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SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO

Coordination Proceeding Special Title (Rule 1550(b)))	JUDICIAL COUNCIL COORDINATION PROCEEDING NO. 4095
FIREARM CASE)	
Including actions:)	
<i>People, et al. v. Arcadia Machine & Tool, Inc., et al.</i>)	San Francisco Superior Court No. 303753
<i>People, et al. v. Arcadia Machine & Tool, Inc., et al.</i>)	Los Angeles Superior Court No. BC210894
<i>People, et al. v. Arcadia Machine & Tool, Inc., et al.</i>)	Los Angeles Superior Court No. BC214794

PLAINTIFFS' MEMORANDUM IN SUPPORT OF PLAINTIFFS'
PROPOSED PROTECTIVE ORDER

8-08

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1 **I. INTRODUCTION**

2 Defendants' proposed protective order is simply too burdensome and will impose restrictions
3 on the parties that are not justifiable. Plaintiffs herewith submit their proposed protective order
4 ("Plaintiffs' Proposed Ord."), which is attached as Exhibit A. In contrast to defendants' proposal
5 ("Defs.' Proposed Ord."), plaintiffs' protective order strikes the appropriate balance between the need
6 for protection and the need for disclosure of confidential information. Therefore, plaintiffs' proposed
7 protective order should be adopted by this Court.

8 **II. ARGUMENT**

9 **A. The Party Objecting to Disclosure of Confidential Information to a**
10 **Person Other than One Originally Allowed under the Protective**
11 **Order Should Bear the Burden of Preventing Such Disclosure**

12 Both parties' protective orders allow confidential information to be disclosed to certain
13 categories of experts, witnesses and attorneys. Beyond that, plaintiffs propose that a party may seek
14 to disclose confidential information to a person not designated under the protective order if the party
15 believes in good faith that disclosure is necessary to that party's case. Plaintiffs' Proposed Ord., ¶18.
16 Plaintiffs further propose that if the designating party objects, it should file a motion to bar the
17 disclosure. *Id.*

18 It is well established that the party seeking a protective order bears the burden of establishing
19 good cause for the order. *Stadish v. Superior Court*, 71 Cal. App. 4th 1130, 1145 (1999). Plaintiffs'
20 proposal requiring the designating party to file a motion with the court barring disclosure is entirely
21 consistent with this principle.

22 Furthermore, defendants' contention that plaintiffs' proposal is burdensome and illogical lacks
23 merit. First, requiring the designating party to file a motion to bar disclosure results in no additional
24 burden because, even under defendants' proposal, the designating party would have to file a
25 responsive motion with the Court setting forth its reasons for nondisclosure. Second, under
26 plaintiffs' proposal, the party seeking disclosure must submit a request to the designating party
27 identifying the name and roles of persons to whom they seek disclosure and the reasons and expected
28 circumstances under which the disclosure shall be made. Plaintiffs' Proposed Ord., ¶18. Once the
designating party receives this information, it is in a better position than the party seeking disclosure

1 to articulate to the Court why disclosure should be barred. Defendants' proposal requires the party
2 seeking disclosure to engage in guesswork in order to proffer to the Court the supposed reasons for
3 the designating party's objection. This procedure runs contrary to common sense and should be
4 rejected.

5 **B. This Court Should Adopt Plaintiffs' Proposal That a Document That**
6 **Has Been Denied Confidential Treatment in Any Other Action or**
7 **Proceeding Should Be Subject to Disclosure in this Action**

8 Defendants claim that plaintiffs propose that a document that has been denied confidential
9 treatment by a trial court in another jurisdiction should, by virtue of that ruling, be denied
10 confidential treatment in another jurisdiction before all challenges and appeals of the trial court's
11 decision have been exhausted. Defs.' Memo at 4. Defendants grossly misconstrue plaintiffs'
12 position.

13 Where a court has denied confidential treatment to a document, plaintiffs merely seek the
14 right to immediately use that document in another jurisdiction, unless a challenge or appeal of the
15 order of the court who denied confidential treatment to the document is taken. Plaintiffs' Proposed
16 Ord., ¶7. Plaintiffs' proposal recognizes that pending a challenge or appeal, the document maintains
17 its confidentiality. Accordingly, plaintiffs' proposal should be adopted.

18 **C. Defendants' Attempt to Bar Plaintiff's Public Counsel from Access to**
19 **Confidential Information Should Be Rejected**

20 Defendants seek to prohibit plaintiffs' public counsel from possessing confidential material,
21 claiming that any confidential information they possess is subject to disclosure under the Freedom
22 of Information Act ("FOIA")¹ or the California Public Records Act("CPRA"). Defs.' Proposed Ord.,
23 ¶11. Defendants' proposal lacks merit.

24 Under §6254 of the CPRA, trade secrets are not subject to disclosure. *See California Sch.*
25 *Employees Ass'n v. Sunnyvale Elementary Sch. Dist.*, 36 Cal. App. 3d. 46 (1973). Because the
26 proposed orders specify that confidential information includes "trade secrets," such confidential
27 information should not be subject to disclosure, even if it were requested from the files of plaintiffs'
28 public counsel.

¹ Because public plaintiffs' counsel are employed by cities as opposed to federal agencies, FOIA does not apply. *See* 5 U.S.C. §551(1).

1 Furthermore, any confidential documents obtained from defendants would be for the purpose
2 of use in the instant litigation and would be exempt from disclosure as "records pertaining to pending
3 litigation to which the public agency is a party" Cal. Gov. Code §6254(b); *County of Los Angeles*
4 *v. Superior Court*, No. B134958 2000 Cal. App. Lexis 607 (July 31, 2000), at *19. In addition,
5 documents which constitute attorney work product are exempt from disclosure under §6254(k).
6 *Fairley v. Superior Court*, 66 Cal. App. 4th 1414 (1998). Because any confidential documents
7 sought by plaintiffs for use in this litigation constitute work product, they are not subject to public
8 disclosure.

9 Because plaintiffs' public counsel are integral to the prosecution of the instant case, they
10 should have the same access to confidential information as defendants' counsel. Defendants'
11 proposal should be rejected.

12 **D. Defendant's Proposal to Bar Temporary Employees of Plaintiffs from**
13 **Having Access to Confidential Documents Is Unnecessary**

14 Defendants contend that plaintiffs' use of temporary employees to review confidential
15 information will result in disclosure of confidential information. As a result, defendants' propose
16 that access to confidential information be restricted to permanent employees. Defendants' proposal
17 is unnecessary.

18 Regardless of whether an employee is permanent or temporary, that employee will be bound
19 by the protective order and be required to sign an acknowledgment prohibiting disclosure of any
20 information derived from access to confidential information. Plaintiffs' proposal reasonably allows
21 for the use of temporary employees should staffing issues arise. Because no additional risk of
22 disclosure results from the use of temporary employees, defendants' limitation should be rejected.

23 **E. Defendants' Limitation on the Expert Witnesses to Whom Plaintiffs**
24 **Can Disclose Confidential Information Is Overly-restrictive and**
25 **Burdensome**

26 In a transparent attempt to severely limit plaintiffs' ability to develop expert testimony,
27 defendants propose that plaintiffs be prohibited from disclosing confidential information to experts
28 who are presently affiliated with a competitor of the designating party or any consultant, contractor,
vendor, parent or affiliate of the competitor. Defs.' Proposed Ord., ¶11(c). Not surprisingly,

1 defendants offer no limitation on what constitutes a "consultant, contractor, vendor, parent or
2 affiliate."

3 Defendants' order would prohibit plaintiffs from disclosing confidential information to
4 virtually every person who works in the firearms industry, and thus ensure that plaintiffs are unable
5 to obtain expert testimony from inside the industry. Defendants do not hide their motive to eliminate
6 the pool of potential expert witnesses for plaintiffs, stating that plaintiffs should be allowed to
7 petition the Court for relief from the expert witness restriction only "[i]f plaintiffs demonstrate that
8 they are somehow unable to obtain sufficient expert testimony from outside the firearms
9 manufacturing industry." Defendants' Memorandum Regarding Limited Discovery, Document
10 Depository and Protective Order ("Defs.' Mem.") at 9.

11 Defendants' purported concern that allowing experts who are presently affiliated with a
12 competitor of the designating party access to confidential documents will result in the disclosure of
13 trade secrets to a competitor is unjustified. Any expert utilized by plaintiffs would be bound by the
14 protective order and be required to sign an acknowledgment prohibiting disclosure of any
15 information derived from access to confidential information.

16 Furthermore, plaintiffs' order imposes an obligation on plaintiffs to use "reasonable efforts
17 to find Experts who are not competitors of the Producing Party." Plaintiffs' Proposed Ord., ¶11(c).
18 This proposal strikes a balance between defendants' need to limit disclosure of confidential
19 information and plaintiffs' right to seek expert witnesses from within the firearms industry. If
20 defendants contend that plaintiffs are not fulfilling their obligation, defendants can move the Court
21 for a modification of the protective order. Plaintiffs' Proposed Ord., ¶23.

22 **F. Plaintiffs' Proposal Allowing Counsel of Record in Similar Litigation**
23 **Throughout the Country Access to Confidential Information Should**
24 **Be Adopted**

25 Defendants claim that plaintiffs' proposal to allow counsel of record in similar litigation
26 pending in other federal or state courts to have access to confidential information produced in this
27 case will greatly increase the risk of disclosure to the general public. Defs.' Mem. at 11-12.
28 Defendants' claim is illogical.

1 Irrespective of plaintiffs' proposal, the same number of plaintiffs' counsel throughout the
2 country will be seeking, and ultimately, upon entry of protective orders in the respective
3 jurisdictions, receiving access to confidential information. Allowing all plaintiffs' counsel access
4 to confidential documents in one place does not, as defendants contend, unnecessarily expand the
5 number of persons with access to confidential information or create any additional risk of disclosure.

6 Furthermore, each counsel seeking access to confidential information will be required to sign
7 an acknowledgment agreeing to be bound by the terms of the protective order and submitting to the
8 Court's jurisdiction for purposes of enforcement of the protective order. As a result, defendants'
9 confidential information will be adequately protected.

10 **G. Defendants' Attempt to Utilize the Protective Order to Bar Admission**
11 **of Confidential Documents at a Public Trial Should Be Rejected**

12 In order to ensure that defendants cannot seek to bar the admission of relevant confidential
13 documents at trial by claiming that such documents are protected from disclosure under the
14 protective order, plaintiffs propose that the protective order not govern the use of confidential
15 information at trial. Plaintiffs' Proposed Ord., ¶21. Defendants claim that plaintiffs' order will result
16 in confidential documents automatically losing their protection at trial, and propose that issues
17 regarding the protection of confidential information during trial should be presented to the Court as
18 each party deems appropriate. Defs.' Mem. at 6.

19 Defendants' argument ignores the fact that at a public trial, relevant documents which meet
20 the qualifications for admissibility are admissible, whether or not they are designated confidential
21 under a protective order. *Seattle Times v. Rhinehart*, 467 U.S. 20 (1984). Plaintiffs are not, as
22 defendants' proposal implies, required to seek court approval for each and every confidential
23 document that plaintiffs seek to admit into evidence.

24 Plaintiffs recognize that defendants may want to protect confidential information from public
25 disclosure after trial and, accordingly, propose that the obligations and protections imposed by the
26 protective order continue beyond the conclusion of the action. Plaintiffs' Proposed Ord., ¶2.
27 Defendants' right to seek the protection from disclosure of confidential documents after trial is in no
28

1 way hampered by the fact that the protective order will not govern the admission of such documents
2 at trial. Accordingly, plaintiffs' proposal should be adopted.

3 **H. Defendants' Attempt to Limit Disclosure of Confidential Documents**
4 **to a Deponent Who Is or Has Been Eligible to Have Access to**
5 **Confidential Information by Virtue of His or Her Employment Is**
6 **Unjustified**

7 Plaintiffs seek the right to provide access to confidential information to actual or proposed
8 witnesses or deponents who are reasonably believed to have personal knowledge of facts related to
9 confidential information. Plaintiffs' Proposed Ord., ¶11(d). Defendants' claim that only deponents
10 who by virtue of their employment gained access to confidential documents should have access.

