

**CASE PROTECTIVE ORDER:  
UNITED STATES OF AMERICA:  
CENTRAL DISTRICT OF  
CALIFORNIA**

Case citation:

**In re: Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices and Products Liability Litigation**

Case number:

**8:10ML2151 JVS (FMOx)**

Protective Order:

**Redacted stipulated protective order governing the exchange and handling of source code and source code related material**

Name and level of the court:

**United States District Court, Central District of California**

Date of order:

**30 March 2011**

Member of the court:

**James V. Selna. United States District Judge**

Lawyers for the claimants:

**Mark P. Robinson, Jr, Robinson of Calcagnie & Robinson, Inc., Elizabeth J. Cabraser of Lieff Cabraser, Heimann & Bernstein, LLP, Steve W. Berman of Hagens, Berman, Sobol, Shapior, LLP, Marc M. Seltzer of Susan Godfrey, LLP, Frank M. Pitre of Cotchett, Pitre & McCarthy, Joel Smith and Vincent Galvin Jr of Bowman and Brooke**

Lawyers for the defendant:

**Carl K. Dawson and Liza Gilford of Alston & Bird, LLP**

WHEREAS, to facilitate the production and receipt of information during discovery in the above-captioned litigation (“the Litigation”), the Court entered a Stipulated Protective Order on July 16, 2010 (the “July 16th Stipulated Protective Order”) and subsequently entered the First Amended Protective Order on January 19, 2011 (the “January 19th Protective Order”) for the protection of Confidential and Highly Confidential Materials (as defined therein) that may be produced or otherwise disclosed during the course of this Litigation by any party or non-party; and

WHEREAS, Paragraph 5 of the January 19th Protective Order stated that source code and related materials to be exchanged in the Litigation would be subject to additional forms of protection pursuant to further Order of the Court. To the extent the Parties require special protection for other highly sensitive materials, the Parties reserve the right to seek such protection from the Court prior to production as set forth in Paragraph 5 of the January 19th Protective Order.

WHEREAS, on February 25, 2011, March 15, 2011, and March 22, 2011, the Court held hearings on the issues

of source code protection and provided the Parties with further guidance on the protection of source code and source code related material and the protocol for review.

Accordingly, IT IS HEREBY ORDERED that the terms and conditions of this Stipulated Protective Order shall govern the exchange and handling of source code and source code related materials in the Litigation:

1. **Definitions:** For purposes of this Order, “source code” means human-readable text files used as input to computer programs that generate machine-readable files, including, but not limited to, files containing program text in “C”, “C++”, assembler, VHDL, Verilog, and digital signal processor (DSP) programming languages. Source code further includes “make” files, link files, and other human-readable text files used in the generation or building of software directly executed on a microprocessor, microcontroller, or DSP. Source code further includes binary executable files and object code files. Further, as used herein, “Producing Party” shall refer to the

















||||| The neutral party will not disclose to the Receiving Party, or any other party, any information |||||

4. Access to “Highly Confidential – Source Code” Information: Subject to the limitations set forth in this Paragraph, the Receiving Party may designate certain experts or consultants in the aggregate during the Litigation to have access to the Secure Facility for inspection of information designated as “Highly Confidential – Source Code.” Any such experts or consultants must sign the “Agreement Concerning Source Code Information Covered by Protective Order” attached hereto as Exhibit A and must otherwise meet the requirements of Paragraph 11(c) and 12 of the January 19th Protective Order. In addition, the Receiving Party may designate certain outside counsel of record in this Litigation in aggregate as defined and limited in Paragraph 11(b) of the January 19th Protective Order who may have access to the Secure Facility for inspection of information designated as “Highly Confidential – Source Code.” Notwithstanding the above, no more than a total of ||||| consultants meeting the criteria of Paragraphs 11(b), 11(c), and 12 of the January 19th Protective Order identified by the Receiving Party and the five (5) Co-Lead Counsel for Plaintiffs as a group shall have access to the Secure Facility for inspection of information designated as “Highly Confidential – Source Code” in aggregate during the Litigation pursuant to this Paragraph. Other than the individuals designated herein, no other individual or entity shall be granted access to information designated as Highly Confidential – Source Code, including without limitation sharing attorneys pursuant to Paragraph 13 of the First Amended Protective Order, except as expressly authorized by the Producing Party.

At least ten (10) days prior to the date on which

access is sought to the Secure Facility, the Receiving Party’s counsel shall provide to counsel for the Producing Party the names of any individual, including attorneys, seeking such access for the first time, and the Producing Party shall have the right to object to such access before granting access to the Secure Facility. During the pendency of this ten (10) day notice period, no listed individual shall have access to the Secure Facility. If an objection to any specific individual is made, that individual shall not have access to the Secure Facility until resolution of such objection. Individuals who have been previously granted access to the Secure Facility according to this Paragraph 4 may access it, without further approval, although the Producing Party ||||| If the Receiving Party wishes to substitute the name of a previously disclosed individual seeking access to the Secure Facility for another individual pursuant to this Paragraph, the Receiving Party shall provide notice to the Producing Party five (5) days prior to the date on which access is sought to the Secure Facility. The Producing Party shall have the right to object to such access before granting access to the Secure Facility. Consent, however, will not be unreasonably withheld. During the pendency of this five (5) day notice period, the substituted individual shall not have access to the Secure Facility. If an objection to any specific individual is made, that individual shall not have access to the Secure Facility until resolution of such objection by the Court. During the Litigation, the Receiving Party shall in no event grant access to the Secure Room to more than ||||| specifically named individuals in the aggregate.

|||||

Individuals granted access to Highly Confidential – Source Code information shall not have the right to, and agree [redacted] except as specifically set forth herein.

The Neutral System Administrator will monitor the Secure Room as set forth above in Paragraph 3, [redacted] Both the Producing Party and the Receiving Party will have access to the [redacted]

[redacted]

The Parties will [redacted]

The Producing Party will not have access to the Receiving Party’s work product. After meeting and conferring with the Producing Party, the Receiving Party may [redacted]

**5. Searching of “Highly Confidential – Source Code” Information by Receiving Party:** The Receiving Party (including the experts or consultants who may inspect information designated as “Highly Confidential – Source Code” pursuant to the provisions of this Order) may, to the extent necessary, request that the Neutral System Administrator load searching or analytical tools for inspection of the source code [redacted] in the presence of the Producing Party and Receiving Party with the advice and assistance of either Party as needed, so long as the searching or other analytical tools for inspection of the source code are identified and disclosed and, with respect to tools that are not commercially











Administrator.

||||| the Neutral System Administrator as set forth herein. The

||||| the Neutral System Administrator as set forth herein. The

||||| To the extent the Producing Party has a good faith basis to believe that the

||||| is inconsistent with the provisions set forth herein, the Producing Party may seek immediate relief from the Court, including, but not limited to, revoking or limiting the Receiving Party's access to Highly Confidential – Source Code, and compensation for the economic harm resulting from the Receiving Party's violation of the Protective Order.

Except as provided herein, absent express written permission from the Producing Party, the Receiving Party ||||| pursuant to the terms of this Order for use in any manner (including by way of example only, the Receiving Party may not |||||

||||| shall not be included in correspondence between the Parties (references to production numbers shall be used instead), and shall be omitted from pleadings and other papers whenever possible, except as expressly set forth in Paragraph 10 herein.

**8. Use of Highly Confidential – Source Code Information**

Highly Confidential – Source Code information shall be used solely for purposes of the Litigation as set forth herein. No person shall review or analyze Highly Confidential – Source Code information for purposes unrelated to this Litigation, nor may any person use any knowledge gained as a result of reviewing Highly Confidential – Source Code information in any other pending or future dispute, proceeding, patent prosecution, or litigation.

**9. Expert Reports**

The Receiving Party ||||| its final expert report pursuant to the ||||| protocol set forth in Paragraph 7 herein, however, ||||| . Before the final expert report is ||||| by the Receiving Party, ||||| of no more than ten (10) business days. |||||







the court reporter or attached to deposition transcripts; rather, the deposition record will identify the exhibit by its production numbers. |||||  
							deposition shall be returned to the Producing Party and securely destroyed in a timely manner following the deposition.																					

**11. Other Protections:** Information designated as “Highly Confidential – Source Code” pursuant to the terms of this Order is also entitled to the protections of the January 19th Protective Order for material designated as “Highly Confidential” and all other applicable provisions thereof. This Order is intended to provide additional specific protections related to the handling, review of, and access to highly confidential source code and source code related material designated as “Highly Confidential – Source Code,” and it shall govern all issues unique to the handling, review of, and access to such materials.

**12. Violations of Protective Order:** In the event that any person or party should violate the terms of this Protective Order, the aggrieved Producing Party should apply to the Court to obtain relief against any such person or party violating or threatening to violate any of the terms of the Protective Order. Further, if the monitoring mechanisms set forth herein identify any actual or potential violation of this Order by the Receiving Party, the Producing Party may apply for, inter alia, immediate injunctive relief from the Court. In the event that the aggrieved Producing Party seeks injunctive relief, it must petition the District Judge for such relief, which may be granted at the sole discretion of the District Judge. The Parties and any other person subject to the terms of this Protective Order agree that this Court shall retain jurisdiction over it and them for the purpose of enforcing this Protective Order.

**13. Source Code and Source Code Material Produced as Part of the NHTSA/NASA Report:** The National Highway Traffic Safety Administration (“NHTSA”)/National Aeronautics and Space

Administration (“NASA”) Report released February 8, 2011 includes Highly Confidential – Source Code Materials. Portions of the report were redacted from the publically available report by NASA/NHTSA pursuant to statutory confidentiality provisions. Any information related to source code or source code material prepared in connection with the NASA/NHTSA report may be designated as HIGHLY CONFIDENTIAL – SOURCE CODE and will be entitled to the protections and protocol set forth in this Order. The Producing Party is producing in this Litigation all specific previously redacted portions of the report unredacted but designated as HIGHLY CONFIDENTIAL – SOURCE CODE and, as such, that information shall be entitled to the protections in this Order. |||||  
																when not in use. Only the up to																																				consultants and the																																																																																																																							
																																	disclosed and approved pursuant to Paragraph 4 herein for access to the HIGHLY CONFIDENTIAL – SOURCE CODE material shall have access to the report																																. The report, or the																											thereof, cannot be shared or otherwise disclosed to any individual other than the individuals specified in this Paragraph. Prior to the development of the Secure Room, a																											will be made available																																																				

||||| of the HIGHLY CONFIDENTIAL – SOURCE CODE NHTSA/NASA report to |||||  
|||||, cannot be shared or otherwise disclosed to any individual other than the up to ||||| consultants who have received approval for access to HIGHLY CONFIDENTIAL – SOURCE CODE material pursuant to Paragraph 4 herein as set forth above  
||||| The Producing Party will provide |||  
||||| The reports should be ||||| and should never be available or accessible to the general public or any others who are not authorized to view the contents in unredacted form. No copy should ever |||||

|||||  
The Producing Party will provide ||||| of the HIGHLY CONFIDENTIAL – SOURCE CODE NHTSA/NASA report  
||||| cannot be shared or otherwise disclosed to any individual other than the up to ||||| reviewing consultants who have received approval for access to HIGHLY CONFIDENTIAL – SOURCE CODE material pursuant to Paragraph 4 herein as set forth above and the  
||||| shall retain  
||||| in a |||||  
and provide ||||| the Producing Party prior to receiving |||||  
The Producing Party ||||| and should never be available or accessible to the general public or any others who are not authorized to view its contents in unredacted form. |||||

James V. Selna

United States District Judge


Both the |||||  
|||||  
||||| prepared by the  
Producing Party shall be |||||  

**14. Technical Modifications:** If technical considerations require modification of the system architecture or security protocol set forth herein, the Parties may by mutual agreement agree to make technical modifications in keeping with the security objectives of this Protective Order.

**15. Conclusion of Litigation:** Within thirty (30) days after receiving notice of the entry of an order, judgment or decree finally disposing of this Litigation, all persons having received or maintained Highly Confidential – Source Code material, including any notes designated as such pursuant to Paragraph 6 herein, shall return such material and all copies thereof to counsel for the Producing Party and certify that fact to counsel for the Producing Party in writing by sworn statement. Counsel of record shall make arrangements for the return of Highly Confidential – Source Code material that counsel of record provided or made available to any persons in Paragraphs 11(a), (b), or (c) of the January 19th Protective Order, except the Court, court personnel and court reporters. All Highly Confidential – Source Code material returned to the parties or their counsel by the Court shall likewise be returned to each Producing Party in accordance with this Paragraph.

Dated: March 30, 2011

(signed with a manuscript signature)

EXHIBIT A

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

In Re: Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation

This document relates to:  
ALL CASES

CASE NO.: 8:10ML2151  
JVS (FMOx)  
AGREEMENT  
CONCERNING SOURCE  
CODE AND SOURCE CODE  
RELATED MATERIAL  
COVERED BY STIPULATED  
PROTECTIVE ORDER

disclosed to me pursuant to the terms of the Source Code Protective Order.

I hereby submit myself to the jurisdiction of the United States District Court for the Central District of California for resolution of any matters pertaining to the Source Code Protective Order.

My address is

My present employer is

Dated:

Signed:

I, \_\_\_\_\_, hereby acknowledge that I have received a copy of the Stipulated Protective Order Governing the Exchange and Handling of Source Code and a copy the January 19th, 2011 Protective Order entered in this action (Case No. 8:10ML2151 JVS (FMOx) by the United States District Court for the Central District of California, Southern Division (collectively, hereinafter, "the Source Code Protective Order").

I have either read the Source Code Protective Order or have had the terms of the Protective Order explained to me by my attorney.

I understand the terms of the Source Code Protective Order and agree to comply with and to be bound by such terms.

If I review or receive documents or information designated as "Highly Confidential – Source Code," I understand that such information is provided to me pursuant to the terms and restrictions of the Source Code Protective Order.

I agree to hold in confidence and not further disclose or use for any purpose (other than is permitted by the Source Code Protective Order) any information