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7 NAVISTAR, INC.

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
10

11 GREAT WEST CASUALTY COMPANY,
12 as SUBROGEE OF MOVIN HAY, INC.,

13 Plaintiff

14 vs.

15 NAVISTAR, INC., OSRAM SYLVANIA,
16 INC. AND DOES 1 to 30, inclusive,

17 Defendants.
18

No. 2:14-cv-01940-KJM-DAD

**STIPULATION FOR ENTRY OF
PROTECTIVE ORDER AND
PROTECTIVE ORDER**

19 **STIPULATION FOR ENTRY OF PROTECTIVE ORDER**

20 Defendant Navistar, Inc., through its attorneys of record Harrington, Foxx, Dubrow
21 & Canter, LLP and Plaintiff Great West Casualty Company, as Subrogee of Movin Hay,
22 Inc., through its attorneys of record Ward & Federman, hereby Stipulate and Agree to the
23 following:

24 1) If any party to this lawsuit believes that any documents it discloses or
25 produces during discovery are confidential, that party shall designate such documents by
26 marking them with an overlay that indicates the confidential nature of the documents prior
27 to the time of production. The Parties shall identify confidential documents subject to this
28 Protective Order by marking each page at the bottom middle of each page with the

1 following language: "**CONFIDENTIAL SUBJECT TO COURT ORDER**" or
2 "**CONFIDENTIAL**".

3 2) Inadvertent or unintentional production of documents without prior
4 designation as confidential shall not be deemed a waiver, in whole or in part, of the right
5 to designate documents as confidential as otherwise allowed by this Stipulation and
6 Protective Order.

7 3) If a party disputes the confidential designation of any document, counsel for
8 that party shall notify counsel for the designating party of such objection in writing, and
9 the designating party shall file a Motion for Protective Order with respect to the
10 challenged documents within 30 days of receipt of such written notice (this period can be
11 extended by the agreement of the Parties). If the designating party does not file such a
12 motion within the 30-day period (or other agreed upon period), the documents whose
13 confidential designation are disputed shall be deemed to not be confidential by agreement
14 of the Parties. If a Motion for Protective Order is filed within the 30-day period (or other
15 agreed upon period), the disputed documents and information shall remain subject to the
16 provisions of this Protective Order, pending a contrary ruling by the Court.

17 4) If a party determines that it is reasonably necessary in conjunction with the
18 prosecution or defense of claims in this case to include confidential documents, or the
19 information contained therein, or make references thereto in papers filed with this Court
20 or in any presentation to or before the Court, such shall be done in compliance with Judge
21 Mueller's Standing Order, which, in part, provides: "The court will only consider requests
22 to seal or redact filed by the proponent of sealing or redaction. If a party plans to make a
23 filing that includes material an opposing party has identified as confidential and
24 potentially subject to sealing, the filing party shall provide the opposing party with
25 sufficient notice in advance of filing to allow for the seeking of an order of sealing or
26 redaction from the court." (*Standing Order*, p. 6, ¶10.) The disputed documents and
27 information shall remain subject to the provisions of this Protective Order, pending a
28 contrary ruling by the Court.

1 5) Confidential documents may be used in deposition, but shall remain subject
2 to the Protective Order. If a confidential document is read into the transcript, or if a party
3 believes that the nature or content of a confidential document is being revealed in a
4 deposition, the party may designate the pertinent portion of the transcript as confidential
5 and subject to this Protective Order. If the Parties cannot agree on whether any portion of
6 the designated transcript should be deemed confidential, the party claiming that the
7 transcript should be confidential shall move for a protective order asking that the disputed
8 portions thereof be deemed confidential, this disputed transcript shall remain subject to
9 the provisions of this Protective Order, pending a contrary ruling by the Court.

10 6) Except as otherwise provided herein, all documents and the information
11 contained therein that are designated as confidential may only be disclosed by Parties and
12 the Parties' counsel of record in this case to clients, attorneys, clerks, paralegals and
13 secretaries in the regular employment of the Parties' counsel, and to independent experts
14 and consultants who are employed by a party and contemplated by Rule 26 (b)(4) of the
15 Federal Rules of Civil Procedures. Said confidential documents and information shall be
16 used only for the purpose of litigating the claims in this action and in no event shall be
17 used for any other purpose.

