentlinger
20 Spencer P. Hugret
21 Amy Maclear
22 Eric D. Sentlinger
23 Attorneys for Defendants
24 FCA US LLC and CENTRAL VALLEY
25 AUTOMOTIVE, INC. DBA CENTRAL
26 VALLEY CHRYSLER DODGE JEEP
27 RAM FIAT

28 **ORDER**

IT IS SO ORDERED.

Dated: September 11, 2020

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

Gordon Rees Scully Mansukhani, LLP
275 Battery Street, Suite 2000
San Francisco, CA 94111

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EXHIBIT A

CERTIFICATION RE CONFIDENTIAL DISCOVERY MATERIALS

I hereby acknowledge that I, _____[NAME],
_____[POSITION AND EMPLOYER], am
about to receive Confidential Materials supplied in connection with the Proceeding, *Jaremy Claussen v. FCA US LLC, et al.* (United States District Court for the Eastern District of California, Case No. 1:19-CV-01761-NONE-SKO). I certify that I understand that the Confidential Materials are provided to me subject to the terms and restrictions of the Stipulation and Protective Order filed in this Proceeding. I have been given a copy of the Stipulation and Protective Order; I have read it, and I agree to be bound by its terms.

I understand that Confidential Materials, as defined in the Stipulation and Protective Order, including any notes or other records that may be made regarding any such materials, shall not be Disclosed to anyone except as expressly permitted by the Stipulation and Protective Order. I will not copy or use, except solely for the purposes of this Proceeding, any Confidential Materials obtained pursuant to this Protective Order, except as provided therein or otherwise ordered by the Court in the Proceeding.

I further understand that I am to retain all copies of all Confidential Materials provided to me in the Proceeding in a secure manner, and that all copies of such Materials are to remain in my personal custody until termination of my participation in this Proceeding, whereupon the copies of such Materials will be returned to counsel who provided me with such Materials.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed this ___ day of _____, 20___, at _____.

Dated: _____

By: _____

Signature

Title

Address

City, State, Zip

Telephone Number