

1 GREGORY G. ISKANDER, Bar No. 200215
 ALEXA L. WOERNER, Bar No. 267609
 2 LITTLER MENDELSON
 A Professional Corporation
 3 Treat Towers
 1255 Treat Boulevard, Suite 600
 4 Walnut Creek, CA 94597
 Telephone: 925.932.2468
 5 Facsimile: 925.946.9809
 E-mail: giskander@littler.com
 6 awoerner@littler.com

7 Attorneys for Defendant
 OFFICE DEPOT, INC.

9 UNITED STATES DISTRICT COURT
 10 EASTERN DISTRICT OF CALIFORNIA

11 DANIEL WOODCOCK, an individual
 12 Plaintiff,
 13 v.
 14 OFFICE DEPOT, INC, and DOES 1 to 50,
 15 Defendants.

Case No. 2:12-CV-01958-JAM-CMK

**STIPULATED CONFIDENTIALITY
 AGREEMENT AND PROTECTIVE ORDER**

17 WHEREAS, the parties herein agree that the proceedings in the above-entitled
 18 action may involve the production of financial, proprietary and/or other information that
 19 either party or a third party considers to be sensitive, confidential and/or proprietary;

20 THEREFORE, IT IS HEREBY STIPULATED by and among the undersigned
 21 parties, through their counsel of record that the following restrictions and procedures shall
 22 apply to certain information, documents and excerpts from documents supplied by the parties
 23 to each other in response to discovery requests:

24 1. This Stipulated Confidentiality Agreement and Protective Order
 25 (“Order”) issued thereon shall govern all documents and discovery materials produced
 26 within the context of this litigation.

27 2. As used herein, the term “counsel of record” shall mean the attorneys of
 28 record in this proceeding, their partners and associates, paralegals, clerks, assistants and

1 other persons employed by such attorneys, all of whom shall be bound by the provisions of
2 this Order.

3 3. Counsel for any party may designate any document, information
4 contained in a document, information revealed in an interrogatory response or information
5 revealed during a deposition as confidential if counsel determines, in good faith, that such
6 designation is necessary to protect the interests of the client or reasonably believes such
7 information constitutes confidential or proprietary information and/or trade secrets relating to
8 the client's business and/or information in which the party or third parties have a privacy
9 interest. Information and documents designated by a party as confidential will be stamped
10 "CONFIDENTIAL." "CONFIDENTIAL" information or documents may be referred to
11 collectively as "CONFIDENTIAL INFORMATION."

12 4. As used herein, the term CONFIDENTIAL INFORMATION shall refer
13 to:

14 (a) Any documents (including any portions thereof and any
15 information contained therein) designated to be confidential by any party and which has had
16 stamped or affixed thereon the word "CONFIDENTIAL." Stamping the legend
17 "CONFIDENTIAL" on the cover of any multi-page document shall designate all pages of
18 the document as confidential, unless otherwise indicated by the designating party.

19 (b) All deposition testimony, including oral testimony, deposition
20 transcripts and the information contained therein, shall initially be treated as
21 CONFIDENTIAL INFORMATION and be included within the terms of this Order without
22 the necessity of designating the testimony as CONFIDENTIAL INFORMATION. Upon
23 transcription of the deposition, counsel shall have 20 days after receipt of the transcript to
24 notify the deposition reporter and other counsel of record in writing of the portions of the
25 transcript designated as confidential. Depositing the written notice in the United States mail
26 within such twenty 20 days shall be deemed timely compliance with this requirement. All
27 other portions, or the entire transcript if no designation is made, shall not be confidential and
28 shall not be within the terms of this Order. Alternatively, the parties may agree during any

1 deposition that a part or all of the testimony shall be designated as CONFIDENTIAL
2 INFORMATION. The parties may agree that the transcript of the designated testimony shall
3 be bound in a separate volume and marked “CONFIDENTIAL” by the reporter.
4 Alternatively, the parties may agree that part of the testimony is CONFIDENTIAL without
5 having that designated part transcribed in a separate volume.

6 (c) CONFIDENTIAL INFORMATION does not include any
7 information or documents lawfully obtained or produced by a party outside of the context of
8 discovery in this litigation. However, nothing in this Order shall affect the rights of any
9 party to enforce any rights it may have regarding the confidentiality of documents and other
10 information disclosed or transferred to another party or person prior to the institution of the
11 present litigation.

