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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JAMIE PETTY,

Plaintiff,

vs.

STEPHEN WILL ASHCROFT and ROBERT
CAPUTO,

Defendants.

Case No.: 2:18-cv-01323-JAD-VCF

**STIPULATED
PROTECTIVE ORDER**

Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, and the Order of the Court, and for good cause, IT IS HEREBY STIPULATED THAT:

1. PURPOSES AND LIMITATIONS

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles.

2. DEFINITIONS

2.1 Challenging Party: a Party that challenges the designation of information or items under this Order.

2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c) including any information that constitutes, reflects, or discloses non-public, trade secrets, know-how, proprietary data, marketing information, financial information, and/or commercially sensitive business information or data which unprotected disclosure of might

1 result in economic or competitive injury and which is not publicly known and cannot be
2 ascertained from an inspection of publicly available documents, materials, or devices.
3 Confidential Information shall also include sensitive personal information that is not otherwise
4 publicly available, such as home addresses; Social Security numbers; dates of birth; employment
5 personnel files; medical information; home telephone records/numbers; employee disciplinary
6 records; wage statements or earnings statements; employee benefits data; tax records; and other
7 similar personal financial information. A party may also designate as “CONFIDENTIAL”
8 compilations of publicly available discovery materials, which would not be known publicly in a
9 compiled form.

10 2.3 Counsel (without qualifier): Outside Counsel of Record and In-House Legal
11 Department Personnel (as well as their support staff, including, but not limited to, attorneys,
12 paralegals, secretaries, law clerks, and legal interns).

13 2.4 Designating Party: a Party that designates information or items that it produces in
14 disclosures or in responses to discovery as “CONFIDENTIAL.”

15 2.5 Disclosure or Discovery Material: all items or information, regardless of the
16 medium or manner in which it is generated, stored, or maintained (including, among other things,
17 testimony, transcripts, and tangible things), that are produced or generated in disclosures or
18 responses to discovery in this matter.

19 2.6 Expert or Consultant: a person with specialized knowledge or experience in a
20 matter pertinent to the litigation, along with his or her employees and support personnel, who (1)
21 has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this
22 action, (2) is not a current employee of a Party or of a Party’s competitor, and (3) at the time of
23 retention, is not anticipated to become an employee of a Party or of a Party’s competitor. The
24 Parties are not prohibited from retaining an Expert or Consultant who is a former employee of a
25 Party or of a Party’s competitor, provided that, at least five business days prior to retention,
26 Counsel intending to retain such Expert or Consultant shall provide written notice to Counsel for
27 the Party which had previously employed such person, in order to allow that Party an opportunity
28 to protect itself and the confidentiality of any information which such prospective Expert or

1 Consultant may have obtained during his or her employment. The Party receiving such notice shall
2 have 30 days to seek judicial intervention with respect to legitimate issues concerning the
3 protection of any confidential information which such Expert or Consultant may have obtained
4 during his or her employment. The definition of Expert or Consultant includes a professional jury
5 or trial consultant retained in connection with this litigation.

6 2.7 HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES ONLY Information or Items:
7 a Party’s extremely sensitive, highly confidential, non-public information, consisting either of
8 trade secrets or other highly confidential information directly concerning business plans, strategies,
9 revenues or costs, disclosure of which would create a substantial risk of significant competitive or
10 business injury to the Designating Party that could not be avoided by less restrictive means.

11 2.8 In-House Legal Department Personnel: attorneys and other personnel employed by
12 a Party to perform legal functions and who are responsible for overseeing or assisting in this
13 litigation for such Party. In-House Legal Department Personnel does not include Outside Counsel
14 of Record or any other outside counsel.

15 2.9 Outside Counsel of Record: attorneys, along with their paralegals, and other
16 support personnel, who are not employees of a party to this action but are retained to represent or
17 advise a party to this action and have appeared in this action on behalf of that party or are affiliated
18 with a law firm that has appeared on behalf of that party.

19 2.10 Party: any party to this action, including all of its officers, directors, managers, and
20 employees.

21 2.11 Producing Party: a Party that produces Disclosure or Discovery Material in this
22 action.

23 2.12 Professional Vendors: persons or entities that provide litigation support services
24 (e.g., photocopying, videotaping, transcription, court reporting, translating, preparing exhibits or
25 demonstrations, and organizing, storing, or retrieving documents or data in any form or medium)
26 and their employees and subcontractors.

27 2.13 Protected Material: any Disclosure or Discovery Material that is designated as
28 “CONFIDENTIAL” or as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” Such

1 material is referred to as designated for “protection.”

2 2.14 Receiving Party: a Party that receives Disclosure or Discovery Material from a
3 Producing Party.

4 3. **SCOPE**

5 The protections conferred by this Stipulation and Order cover not only Protected Material
6 (as defined above), but also (1) any information copied or extracted from Protected Material; (2)
7 all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony,
8 conversations, or presentations by Parties or their Counsel that might reveal Protected Material.
9 However, the protections conferred by this Stipulation and Order do not cover the following
10 information: (a) any information that is in the public domain at the time of disclosure to a
11 Receiving Party or becomes part of the public domain after its disclosure to a Receiving Party as
12 a result of publication not involving a violation of this Order, including becoming part of the public
13 record through trial or otherwise; and (b) any information known to the Receiving Party prior to
14 the disclosure or obtained by the Receiving Party after the disclosure from a source who obtained
15 the information lawfully and under no obligation of confidentiality to the Designating Party. Any
16 use of Protected Material at trial shall be governed by a separate agreement or order.

17 4. **DURATION**

18 Even after final disposition of this litigation and Case No. 01-18-0002-7177 before the
19 American Arbitration Association (the “Arbitration”), the confidentiality obligations imposed by
20 this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court
21 order otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all
22 claims and defenses in this action and the Arbitration, with or without prejudice; and (2) final
23 judgment in this action and the Arbitration after the completion and exhaustion of all appeals,
24 rehearings, remands, trials, or reviews of this action, including the time limits for filing any
25 motions or applications for extension of time pursuant to applicable law.

26 5. **DESIGNATING PROTECTED MATERIAL**

27 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party
28 or Non- Party that designates information or items for protection under this Order must take care

1 to limit any such designation to specific material that qualifies under the appropriate standards.

2 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
3 shown to be clearly unjustified or that have been made for an improper purpose (e.g., to
4 unnecessarily encumber or retard the case development process or to impose unnecessary expenses
5 and burdens on other parties) expose the Designating Party to sanctions. Notwithstanding the
6 preceding sentence, the Designating Party may designate for protection an entire document or item
7 that contains “CONFIDENTIAL” Information.

8 If it comes to a Designating Party’s attention that information or items that it designated
9 for protection do not qualify for the protection initially asserted, that Designating Party must
10 promptly notify all other Parties that it is withdrawing the mistaken designation.

11 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order
12 (see, e.g., paragraph 5.2(a), below), or as otherwise stipulated or ordered, material that qualifies
13 for protection under this Order must be clearly so designated before the material is disclosed or
14 produced. Notwithstanding the preceding sentence, should a Producing Party discover that it
15 produced material that was not designated as Protected Material or that it produced material that
16 was designated as Protected Material but had designated that Protected Material in the incorrect
17 category of Protected Material, the Producing Party may notify all Parties, in writing, of the error
18 and identify (by bates number or other individually identifiable information) the affected
19 documents and their new designation or re-designation. Thereafter, the material so designated or
20 re-designated will be treated as Protected Material. Promptly after providing such notice, the
21 Producing Party shall provide re-designated copies of the material to each Receiving Party
22 reflecting the change in designation. The Receiving Party will replace the incorrectly designated
23 material with the newly designated materials and will destroy the incorrectly designated materials.

24 Designation in conformity with this Order requires:

25 (a) for information in documentary form (e.g., paper or electronic documents, but
26 excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing Party
27 affix the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
28 ONLY.”

1 A Party that makes original documents or materials available for inspection need not
2 designate them for protection until after the inspecting Party has indicated which material it would
3 like copied and produced. During the inspection and before the designation, all of the material
4 from the Party made available for inspection shall be deemed “CONFIDENTIAL” or “HIGHLY
5 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” After the inspecting Party has identified the
6 documents it wants copied and produced, the Producing Party or Non- Party must determine which
7 documents, or portions thereof, qualify for protection under this Order. Then, before producing the
8 specified documents, the Producing Party must affix the appropriate legend (“CONFIDENTIAL”
9 or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”) to the first page of each
10 document and on each page that contains Protected Material.

11 (b) for testimony given in deposition or in other pretrial or trial proceedings, that the
12 Designating Party identify on the record, before the close of the deposition, hearing, or other
13 proceeding, all protected testimony. When it is impractical to identify separately each portion of
14 testimony that is entitled to protection and/or it appears that substantial portions of the testimony
15 may qualify for protection, the Designating Party may invoke on the record (before the deposition,
16 hearing, or other proceeding is concluded) a right to have up to 30 days after receipt of the draft
17 transcript to identify the specific portions of the testimony as to which protection is sought. Only
18 those portions of the testimony that are appropriately designated for protection within the 30 days
19 shall be covered by the provisions of this Stipulated Protective Order. Alternatively, at the
20 deposition or up to 30 days afterwards if that period is properly invoked, a Designating Party may
21 specify that the entire transcript shall be treated as “CONFIDENTIAL” or “HIGHLY
22 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” provided such designation does not violate
23 paragraph 5.1 above.

24 Parties shall give the Designating Party notice if they reasonably expect a deposition,
25 hearing or other proceeding to include Protected Material. For documents or items designated
26 “CONFIDENTIAL” the Designating Party can ensure that only authorized individuals who have
27 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A) are present at those
28 proceedings. For documents or items designated “HIGHLY CONFIDENTIAL – ATTORNEYS’

1 EYES ONLY”, the Designating Party can choose to withhold or redact the document or item if its
2 disclosure at the deposition, hearing or other proceeding would create a substantial risk of the
3 disclosure of highly personal information or significant competitive or business injury. The Parties
4 or the Party seeking to use the protected material and the Designating Party shall meet and confer
5 in good faith to attempt to resolve the issue. If the issue cannot be resolved, the Party seeking to
6 introduce the document or item can seek an order from the Court compelling the use of the
7 document or item at the deposition, hearing or other proceeding. The use of a document as an
8 exhibit at a deposition shall not in any way affect its designation as “CONFIDENTIAL” or
9 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

10 Transcripts containing Protected Material shall have an obvious legend on the title page
11 that the transcript contains Protected Material, and the title page shall be followed by a list of all
12 pages (including line numbers as appropriate) that have been designated as Protected Material by
13 the Designating Party. The Designating Party shall inform the court reporter of these requirements.
14 Any transcript that is prepared before the expiration of a 30-day period for designation shall be
15 treated during that period as if it had been designated “CONFIDENTIAL” in its entirety unless
16 otherwise agreed, or if the transcript refers to information or documents designated as “HIGHLY
17 CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” the transcript shall be treated during the 30-
18 day period as if it had been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
19 ONLY” in its entirety unless otherwise agreed. After the expiration of that period, the transcript
20 shall be treated only as actually designated.

21 (c) for information produced in some form other than documentary and for any other
22 tangible items (such as Electronically Stored Information (“ESI”) for which it is impractical to
23 label as per Section 5.2(a)), that the Producing Party designate in a cover letter accompanying the
24 production, and where feasible, affix in a prominent place on the exterior of the container or
25 containers in or on which the information or item is stored the legend “CONFIDENTIAL” or
26 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

27 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
28 designate qualified information or items does not, standing alone, waive the Designating Party’s

1 right to secure protection under this Order for such material. Should a Producing Party discover
2 that it produced Confidential Information or Items that were not designated as Protected Material,
3 the Producing Party may notify all Parties, in writing, of the error and identify (by bates number
4 or other individually identifiable information) the affected documents and their new designation.
5 Thereafter, the material so designated shall be treated as Protected Material. Promptly after
6 providing such notice, the Producing Party shall provide re-labeled copies of the material to each
7 Receiving Party reflecting the change in designation. The Receiving Party shall replace the
8 incorrectly designated material with the newly designated materials and shall destroy the
9 incorrectly designated materials. If material is re-designated as “CONFIDENTIAL” or “HIGHLY
10 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” after the material was initially produced, the
11 Receiving Party, upon notification of the designation, must make reasonable efforts to assure that
12 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 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” at any
16 time. Unless a prompt challenge to a Designating Party’s “CONFIDENTIAL” or HIGHLY
17 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” designation is necessary to avoid foreseeable,
18 substantial unfairness, unnecessary economic burdens, or a significant disruption or delay of the
19 litigation, a Party does not waive its right to challenge a confidentiality designation by electing not
20 to mount a challenge promptly after the original designation is disclosed.

21 6.2 Meet and Confer. A Party that elects to initiate a challenge to a Designating Party
22 or Non- Party’s confidentiality designation must do so in good faith. The Challenging Party shall
23 initiate the dispute resolution process by providing written notice to other Parties of each
24 designation it is challenging (by bates number or other individually identifiable information) and
25 describing the basis for each challenge. To avoid ambiguity as to whether a challenge has been
26 made, the written notice must recite that the challenge to confidentiality is being made in
27 accordance with this specific paragraph of the Stipulated Protective Order. The parties shall
28 attempt to resolve each challenge in good faith and must begin the process by conferring directly

1 (as defined in LR IA 1-3(f) in voice to voice dialogue; other forms of communication are not
2 sufficient) within 14 days of the date of service of notice. In conferring, the Challenging Party
3 must explain the basis for its belief that the confidentiality designation was not proper and must
4 give the Designating Party an opportunity to review the designated material, to reconsider the
5 circumstances, and, if no change in designation is offered, to explain the basis for the chosen
6 designation. A Challenging Party may proceed to the next stage of the challenge process only if it
7 has engaged in this meet and confer process first or establishes that the Designating Party is
8 unwilling to participate in the meet and confer process in a timely manner.

9 6.3 Judicial Intervention. If the parties cannot resolve a challenge without Court
10 intervention, the Designating Party shall file and serve a motion to retain confidentiality within 21
11 days of the initial notice of challenge or within 14 days of the parties agreeing that the meet and
12 confer process will not resolve their dispute, whichever is earlier. Failure by the Designating Party
13 to make such a motion (including the declaration required under LR 26-7) within 21 days (or 14
14 days, if applicable) shall automatically waive the confidentiality designation for each challenged
15 designation. The burden of persuasion in any such challenge proceeding shall be on the
16 Designating Party. Unless the Designating Party has waived the confidentiality designation by
17 failing to file a motion to retain confidentiality as described above, all parties shall continue to
18 afford the material in question the level of protection to which it is entitled under the Designating
19 Party's designation until the Court rules on the motion.

20 The burden of persuasion in any such challenge proceeding shall be on the Designating
21 Party. Until the ruling on the dispute becomes final, all parties shall continue to afford the material
22 in question the level of protection to which it is entitled under the Designating Party's designation.
23 In the event that the final ruling is that the challenged material is not "CONFIDENTIAL" or
24 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY", the Designating Party shall
25 reproduce copies of all challenged materials with their designations removed within fourteen (14)
26 days of such ruling at the expense of the Designating Party.

27 7. **ACCESS TO AND USE OF PROTECTED MATERIAL**

28 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or

1 produced by another Party in connection with this case and the Arbitration for prosecuting,
2 defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to
3 the categories of persons and under the conditions described in this Order. When the litigation has
4 been terminated, a Receiving Party must comply with the provisions of paragraph 15 below
5 (FINAL DISPOSITION).

6 Protected Material must be stored and maintained by a Receiving Party at a location and in
7 a secure manner that ensures that access is limited to the persons authorized under this Order. For
8 purposes of this Order, a secure website, or other internet-based document depository with
9 adequate security, shall be deemed a secure location.

10 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered
11 by the Court or permitted in writing by the Designating Party, Counsel for a Receiving Party may
12 disclose any information or item designated “CONFIDENTIAL” only to:

13 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as employees
14 of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information
15 for this litigation;

16 (b) the Receiving Party, a Receiving Party’s officers, directors, managers, and employees
17 (including In-House Legal Department Personnel) to whom disclosure is reasonably necessary for
18 this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit
19 A);

20 (c) Experts or Consultants (as defined in this Order) of the Receiving Party to whom
21 disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment
22 and Agreement to Be Bound” (Exhibit A);

23 (d) the Court and its personnel;

24 (e) Professional Vendors to whom disclosure is reasonably necessary for this litigation and
25 who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

26 (f) during their depositions, witnesses in this litigation to whom disclosure is reasonably
27 necessary and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A),
28 unless otherwise agreed by the Designating Party or ordered by the court. Consistent with

1 paragraph 5.2(b), pages of transcribed deposition testimony or exhibits to depositions that reveal
2 Confidential Information must be marked “CONFIDENTIAL”, and may not be disclosed to
3 anyone except as permitted under this Stipulated Protective Order; and

4 (g) any other person to whom the Designating Party agrees in writing or on the record, and
5 any other person to whom the Court compels access to the Confidential Information.

6 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
7 Information or Items. Unless otherwise ordered by the Court or permitted in writing by the
8 Designating Party, a Receiving Party may disclose any information or item designated “HIGHLY
9 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to the people and entities permitted to
10 receive “CONFIDENTIAL” information as designated in paragraph 7.2 and in accordance with
11 the requirements set forth in the paragraph except that “HIGHLY CONFIDENTIAL –
12 ATTORNEYS’ EYES ONLY” information or items shall not be disclosed to the Receiving Party
13 or a Receiving Party’s officers, directors, managers, and employees, including In-House Legal
14 Department Personnel.

15 7.4 Retention of Exhibit A: Outside Counsel for the Party that obtains the signed
16 “Acknowledgment and Agreement to Be Bound” (Exhibit A), as required above, shall retain them
17 for one year following the final termination of this action and Arbitration, including any appeals,
18 and shall make them available to other Parties upon good cause shown.

19 8. **PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN**
20 **OTHER LITIGATION**

21 If a Receiving Party is served with a discovery request, subpoena, or a court order issued
22 in other litigation that compels disclosure of any information or items the Designating Party in this
23 action has identified as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
24 EYES ONLY,” that Receiving Party must:

25 (a) promptly notify in writing the Designating Party. Such notification shall include a copy
26 of the discovery request, subpoena, or court order;

27 (b) promptly notify in writing the party who caused the discovery request, subpoena, or
28 order to issue in the other litigation that some or all of the material covered by the discovery

1 request, subpoena, or order is subject to this Stipulated Protective Order. Such notification shall
2 include a copy of this Stipulated Protective Order; and

3 (c) cooperate with respect to all reasonable procedures sought to be pursued by the
4 Designating Party whose Protected Material may be affected.

5 The purpose of imposing these duties is to alert the interested parties to the existence of
6 this Protective Order and to afford the Designating Party in this case an opportunity to try to protect
7 its confidentiality interests in the court from which the discovery request, subpoena, or order
8 issued.

9 If the Designating Party timely seeks a protective order, the Party served with the discovery
10 request, subpoena, or court order shall not produce any information designated in this action as
11 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” before a
12 determination by the court from which the discovery request, subpoena, or order issued, unless the
13 Party has obtained the Designating Party’s permission or unless the Party has been ordered to do
14 so by any Court. The Designating Party shall bear the burden and expense of seeking protection in
15 that court of its confidential material – and nothing in these provisions should be construed as
16 authorizing or encouraging a Receiving Party in this action to disobey a lawful directive from
17 another court.

18 **9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

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

26 **10. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
27 **PROTECTED MATERIAL**

28 When a Producing Party gives notice to Receiving Parties that it inadvertently produced

1 documents, testimony, information, and/or things that are protected from disclosure under the
2 attorney- client privilege, work product doctrine, and/or any other applicable privilege or immunity
3 from disclosure, or the Receiving Party discovers such inadvertent production, the inadvertent
4 production shall not be deemed a waiver of the applicable privilege or protection. The Receiving
5 Party shall immediately return all copies of such documents, testimony, information and/or things
6 to the inadvertently Producing Party and shall not use such items for any purpose until further
7 order of the Court. If the Receiving Party does not challenge the designation, such return must
8 occur within three (3) business days of receipt of notice or discovery of the inadvertent production.
9 If a Receiving Party wishes to challenge the designation, the Receiving Party must inform the
10 Producing Party within three (3) business days of receipt of notice or discovery of the inadvertent
11 production, and must file its challenge to the privilege designation with the Court within seven (7)
12 days of notifying the Producing Party of its intent to challenge, unless the Parties agree to a longer
13 schedule. The Receiving Party may maintain a copy of the challenged document solely for the
14 purpose of the privilege challenge until the Court resolves the issue, but may not disclose or
15 otherwise use the document until the Court resolves the issue. The return of any discovery item
16 to the inadvertently Producing Party shall not in any way preclude the Receiving Party from
17 moving the Court for a ruling that the document or thing was never privileged.

18 This provision is not intended to modify whatever procedure may be established in an e-
19 discovery order that provides for production without prior privilege review.

20 **11. ATTORNEY RENDERING ADVICE**

21 Nothing in this Protective Order will bar or otherwise restrict an attorney from rendering
22 advice to his or her client in this litigation with respect to this matter or from relying upon or
23 generally referring to “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
24 EYES ONLY” Disclosure or Discovery Material in rendering such advice; provided however, that
25 in rendering such advice or in otherwise communicating with his or her client in this litigation, the
26 attorney shall not reveal or disclose the specific content thereof if such disclosure is not otherwise
27 permitted under this Stipulated Protective Order.

1 **12. DISPOSITIVE MOTION HEARINGS AND TRIAL**

2 The terms of this Stipulated Protective Order shall govern in all circumstances except for
3 (a) presentations of evidence and argument at hearings on dispositive motions and at trial and (b)
4 in the Parties’ counsels’ preparation of their respective clients for trial after the close of discovery.
5 The parties shall meet and confer in advance of such proceedings and seek the guidance of the
6 Court as to appropriate procedures to govern such proceedings.

7 **13. MISCELLANEOUS**

8 13.1 Right to Further Relief. Nothing in this Order abridges the right of any person to
9 seek its modification by the court in the future.

10 13.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order
11 no Party waives any right it otherwise would have to object to disclosing or producing any
12 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no
13 Party waives any right to object on any ground to use in evidence of any of the material covered
14 by this Stipulated Protective Order.

15 13.3 Filing Protected Material. In the event that any Receiving Party’s briefs,
16 memoranda, discovery requests, requests for admission or other papers of any kind which are
17 served or filed shall include another Party’s “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL
18 – ATTORNEYS’ EYES ONLY” Information, the papers shall be appropriately designated
19 pursuant to paragraph 5.2. Any Party seeking to file or disclose materials designated as
20 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” with the
21 Court in this action must, concurrently with or prior to any such filing, seek leave to file such
22 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” under seal
23 in accordance with LR IA 10-5. Documents, papers and transcripts filed with the Court which
24 contain any other Party’s “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
25 EYES ONLY” Information shall be provisionally lodged under seal with the Court during the
26 pendency of the motion to seal, and redacted papers shall be publicly filed.

27 **14. FINAL DISPOSITION**

28 Unless otherwise ordered by the Court or agreed in writing by the Designating Party or

1 Non- Party, within 60 days after the final disposition of this action and the Arbitration, as defined
2 in paragraph 4, each Receiving Party must return all Protected Material to the Producing Party or
3 destroy such material. As used in this subdivision, “all Protected Material” includes all copies
4 (electronic or otherwise), abstracts, compilations, databases, summaries, and any other format
5 reproducing or capturing any of the Protected Material. Whether the Protected Material is returned
6 or destroyed, the Receiving Party must submit a written certification to the Producing Party (and,
7 if not the same person or entity, to the Designating Party) by the 60-day deadline that (1) identifies
8 (by category, where appropriate) all the Protected Material that was returned or destroyed and (2)
9 affirms that the Receiving Party has not retained any copies, (electronic or otherwise), abstracts,
10 compilations, databases, summaries, and any other format reproducing or capturing any of the
11 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy
12 of all pleadings; motion papers; trial, deposition, and hearing transcripts; legal memoranda;
13 correspondence; deposition and trial exhibits; expert reports; legal memoranda; correspondence;
14 or attorney work product, and consultant and expert work product, even if such materials contain
15 Protected Material. Any such archival copies that contain or constitute Protected Material remain
16 subject to this Protective Order as set forth in Paragraph 4 (DURATION).

17 IT IS SO STIPULATED.
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1 Dated: October 12, 2018

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3 **WOLF, RIFKIN, SHAPIRO,
SCHULMAN & RABKIN, LLP**

4 By: /s/ Mallory Biblo, Esq.
5 Don Springmeyer, Esq. (SBN 1021)
6 Daniel Bravo, Esq. (SBN 13078)
7 3556 E. Russell Road, Second Floor
8 Las Vegas, Nevada 89120
(702) 341-5200 / Fax: (702) 341-5300
dspringmeyer@wrslawyers.com
dbravo@wrslawyers.com

9 Warren T. Burns, Esq. (*Admitted Pro Hac*)
10 LeElle Krompass, Esq. (*Admitted Pro Hac*)
11 Mallory Biblo, Esq. (*Admitted Pro Hac*)

12 **BURNS CHAREST LLP**
13 5900 Jackson Street, Suite 500
14 Dallas, Texas 75202
Telephone: (469) 904-4550
15 Facsimile: (469) 444-5002
16 wburns@burnscharest.com
17 lkrompass@burnscharest.com
18 mbiblo@burnscharest.com

19 Korey A. Nelson, Esq. (*Admitted Pro Hac*)
20 **BURNS CHAREST LLP**
21 365 Canal Street, Suite 1170
22 New Orleans, Louisiana 70130
23 Telephone: (504) 799-2845
24 Facsimile: (504) 881-1765
25 knelson@burnscharest.com

26 *Attorneys for Plaintiff Jamie Petty*

HOLLAND & HART LLP

By: /s/ David J. Freeman, Esq.
Bryce K. Kunimoto, Esq. (SBN 7781)
Robert J. Cassity, Esq. (SBN 9779)
David J. Freeman, Esq. (SBN 10045)
HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134
(702) 222-2542 / Fax: (702) 669-4650
bkunimoto@hollandhart.com
bcassity@hollandhart.com
dfreeman@hollandhart.com

*Attorneys for Defendants Blue Skies Group,
LLC, Blue Skies Aviation Group Holdings, LLC,
Stephen Will Ashcroft, and Robert Caputo*

27 **ORDER**

28 IT IS SO ORDERED.


United States Magistrate Judge

DATED: October 12, 2018

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [print or type full name], of
4 _____ [print or type full address],
5 declare under penalty of perjury that I have read in its entirety and understand the Protective Order
6 that was issued by the United States District Court for the District of Nevada in the case of *Petty*
7 *v. Ashcroft, et al., Case No. 2:18-cv-01323-JAD-VCF*.

8 I agree to comply with and to be bound by all the terms of this Protective Order and I
9 understand and acknowledge that failure to so comply could expose me to sanctions and
10 punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner
11 any information or item that is subject to this Protective Order to any person or entity except in
12 strict compliance with the provisions of this Order.

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

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

20
21 Date: _____

22 City and State where sworn and signed: _____

23
24 Printed name: _____

25
26 Signature: _____

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service of the foregoing **[Proposed] Stipulated Protective Order** was served on October 12, 2018 via the Court’s CM/ECF electronic filing system addressed to all parties on the e-service list.

/s/ Maggie Kweik
Maggie Kweik, an Employee of
BURNS CHAREST LLP