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Judge Ronald B. Leighton

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CRAIG S. HOPPER,)	NO. C08-5715 RBL
)	
Plaintiff,)	STIPULATION AND
)	PROTECTIVE ORDER
v.)	
)	
THE UNITED STATES OF AMERICA,)	
et al.,)	
)	
Defendants.)	

Plaintiff Craig S. Hopper, by and through his counsel, James A. Conley and Richard D. Wurdeman; Defendants IAP Worldwide Services, Inc. and IAP World Services, Inc., by and through their counsel, Clarence C. Jones and Gregory B. Curwen; and Federal Defendant United States of America, by and through Jeffrey C. Sullivan, United States Attorney for the Western District of Washington, and Patricia D. Gugin, Assistant United States Attorney for said District, stipulate and agree to the following:

- This Stipulation and Order is agreed to and entered pursuant to Fed. R. Civ. P. 26(c), which provides for the issuance of protective orders limiting the disclosure of privileged and confidential documents and information in appropriate circumstances, and 5 U.S.C. §§ 552a(b)(11) and (g)(1), which provide an exception to the Privacy Act of 1974 for documents and information released pursuant to a court order.
- This Stipulation and Order relates to a tort action brought against the United States pursuant to the Federal Tort Claims Act and against IAP Worldwide Services, Inc. and IAP

1 World Services, Inc. pursuant to the common law. This action arises from a vehicular accident
2 that occurred on December 22, 2005 at the Bangor Naval Base.

3 3. Plaintiff has commenced discovery which seeks disclosure of documents and information
4 that the United States contends may be protected from release by the Privacy Act of 1974,
5 5 U.S.C. § 552a.

6 4. While the United States contends that disclosure of such documents and records
7 ordinarily is prohibited in civil litigation, the Privacy Act provides, as an exception, that such
8 records may be released “pursuant to the order of a court of competent jurisdiction.” 5 U.S.C.
9 § 552a(b)(11). An order of this Court would therefore provide a basis for release of the
10 requested documents and records to the parties pursuant to the Privacy Act and Fed. R. Civ. Pro.
11 26(c), as well as insulate the United States from potential liability for improper disclosure.
12 *See* 5 U.S.C. § 552a(g)(1).

13 5. The purposes of this Stipulation and Order include protecting the confidentiality of
14 certain documents and information, protecting the identities of employees and others, and
15 ensuring that the parties can obtain and pursue discovery with a minimum of delay and expense.
16 Accordingly, the parties, subject to the Court’s approval, stipulate and agree that the procedures
17 set out in the ensuing paragraphs shall be followed with respect to information and documents
18 contained in personnel records or other records, and may be followed for other documents and
19 information upon agreement of counsel for the parties, when counsel for the United States
20 believes that formal or informal discovery in this case, in whatever form, may reveal documents
21 or information that may be protected by the Privacy Act.

22 6. When used in this Stipulation and Order, the word “documents” means all written,
23 recorded, or graphic matter whatsoever, including but not limited to interrogatory answers;
24 requests for admissions and responses thereto; documents produced by the United States in this
25 action whether pursuant to Rule 34, subpoena, or by agreement; deposition transcripts and
26 exhibits; and any portion of any court papers which quote from any of the foregoing.

27 7. All documents designated as “CONFIDENTIAL” by counsel for the United States shall
28 be subject to this Stipulation and Order and shall be used solely in connection with this lawsuit.

1 No document or information contained in a document designated as “CONFIDENTIAL” may be
2 released or disclosed to any person other than:

- 3 a. the parties and their counsel in this action;
- 4 b. secretaries, paralegal assistants, and other employees and agents of the parties’
5 counsel who are engaged in assisting counsel in the preparation of this action;
- 6 c. persons who provided the confidential information;
- 7 d. outside consultants and experts consulted or retained for the purpose of assisting in
8 the preparation of this action, upon condition that, before making disclosure, the
9 parties’ counsel must obtain and retain an agreement in writing from the outside
10 expert or consultant reciting that he or she has read a copy of this Stipulation and
11 Order and agrees to be bound by its provisions; and
- 12 e. any other person mutually authorized by counsel for all the parties to examine such
13 materials.

14 8. Any person having access to confidential information shall be informed that it is
15 confidential and subject to a non-disclosure Order of the Court. No such person shall release or
16 disclose those materials to any person other than those specifically identified in paragraph 7,
17 above, without further order of the Court or stipulation of the parties.

18 9. Nothing in this Stipulation and Order shall bar or otherwise restrict the parties’ counsel
19 from rendering advice to their respective client with respect to this litigation, doing anything
20 necessary to prosecute this action, or furthering the interests of her/his client, provided, however,
21 that the parties’ counsel shall not release or disclose any confidential document to the parties,
22 nor disclose any confidential document (or information derived therefrom) to any other person
23 where disclosure would be contrary to the terms of this Stipulation and Order.

24 10. If the parties’ counsel intend to file any motion, opposition, reply or any other filing with
25 the Court and attach thereto or set forth therein any document or information that the United
26 States has designated as confidential, counsel shall comply with the Court Rules and file a
27 motion to file the document under seal.

28 11. Within sixty days of the conclusion of this litigation, including any appeals therefrom,

1 any originals or reproductions of any confidential documents provided to the parties' counsel
2 pursuant to this Stipulation and Order shall be destroyed by counsel or returned to the custody of
3 counsel for the United States. If the documents are destroyed, counsel shall so notify the United
4 States' counsel in writing.

5 13. Any specific part or parts of the restrictions imposed by this Stipulation and Order may be
6 terminated at any time by a letter from counsel for the United States to the parties' counsel, or by
7 an order of the Court.

8 14. If necessary and appropriate, and with the Court's approval, the parties will file a revised
9 Stipulation and Order prior to trial to address any circumstances at trial not specifically covered
10 by this Stipulation and Order.

11 15. This Stipulation and Order is without prejudice to the rights of any party to seek or object
12 to discovery permitted by Federal Rules of Civil Procedure, or by any statute or other authority,
13 or to the rights of any party to make evidentiary objections at trial.

14
15 EXECUTED this 18th day of June, 2009.

16
17 JEFFREY C. SULLIVAN
18 United States Attorney

19 s/Patricia D. Gugin
20 PATRICIA D. GUGIN
21 Assistant United States Attorney
22 Attorney for Federal Defendant
23 United States of America

24 s/James A. Conley
25 JAMES A. CONLEY
26 Attorney for Plaintiff
27 Craig S. Hopper

28 s/Richard D. Wurdeman
RICHARD D. WURDEMAN
Attorney for Plaintiff
Craig S. Hopper

s/Clarence C. Jones
CLARENCE C. JONES
Attorney for Defendants IAP World Services,
Inc.
And IAP Worldwide Services, Inc.

s/Gregory B. Curwen
GREGORY B. CURWEN
Attorney for Defendants IAP World Services,
Inc.
And IAP Worldwide Services

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PROTECTIVE ORDER

Based upon the foregoing Stipulation, IT IS SO ORDERED.

DATED this 19th day of June, 2009.


RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE