

THE HONORABLE RICARDO S. MARTINEZ

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UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JENNIFER STRANGE, MAGEN MORRIS,
on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

LES SCHWAB TIRE CENTERS OF
OREGON, INC., et al.,

Defendant.

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

LES SCHWAB TIRE CENTERS OF
WASHINGTON, INC., LES SCHWAB
WAREHOUSE CENTER, INC.,

Defendants.

CIVIL ACTION NO. 06-045-RSM

PROTECTIVE ORDER

Pursuant to the stipulation of the parties and to Rule 26(c) of the Federal Rules of
Civil Procedure, it is hereby ordered that the following provisions shall apply to all

STIPULATION AND PROTECTIVE
ORDER- 1

30076-0021/LEGAL12562669.1

Perkins Coie LLP
The PSE Building
10885 N.E. Fourth Street, Suite 700
Bellevue, WA 98004-5579
Phone: (425) 635-1400
Fax: (425) 635-2400

documents, information, or things furnished in the course of this litigation during discovery
or otherwise, or specific portions thereof, that are designated by a party as "Confidential"
(also referred to as "Confidential" materials) as further described below.

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5 1. This Protective Order shall apply whether the materials or documents have
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7 been produced pursuant to formal discovery, by subpoena, or by agreement.

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9 2. The term "documents" as hereinafter used includes but is not limited to
10 writings, photographs, electronic media extracts, summaries thereof, and attachments thereto;
11 answers to interrogatories; requests for admission and answers thereto; deposition transcripts
12 and exhibits; answers to requests for production; and any portions of Court papers which
13 quote from or summarize any of the foregoing.
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18 3. All documents, information and/or things produced in this litigation, or
19 specific portions thereof, may be marked or otherwise designated by the parties as
20 "Confidential" if:
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24 (a) They contain financial or other proprietary information that is held
25 confidential by either party;
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27 (b) They are part of an individual's applicant or personnel file or records, equal
28 employment opportunity complaint or investigation file, or similar files,
29 including the individual's identifying information (such as his or her name,
30 address, telephone number, social security number, driver's license number,
31 or bank account numbers) that a party to this litigation treats as confidential;
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33 (c) They describe, contain, or disclose internal corporate information that is
34 legitimately held confidential within the corporation; or
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36 (d) They contain medical records or other health care information, even if said
37 health care information is produced by a third party pursuant to stipulation or
38 subpoena.
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1 The determination of whether produced materials fall into one of the above categories shall
2 be made in the first instance in good faith by the party from whom discovery is sought. If
3 there is a disagreement between the parties as to whether particular produced materials have
4 been properly designated as "Confidential," the parties may seek Court assistance to resolve
5 the dispute in accordance with paragraph 11.
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9 4. If either party determines to mark documents, information, or things as
10 confidential, that shall be done by stamping each confidential page of said document with the
11 notice "Confidential" prior to its production. In the case of non-documentary materials,
12 "Confidential" shall be marked prominently on the item. Confidential documents or things
13 shall be used by the receiving party only for the prosecution and/or defense of this litigation
14 and for no other purpose.
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18 5. Confidential documents, including deposition transcripts, may be referred to
19 in interrogatory answers, motions, and briefs, and may be used at or in depositions; however,
20 the parties shall confer regarding measures to protect such documents' confidentiality. If
21 another party's Confidential documents are to be filed with the Court, used at trial, or used at
22 any court hearing, then at least ten (10) days before the trial or hearing the party seeking to
23 use such Confidential document shall notify the other party to give that party an opportunity
24 to file a motion with the Court regarding the Confidential document.
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28 6. Any document, information, or thing not designated as "Confidential" shall
29 not be covered by this Order, provided however, that inadvertent production of any
30 document, information or thing not designated "Confidential" shall not be deemed a waiver
31 of confidentiality as to such matter, and a party thereafter may designate the same as
32 "Confidential" promptly upon being advised or discovery of the inadvertent disclosure.
33 Disclosure by any party of such matter prior to notice of the confidential nature thereof shall
34 not be deemed a violation of this Protective Order.
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STIPULATION AND PROTECTIVE
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7. Except as expressly provided for in this Protective Order, any "Confidential" document, information, or thing or portion thereof marked "Confidential," shall not be communicated or disclosed in any manner, either directly or indirectly, to any person or entity, except:

- (a) Any party and their attorneys of record, associate counsel, paralegals, and office or other support staff assisting counsel in the conduct of this litigation;
- (b) Any person who was an author or addressee of the document or who is shown on the document as having received a copy of it;
- (c) The Court, jury, Court personnel, Court reporters, and similar persons;
- (d) Employees of defendant consulted by counsel for purposes of assisting in the preparation, investigation, presentation of claims or defenses in this litigation, settlement, trial or appeal of this action;
- (e) Any person whose deposition is noted or potential trial witness, as well as their counsel, when shown to such witness before or during his or her testimony, but (1) only to the extent counsel for the disclosing party determines in good faith that it is reasonably necessary to do so, and (2) subject to paragraph 9 below;
- (f) Consultants and experts retained by any party for purposes of assisting in the preparation, investigation, or presentation of claims or defenses in this litigation, settlement, trial, or appeal of this action; or
- (g) Any other person with the prior written consent of the party producing the document.

8. Prior to being shown "Confidential" documents, any person falling within paragraph 7(e) through 7(g) hereof shall agree in writing to be bound by the terms of this order by signing an agreement to be found in the form of Attachment A hereto.

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1 9. A deponent may, prior to and/or during the deposition, be shown and
2 examined about confidential documents in compliance with the provisions of paragraphs 7
3 and 8. Deponents shall not retain or copy any confidential documents not provided by them
4 that were disclosed during their depositions or any portions of the transcript of their
5 depositions that contain confidential information not provided by them.
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9 10. Parties may, within 30 days after receiving a deposition transcript, designate
10 pages of that transcript (and exhibits thereto not already designated Confidential) that comply
11 with the criteria set forth in paragraph 3 as Confidential. Confidential information within the
12 deposition transcript may be designated by underlining the portions of the pages that are
13 confidential and marking such pages with substantially the following legend: "Confidential--
14 Subject to protection pursuant to Court order." Until the expiration of the 30-day period, the
15 entire deposition will be treated as subject to protection against disclosure under this order.
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17 If no party timely designates confidential information in a deposition, then none of the
18 transcript or its exhibits not previously designated as Confidential will be treated as
19 Confidential unless otherwise agreed by the parties or ordered by the Court; if a timely
20 designation is made, and no objection is made by the other party, the Confidential portions
21 and exhibits shall be filed under seal separate from the portions and exhibits not so marked.
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25 11. If a party challenges the confidential designation of any document,
26 information, or thing, it shall so notify the designating party in writing. The parties agree
27 that before seeking any relief from the Court under this paragraph, they will make a good
28 faith effort to resolve any disputes concerning the treatment of any "Confidential" materials.
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30 If the challenge is not resolved, the designating party will move the Court for a protective
31 order seeking a Confidential designation for the material. If the designating party fails to
32 move for a protective order within ten (10) days after good faith negotiations to resolve the
33 challenge has ended, the material in question shall lose its Confidential designation.
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12. No later than sixty (60) days following the "conclusion of these proceedings,"
1 as defined below, counsel and every person to whom "Confidential" material has been
2 distributed shall return all "Confidential" material to counsel for the party producing them,
3 together with all abstracts, copies, and other documents containing any information contained
4 within the documents, including those portions of depositions designated as confidential
5 pursuant to this Protective Order, excepting those materials which contain or reflect
6 "Confidential" material but which constitute counsels' work product (and all copies thereof),
7 which counsel shall destroy. The recipient party may, as an alternative, destroy the
8 documents and provide opposing counsel with a declaration so indicating. "Conclusion of
9 these proceedings" refers to the conclusion of this matter by trial or settlement and, if
10 concluded by trial, the exhaustion of available appeals or the running of time for taking such
11 appeals, as provided by applicable law.
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23 13. Notwithstanding any of the foregoing provisions, if a Confidential document
24 of one party makes reference to the conduct or affairs of any potential witness, counsel may
25 discuss such conduct or affairs with the witness without revealing the document or that such
26 document exists. Such discussion shall not constitute disclosure within the terms of this
27 Protective Order.
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33 14. Nothing in this Protective Order shall prevent any party or nonparty to this
34 action from seeking modification of this Protective Order as to any specific document for
35 good cause shown or from objecting to discovery which it believes to be otherwise improper.
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39 **IT IS SO ORDERED** this __11__ day of December, 2006.
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RICARDO S. MARTINEZ
UNITED STATES DISTRICT JUDGE

STIPULATION AND PROTECTIVE
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