11 No heightened risk of disclosure arises from plaintiffs' proposal. Regardless of how the
12 witness derived the knowledge of confidential information, that witness must agree to be bound by
13 the protective order and sign an acknowledgment forbidding the disclosure of any confidential
14 information. Limiting access to deponents who have or had access to confidential information solely
15 by virtue of their employment does nothing more than restrict plaintiffs' ability to develop their case
16 and does not limit the risk of disclosure. Accordingly, plaintiffs' proposal should be adopted.

17 **I. No Deadline by Which to Contest the Designation of a Document as**
18 **Confidential Should Be Imposed**

19 Defendants propose that the parties be obligated to have all issues relating to confidential
20 designations submitted to the Court by sixty days prior to the Trial Readiness Conference. Such a
21 deadline is fraught with the potential for abuse.

22 Despite defendants' representations that they will have timely produced documents so as to
23 allow plaintiffs ample time to contest any confidentiality designations, no discovery deadlines have
24 been set by this Court. Furthermore, under defendants' scheme, defendants could, in near proximity,
25 or after the sixty-day time limit, designate a large amount of documents confidential, thereby forcing
26 plaintiffs to scramble to meet the deadline. Under defendants' proposal, because the protective order
27 remains in place throughout trial, presumably, if plaintiffs failed to meet the sixty day deadline, the
28 documents would remain confidential, and plaintiffs' only chance at using the documents at trial
would be if defendants agreed or the judge ordered the confidentiality designations removed. Absent

1 a strict deadline by which all documents must be designated confidential, no deadline by which to
2 contest a confidential designation should be imposed.

3 **III. CONCLUSION**

4 For the foregoing reasons, the Court should adopt plaintiffs' proposed protective order.

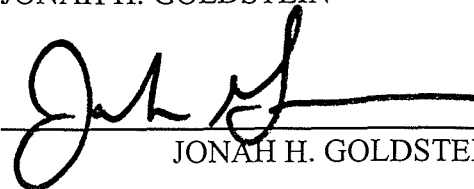
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EXHIBIT A

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<i>People, et al. v. Arcadia Machine & Tool, Inc., et al.</i>)	Los Angeles Superior Court No. BC214794

PLAINTIFFS' PROPOSED PROTECTIVE ORDER

EXHIBIT A

The parties hereto, through their undersigned counsel, hereby stipulate and agree to the entry of *the following* order ("Protective Order") pursuant to Cal. Code Civ. Proc. §§2025(l), 2030(e), 2031(f), and 2033(e) and Civ. Code §3426.5 for the protection of trade secrets and other confidential research, development and commercial information that may be produced or otherwise disclosed during the course of this action.

Definitions

1. The following definitions apply to this Order:

(a) The term "document" or "documents" shall include all writings discoverable under California Code of Civil Procedure §2031.

(b) "Confidential Information" refers to information, documents or other material that the designating party reasonably and in good faith believes constitutes or reflects: (i) a Trade Secret or (ii) information whose confidentiality is otherwise protectable under applicable law.

(c) "Highly Confidential Information" refers to Confidential Information concerning the following: (a) development of products or technologies; (b) current or prospective marketing plans and methods; (c) current or prospective business planning and financial documents, but only when any of the above types of information are so competitively sensitive that their disclosure is highly likely to cause competitive injury to the Designating Party.

(d) The term "Trade Secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that: (i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Purpose

2. This Protective Order shall govern the use and dissemination of all information, documents or materials that are produced by the parties or other persons in the Action and designated as Confidential or Highly Confidential in accordance with the terms of this Protective Order. This Protective Order is not intended to address or govern claims of work product or privilege that may be asserted by any of the parties, except as otherwise provided in this Order.

Designation and Treatment

3. Any party to this action or other person who produces or supplies information, documents or other materials in this action (hereinafter the "Designating Party") may designate as "Confidential Information" or "Highly Confidential Information" any information, document or material that meets the definitions in Paragraphs 1(b) or (c) of this Protective Order. The designations "Confidential Information" and "Highly Confidential Information" shall be made by affixing on the document or material containing such information, and upon each page so designated if practicable, words that in substance state, "**CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER**" or "**HIGHLY CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER,**" respectively. Any material, document or information for which it is impracticable to affix such a legend may be designated by written notice to that effect with a reasonable description of the material in question.