12 5. In the event a party challenges another party’s confidential designation,
13 the party who objects to the designation of material as CONFIDENTIAL INFORMATION
14 shall notify the designating party in writing of that objection, specifying the designated
15 material to which the objection is made. Within 10 days of service of the written objection,
16 counsel shall meet and confer in good faith to attempt to resolve the dispute. In the absence
17 of a resolution, the challenging party may thereafter seek resolution by the Court in a timely
18 manner. If no such motion is filed within 45 days after the parties “meet and confer” as
19 provided above, the material will be deemed conclusively subject to the protection of this
20 Order for purposes of discovery. The designating party shall have the burden of establishing
21 the confidential nature of the designated material and that it is entitled to protection under
22 applicable law. All documents designated confidential information pursuant to this Order
23 shall remain confidential unless and until any such motion by the objecting party is granted
24 and the Court declares that the designated material is not subject to the protection of this
25 Order.

26 6. Unless ordered by the Court, or otherwise provided for herein, the
27 CONFIDENTIAL INFORMATION disclosed pursuant to this Order will be held and used
28 by the person receiving such information solely for use in connection with the above-

1 captioned action. Persons receiving such confidential information shall not reveal to or
2 discuss such information with any person who is not entitled to receive such information.

3 7. Information or documents designated as “CONFIDENTIAL” shall not
4 be disclosed to any person, except:

5 (a) The requesting party and counsel, including the respective
6 personnel of the law firms involved in this action and in-house counsel;

7 (b) Any agent, officer, director, or employee of a party to the extent
8 deemed reasonably necessary by counsel to aid in the prosecution, defense, or settlement of
9 this action;

10 (c) Consultants or experts (together with their staff) retained by
11 counsel of record on behalf of the parties;

12 (d) Any person from whom testimony is taken or is to be taken in
13 this action, except that such a person may only be shown that CONFIDENTIAL
14 INFORMATION during and in preparation for his/her testimony and may not retain the
15 CONFIDENTIAL INFORMATION.

16 (e) Any other person(s) as to whom the parties agree in writing
17 pursuant to paragraph 10;

18 (f) Court reporter(s) and their staff employed in this action;

19 (g) The Court (including any clerk, stenographer, or other person
20 having access to any CONFIDENTIAL INFORMATION by virtue of his or her position
21 with the Court) or the jury at trial or as exhibits to motions;

22 8. Prior to disclosing or displaying the Confidential Information to any
23 person, counsel shall:

24 (a) Inform the person of the confidential nature of the information or
25 documents; and

26 (b) Inform the person that this Court has enjoined the use of the
27 information or documents by him/her for any purpose other than this litigation and has
28 enjoined the disclosure of that information or documents to any other person.

1 9. The Confidential Information may be displayed to and discussed with
2 the persons identified in Paragraphs 4(c)-(e) only on the condition that prior to any such
3 display or discussion, each such person shall be asked to sign an agreement to be bound by
4 this Order in the form attached hereto as Exhibit A. For witnesses, consultants, or experts
5 who are under the control of either party, that party must assure that the person signs the
6 Confidentiality Agreement that is attached hereto as Exhibit A. If an individual is not under
7 the control of either party, both parties shall attempt to have them execute the Confidentiality
8 Agreement that is attached hereto as Exhibit A. In the event such person refuses to sign this
9 Confidentiality Agreement, the party desiring to disclose the CONFIDENTIAL
10 INFORMATION may seek appropriate relief from the Court. In no event shall the
11 provisions of this Order prevent a party from deposing a witness and utilizing all relevant
12 documents simply because the witness has refused to sign the Confidentiality Agreement.

13 10. If counsel for any party should conclude that, for the purpose of this
14 action, such party needs to disclose any CONFIDENTIAL INFORMATION, or information
15 derived therefrom, to any person not described in paragraph 7 of this Order, counsel for such
16 party must request permission from counsel for the designating party in writing and state the
17 purpose of the disclosure. If the designating party objects to the proposed disclosure, no
18 such disclosure shall be made unless the Court, upon motion and for good cause shown,
19 orders otherwise. However, each party may disclose its own CONFIDENTIAL
20 INFORMATION without regard to this Order unless otherwise under an existing duty to
21 another person not to do so.

