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HONORABLE ROBERT J. BRYAN

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT TACOMA

DENNIS BALSLEY,	)	
	)	No. C09-5168 RJB
Plaintiff,	)	
	)	
vs.	)	STIPULATION FOR PROTECTIVE
	)	ORDER
BNSF RAILWAY COMPANY, a Delaware	)	AND ORDER
Corporation,	)	
	)	
Defendant.	)	
	)	
	)	
	)	

**I. STIPULATION**

To protect the confidentiality of information contained in discovery materials produced, and other information disclosed, through discovery in this litigation, the parties through their counsel of record stipulate to entry of a Protective Order which provides as follows:

1. BNSF is producing documents to plaintiff pursuant to this Court's Order dated October 4, 2010 on plaintiff's second motion to compel. Such documents are comprised of incident and/or injury reports which contain information relating to BNSF employees who are not parties to this lawsuit. The parties do therefore stipulate that the information contained in

1 those documents (BNSF 001144-1557) shall not be used for purposes outside of litigation with  
2 BNSF.

3 2. BNSF is also producing to plaintiff, in response to plaintiff's written request for  
4 production, a copy of the train movement replay ("replay") identified in the 30(b)(6) deposition  
5 of Scott Unick in this lawsuit. The BNSF replay depicts train movement near Kelso/Longview  
6 on April 8, 2006. The replay is deemed Security Sensitive Information to BNSF due to data  
7 contained therein that unauthorized parties could use to harm BNSF through the process known  
8 as reverse engineering. Such information is considered proprietary information of BNSF.

9 3. It is stipulated by the parties that the above-referenced train movement replay  
10 shall not be used or disclosed by plaintiff to any individuals not involved in this lawsuit and  
11 identified to BNSF prior to disclosure of the replay to them. Subject to the agreement of BNSF  
12 which shall not be unreasonably withheld, such individuals shall be deemed authorized and shall  
13 be bound by the provisions of this Stipulation for Protective Order.

14 4. This Protective Order shall not prevent the replay from being offered  
15 or received as evidence at trial, subject to such confidentiality measures as the Court may then  
16 prescribe, if any. But for such use at trial, the replay shall continue to be treated in accordance  
17 with this Stipulation for Protective Order. However, nothing contained in this Stipulation for  
18 Protective Order affects in any way or to any degree the admissibility of any discovery material  
19 or any information disclosed under the terms of this Stipulation and Order. The admissibility  
20 of such material and information shall be governed by the Rules of Evidence and Procedure in  
21 the same manner as any other potential evidence in the case.

22  
23 Dated this 14<sup>th</sup> day of October, 2010.

Dated this 14<sup>th</sup> day of October,  
24 2010.

25  
26 /s/ Paul Bovarnick  
27 Paul Bovarnick, WSBA # 32706  
Attorney for Plaintiff

/s/ Bradley Scarp  
Bradley Scarp, WSBA # 21453  
Kelsey E. Endres, WSBA # 39409

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6 **II. ORDER**

7 IT IS SO ORDERED.

8 Dated this 14<sup>th</sup> day of October, 2010.

9  
10   
11 Robert J. Bryan  
12 United States District Judge

13 Presented By:

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