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 HARPERCOLLINS PUBLISHERS LLC and
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19 UNITED STATES DISTRICT COURT
 20 NORTHERN DISTRICT OF CALIFORNIA
 21 SAN JOSE DIVISION

22 SHAKLEE CORPORATION,)
 23)
 Plaintiff,)
 24)
 v.)
 25)
 HARPERCOLLINS PUBLISHERS LLC, a)
 26 Delaware Corporation, and CYNTHIA SASS, an)
 individual,)
 27)
 Defendants.)
 28)

CASE NO.: 11-00144-PSG

STIPULATED PROTECTIVE ORDER

1 1. PURPOSES AND LIMITATIONS

2 Disclosure and discovery activity in this action are likely to involve production of
3 confidential, proprietary, or private information for which special protection from public
4 disclosure and from use for any purpose other than prosecuting this litigation would be
5 warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the
6 following Stipulated Protective Order. The parties acknowledge that this Order does not confer
7 blanket protections on all disclosures or responses to discovery and that the protection it affords
8 extends only to the limited information or items that are entitled under the applicable legal
9 principles to treatment as confidential. The parties further acknowledge, as set forth in Section
10 10, below, that this Stipulated Protective Order creates no entitlement to file confidential
11 information under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed
12 and reflects the standards that will be applied when a party seeks permission from the court to
13 file material under seal.

14 2. DEFINITIONS

15 2.1 Party: any party to this action, including all of its officers, directors,
16 employees, consultants, retained experts, and outside counsel (and their support staff).

17 2.2 Disclosure or Discovery Material: all items or information, regardless of the
18 medium or manner generated, stored, or maintained (including, among other things, testimony,
19 transcripts, or tangible things) that are produced or generated in disclosures or responses to
20 discovery in this matter.

21 2.3 “Confidential” Information or Items: information (regardless of how
22 generated, stored or maintained) or tangible things that qualify for protection under standards
23 developed under F.R.Civ.P. 26(c).

24 2.4 “Highly Confidential – Attorneys’ Eyes Only” Information or Items:
25 extremely sensitive “Confidential Information or Items” whose disclosure to another Party or
26 nonparty would create a substantial risk of serious injury that could not be avoided by less
27 restrictive means.

28 2.5 Receiving Party: a Party that receives Disclosure or Discovery Material

1 from a Producing Party.

2 2.6 Producing Party: a Party or non-party that produces Disclosure or
3 Discovery Material in this action.

4 2.7 Designating Party: a Party or non-party that designates information or items
5 that it produces in disclosures or in responses to discovery as “Confidential” or “Highly
6 Confidential — Attorneys’ Eyes Only.”

7 2.8 Protected Material: any Disclosure or Discovery Material that is designated
8 as “Confidential” or as “Highly Confidential – Attorneys’ Eyes Only.”

9 2.9. Outside Counsel: attorneys who are not employees of a Party but who are
10 retained to represent or advise a Party in this action.

11 2.10 House Counsel: attorneys who are employees of a Party.

12 2.11 Counsel (without qualifier): Outside Counsel and House Counsel (as well as
13 their support staffs).

14 2.12 Expert: a person with specialized knowledge or experience in a matter
15 pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert
16 witness or as a consultant in this action and who is not a past or a current employee of a Party or
17 of a competitor of a Party’s and who, at the time of retention, is not anticipated to become an
18 employee of a Party or a competitor of a Party’s. This definition includes a professional jury or
19 trial consultant retained in connection with this litigation.

20 2.13 Professional Vendors: persons or entities that provide litigation support
21 services (e.g., photocopying; videotaping; translating; preparing exhibits or demonstrations;
22 organizing, storing, retrieving data in any form or medium; etc.) and their employees and
23 subcontractors.

24 3. SCOPE

25 The protections conferred by this Stipulation and Order cover not only Protected Material
26 (as defined above), but also any information copied or extracted therefrom, as well as all copies,
27 excerpts, summaries, or compilations thereof, plus testimony, conversations, or presentations by
28 parties or counsel to or in court or in other settings that might reveal Protected Material.

1 4. DURATION

2 Even after the termination of this litigation, the confidentiality obligations imposed by this
3 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order
4 otherwise directs.

5 5. DESIGNATING PROTECTED MATERIAL

6 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each
7 Party or non-party that designates information or items for protection under this Order must take
8 care to limit any such designation to specific material that qualifies under the appropriate
9 standards. A Designating Party must take care to designate for protection only those parts of
10 material, documents, items, or oral or written communications that qualify – so that other portions
11 of the material, documents, items, or communications for which protection is not warranted are
12 not swept unjustifiably within the ambit of this Order. Mass, indiscriminate, or routinized
13 designations are prohibited. Designations that are shown to be clearly unjustified, or that have
14 been made for an improper purpose (e.g., to unnecessarily encumber or retard the case
15 development process, or to impose unnecessary expenses and burdens on other parties), expose the
16 Designating Party to sanctions. If it comes to a Party’s or a non-party’s attention that information
17 or items that it designated for protection do not qualify for protection at all, or do not qualify for
18 the level of protection initially asserted, that Party or non-party must promptly notify all other
19 parties that it is withdrawing the mistaken designation.

20 5.2 Manner and Timing of Designations. Except as otherwise provided in this
21 Order (see, e.g., second paragraph of section 5.2(a), below), or as otherwise stipulated or ordered,
22 material that qualifies for protection under this Order must be clearly so designated before the
23 material is disclosed or produced. Designation in conformity with this Order requires:

24 (a) for information in documentary form (apart from transcripts of
25 depositions or other pretrial or trial proceedings), that the Producing Party affix the legend
26 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” at the top
27 of each page that contains protected material. A Party or non-party that makes original documents
28 or materials available for inspection need not designate them for protection until after the

1 inspecting Party has indicated which material it would like copied and produced. During the
2 inspection and before the designation, all of the material made available for inspection shall be
3 deemed “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” After the inspecting Party
4 has identified the documents it wants copied and produced, the Producing Party must determine
5 which documents, or portions thereof, qualify for protection under this Order, then, before
6 producing the specified documents, the Producing Party must affix the appropriate legend
7 (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”) at the top
8 of each page that contains Protected Material. If only a portion or portions of the material on a
9 page qualifies for protection, the Producing Party also must clearly identify the protected
10 portion(s) (e.g., by making appropriate markings in the margins) and must specify, for each
11 portion, the level of protection being asserted (either “CONFIDENTIAL” or “HIGHLY
12 CONFIDENTIAL – ATTORNEYS’ EYES ONLY”).

13 (b) for testimony given in deposition or in other pretrial or trial proceedings,
14 that the Party or non-party offering or sponsoring the testimony identify on the record, before the
15 close of the deposition, hearing, or other proceeding, all protected testimony, and further specify
16 any portions of the testimony that qualify as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL
17 – ATTORNEYS’ EYES ONLY.” The Party or non-party that sponsors, offers, or gives the
18 testimony may also elect to have up to 20 days to identify the specific portions of the testimony as
19 to which protection is sought and to specify the level of protection being asserted
20 (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”). Only
21 those portions of the testimony that are appropriately designated for protection within the 20 days
22 shall be covered by the provisions of this Stipulated Protective Order. Transcript pages containing
23 Protected Material must be separately bound by the court reporter, who must affix to the top of
24 each such page the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
25 EYES ONLY,” as instructed by the Party or nonparty offering or sponsoring the witness or
26 presenting the testimony.

27 (c) for information produced in some form other than documentary, and for
28 any other tangible items, that the Producing Party affix in a prominent place on the exterior of the

1 container or containers in which the information or item is stored the legend “CONFIDENTIAL”
2 or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” If only portions of the
3 information or item warrant protection, the Producing Party, to the extent practicable, shall
4 identify the protected portions, specifying whether they qualify as “Confidential” or as “Highly
5 Confidential – Attorneys’ Eyes Only.”

6 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure
7 to designate qualified information or items as “Confidential” or “Highly Confidential – Attorneys’
8 Eyes Only” does not, standing alone, waive the Designating Party’s right to secure protection
9 under this Order for such material. If material is appropriately designated as “Confidential” or
10 “Highly Confidential – Attorneys’ Eyes Only” after the material was initially produced, the
11 Receiving Party, on timely notification of the designation, must make reasonable efforts to assure
12 that the material is treated in accordance with the provisions of this Order.

13 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

14 6.1 Timing of Challenges. Any Party may challenge a designation of
15 confidentiality at any time. Unless a prompt challenge to a Designating Party’s confidentiality
16 designation is necessary to avoid foreseeable substantial unfairness, unnecessary economic
17 burdens, or a later significant disruption or delay of the litigation, a Party does not waive its right
18 to challenge a confidentiality designation by electing not to mount a challenge promptly after the
19 original designation is disclosed.

20 6.2 Meet and Confer. A Party that elects to initiate a challenge to a Designating
21 Party’s confidentiality designation must do so in good faith and must begin the process by
22 conferring directly (in voice to voice dialogue, if possible) with counsel for the Designating Party.
23 In conferring, the challenging Party must explain the basis for its belief that the confidentiality
24 designation was not proper and must give the Designating Party an opportunity to review the
25 designated material, to reconsider the circumstances, and, if no change in designation is offered, to
26 explain the basis for the chosen designation. A challenging Party may proceed to the next stage of
27 the challenge process only if it has engaged in this meet and confer process first.

28 6.3 Judicial Intervention. A Party that elects to press a challenge to a

1 confidentiality designation after considering the justification offered by the Designating Party may
2 file and serve a motion under Civil Local Rule 7 (and in compliance with Civil Local Rule 79-5, if
3 applicable) that identifies the challenged material and sets forth in detail the basis for the
4 challenge. Each such motion must be accompanied by a competent declaration that affirms that the
5 movant has complied with the meet and confer requirements imposed in the preceding paragraph
6 and that sets forth with specificity the justification for the confidentiality designation that was
7 given by the Designating Party in the meet and confer dialogue. The burden of persuasion in any
8 such challenge proceeding shall be on the Designating Party. Until the court rules on the
9 challenge, all parties shall continue to afford the material in question the level of protection to
10 which it is entitled under the Producing Party's designation.

11 7. ACCESS TO AND USE OF PROTECTED MATERIAL

12 7.1 Basic Principles. A Receiving Party may use Protected Material that is
13 disclosed or produced by another Party or by a non-party in connection with this case only for
14 prosecuting, defending, or attempting to settle this litigation. Such Protected Material may be
15 disclosed only to the categories of persons and under the conditions described in this Order. When
16 the litigation has been terminated, a Receiving Party must comply with the provisions of section
17 11, below (FINAL DISPOSITION). Protected Material must be stored and maintained by a
18 Receiving Party at a location and in a secure manner that ensures that access is limited to the
19 persons authorized under this Order.

20 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise
21 ordered by the court or permitted in writing by the Designating Party, a Receiving Party may
22 disclose any information or item designated CONFIDENTIAL only to:

23 (a) the Receiving Party's Outside Counsel of record in this action, as well as
24 employees of said Counsel to whom it is reasonably necessary to disclose the information for this
25 litigation and who have signed the "Agreement to Be Bound by Protective Order" that is attached
26 hereto as Exhibit A;

27 (b) the officers, directors, and employees (including House Counsel) of the
28 Receiving Party to whom disclosure is reasonably necessary for this litigation and who have

1 signed the “Agreement to Be Bound by Protective Order” (Exhibit A);

2 (c) Experts (as defined in this Order) of the Receiving Party (1) to whom
3 disclosure is reasonably necessary for this litigation, (2) who have signed the “Agreement to Be
4 Bound by Protective Order” (Exhibit A), and (3) as to whom the procedures set forth in paragraph
5 7.4, below, have been followed;

6 (d) the Court and its personnel;

7 (e) court reporters, their staffs, and professional vendors to whom disclosure
8 is reasonably necessary for this litigation and who have signed the “Agreement to Be Bound by
9 Protective Order” (Exhibit A);

10 (f) during their depositions, witnesses in the action (1) to whom disclosure
11 is reasonably necessary for this litigation, (2) who have signed the “Agreement to Be Bound by
12 Protective Order” (Exhibit A), and (3) as to whom the procedures set forth in paragraph 7.4,
13 below, have been followed; Pages of transcribed deposition testimony or exhibits to depositions
14 that reveal Protected Material must be separately bound by the court reporter and may not be
15 disclosed to anyone except as permitted under this Stipulated Protective Order.

16 (g) the author or a recipient of the document or the original source of the
17 information or a custodian or other person who otherwise possessed or knew the information.

