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6 IN THE UNITED STATES DISTRICT COURT  
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8 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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10 No. C 08-03491 WHA

11 JENNIFER BORISSOFF and VALENTIN  
BORISSOFF,

12 Plaintiffs,

13 v.

**ORDER APPROVING  
STIPULATED PROTECTIVE  
ORDER SUBJECT TO  
STATED CONDITIONS**

14 GLAXOSMITHKLINE,  
15 GLAXOSMITHKLINE CONSUMER  
HEALTHCARE, GLAXOSMITHKLINE  
16 CONSUMER HEALTHCARE L.L.C.,  
GLAXOSMITHKLINE CONSUMER  
HEALTHCARE, L.P.,

17 Defendants.  
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20 The stipulated protective order submitted by the parties is hereby **APPROVED**, subject to  
21 the following conditions, including adherence to the recently announced strict caution against  
22 sealing orders by the Ninth Circuit (as set out below):

23 1. The parties must make a good-faith determination that any  
24 information designated “confidential” truly warrants protection under Rule 26(c)  
25 of the Federal Rules of Civil Procedure. Designations of material as  
26 “confidential” must be narrowly tailored to include only material for which there  
27 is good cause. A pattern of over-designation may lead to an order un-designating  
28 all or most materials on a wholesale basis.

2. In order to be treated as confidential, any materials filed with the  
Court must be lodged with a request for filing under seal in compliance with Civil

1 Local Rule 79-5. Please limit your requests for sealing to only those narrowly  
2 tailored portions of materials for which good cause to seal exists. Please include  
3 all other portions of your materials in the public file and clearly indicate therein  
4 where material has been redacted and sealed. Each filing requires an  
5 individualized sealing order; blanket prospective authorizations are no longer  
6 allowed by Civil Local Rule 79-5.

7 3. Chambers copies should include all material — both redacted and  
8 unredacted — so that chambers staff does not have to reassemble the whole brief  
9 or declaration. Although chambers copies should clearly designate which  
10 portions are confidential, chambers copies with confidential materials will be  
11 handled like all other chambers copies of materials without special restriction, and  
12 will typically be recycled, not shredded.

13 4. In *Kamakana v. Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006),  
14 the Ninth Circuit held that *more* than good cause, indeed, “compelling reasons”  
15 are required to seal documents used in dispositive motions, just as compelling  
16 reasons would be needed to justify a closure of a courtroom during trial.  
17 Otherwise, the Ninth Circuit held, public access to the work of the courts will be  
18 unduly compromised. Therefore, no request for a sealing order will be allowed  
19 on summary judgment motions (or other dispositive motions) unless the movant  
20 first shows a “compelling reason,” a substantially higher standard than “good  
21 cause.” This will be true regardless of any stipulation by the parties. *Counsel are*  
22 *warned that most summary judgment motions and supporting material should be*  
23 *completely open to public view.* Only social security numbers, names of  
24 juveniles, home addresses and phone numbers, and trade secrets of a compelling  
25 nature (like the recipe for Coca Cola, for example) will qualify. If the courtroom  
26 would not be closed for the information, nor should any summary judgment  
27 proceedings, which are, in effect, a substitute for trial. Motions *in limine* are also  
28 part of the trial and must likewise be laid bare absent compelling reasons. Please

1 comply fully. Noncompliant submissions are liable to be stricken in their  
2 entirety.

3 5. Any confidential materials used openly in court hearings or trial  
4 will not be treated in any special manner absent a further order.

5 6. This order does not preclude any party from moving to  
6 undesignate information or documents that have been designated as confidential.  
7 The party seeking to designate material as confidential has the burden of  
8 establishing that the material is entitled to protection.

9 7. The Court will retain jurisdiction over disputes arising from the  
10 proposed and stipulated protective order for only **NINETY DAYS** after final  
11 termination of the action.

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13 **IT IS SO ORDERED.**

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15 Dated: December 16, 2008

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18 WILLIAM ALSUP  
19 UNITED STATES DISTRICT JUDGE  
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