

1 GORDON SILVER
 JOHN L. KRIEGER
 2 Nevada Bar No. 6023
 Email: jkrieger@gordonsilver.com
 3 JUSTIN J. BUSTOS
 Nevada Bar No. 10320
 4 Email: jbustos@gordonsilver.com
 JOEL Z. SCHWARZ
 5 Nevada Bar No. 9181
 Email: jschwarz@gordonsilver.com
 6 3960 Howard Hughes Pkwy., 9th Floor
 Las Vegas, Nevada 89169
 7 Tel: (702) 796-5555
 Fax: (702) 369-2666

8 *Attorneys for Plaintiffs*

9
10 **UNITED STATES DISTRICT COURT**

11 **DISTRICT OF NEVADA**

12 FYI MEDIAWORLD PHOTOGRAPHIC, a
 Nevada partnership; and FRANK ILLES, an
 13 individual,

CASE NO. 2:14-cv-0541-LDG-PAL

14 Plaintiffs,

15 vs.

16 BEVEE, LLC, a Washington limited liability
 company; SASHA MUIR, an individual; and DT
 17 LEVY, an individual,

18 Defendants.
 19

20 **STIPULATED PROTECTIVE ORDER**

21 Plaintiffs, FYI mediaworld Photographic and Frank Illes (collectively, “Plaintiffs”), and
 22 Defendants, Bevee, LLC, Sasha Muir, and DT Levy (collectively, “Defendants”), through their
 23 respective counsel, hereby stipulate and agree to the following Protective Order pursuant to
 24 Federal Rule of Civil Procedure 26(c):

25 1. **Definitions:**

26 (a) “Confidential Information” means any information, document, electronic data,
 27 testimony, or inspection that is designated and/or marked as “CONFIDENTIAL” in good faith
 28 by the party producing the materials. Any information, document, electronic data, testimony, or

1 inspection produced by a party in this litigation may be designated and marked as Confidential
2 Information; provided, however, that notwithstanding any such designation or marking,
3 Confidential Information does not include information that is readily available, in the public
4 domain at the time it was communicated, and/or publicly disclosed by the party producing it.

5 (b) "Qualified Persons" means:

6 (i) attorneys of record for the parties and persons employed by the law firm
7 of the attorneys of record who are assigned by the attorney of record to perform work for
8 the attorney on the matter;

9 (ii) a party or any representative of a party responsible for or involved in the
10 conduct of this litigation, provided that Confidential Information disclosed to any such
11 person shall be limited to that which reasonably relates to his or her role in the litigation;

12 (iii) stenographic reporters performing work related to this litigation;

13 (iv) expert witnesses or prospective expert witnesses, except that Confidential
14 Information disclosed to such persons shall be limited to that reasonably necessary for
15 them to form an opinion or prepare their testimony as to the matters about which the
16 attorney retained or may retain them;

17 (v) consultants retained by the parties to assist the attorneys of record, except
18 that Confidential Information disclosed to such persons shall be limited to that which
19 reasonably relates to the issues or subjects of the consultation;

20 (vi) persons reasonably expected to testify at a hearing or trial, except that
21 Confidential Information disclosed to such persons shall be limited to that which is
22 reasonably necessary for their testimony or its preparation; and

23 (vii) such persons as hereafter are qualified to receive Confidential Information
24 by Court order or agreement of the parties.

25 2. Use and Disclosure:

26 (a) Absent a specific order by this Court, or written permission from the designating
27 party, information once designated as Confidential Information shall be used by Qualified
28 Persons solely in connection with this litigation, and not for any business, competitive, or

1 governmental purpose or function and such information shall not be disclosed to anyone except
2 as provided herein.

3 (b) Confidential Information shall not be disclosed to anyone other than a Qualified
4 Person. Prior to disclosure, each Qualified Person, except those identified in paragraphs 1(c)(i),
5 (ii), (iii), and (vi), shall first execute an acknowledgment in the form attached as **Exhibit A**. The
6 original executed acknowledgment shall be retained by the attorney disclosing the Confidential
7 Information, and a copy thereof forwarded to the opposing attorney.

8 (c) In the event that Confidential Information is disclosed to a person who is not
9 authorized to receive it, such disclosure shall not affect the confidentiality of the information or
10 of other properly designated materials. The party and/or person disclosing the information shall
11 immediately notify the attorney of record for the other party about the substance and content of
12 the information disclosed and the identify of all recipients of such information, and shall make
13 all reasonable efforts to have all recipients return all information disclosed and/or execute an
14 acknowledgment in the form attached hereto as **Exhibit A**.

15 (d) Anyone who has Confidential Information shall maintain it in a locked filing
16 cabinet, briefcase, or other secure and enclosed storage receptacle, except when the information
17 is in active and immediate use.

18 3. Discovery Proceedings:

19 (a) All answers to interrogatories, requests for the production of documents and
20 things, requests for admissions, and all documents or things produced, which constitute,
21 comprise or contain Confidential Information shall be so identified and marked prominently by
22 the disclosing party. Such identification or marking shall be made at the time that the answer,
23 document or thing is produced.

24 (b) In the case of depositions, the attorney of record for the disclosing party shall
25 advise the opposing attorney of record of the specific pages claimed to fall within the terms of
26 this Protective Order either during the deposition or within thirty (30) days of receiving the
27 transcript of the deposition. If not so designated during the deposition, the entire deposition
28 transcript shall remain confidential during that thirty-day period. The entire deposition transcript

1 may be designated as Confidential Information if it so qualifies. Parties to this litigation may
2 attend any deposition, and shall only be precluded from monitoring deposition responses to those
3 questions deemed Highly Confidential during the course of the deposition or in transcripts.

4 (c) Only Qualified Persons authorized to receive Confidential Information may be
5 deposed with respect to Confidential Information, and only Qualified Persons authorized to
6 receive Confidential Information may be present during such portions of such depositions. A
7 reporter recording any Confidential Information, or incorporating such information into the
8 transcript, shall transmit the transcript only to the attorneys of record for the parties. Such
9 transcripts shall not be filed with the Court, except under the terms set forth herein.

10 4. Failure to Identify or Mark: If a party produces a document or information constituting,
11 comprising or containing Confidential Information without identifying and marking it as such,
12 the disclosing party may so identify and mark such document or information at any time
13 thereafter without waiver or prejudice to such rights as may thereafter arise under this
14 Agreement.

15 5 Inadvertent Disclosure.

16 If, through inadvertence, a producing party provides any “Confidential” material in this
17 litigation without marking the information as “Confidential,” the producing party may
18 subsequently inform the receiving party in writing of the “Confidential,” nature of the disclosed
19 information, and the receiving party shall treat the disclosed information in accordance with this
20 Order after receipt of such written notice and make reasonable efforts to retrieve any such
21 material that has been inadvertently disclosed to persons not authorized to receive the material
22 under the terms hereof. A party objecting to any such designations shall follow the procedures
23 set forth above. Prior disclosure of material later designated shall not constitute a violation of this
24 Order. If “Confidential” material is disclosed to any person other than in the manner authorized
25 by this Order, the person responsible for disclosure must immediately bring all pertinent facts
26 relating to such disclosure to the attention of counsel for the producing party and, if appropriate,
27 to the Court and, without prejudice to other rights and remedies of any party, take reasonable and
28 appropriate measures to prevent further disclosure by it or by the person who was the recipient of

1 such information. The person making such disclosures shall be responsible for any damages
2 caused to the producing party by virtue of such disclosure.

3 Inadvertent disclosure of privileged or protected trial-preparation materials shall be
4 governed by Fed. R. Civ. P. 26(b)(5)(B).

5 6. Challenges: The attorney of record for the party receiving Confidential Information may,
6 at any time, give written notice to the attorney of record for the party that produced the
7 information that the receiving party challenges the designation of the information. If the parties
8 cannot resolve the dispute amicably, then the requesting party may file a motion seeking an
9 Order of the Court with respect to the information in question. The party who designated the
10 information shall bear the burden of demonstrating that the designation is appropriate. The party
11 challenging the designation shall treat the information as being properly designated hereunder
12 until the Court rules otherwise.

13 7. Filing Confidential Information With the Court:

14 A party seeking to file a confidential document under seal must file a motion to seal and
15 must comply with the Ninth Circuit's directives in *Kamakana v. City and County of Honolulu*,
16 447 F.3d 1172 (9th Cir. 2006). The Court has adopted electronic filing procedures, and with a
17 few exceptions not applicable here, the Clerk of the Court no longer maintains paper records.
18 Special Order 109 requires the Clerk of the Court to maintain the official files for all cases filed
19 on or after November 7, 2005, in electronic form. The electronic record constitutes the official
20 record of the court. Attorneys must file documents under seal using the Court's electronic filing
21 procedures. *See* LR 10-5(b). That rule provides:

22 Unless otherwise permitted by statute, rule or prior Court order, papers filed with
23 the Court under seal shall be accompanied by a motion for leave to file those
24 documents under seal and shall be filed in accordance with the Court's electronic
25 filing procedures. If papers are filed under seal pursuant to prior Court order, the
26 papers shall bear the following notation on the first page, directly under the case
27 number: "FILED UNDER SEAL PURSUANT TO COURT ORDER DATED
28 _____." All papers filed under seal will remain sealed until such
time as the Court may deny the motion to seal or enter an order to unseal them, or
the documents are unsealed pursuant to Local Rule.

Id. Documents filed under seal are not accessible to the public.

1 If the sole ground for a motion to seal is that the opposing party (or non-party) has
2 designated a document as confidential, the opposing party (or non-party) shall file a declaration
3 establishing good cause for the sealing along with a proposed order, or shall withdraw the
4 designation. The declaration shall be filed within seven days of service on the opposing party (or
5 non-party) of the request for a sealing order. If the declaration is not filed as required, the Court
6 may order the document filed in the public record.

7 The parties shall comply with the requirements of LR 10-5(b), the Ninth Circuit's
8 decision in *Kamakana*, 447 F.3d 1172, and the procedures outlined above, with respect to any
9 documents filed under seal.

10 8. Retention of Jurisdiction. Jurisdiction is to be retained by this Court after final
11 determination of this action for purposes of enabling any party or person affected by this Order
12 to apply to the Court for such direction, order or further decree as may be appropriate for the
13 construction, modification, enforcement or compliance herewith or for the punishment of any
14 violation hereof, or for such additional relief as may become necessary.

15 9. Further Order: Nothing herein shall preclude any party from applying to the Court for any
16 appropriate modification hereof; provided, however, that prior to such application, the parties
17 shall certify in writing that they have endeavored unsuccessfully to resolve the matter.

18 10. Scope: This Order shall govern only the pretrial proceedings in this matter. The handling
19 of Confidential Information at trial and thereafter shall be governed by a later Court order.

20 11. Return of Information: Upon termination of this action and all timely filed direct appeals,
21 the Court shall return all documents containing Confidential Information to the attorney of
22 record for the party who filed such document. Further, upon termination of this action, all
23 materials containing or comprising Confidential Information, and any copies thereof, in the
24 possession of any party, attorney or person shall be returned to the attorney of record for the
25 party who produced the information, or shall be destroyed if the attorney of record for the party
26 who produced the information authorizes such destruction; provided, however, that attorneys of
27 record may retain their attorney work product that contains or comprises such materials. The
28 restrictions of this Protective Order shall continue to apply to any such Confidential Information

1 retained by an attorney.

2 12. Other Proceedings. If any party, attorney or person is requested to disclose Confidential
3 Information pursuant to a subpoena, order of a court of competent jurisdiction, or otherwise, that
4 party, attorney or person shall give notice of such request to the attorney of record of the party
5 who produced the information at least twenty (20) business days prior to any scheduled date for
6 the disclosure of the information. In the event that the period for the requested disclosure is
7 shorter than twenty (20) business days, the party, attorney or person shall give the attorney of
8 record for the party who produced the information immediate notice of the request upon its
9 receipt.

10 IT IS SO STIPULATED.

11 DATED this 20th day of February, 2015.

DATED this 20th day of February, 2015.

12 GORDON SILVER

FABIAN & CLENDENIN, P.C.

14 /s/ John L. Krieger

/s/ Mark P. Walters

15 JOHN L. KRIEGER

Jeffrey B. Setness, Esq.

16 Nevada Bar No. 6023

601 South Tenth Street, Suite 204

17 JUSTIN J. BUSTOS

Las Vegas, NV 89101

18 Nevada Bar No. 10320

Email: jsetness@fabianlaw.com

19 JOEL Z. SCHWARZ

Mark P. Walters, Esq. (admitted *pro hac vice*)

20 Nevada Bar No. 9181

LOWE GRAHAM JONES PLLC

21 3960 Howard Hughes Pkwy., 9th Floor

701 5th Avenue Suite 4800

22 Las Vegas, Nevada 89169

Seattle, Washington 98104

23 *Attorneys for Plaintiffs*

Email: Walters@LoweGrahamJones.com

Attorneys for Defendants

24 IT IS SO ORDERED:

25 
26 UNITED STATES MAGISTRATE JUDGE

27 DATED: March 18, 2015

1 **EXHIBIT A**

2
3 **UNITED STATES DISTRICT COURT**

4 **DISTRICT OF NEVADA**

5 FYI MEDIAWORLD PHOTOGRAPHIC, a
6 Nevada partnership; and FRANK ILLES, an
individual,

CASE NO. 2:14-cv-0541-LDG-PAL

7 **Plaintiffs,**

8 vs.

9 BEVEE, LLC, a Washington limited liability
10 company; SASHA MUIR, an individual; and DT
LEVY, an individual,

11 **Defendants.**

12
13 **ACKNOWLEDGMENT OF PROTECTIVE ORDER**

14
15 I, _____, agree and acknowledge that I am bound by the terms of
16 the Protective Order entered by the Court in the above-captioned matter. I specifically and
17 expressly agree and acknowledge as follows:

18 1. I have read the entire Protective Order. I fully understand the terms of that Order,
19 and the obligations that I am entering into pursuant to it.

20 2. I agree not to disclose Confidential Information to any other person, except to the
21 extent that I am specifically instructed to do so, in writing, by an attorney of record in this
22 matter.

23 3. I agree not to use Confidential Information in any manner whatsoever, except for
24 the sole purpose of performing my responsibilities in this litigation. In other words, I agree to use
25 Confidential Information solely for the specific purpose of this litigation. I agree that, after this
26 litigation ends, I will immediately return any and all Confidential Information within my
27 possession, custody or control to a counsel of record in this case without retaining any copy.

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4. I agree that I will submit to the jurisdiction of this Court, and that, if I breach the terms of the Protective Order, I will be subject to civil sanctions in this Court.

I declare under penalty of perjury that the foregoing is true and correct.

Date_____