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9 **IN THE UNITED STATES DISTRICT COURT**
 10 **NORTHERN DISTRICT OF CALIFORNIA - SAN FRANCISCO DIVISION**

12 JON VALLIERE, EILEEN FOSTER, ANTONIO
 13 GARCIA, and SAMANTHA WEST, individually
 and on behalf of all similarly situated current and
 former employees,

14 Plaintiffs,

15 v.

16 TESORO REFINING AND MARKETING
 17 COMPANY LLC, TESORO LOGISTICS GP,
 LLC, and DOES 1 through 10, inclusive

18 Defendants.

Case No. 3:17-CV-00123-JST

Assigned to the Hon. Jon S. Tigar

CLASS ACTION

STIPULATED PROTECTIVE ORDER

19 JINETRA BONNER, individually, on behalf
 20 herself and all others similarly situated,

21 Plaintiffs,

22 v.

23 TESORO REFINING & MARKETING
 24 COMPANY, LLC, a Delaware Limited Liability
 Company; and DOES 1 through 100 inclusive,

25 Defendants.

Case No. 17-CV-03850-JST

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27 *Attorneys for Defendants TESORO REFINING & MARKETING COMPANY LLC and TESORO
LOGISTICS GP, LLC*

1 **1. PURPOSES AND LIMITATIONS**

2 Disclosure and discovery activity in this action are likely to involve production of confidential,
3 proprietary, or private information for which special protection from public disclosure, and from use for
4 any purpose other than prosecuting this litigation, may be warranted. Accordingly, the parties hereby
5 stipulate to and petition the court to enter the following Stipulated Protective Order. The parties
6 acknowledge that this Order does not confer blanket protections on all disclosures or responses to
7 discovery and that the protection it affords from public disclosure and use extends only to the limited
8 information or items that are entitled to confidential treatment under applicable legal principles. The
9 parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order
10 does not entitle them to file confidential information under seal; Civil Local Rule 79-5 sets forth the
11 procedures that must be followed and the standards that will be applied when a party seeks permission
12 from the court to file material under seal.

13 **2. DEFINITIONS**

14 2.1 Challenging Party: a Party or Non-Party that challenges the designation of information
15 or items as “Confidential” under this Order.

16 2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is
17 generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil
18 Procedure 26(c).

19 2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as well as
20 their support staff).

21 2.4 Designating Party: a Party or Non-Party that designates information or items that it
22 produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

23 2.5 Disclosure or Discovery Material: all items or information, regardless of the medium or
24 manner in which it is generated, stored, or maintained (including, among other things, testimony,
25 transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery
26 in this matter.

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1 2.6 Expert: a person with specialized knowledge or experience in a matter pertinent to the
2 litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant
3 in this action.

4 2.7 House Counsel: attorneys who are employees of a party to this action. House Counsel
5 does not include Outside Counsel of Record or any other outside counsel.

6 2.8 Non-Party: any natural person, partnership, corporation, association, or other legal entity
7 not named as a Party to this action.

8 2.9 Outside Counsel of Record: attorneys who are not employees of a party to this action but
9 are retained to represent or advise a party to this action and have appeared in this action on behalf of that
10 party or are affiliated with a law firm that has appeared on behalf of that party.

11 2.10 Party: any party to this action, including all of its officers, directors and employees
12 (including House Counsel), consultants, retained experts, and Outside Counsel of Record (and their
13 support staffs), which for purposes of this Order does not include any putative class or class members
14 other than Jon Valliere, Eileen Foster, Anotonio Garcia, Samantha West, and Jinetra Bonner.

15 2.11 Producing Party: a Party or Non-Party that produces Disclosure or Discovery Material in
16 this action.

17 2.12 Professional Vendors: persons or entities that provide litigation support services (e.g.,
18 photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or
19 retrieving data in any form or medium) and their employees and subcontractors.

20 2.13 Protected Material: any Disclosure or Discovery Material that is designated as
21 “CONFIDENTIAL.”

22 2.14 Receiving Party: a Party that receives Disclosure or Discovery Material from a
23 Producing Party.

