

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Plaintiff,)
v.) Civil Action No.
Defendant.)

PROTECTIVE ORDER

To facilitate discovery in this matter, and pursuant to Federal Rules of Civil Procedure 26(c) and 37(b),

IT IS HEREBY ORDERED as follows:

1. Designation of Information as Confidential. Any person or entity producing or disclosing information in response to a discovery request in this action that has a good faith basis for believing that the information contains nonpublic, confidential, proprietary, commercially sensitive, or trade secret information, may designate that information as “Confidential Information” and disclose it pursuant to the terms of this order.

2. Stipulation Providing for the Disclosure and Use of Confidential Information. The parties may file a stipulation setting out their agreement on the handling and use of Confidential Information, and may include in the stipulation terms and conditions by which they propose to handle and use Confidential Information received in discovery from a person or entity that is not a party to this action. The

parties may include in that stipulation a form for an agreement by which a person receiving information consents to be subject to the jurisdiction of this Court for the purposes of enforcing this order.

3. Disclosure of Confidential Information. Unless otherwise agreed to in writing by the person or entity that produces or discloses Confidential Information, or until the Court orders otherwise, any party, person, or entity receiving Confidential Information shall use it only for purposes of litigating this case and shall not disclose that information to anyone other than as permitted to counsel of record and the members and employees of their firms.

4. Disputes Relating to Disclosure and Use of Confidential Information. This order does not change a producing party's burden to establish that information is confidential and subject to this order pursuant to Fed.R.Civ.P. 26. At any time any person or entity may challenge a designation of "confidential information" and move for relief. Counsel should expect the Court will hear and resolve such motions promptly.

5. Filing of Papers under Seal. Any papers containing Confidential Information which a party chooses to file with the Court shall be filed under seal with a legend that identifies this order.

6. Trial. Counsel should address in the pretrial order how they propose to handle the use and disclosure of Confidential Information at trial.

7. Other Proceedings. By entering this order and limiting the disclosure of information in this case, the Court does not intend to preclude another court from finding that the same information may be relevant and subject to disclosure in another case. Any person or party subject to this order who becomes subject to a motion to disclose

another party's information designated "confidential" pursuant to this order shall promptly notify that party of the motion so that the party may have an opportunity to appear and be heard on whether that information should be disclosed.

UNITED STATES DISTRICT JUDGE

Dated: