

1 Richard E. McGreevy (SBN 71889)
 2 Brian Leach (SBN 244744)
 3 Leach & McGreevy, LLP
 4 2833 Laguna Street
 5 San Francisco, CA 94123
 6 Telephone: 415-775-4455
 7 Facsimile: 415-775-7435

8 Attorneys for Defendants
 9 SALEM-B, LLC dba BMW OF SALEM (erroneously sued as “BMW of Salem”) and
 10 SANTANDER CONSUMER USA INC.

11 UNITED STATES DISTRICT COURT
 12 EASTERN DISTRICT OF CALIFORNIA

| | | |
|---------------------------------|---|------------------------------------|
| 13 DEREK L. BLUFORD, |) | Case No. 2:18-cv-00321-TLN-EFB |
| |) | |
| 14 Plaintiff, |) | STIPULATED PROTECTIVE ORDER |
| |) | |
| 15 vs. |) | |
| |) | |
| 16 BMW OF SALEM; SANTANDER |) | |
| 17 CONSUMER USA, INC.; and DOES |) | |
| 18 1 TO 100, |) | |
| |) | |
| 19 Defendants. |) | |

20 Pursuant to Federal Rules of Civil Procedure, Rule 26(C), Plaintiff DEREK L. BLUFORD
 21 (“Plaintiff”) and Defendants SALEM-B, LLC dba BMW OF SALEM and SANTANDER
 22 CONSUMER USA INC. (“Defendants”) hereby stipulate to the following.

23 **A. PRELIMINARY STATEMENTS**

- 24 1. Plaintiff has requested the production of certain documents for inspection and copying
 25 in conjunction with discovery in the above-entitled case.
- 26 2. Defendants contend that certain of those documents represent and/or reflect trade
 27 secrets or other confidential information. Defendants contend it is entitled to protection of the law to
 28 prevent against improper dissemination or use of that information.
3. Defendants have located the documents response to Plaintiff’s discovery requests and
 Defendants agree to produce and/or permit the viewing of documents pursuant to the terms of this
 stipulated protective order (hereinafter “the documents”).

1 **B. CUSTODY**

2 Defendants will produce to Plaintiff a copy of the documents which are the subject matter of
3 this order, subject to the terms and conditions set forth herein. Defendants will maintain custody of
4 the original copies.

5 **C. STIPULATED PROTECTIVE ORDER**

6 IT IS FURTHER AGREED AND STIPULATED that the documents so produced by
7 Defendants shall be only used in the action entitled *Bluford v. BMW of Salem, et al.* (Case No. 2:18-
8 cv-00321-TLN-EFB), and shall not be used in any other action, or for any business or competitive
9 purposes. This order shall not limit the Plaintiff's right to use the documents in connection with any
10 legal proceeding related to this action, except as provided by the terms and conditions herein.

11 IT IS FURTHER AGREED AND STIPULATED that only those people designated
12 immediately below shall have access to the documents protected herein; they, in turn, shall not
13 exhibit, or disclose the documents to any other person without either the written consent of counsel
14 for Defendants or further order of the Court. The persons bound by this Protective Order are as
15 follows:

- 16 1. The Court, its employees and its agents;
- 17 2. The jurors;
- 18 3. The parties to this lawsuit;
- 19 4. The attorney(s) for the parties to this lawsuit, including their associates, assistants,
20 agents, and employees;
- 21 5. The consultants and experts involved in the preparation to this litigation that have been
22 retained by the parties or the Court;
- 23 6. Court reporters and their employees;
- 24 7. Deposition witnesses; and
- 25 8. Witnesses called at trial.

26 IT IS FURTHER AGREED AND STIPULATED that the attorneys of record to whom the
27 above listed documentation is provided and produced shall be responsible for ensuring that the other
28 persons designated herein are informed of the terms of this Protective Order. Each person to whom

1 disclosure is made, with the exception of counsel, will be provided a copy of this Protective Order by
2 the person furnishing him or her such material. Each person to whom disclosure is made shall agree
3 on the record or in writing that he or she has read this Protective Order and he or she understands the
4 provisions of this Order. Such person must also consent to be subject to the jurisdiction of the United
5 States District Court, Eastern District of California, with respect to any proceeding related to
6 enforcement of this Order, including without limitation, any proceeding for contempt. Provisions of
7 this Order, insofar as they restrict disclosure and use of the material, shall be in effect until further
8 order of this Court.

9 ~~IT IS FURTHER AGREED AND STIPULATED that any documents filed with the Court~~
10 ~~subject to this Protective Order shall be filed under seal pursuant to the Court's local rules and marked~~
11 ~~as follows: "CONFIDENTIAL RECORDS SUBJECT TO STIPULATION AND PROTECTIVE~~
12 ~~ORDER." Such documents shall be kept by the Court under seal and made available only to the~~
13 ~~Court or attorneys of record. It is the responsibility of the attorney filing the documents to ensure~~
14 ~~compliance with the provisions set forth above.~~

15 ~~IT IS FURTHER AGREED AND STIPULATED that any document subject to this Protective~~
16 ~~Order that is attached as an exhibit to a deposition shall be done so under seal and identified as~~
17 ~~confidential.~~

18 Without written permission from the Designating Party or a court order secured after
19 appropriate notice to all interested persons, a Party may not file in the public record in this action any
20 Protected Material. Protected Material may only be filed under seal pursuant to a court order
21 authorizing the sealing of the specific Protected Material at issue. However, the designation of
22 material as confidential, without more, is insufficient to obtain a sealing order. Any party that seeks
23 to file Protected Material under seal must comply with Local Rule 141, which governs motions for a
24 sealing order. As provided in Local Rule 141, a sealing order will issue only upon a request
25 establishing that the Protected Material at issue is privileged, protectable as a trade secret, or
26 otherwise entitled to protection under the law. Further, the briefing on the motion for a sealing order
27 shall address U.S. Supreme Court and Ninth Circuit standards for whether the material may be filed
28 under seal. Regardless of which party files the motion for a sealing order, the party that designated

1 the material as confidential shall file a brief addressing those standards, and shall have the burden of
2 establishing that the Protected Material should be filed but not made publicly available.

3 IT IS FURTHER AGREED AND STIPULATED that in the event that any party to this
4 litigation disagrees at any point in these proceedings with any designation made under this Order, the
5 parties shall first try to resolve such dispute in good faith on an informal basis in accordance with the
6 Court's Local Rule 251 and applicable Chamber Rules. The burden of persuasion to any challenge
7 to a designation of confidentiality shall be on the designating party. During the pendency of any
8 challenge to a designation of a document or information, the designated document or information
9 shall continue to be treated as "Confidential" subject to the provisions of this Order.

10 IT IS FURTHER AGREED AND STIPULATED that after the final disposition of *Bluford v.*
11 *BMW of Salem, et al.* (Case No. 2:18-cv-00321-TLN-EFB), all documents designated as confidential
12 received under the provisions of this Order, including without limitation any copies, transcripts, notes
13 and extracts containing confidential information, shall be destroyed or tendered back to counsel for
14 Defendants. As used above, the final disposition shall mean a termination of the case following
15 applicable post-trial motions, appeal and/or retrial.

16 IT IS FURTHER AGREED AND STIPULATED that this stipulated Order may be modified
17 only by written agreement of the parties, or upon motion of any party.

18 **D. PRODUCTION OF DOCUMENTS SUBJECT TO PROTECTIVE ORDER**

19 Production of the documents shall take place at the office of Cyrus Zal, A Professional
20 Corporation, and shall proceed in the following manner:

- 21 1. This stipulated Protective Order shall either then be, or have previously been, signed
22 by all parties;
- 23 2. Copies of the documents produced by Defendants which are designated
24 "CONFIDENTIAL DOCUMENTS SUBJECT TO STIPULATION AND
25 PROTECTIVE ORDER" shall bear a legend on the face of each document as follows:
26 "CONFIDENTIAL-SUBJECT TO PROTECTIVE ORDER."
27
28

1 IT IS SO STIPULATED.

2 DATED: _____

CYRUS ZAL, A.P.C.

3

signature on original

4

Cyrus Zal
Attorney for Plaintiff
DEREK L. BLUFORD

5

6

IT IS SO STIPULATED.

7 DATED: _____

LEACH & MCGREEVY, LLP

8

signature on original

9

10

Brian Leach
Richard E. McGreevy
Attorneys for Defendants
SALEM-B, LLC dba BMW OF SALEM and
SANTANDER CONSUMER USA INC.

11

12

13 **IT IS SO ORDERED.**

14

DATED: January 15, 2019.

15



EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE

16

17

18

19

20

21

22

23

24

25

26

27

28