18 7) Prior to disclosing confidential documents or the information contained
19 therein to any experts or consultants pursuant to Paragraph "6" hereof, counsel for the
20 party shall first give a copy of this Protective Order to such person(s), and receive from
21 such person(s) an executed Confidentiality Agreement. The required Confidentiality
22 Agreement is attached hereto and incorporated herein as Exhibit "A".

23 8) Upon final termination of this action, including any appeals, all documents
24 designated as confidential, and all copies, abstracts or summaries thereof, shall be
25 returned to counsel for the designating party or destroyed. If destroyed, the party
26 destroying such documents shall certify in writing to counsel for the designating party that
27 all confidential documents produced by the designating party, and all copies thereof, have
28 been destroyed. The foregoing shall not preclude a party's counsel from retaining his own

1 or her own work product and shall be used only for internal purpose by that attorney or by
2 clerks, paralegals and secretaries in the regular employment of the party's counsel, and
3 shall not be shared or disclosed to anyone other than these individuals. Additionally, the
4 foregoing shall not preclude a party's counsel from retaining his or her own complete
5 closed file for tax or professional liability purposes; however, if such file contains any
6 documents or information designated as Confidential pursuant to this Stipulation and
7 Protective Order, then the complete file shall be marked and treated as Confidential.

8 9) The terms of this Protective Order shall survive the final termination of this
9 action, shall continue to bind the Parties and their counsel, and the Court shall retain
10 jurisdiction to enforce this Protective Order.

11 10) Either party may seek to have the Court modify or terminate this Protective
12 Order at any time either party deems appropriate.

13
14 Dated: January 6, 2015

HARRINGTON, FOXX, DUBROW &
CANTER, LLP

15
16
17 By: /s/ David H. Canter
18 DAVID H. CANTER
19 Attorneys for Defendant
NAVISTAR, INC.

20 Dated: January 6, 2015

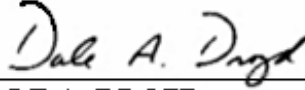
WARD & FEDERMAN

21
22 By: /s/ Marc R. Ward
23 MARC R. WARD
24 Attorneys for Plaintiff,
25 GREAT WEST CASUALTY COMPANY
26
27
28

1 **ORDER**

2 Pursuant to the parties' stipulation, **IT IS SO ORDERED.**

3 Dated: January 6, 2015

4 

5 _____
6 DALE A. DROZD
7 UNITED STATES MAGISTRATE JUDGE

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9 **EXHIBIT "A"**

10 **CONFIDENTIALITY AGREEMENT**

11 I hereby acknowledge that I, _____ [NAME],
12 _____ [POSITION AND EMPLOYER], am
13 about to receive Confidential materials supplied in connection with the Proceeding
14 entitled Great West Casualty Company v. Navistar, Inc., et al., Case No. 2:14-CV-01940
15 (hereinafter "Proceeding").

16 I certify that I understand that the Confidential materials are provided to me subject
17 to the terms and restrictions of the Stipulation and Protective Order in this Proceeding. I
18 have been given a copy of the Stipulation and Protective Order, which I have read and
19 agree to be bound by the terms of the Stipulation and Protective Order.

20 I understand that Confidential materials, including any notes or other records that
21 may be made regarding any such materials shall not be disclosed to anyone except as
22 expressly permitted by the Stipulation and Protective Order. I will not copy or use, except
23 solely for the purposes of this Proceeding, any Confidential materials obtained pursuant to

1 my involvement in this Proceeding, except as provided in the Stipulation and Protective
2 Order or as otherwise ordered by the Court in this Proceeding.
3

4 I further understand that I am to retain all copies of all Confidential materials
5 provided to me in this Proceeding in a secure manner, and that all copies of such materials
6 are to remain in my personal custody until termination of my participation in this
7 Proceeding, whereupon the copies of such materials will be returned to counsel for the
8 designating party, destroyed, or otherwise retained, in accordance with the Stipulation and
9 Protective Order.

10 I declare under penalty of perjury, under the laws of the State of California and the
11 United States, that the foregoing is true and correct.
12

13 Executed this _____ day of _____, 20____, at _____ (city
14 and state).
15

16 DATED:

17 _____
18 SIGNATURE

19 _____
20 TITLE

21 _____
22 ADDRESS

23 _____
24 PHONE NUMBER

25 _____
26 EMAIL ADDRESS
27
28