22 11. The disclosure of a document or information without designating it as
23 “confidential” shall not constitute a waiver of the right to designate such document or
24 information as CONFIDENTIAL INFORMATION provided that the material is designated
25 pursuant to the procedures set forth herein no later than that latter of fourteen (14) days after
26 the close of discovery or fourteen (14) days after the document or information’s production.
27 If so designated, the document or information shall thenceforth be treated as Confidential
28 Information subject to all the terms of this Stipulation and Order.

1 12. Nothing in this Order constitutes an admission by any party that
2 CONFIDENTIAL INFORMATION disclosed in this case is relevant or admissible, nor does
3 it constitute an admission by any party that any information that it or any opponent
4 designates as CONFIDENTIAL INFORMATION is in fact proprietary information and/or a
5 trade secret, and/or information in which a party or third parties have a privacy right.
6 Notwithstanding the foregoing, all parties to this Stipulation reserve all trade secret,
7 proprietary information, and/or privacy objections with respect to materials they believe may
8 be encompassed in a discovery request.

9 13. Notwithstanding the provisions of paragraph 12, above, where a party
10 believes that a third party or parties have a privacy interest in CONFIDENTIAL
11 INFORMATION, that party may, in place of or in addition to producing such
12 CONFIDENTIAL INFORMATION pursuant to the terms of this Stipulation and Order, meet
13 and confer with other counsel to attempt to limit the information produced or the use of the
14 information so as to balance the privacy interests of the third parties with the interest of the
15 party seeking the material. In the event the parties are unable to agree on terms for the
16 production and use of the CONFIDENTIAL INFORMATION, the matter may be submitted
17 to the Court, either by way of motion for protective order or to compel responses to
18 discovery, so that the Court can make an appropriate order balancing the privacy rights of the
19 third parties with the needs of the parties for the information in prosecuting or defending the
20 lawsuit.

21 14. All information subject to confidential treatment in accordance with the
22 terms of this Stipulation and Order that is filed with the Court, and any pleadings, motions or
23 other papers filed with the Court disclosing any Confidential Information, shall be filed
24 under seal in accordance with Eastern District of California's applicable Rules in effect at the
25 time, and any applicable Standing Orders. To the extent the Court requires any further act by
26 the parties as a precondition to the filing of documents under seal, it shall be the obligation of
27 the producing party of the documents to be filed with the Court to satisfy any such
28 precondition. Where possible, only confidential portions of filings with the Court shall be

1 filed under seal.

2 15. At the conclusion of litigation, the Confidential Information and any
3 copies thereof shall be promptly (and in no event later than thirty (30) days after entry of
4 final judgment no longer subject to further appeal) returned to the producing party or
5 certified as destroyed, except that the parties' counsel shall be permitted to retain their
6 working files on the condition that those files will remain confidential.

7 16. The foregoing is entirely without prejudice to the right of any party to
8 apply to the Court for any further Protective Order relating to confidential information; or to
9 object to the production of documents or information; or to apply to the Court for an order
10 compelling production of documents or information; or for modification of this Order. This
11 Order may be enforced by either party and any violation may result in the imposition of
12 sanctions by the Court. This Court shall have continuing jurisdiction to modify, amend, or
13 rescind this Order notwithstanding the termination of this action.

14
15 Date: January __, 2013

16 Attorney for Plaintiff Daniel Woodcock

17
18 Date: January __, 2013

19 Gregory Iskander
20 Attorney for Defendant Office Depot, Inc.

21
22 ORDER

23 PURSUANT TO STIPULATION, IT IS SO ORDERED:

24
25 Date: 2/4/2013

26 /s/ John A. Mendez

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28 Hon. John A. Mendez

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EXHIBIT A

Woodcock v. Office Depot, Inc.

CERTIFICATION RE STIPULATION AND PROTECTIVE ORDER

I have been informed by counsel that certain documents or information to be disclosed to me in connection with the matter entitled above have been designated as **CONFIDENTIAL**.

By signing this document, I agree that I will not disclose any information contained in such documents to any other person. I further agree not to use any such information for any purpose other than this litigation.

Furthermore, I understand this Court will retain continuing jurisdiction to enforce this agreement, and I waive all objections I may have concerning the Court's jurisdiction, including personal jurisdiction or competence to determine whether the Order has been violated and whether sanctions should be imposed.

Dated: _____

Signed: _____

Print Name: _____

Address: _____

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