18 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
19 ONLY” Information or Items. Unless otherwise ordered by the court or permitted in writing by the
20 Designating Party, a Receiving Party may disclose any information or item designated “HIGHLY
21 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to:

22 (a) the Receiving Party’s Outside Counsel of record in this action, as well as
23 employees of said Counsel to whom it is reasonably necessary to disclose the information for this
24 litigation and who have signed the “Agreement to Be Bound by Protective Order” that is attached
25 hereto as Exhibit A;

26 (b) Experts (as defined in this Order) (1) to whom disclosure is reasonably
27 necessary for this litigation, (2) who have signed the “Agreement to Be Bound by Protective
28 Order” (Exhibit A), and (3) as to whom the procedures set forth in paragraph 7.4, below, have

1 been followed;

2 (c) the Court and its personnel;

3 (d) court reporters, their staffs, and professional vendors to whom
4 disclosure is reasonably necessary for this litigation and who have signed the “Agreement to Be
5 Bound by Protective Order” (Exhibit A); and

6 (e) the author or a recipient of the document or the original source of the
7 information or a custodian or other person who otherwise possessed or knew the information.

8 7.4 Procedures for Approving Disclosure of “CONFIDENTIAL” and
9 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items

10 (a) Unless otherwise ordered by the court or agreed in writing by the
11 Designating Party, a Party that seeks to disclose to an “Expert” (as defined in this Order) any
12 information or item that has been designated “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL
13 – ATTORNEYS’ EYES ONLY” first must make a written request to the Designating Party that
14 (1) sets forth the full name of the Expert and the city and state of his or her primary place of
15 business, (2) attaches a copy of the Expert’s current resume, (3) identifies the Expert’s current
16 employer(s), (4) identifies each person or entity from whom the Expert has received compensation
17 for work in his or her areas of expertise or to whom the expert has provided professional services
18 at any time during the preceding five years, and (5) identifies (by name and number of the case
19 and location of court) any litigation in connection with which the Expert has provided any
20 professional services during the preceding five years.

21 (b) Unless otherwise ordered by the court or agreed in writing by the
22 Designating Party, a Party that seeks to disclose to a non-party witness during deposition any
23 information or item that has been designated “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL
24 – ATTORNEYS’ EYES ONLY” and as to such witness disclosure of such information or item
25 would otherwise not be permitted under paragraphs 7.2 or 7.3, above, first must make a written
26 request to the Designating Party that (1) identifies generally the information sought to be
27 disclosed, (2) sets forth the full name of the witness and the city and state of his or her primary
28 place of business, (3) identifies the witness’ current employer(s).

1 (c) A Party that makes a request and provides the information specified in
2 the preceding paragraphs (a) and (b) may disclose the subject Protected Material to the identified
3 Expert or witness unless, within seven court days of delivering the request, the Party receives a
4 written objection from the Designating Party. Any such objection must set forth in detail the
5 grounds on which it is based.

6 (d) A Party that receives a timely written objection must meet and confer
7 with the Designating Party (through direct voice to voice dialogue) to try to resolve the matter by
8 agreement. If no agreement is reached, the Party seeking to make the disclosure to the Expert may
9 file a motion as provided in Civil Local Rule 7 (and in compliance with Civil Local Rule 79-5, if
10 applicable) seeking permission from the court to do so. Any such motion must describe the
11 circumstances with specificity, set forth in detail the reasons for which the disclosure to the Expert
12 or witness is reasonably necessary, assess the risk of harm that the disclosure would entail and
13 suggest any additional means that might be used to reduce that risk. In addition, any such motion
14 must be accompanied by a competent declaration in which the movant describes the parties'
15 efforts to resolve the matter by agreement (i.e., the extent and the content of the meet and confer
16 discussions) and sets forth the reasons advanced by the Designating Party for its refusal to approve
17 the disclosure. In any such proceeding the Party opposing disclosure to the Expert or witness shall
18 bear the burden of proving that the risk of harm that the disclosure would entail (under the
19 safeguards proposed) outweighs the Receiving Party's need to disclose the Protected Material to
20 the Expert or witness.

21 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
22 OTHER LITIGATION.

23 If a Receiving Party is served with a subpoena or an order issued in other litigation that
24 would compel disclosure of any information or items designated in this action as
25 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY," the
26 Receiving Party must so notify the Designating Party, in writing (by fax, if possible) immediately
27 and in no event more than three court days after receiving the subpoena or order. Such notification
28 must include a copy of the subpoena or court order. The Receiving Party also must immediately

1 inform in writing the Party who caused the subpoena or order to issue in the other litigation that
2 some or all the material covered by the subpoena or order is the subject of this Protective Order. In
3 addition, the Receiving Party must deliver a copy of this Stipulated Protective Order promptly to
4 the Party in the other action that caused the subpoena or order to issue. The purpose of imposing
5 these duties is to alert the interested parties to the existence of this Protective Order and to afford
6 the Designating Party in this case an opportunity to try to protect its confidentiality interests in the
7 court from which the subpoena or order issued. The Designating Party shall bear the burdens and
8 the expenses of seeking protection in that court of its confidential material – and nothing in these
9 provisions should be construed as authorizing or encouraging a Receiving Party in this action to
10 disobey a lawful directive from another court.

11 9. UNAUTHORIZED OR INADVERTENT DISCLOSURE OF PROTECTED
12 MATERIAL

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

20 Acceptance by a party or its attorney of information disclosed under designation as
21 protected shall not constitute an admission that the information is, in fact, entitled to protection.
22 Inadvertent disclosure of information which the disclosing party intended to designate as
23 protected shall not constitute waiver of any right to claim the information as protected upon
24 discovery of the error. The inadvertent production of any privileged material shall not be
25 deemed a waiver or impairment of any claim of privilege with respect to that material, including,
26 but not limited to, the attorney-client privilege and/or work-product doctrine. Any party or its
27 counsel recognizing that he/she/it has obtained material containing in whole or in part
28 information protected by the attorney-client privilege and/or work-product doctrine that appears

1 to have been inadvertently disclosed shall not read or review the privileged material but shall
2 immediately return the material to the producing party. Within ten (10) business days of
3 receiving written notice from a person or party who represents that he/she/it has inadvertently
4 produced any privileged material, the recipient(s) of such request shall return the original and all
5 copies of such inadvertently produced privileged material within his/her/its possession, custody,
6 or control.

7
8 **10. FILING PROTECTED MATERIAL.**

9 Without written permission from the Designating Party or a court order secured after
10 appropriate notice to all interested persons, a Party may not file in the public record in this action
11 any Protected Material. A Party that seeks to file under seal any Protected Material must comply
12 with Civil Local Rule 79-5.

13 **11. FINAL DISPOSITION.**

14 Unless otherwise ordered or agreed in writing by the Producing Party, within sixty days
15 after the final termination of this action, each Receiving Party must return all Protected Material
16 to the Producing Party or destroy such material. As used in this subdivision, “all Protected
17 Material” includes all copies, abstracts, compilations, summaries or any other form of
18 reproducing or capturing any of the Protected Material. Whether the Protected Material is
19 returned or destroyed, the Receiving Party must submit a written certification to the Producing
20 Party (and, if not the same person or entity, to the Designating Party) by the sixty day deadline
21 that identifies (by category, where appropriate) all the Protected Material that was returned or
22 destroyed and that affirms that the Receiving Party has not retained any copies, abstracts,
23 compilations, summaries or other forms of reproducing or capturing any of the Protected
24 Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all
25 pleadings, motion papers, transcripts, legal memoranda, correspondence or attorney work
26 product, even if such materials contain Protected Material. Any such archival copies that contain
27 or constitute Protected Material remain subject to this Protective Order as set forth in Section 4
28 (DURATION), above.

12. MISCELLANEOUS

1 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
2 person to seek its modification by the Court in the future.

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

8 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.
9

10 Dated: February 4, 2011

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

12 By: /s/ Colleen Bal
Colleen Bal

14 Attorneys for Plaintiff
SHAKLEE CORPORATION

15 Dated: February 4, 2011

O'MELVENY & MYERS LLP

17 By: /s/ Ryan J. Padden
Ryan J. Padden

19 Attorneys for Defendants
HARPERCOLLINS PUBLISHERS LLC and
CYNTHIA SASS

21 PURSUANT TO STIPULATION, IT IS SO ORDERED.

22 DATED: February 7, 2011 _____



23 _____
The Honorable Paul S. Grewal
United States District Judge

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address],

declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Northern District of California on _____ in the case of Shaklee Corp. v. HarperCollins Publishers LLC, *et al.*, Case No. 11-00144-PSG. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

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

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

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____

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DECLARATION OF CONSENT

Pursuant to General Order 45, the undersigned certifies that concurrence in the filing of the document was obtained from each of the other signatories.

Dated: February 4, 2011

By: /s/ Anthony Weibell
Anthony Weibell