4. At the option of the Designating Party, and to facilitate prompt discovery by allowing inspection or review before formal designation in the manner specified above, all information, material or documents produced in response to a subpoena or discovery request shall be treated as Confidential Information or Highly Confidential Information pending inspection and copying. Subject to Paragraph 16 of this Order, copies of information, material, and documents selected for copying and reproduced for the inspecting party will lose their status as Confidential Information or Highly Confidential Information unless delivered with the necessary legend.

5. All persons having access to Confidential Information and Highly Confidential Information shall maintain it in a safe and secure manner to ensure compliance with this Order. Any summary, extract, paraphrase, quotation, restatement, compilation, notes or copy containing Confidential Information or Highly Confidential Information, or any electronic image or database containing Confidential Information or Highly Confidential Information, shall be subject to the terms of this Order to the same extent as the material or information from which such summary, extract, paraphrase, quotation, restatement, compilation, notes, copy, electronic image, database is derived.

6. A Designating Party may in good faith redact non-responsive and/or irrelevant Confidential Information or Highly Confidential Information from any document or material.

1 However, unredacted copies of such documents shall be maintained by the Designating Party.
2 Designated attorneys for a Discovering Party and, if necessary, qualified Experts under Paragraph
3 11(c) retained by them, may have access to the unredacted versions of the documents at a place of
4 the Designating Party's choosing but only for the purpose of ascertaining the appropriateness of any
5 redactions.

6 7. This Protective Order shall not be construed to protect from production or to permit
7 the designation of any document that the party has not made reasonable efforts to keep confidential,
8 of any document that has been produced in any other action or proceeding without confidentiality
9 protection, except inadvertently produced documents, of any document that has been lawfully
10 obtained by and from another source (*or of any document that has been denied confidential*
11 *treatment in any other action or proceeding.*)¹

12 Limitations on Use

13 8. Except to the extent expressly authorized by this Order, Confidential Information and
14 Highly Confidential Information shall not be used or disclosed for any purpose other than the
15 preparation and trial of this case and in any appeal taken from any judgment herein. Nothing
16 designated as Confidential Information or Highly Confidential Information shall be used for any
17 commercial, business, marketing, competitive, personal, or other purposes whatsoever.

18 Limitations on Disclosure

19 9. Except with the prior written consent of the Designating Party, or as expressly
20 authorized by this Order, no person receiving Confidential Information or Highly Confidential
21 Information may disclose it to any other person. Nothing in this Order, however, shall be deemed
22 to restrict in any manner the Designating Party's use of its own Confidential Information or Highly
23 Confidential Information. Each party may disclose its own Confidential Information or Highly
24 Confidential Information without regard to this Order, unless otherwise prohibited from doing so.

25 10. Any person to whom Confidential Information or Highly Confidential Information
26 may be disclosed pursuant to this Order, except this Court and its personnel, first shall have an
27 opportunity to read a copy of this Protective Order and shall agree in writing to the non-disclosure

28 ¹ Italicized text represents language on which the parties have not reached agreement.

1 terms of the Confidentiality Acknowledgment annexed hereto as Exhibit A. Counsel for the party
2 obtaining a person's signature on the Confidentiality Acknowledgment shall retain the original
3 signed acknowledgment until such time as the identity of the signatory is disclosed or until good
4 cause for earlier disclosure of the acknowledgment is shown.

5 11. Access to Confidential Information shall be limited to:

6 (a) *Counsel of record* (including staff persons employed by such counsel) in the
7 action in which the information is produced;

8 (b) Representatives of each plaintiff, provided, however, that representatives of
9 plaintiffs other than Corporation Counsel and its staff and the General Counsel's office and its staff
10 shall not be permitted to make or retain photocopies or summaries of Confidential or Highly
11 Confidential documents or information;

12 (c) *Any consultant, investigator or expert (collectively, "Expert") who is assisting*
13 *in the preparation and/or trial of the Action, but only to the extent reasonably necessary to enable*
14 *such Expert to render such assistance, and provided, however, that counsel for plaintiffs will use*
15 *reasonable efforts to find Experts who are not competitors of the Producing Party;*

16 (d) *Actual or proposed witnesses or deponents who are reasonably believed to*
17 *have personal knowledge of facts related to the confidential information;*

18 (e) Court reporters and videographers involved in rendering professional services
19 in the action;

20 (f) The Court and its personnel, subject to the provisions of Paragraph 16 of this
21 Order; and

22 (g) Counsel of record in similar litigation pending in other federal or state courts.

23 12. Access to Highly Confidential Information shall be limited to:

24 (a) *Individual Attorneys of record who have filed notices of appearance and who*
25 *are representing plaintiffs and staff persons of such attorneys. Plaintiffs will in good faith endeavor*
26 *to keep to the minimum necessary to prosecute this action the number of attorneys of record and*
27 *staff persons to whom such information is disclosed;*

1 (b) Three (3) attorneys and two (2) staff persons from each firm of record
2 representing each co-defendant, absent further order of the Court upon good cause shown and after
3 notice and opportunity for hearing, who shall be identified to the Designating Party before or
4 contemporaneously with disclosure;

5 (c) *Counsel for plaintiffs may also disclose Highly Confidential information to*
6 *any consultant, investigator, or expert (collectively, "Expert") who is assisting plaintiffs in the*
7 *preparation and/or trial of this action, but only to the extent reasonably necessary to enable such*
8 *Expert to render such assistance, and provided, however, that counsel for plaintiffs will use*
9 *reasonable efforts to find Experts who are not competitors of the Producing Party;*

10 (d) Any deponent who is reasonably believed to be or to have been eligible to
11 have access to the Highly Confidential information by virtue of his or her employment or other
12 affiliation with the Designating Party;

13 (e) Court reporters and videographers involved in rendering professional services
14 in the action;

15 (f) The Court and its personnel subject to the provisions of paragraph 16 of this
16 Order; and

17 (g) Counsel of record in similar litigation pending in other federal or state courts.

18 13. If a party or other person receiving Confidential Information or Highly Confidential
19 Information pursuant to this Order thereafter receives a subpoena or order to produce such
20 information in any other action or proceeding before any other court or agency, such party or person
21 shall, if there are fewer than 10 days to comply, within 2 days, if possible, or immediately, if not,
22 or if there are more than 10 days, at least 7 court days prior to the due date of compliance, notify the
23 Designating Party of the pendency of the subpoena, public records request or order in writing. To
24 give the Designating Party an opportunity to obtain such relief, the party or person from whom the
25 information is sought shall not make the disclosure before the actual due date of compliance set forth
26 in the subpoena or order.

1 **Depositions Involving Confidential or Highly Confidential Information**

2 14. Portions of a deposition or depositions in their entirety may be designated
3 Confidential Information or Highly Confidential Information by counsel for the deponent or the
4 Designating Party, with respect to documents or information that it has produced, by indicating that
5 fact on the record at the deposition or in writing no later than 10 days after the date of the deposition.
6 While it is not intended that this Order shall permit wholesale designation of deposition transcripts
7 as confidential, this Order shall permit temporary designation of an entire transcript as Confidential
8 Information or Highly Confidential Information where less than all of the testimony in that transcript
9 would fall into those categories, subject to the following procedure. The court reporter shall include
10 on the cover page a clear indication that the deposition has been so designated. Once designated,
11 any deposition transcript in which Confidential Information or Highly Confidential Information is
12 discussed, and any exhibits containing Confidential Information or Highly Confidential Information,
13 shall be treated as such. Within 10 court days of receipt of the final, unsigned deposition transcript
14 by counsel for the Designating Party, such counsel shall advise the court reporter of the pages, lines
15 and exhibits (if such exhibits are not otherwise so designated) in which Confidential Information or
16 Highly Confidential Information appears. The transcript shall be supplemented to indicate such
17 designation. Failure to particularize a designation in this manner after a temporary designation of
18 the deposition in its entirety shall result in the loss of any designation and shall entitle recipients of
19 the deposition to treat the transcript as non-confidential.

20 15. No one may attend, or review the transcripts of, the portions of any depositions at
21 which Confidential or Highly Confidential information is shown or discussed, other than persons
22 authorized to receive access to Confidential or Highly Confidential Information.

23 **Filing or Use of Confidential or Highly Confidential Information as Evidence**

24 16. Where any Confidential Information or Highly Confidential Information or
25 information derived therefrom is included in any court filing, such filing shall be marked
26 "**CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER**" and shall be placed in a sealed
27 envelope marked with the caption of the case and held under seal, *provided, however, that when any*
28 *such materials are filed with the court in pretrial proceedings, counsel shall also file unsealed*

1 *redacted versions of any briefs, applications, or other filings that contain or set forth Confidential*
2 *Information or Highly Confidential Information.* The redacted versions of any documents shall
3 be served on all counsel of record within 10 days after the date that the sealed documents are filed
4 in Court. The unsealed redacted documents shall not be filed with the Court until 15 calendar days
5 following the service on counsel of record.

6 **Objections to Designations**

7 17. *Any party may, after production of material designated under this Protective Order,*
8 *object to its designation by notifying the Designating Party in writing of that objection and*
9 *specifying the designated material to which the objection is made.* The parties shall confer within
10 15 days of service of any written objection. If the objection is not resolved, the Designating Party
11 shall, within 15 days of the conference, file and serve a motion to resolve the dispute and shall bear
12 the burden of proof on the issue. In doing so, the Designating Party shall follow the procedures of
13 paragraph 16 of this Order, if applicable. If no such motion is filed within the stated time period,
14 the material shall cease to be treated as confidential or highly confidential information. If a motion
15 is filed, information subject to dispute shall be treated consistently with its designation until further
16 order of the Court. With respect to any material which is redesignated or ceases to be subject to the
17 protection of this Protective Order, the Designating Party shall, at its expense, provide to each party
18 which so requests additional copies thereof from which all confidentiality legends affixed hereunder
19 have been adjusted to reflect the redesignation or removed as appropriate.

20 18. *No party receiving any material designated as Confidential or Highly Confidential*
21 *or any information derived from Confidential or Highly Confidential material, however, shall*
22 *disclose any such material or information to any person other than as allowed by this Order without*
23 *first requesting permission to do so from the Designating Party. The request shall be submitted in*
24 *writing to the Designating Party not less than 15 court days before any intended disclosure. The*
25 *request shall specify by Bates number (or other identifying information, if Bates numbers are*
26 *inapplicable, such as with interrogatory answers) the material or information sought for disclosure,*
27 *shall state the reason for the disclosure, shall specify the expected circumstances in which the*
28 *disclosure would be made, and shall state the names and roles of the persons to whom the disclosure*

1 would be made. The party requesting permission must make such requests based on its counsel's
2 good faith judgment that disclosure is reasonably necessary to that party's prosecution or defense
3 of the Action. If the Designating Party objects to the proposed disclosure, the Designating Party
4 shall file a motion to bar the disclosure. The requested disclosure shall not be made during the
5 pendency of the motion.

6 **Inadvertent Waiver**

7 19. Inadvertent failure to designate any information pursuant to this Protective Order
8 shall not constitute a waiver of any otherwise valid claim for protection, so long as such claim is
9 asserted within 15 days of the discovery of the inadvertent failure. At such time, arrangements shall
10 be made for the Designating Party to substitute properly labeled copies. *However, until the*
11 *receiving party is notified that the information is designated as Confidential Information or*
12 *Highly Confidential Information, the receiving parties shall be entitled to treat the material as*
13 *non-confidential.*

14 20. In the interest of expediting discovery in these proceedings and avoiding unnecessary
15 costs: (1) inadvertent disclosure in this litigation of privileged information and/or work product shall
16 not constitute a waiver of any otherwise valid claim of privilege, immunity, or other protection; and
17 (2) failure to assert a privilege and/or work product in this litigation as to one document or
18 communication shall not be deemed to constitute a waiver of the privilege, immunity, or protection
19 as to any other document or communication allegedly so protected, even involving the same subject
20 matter. In the case of inadvertently produced privileged and/or work product documents, upon
21 request of the Producing Party, the documents together with all copies thereof and any notes made
22 therefrom shall be returned forthwith to the party claiming privilege and/or work product immunity.
23 Any party may, within 5 court days after notification of inadvertent disclosure under this Paragraph,
24 object to the claim of inadvertence by notifying the Designating/Producing Party in writing of that
25 objection and specifying the designated/produced material to which the objection is made. The
26 parties shall confer within 15 days of service of any written objection. If the objection is not
27 resolved, the Designating Party shall, within 15 days of the conference, file and serve a motion to
28 resolve the dispute and shall bear the burden of proof on the issue. If a motion is filed, information

1 subject to dispute shall be treated consistently with the Designating/Producing Party's most recent
2 designation until further order of the Court.

3 **Non-Termination**

4 21. *This Protective Order is not intended to govern the use of Confidential or Highly*
5 *Confidential information at any trial of this action. Issues regarding the protection of Confidential*
6 *or Highly Confidential information during trial may be presented to the Court as each party deems*
7 *appropriate.*

8 22. The obligations and protections imposed by this Order shall continue beyond the
9 conclusion of this action, including any appeals, or until the Court orders otherwise. Any
10 information or documents designated as Confidential Information or Highly Confidential
11 Information shall continue to be treated as such until such time as (a) the Designating Party expressly
12 agrees in writing that the information, documents, testimony or other materials in question are no
13 longer Confidential or Highly Confidential or (b) there is a finding by the court that the information
14 or documents are not the proper subject of protection under this Order. Within 60 days after receipt
15 of a request from the Designating Party, made after this action has concluded and the time for
16 possible appeal has been resolved, Confidential Information or Highly Confidential Information
17 (other than exhibits at the official court of record) shall be returned to the appropriate Designating
18 Party or, at the sole option of the Designating Party, shall be destroyed. Counsel for any party or
19 third party receiving Confidential Information or Highly Confidential Information in this action shall
20 make written certification of compliance with this provision and shall deliver the same to counsel
21 for each Designating Party within 180 days after such request.

22 **Continuing Jurisdiction**

23 23. Any party may petition the Court for a modification of the terms of this Protective
24 Order for good cause shown, after notice and opportunity for a hearing. This Court shall have
25 continuing jurisdiction to modify, amend, enforce, interpret or rescind this Protective Order
26 notwithstanding the termination of this action.

* * *

ORDER

IT IS SO ORDERED.

DATED: _____

HONORABLE VINCENT P. DiFIGLIA
JUDGE OF THE SUPERIOR COURT

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO

Coordination Proceeding Special Title (Rule 1550(b)))	JUDICIAL COUNCIL COORDINATION PROCEEDING NO. 4095
FIREARM CASE)	
Including actions:)	
<i>People, et al. v. Arcadia Machine & Tool, Inc., et al.</i>)	San Francisco Superior Court No. 303753
<i>People, et al. v. Arcadia Machine & Tool, Inc., et al.</i>)	Los Angeles Superior Court No. BC210894
<i>People, et al. v. Arcadia Machine & Tool, Inc., et al.</i>)	Los Angeles Superior Court No. BC214794

EXHIBIT A TO PLAINTIFFS' PROPOSED PROTECTIVE ORDER

1 **CONFIDENTIALITY AGREEMENT**

2 The undersigned hereby acknowledges and agrees:

3 1. I am aware that a Stipulation and Protective Order (the "Order") has been entered in
4 the above-captioned action. I have had the opportunity to read the Order and understand that willful
5 disclosure of Confidential or Highly Confidential Information may constitute contempt of court, and
6 agree to submit to this Court's jurisdiction for purposes of enforcement of the Order.

7 2. I will not disclose or discuss any Confidential Information or Highly Confidential
8 information with any person except those persons specifically listed in the Order under the
9 procedures therein specified.

10 Name: _____

11 Address: _____

12 Telephone No.: _____

13 Dated: _____

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