24 **3. SCOPE**

25 The protections conferred by this Stipulation and Order cover not only Protected Material (as
26 defined above), but also (1) any information copied or extracted from Protected Material; (2) all copies,
27 excerpts, summaries, or compilations of Protected Material; and (3) any testimony, conversations, or
28 presentations by Parties or their Counsel that might reveal Protected Material. However, the protections

1 conferred by this Stipulation and Order do not cover the following information: (a) any information that
2 is in the public domain at the time of disclosure to a Receiving Party or becomes part of the public
3 domain after its disclosure to a Receiving Party as a result of publication not involving a violation of this
4 Order, including becoming part of the public record through trial or otherwise; and (b) any information
5 known to the Receiving Party prior to the disclosure or obtained by the Receiving Party after the
6 disclosure from a source who obtained the information lawfully and under no obligation of
7 confidentiality to the Designating Party. Any use of Protected Material at trial shall be governed by a
8 separate agreement or protective order.

9 **4. DURATION**

10 Even after final disposition of this litigation, the confidentiality obligations imposed by this
11 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order
12 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and
13 defenses in this action, with or without prejudice; and (2) final judgment herein after the completion and
14 exhaustion of all appeals, rehearings, remands, trials, or reviews of this action, including the time limits
15 for filing any motions or applications for extension of time pursuant to applicable law.

16 **5. DESIGNATING PROTECTED MATERIAL**

17 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party or Non-
18 Party that designates information or items for protection under this Order must take care to limit any
19 such designation to specific material that qualifies under the appropriate standards. The Designating
20 Party must designate for protection only those parts of material, documents, items, or oral or written
21 communications that qualify – so that other portions of the material, documents, items, or
22 communications for which protection is not warranted are not swept unjustifiably within the ambit of
23 this Order.

24 Mass, indiscriminate, or routinized designations for protection under this Order are prohibited.
25 Designations that are shown to be clearly unjustified or that have been made for an improper purpose
26 (e.g., to unnecessarily encumber or slow the case development process or to impose unnecessary
27 expenses and burdens on other parties) expose the Designating Party to sanctions. If it comes to a
28 Designating Party's attention that information or items that it designated for protection do not qualify for

1 protection, that Designating Party must promptly notify all other Parties that it is withdrawing the
2 mistaken designation.

3 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order (*see*,
4 *e.g.*, second paragraph of Section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or
5 Discovery Material that qualifies for protection under this Order must be clearly designated before the
6 material is disclosed or produced.

7 Designation in conformity with this Order requires:

8 (a) For information in documentary form (*e.g.*, paper or electronic documents, but
9 excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing Party affix
10 the legend “CONFIDENTIAL” to each page that contains Protected Material.

11 A Party or Non-Party that makes original documents or materials available for inspection need not
12 designate them for protection until after the inspecting Party has indicated which material it would like
13 copied and produced. During the inspection and before the designation, all of the material made available
14 for inspection shall be deemed “CONFIDENTIAL.” After the inspecting Party has identified the
15 documents it wants copied and produced, the Producing Party must determine which documents, or
16 portions thereof, qualify for protection under this Order. Then, before producing the specified documents,
17 the Producing Party must affix the “CONFIDENTIAL” legend to each page that contains Protected
18 Material. If only a portion or portions of the material on a page qualifies for protection, the Producing
19 Party also must clearly identify the protected portion(s) (*e.g.*, by making appropriate markings in the
20 margins).

21 (b) For testimony given in deposition or in other pretrial or trial proceedings, that the
22 Designating Party identifies on the record, before the close of the deposition, completion of the
23 deponent’s time to review the deposition transcript, or end of the hearing or other proceeding, all
24 protected testimony.

25 (c) For information produced in some form other than documentary or testimonial,
26 including other tangible items, that the Producing Party affix in a prominent place on the exterior of the
27 container or containers in which the information or item is stored the legend “CONFIDENTIAL.” If
28 only a portion or portions of the information or item warrant protection, the Producing Party, to the

1 extent practicable, shall identify the protected portion(s).

2 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate
3 information or items that qualify for protection does not, standing alone, waive the Designating Party's
4 right to secure protection under this Order for such material. Upon timely correction of a designation,
5 the Receiving Party must make reasonable efforts to assure that the material is treated in accordance
6 with the provisions of this Order.

7 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

8 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of
9 confidentiality at any time. Unless a prompt challenge to a Designating Party's confidentiality
10 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens, or
11 a significant disruption or delay of the litigation, a Party does not waive its right to challenge a
12 confidentiality designation by electing not to mount a challenge promptly after the original designation
13 is disclosed.

14 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process by
15 providing written notice to the Designating Party and all parties to this action, of each designation the
16 Challenging Party is challenging and describing the basis for each challenge. To avoid ambiguity as to
17 whether a challenge has been made, the written notice must recite that the challenge to confidentiality is
18 being made in accordance with this specific paragraph of the Protective Order. The parties shall attempt
19 to resolve each challenge in good faith and must begin the process by conferring directly (in voice to
20 voice dialogue; other forms of communication are not sufficient) within 14 days of the date of service of
21 notice. In conferring, the Challenging Party must explain the basis for its belief that the confidentiality
22 designation was not proper and must give the Designating Party an opportunity to review the designated
23 material, to reconsider the circumstances, and, if no change in designation is offered, to explain the basis
24 for the chosen designation. A Challenging Party may proceed to the next stage of the challenge process
25 only if it has engaged in this meet and confer process first or establishes that the Designating Party is
26 unwilling to participate in the meet and confer process in a timely manner.

27 6.3 Judicial Intervention. If the parties cannot resolve a challenge without court intervention,
28 the Designating Party may file and serve a motion to retain confidentiality under Civil Local Rule 7 (and

1 in compliance with Civil Local Rule 79-5, if applicable) within 21 days of receipt by the Designating
2 Party of the initial notice of challenge or within 14 days of the parties agreeing that the meet and confer
3 process will not resolve their dispute, whichever is earlier. Failure by the Designating Party to make
4 such a motion within 21 days or 14 days, as applicable, shall automatically waive the confidentiality
5 designation for each challenged designation. In addition, the Challenging Party may file a motion
6 challenging a confidentiality designation at any time if there is good cause for doing so, including a
7 challenge to the designation of a deposition transcript or any portions thereof. Any motion brought
8 pursuant to this provision by the Designating Party or the Challenging Party must be accompanied by a
9 competent declaration affirming that the movant has complied with the meet and confer requirements
10 imposed by the preceding paragraph.

11 The burden of persuasion in any proceeding concerning a challenge shall be on the Designating
12 Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose
13 unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions.
14 Unless the Designating Party has waived the confidentiality designation by failing to timely file a
15 motion to retain confidentiality as described above, all parties shall continue to afford the material in
16 question the level of protection to which it is entitled under the Designating Party's designation until the
17 court rules on the challenge.

18 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

19 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or
20 produced by another Party or by a Non-Party in connection with this case only for prosecuting,
21 defending, or attempting to settle this litigation. Protected Material must be stored and maintained by a
22 Receiving Party at a location and in a secure manner that ensures that access is limited to the persons
23 authorized under this Order. Protected Material may be disclosed only to the categories of persons and
24 under the conditions described in this Order. When the litigation has been terminated, a Receiving Party
25 must comply with the provisions of Section 13 below.

26 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered by the
27 court or permitted in writing by the Designating Party, a Receiving Party may disclose any information
28 or item designated "CONFIDENTIAL" only to:

1 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as
2 employees of such Outside Counsel of Record to whom it is reasonably necessary to disclose the
3 information for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound”
4 that is attached hereto as Exhibit A;

5 (b) the officers, directors, and employees (including House Counsel) of the Receiving
6 Party to whom disclosure is reasonably necessary for this litigation and who have signed the
7 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

8 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is
9 reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to
10 Be Bound” (Exhibit A);

11 (d) the court and its personnel;

12 (e) court reporters and their staff, professional jury or trial consultants, mock jurors,
13 and Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have
14 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

15 (f) during their depositions, witnesses in the action to whom disclosure is reasonably
16 necessary and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless
17 otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed deposition
18 testimony or exhibits to depositions that reveal Protected Material must be separately bound by the court
19 reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order;
20 and

21 (g) the author or recipient of a document containing the information or a custodian or
22 other person who otherwise possessed or knew the information.

23 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER**
24 **LITIGATION**

25 If a Party is served with a subpoena or a court order issued in other litigation that compels
26 disclosure of any information or items designated in this action as “CONFIDENTIAL,” that Party must:

27 (a) promptly notify in writing the Designating Party. Such notification shall include a
28 copy of the subpoena or court order;

1 (b) promptly notify in writing the party who caused the subpoena or order to issue in
2 the other litigation that some or all of the material covered by the subpoena or order is subject to this
3 Protective Order. Such notification shall include a copy of this Stipulated Protective Order; and

4 (c) cooperate with respect to all reasonable procedures sought to be pursued by the
5 Designating Party whose Protected Material may be affected.

6 If the Designating Party timely seeks a protective order, the Party served with the subpoena or
7 court order shall not produce any information designated in this action as “CONFIDENTIAL” before a
8 determination by the court from which the subpoena or order issued, unless the Party has obtained the
9 Designating Party’s permission. The Designating Party shall bear the burden and expense of seeking
10 protection in that court of its confidential material – and nothing in these provisions should be construed
11 as authorizing or encouraging a Receiving Party in this action to disobey a lawful directive from another
12 court.

13 **9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS**
14 **LITIGATION**

15 (a) The terms of this Order are applicable to information produced by a Non-Party in
16 this action and designated as “CONFIDENTIAL.” Such information produced by Non-Parties in
17 connection with this litigation is protected by the remedies and relief provided by this Order. Nothing in
18 these provisions should be construed as prohibiting a Non-Party from seeking additional protections.

19 (b) In the event that a Party is required, by a valid discovery request, to produce a
20 Non-Party’s confidential information in its possession, and the Party is subject to an agreement with the
21 Non-Party not to produce the Non-Party’s confidential information, then the Party shall:

22 (1) promptly notify in writing the Party requesting the confidential
23 information and the Non-Party that some or all of the information requested is subject to a
24 confidentiality agreement with a Non-Party;

25 (2) promptly provide the Non-Party with a copy of the Stipulated Protective
26 Order in this litigation, the relevant discovery request(s), and a reasonably specific description of the
27 information requested; and

28 (3) make the information requested available for inspection by the Non-Party.

1 (4) if the Non-Party fails to object or seek a protective order from this court
2 within 14 days of receiving notice that the confidential information is requested and the opportunity to
3 inspect the information, the Receiving Party may produce the Non-Party's confidential information
4 responsive to the discovery request. If the Non-Party timely seeks a protective order, the Party in
5 possession of the information shall not produce such information that is subject to the confidentiality
6 agreement with the Non-Party before a determination by the court.

7 (c) Absent a court order to the contrary, the Non-Party shall bear the burden and
8 expense of seeking protection in this court of its Protected Material.

9 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

10 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material
11 to any person or in any circumstance not authorized under this Stipulated Protective Order, the
12 Receiving Party must immediately (a) notify the Designating Party in writing of the unauthorized
13 disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c)
14 inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order,
15 and (d) request that such person or persons execute the "Acknowledgment and Agreement to Be Bound"
16 that is attached hereto as Exhibit A.

17 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED**
18 **MATERIAL**

19 When a Producing Party gives notice to a Receiving Party that certain inadvertently produced
20 material is subject to a claim of privilege or other protection, the obligations of the Receiving Party are
21 those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
22 any procedure that may be established in an e-discovery order that provides for production without prior
23 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an
24 agreement on the effect of disclosure of a communication or information covered by the attorney-client
25 privilege or work product protection, the parties may incorporate their agreement in the Stipulated
26 Protective Order submitted to the court.

27 **12. MISCELLANEOUS**

28 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its

1 modification by the court in the future.

2 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order, no
3 Party waives any right it otherwise would have to object to disclosing or producing any information or
4 item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any
5 right to object on any ground to use in evidence of any of the material covered by this Protective Order.

6 12.3 Filing Protected Material. Without written permission from the Designating Party or a
7 court order secured after appropriate notice to all interested persons, a Party may not file in the public
8 record in this action any Protected Material. A Party that seeks to file under seal any Protected Material
9 must comply with Civil Local Rule 79-5. Protected Material may only be filed under seal pursuant to a
10 court order authorizing the sealing of the specific Protected Material at issue. Pursuant to Civil Local
11 Rule 79-5, a sealing order will issue only upon a request establishing that the Protected Material at issue
12 is privileged, protectable as a trade secret, or otherwise entitled to protection under the law. If a
13 Receiving Party's request to file Protected Material under seal pursuant to Civil Local Rule 79-5(d) is
14 denied by the court, then the Receiving Party may file the information in the public record pursuant to
15 Civil Local Rule 79-5(e) unless otherwise instructed by the court.

16 **13. FINAL DISPOSITION**

17 Within 60 days after the final disposition of this action, as defined in Section 4 above, each
18 Receiving Party must return all Protected Material to the Producing Party or destroy such material. As
19 used in this section, "all Protected Material" includes all copies, abstracts, compilations, summaries, and
20 any other format reproducing or capturing any of the Protected Material. Whether the Protected Material
21 is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party
22 (and, if not the same person or entity, to the Designating Party) by the 60-day deadline that (1) identifies
23 (by category, where appropriate) all the Protected Material that was returned or destroyed and (2)
24 affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any
25 other format reproducing or capturing any of the Protected Material. Notwithstanding this provision,
26 Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and
27 hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports,
28 attorney work product, and consultant and expert work product, even if such materials contain Protected

1 Material. Any such archival copies that contain or constitute Protected Material remain subject to this
2 Protective Order as set forth in Section 4 above.

3 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

4 DATED: February 12, 2018

GILBERT & SACKMAN
HADSELL STORMER & RENICK, LLP

7 By: /s/ Randy Renick

8 Randy Renick
9 Cornelia Dai
Springsong Cooper

10 Attorneys for Plaintiffs
11 JON VALLIERE, EILEEN FOSTER,
ANTONIO GARCIA, and SAMANTHA WEST

12
13 DATED: February 12, 2018

GILBERT & SACKMAN

14
15 By: /s/ Joshua F. Young

16 Jay Smith
17 Joshua F. Young

18 Attorneys for Plaintiffs
19 JON VALLIERE, EILEEN FOSTER,
20 ANTONIO GARCIA, and SAMANTHA WEST
21
22
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27
28

1 DATED: February 12, 2018

COHELAN KHOURY & SINGER

2
3 By: /s/ J. Jason Hill

4 Timothy D. Cohelan
5 Michael D. Singer
6 J. Jason Hill

7 Attorneys for Plaintiff
8 JENITRA BONNER

9 DATED: February 12, 2018

SEYFARTH SHAW LLP

10
11 By: /s/ Michael W. Kopp

12 William J. Dritsas
13 Timothy M. Rusche
14 Michael W. Kopp
15 Mary D. Manesis

16 Attorneys for Defendants
17 TESORO REFINING & MARKETING
18 COMPANY LLC and
19 TESORO LOGISTICS GP, LLC

20 Attestation Regarding Signatures:

21 I, Randy Renick, hereby attest that all other signatories listed, and on whose behalf the filing is
22 submitted, concur in the filing's content and have authorized the filing.

23 By: /s/ Randy Renick
24 Randy Renick

25 PURSUANT TO STIPULATION, IT IS SO ORDERED.

26 DATED: March 5, 2018

27 
28 United States District Judge Jon S. Tigar

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [print or type full name], of _____ [print or type full
4 address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated
5 Protective Order that was issued by the United States District Court for the Northern District of California
6 on [date] in the case of JON VALLIERE, et al. v. TESORO REFINING AND MARKETING COMPANY
7 LLC, Case No. 3:17-CV-00123-JST and JINETRA BONNER, et al. v. TESORO REFINING &
8 MARKETING COMPANY, LLC, Case No. 17-CV-03850-JST. I agree to comply with and to be bound
9 by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so
10 comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I
11 will not disclose in any manner any information or item that is subject to this Stipulated Protective Order
12 to any person or entity except in strict compliance with the provisions of this Order.

13 I further agree to submit to the jurisdiction of the United States District Court for the Northern District of
14 California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such
15 enforcement proceedings occur after termination of this action.

16 I hereby appoint _____ [print or type full name] of
17 _____ [print or type full address and telephone number] as my
18 California agent for service of process in connection with this action or any proceedings related to
19 enforcement of this Stipulated Protective Order.

20
21 Date: _____

22 City and State where sworn and signed: _____

23
24 Printed name: _____

25
26 Signature: _____