

EXHIBIT 1

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

2311 Racing LLC et al.

Plaintiff

v.

National Association for Stock Car Auto Racing,
LLC, et al.

Defendant

Civil Action No. 3:24-CV-00886-KDB-SCR

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Liberty Media Corporation, c/o Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808

(Name of person to whom this subpoena is directed)

Production: **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A.

Place: Winston & Strawn LLP, c/o Colorado Attorney Services 1660 S. Albion Street, Suite 826 Denver, CO 80222	Date and Time: 03/07/2025 5:00 pm
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Inspection of Premises: **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
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The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 03/24/2025

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Jeanifer E. Parsigian

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Plaintiffs
2311 Racing LLC & Front Row Motorsports, Inc. , who issues or requests this subpoena, are:
Jeanifer E. Parsigian, Winston & Strawn LLP, 101 California St., Floor 21, San Francisco, CA 94111; jparsigian@winston.com; 415-591-1469

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 3:24-CV-00886-KDB-SCR

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

Pursuant to Rules 34 and 45 of the Federal Rules of Civil Procedure, 2311 Racing LLC d/b/a 23XI Racing and Front Row Motorsports, Inc. hereby request that Formula 1 respond hereto and produce for inspection and copying complete, true, and accurate copies of the following documents, electronically stored information, and tangible things in conformance with the above rules at the offices of Colorado Attorney Services, Attention: Jeanifer E. Parsigian (Winston & Strawn LLP), 1660 S. Albion Street, Suite 826, Denver, CO 80222, jparsigian@winston.com, by March 7, 2025.

DEFINITIONS

Notwithstanding any definition below, each word, term, or phrase used in these requests is intended to have the broadest meaning permitted under the Federal Rules of Civil Procedure.

1. The following rules of construction shall apply to all discovery requests:
 - (a) The terms “all,” “any,” and “each” shall be construed as encompassing any and all;
 - (b) The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope;
 - (c) “Concerning” means Relating to, referring to, describing, evidencing or constituting;
 - (d) “Includes” shall mean “includes without limitation,” so as to be most inclusive, and “including” shall mean “including without limitation,” so as to be most inclusive;
 - (e) The use of the singular form of any word includes the plural and vice versa; and
 - (f) the past tense shall include the present tense, and vice versa.

2. “Agreement” means any contract, arrangement, or understanding, formal or informal, oral or written, between two or more persons, together with all modifications or amendments thereto.

3. “Broadcast Revenue(s)” means any monies and/or profits generated or expected to be generated from Formula 1 or Formula 1 Team(s) operations, contracts, Agreements, or other arrangements with any broadcaster.

4. “Communication” means the transmittal of information (in the form of facts, ideas, inquiries, or otherwise) by any means, whether orally, in writing, face-to-face, via any video conferencing platform (*e.g.*, Zoom, FaceTime), by telephone, mail, email, text message, iMessage, short message service, messaging app (*e.g.*, WhatsApp, Slack, Discord), or otherwise.

5. “Concession Revenue(s)” means any monies and/or profits generated or expected to be generated from Formula 1 or Formula 1 Team(s) operations, contracts, Agreements, or other arrangements related to any concessions Formula 1 grants to any third parties, including parking concessions.

6. “Concorde Agreement” means the contract between Formula 1, FIA, and the Teams that outlines how Formula 1 is run and regulated, and how Revenue(s), Broadcast Revenue(s), Sponsorship Revenue(s), and Other Revenue(s) are shared. *See* Lawrence Barretto, *ANALYSIS: What the new Concorde Agreement means for Formula 1*, FORMULA 1.COM (Aug. 19, 2020), <https://www.formula1.com/en/latest/article/analysis-what-the-new-concorde-agreement-means-for-formula-1.1Z97Z6vRwfDTHVhGbSS510>.

7. “Document” has the broadest possible meaning permissible under the Federal Rules of Civil Procedure and/or applicable precedent, including electronic or computerized data

compilations and electronic email. A draft or non-identical copy is a separate Document within the meaning of this term. The term “Document” includes Communications.

8. “Entity” means a corporation, company, firm, partnership, joint venture, association, governmental body, or agency, as well as all past or present attorneys, partners, employees, associates, officers, agents, representatives, or consultants acting on the Entity’s behalf.

9. “Expansion Fee Revenue(s)” means any monies and/or profits generated or expected to be received by Formula 1, Formula 1 Team(s), or owner(s) of Formula 1 or Formula 1 Team(s) related to any expansion of Formula 1 Team(s).

10. “Facility or Location Revenue(s)” means any monies and/or profits generated or expected to be generated from Formula 1 or Formula 1 Team(s) operations, contracts, Agreements, or other arrangements with any facility or location users, including any lease-related economic benefits from events held in stadium or arena.

11. “FIA” means the Fédération Internationale de l’Automobile.

12. “Formula 1,” “Formula One,” or “F1” means the organization that promotes the FIA Formula 1 World Championship, as well as all subsidiaries, affiliates, divisions, predecessors, successors, assigns, and all officers, directors, employees, temporary employees, independent contractors, agents, and all other persons or organizations acting or purporting to act on behalf, or under the control, of each of the foregoing.

13. “Franchise Sale Revenue(s)” means any monies and/or profits generated or expected to be received by Formula 1, Formula 1 Team(s), or owner(s) of Formula 1 or Formula 1 Team(s) related to any franchise sale(s).

14. “Gambling Related Revenue(s)” means any monies and/or profits generated or expected to be generated from Formula 1 or Formula 1 Team(s) operations, contracts, Agreements, or other arrangements related to any gambling activities.

15. “Intellectual Property Revenue(s)” means any monies and/or profits generated or expected to be generated from Formula 1 or Formula 1 Team(s) operations, contracts, Agreements, or other arrangements related to any licensing of the Formula 1’s intellectual property.

16. “Internet Programming Revenue(s)” means any monies and/or profits generated or expected to be generated from Formula 1 or Formula 1 Team(s) operations, contracts, Agreements, or other arrangements related to any internet programs.

17. “Litigation” means *2311 Racing LLC et al. v. National Association for Stock Car Auto Racing, LLC et al.* (W.D.N.C. No. 3:24-cv-00886-KDB-SCR).

18. “Merchandise Revenue(s)” means any monies and/or profits generated or expected to be generated from Formula 1 or Formula 1 Team(s) operations, contracts, Agreements, or other arrangements related to any physical and nonphysical merchandise.

19. “Other Revenue(s)” means any monies and/or profits generated or expected to be generated from Formula 1 or Formula 1 Team(s) operations, contracts, Agreements, or other arrangements, excluding Broadcast Revenue(s), Sponsorship Revenue(s), Ticket Revenue(s), Seat Licensing Revenue(s), Concession Revenue(s), Merchandise Revenue(s), Intellectual Property Revenue(s), Expansion Fee Revenue(s), Franchise Sale Revenue(s), Gambling Related Revenue(s), Facility or Location Revenue(s), Internet Programming Revenue(s), and Signage Revenue(s).

20. “Relating to” means, without limitation, the following concepts: discussing, describing, reflecting, dealing with, pertaining to, analyzing, evaluating, estimating, constituting,

studying, surveying, projecting, assessing, recording, summarizing, criticizing, reporting, commenting, or otherwise involving, in whole or in part.

21. “Revenue(s)” mean any monies and/or profits generated or expected to be generated from Formula 1 or Formula 1 Team(s) operations, contracts, Agreements, or other arrangements, including Broadcast Revenue(s), Sponsorship Revenue(s), Ticket Revenue(s), Seat Licensing Revenue(s), Concession Revenue(s), Merchandise Revenue(s), Intellectual Property Group Licensing Revenue(s), Expansion Fee Revenue(s), Franchise Sale Revenue(s), Gambling Related Revenue(s), Facility or Location Revenue(s), Internet Programming Revenue(s), and Signage Revenue(s), and Other Revenue(s).

22. “Seat Licensing Revenue(s)” means any monies and/or profits generated or expected to be generated from Formula 1 or Formula 1 Team(s) operations, contracts, Agreements, or other arrangements related to licensing of seats, including box or club seat fees.

23. “Signage Revenue(s)” means any monies and/or profits generated or expected to be generated from Formula 1 or Formula 1 Team(s) operations, contracts, Agreements, or other arrangements related to any signage.

24. “Sponsorship Revenue(s)” means monies and/or profits generated or expected to be generated from Formula 1 or Formula 1 Team(s) operations, contracts, Agreements, or other arrangements with any sponsor.

25. “Team(s)” means any racing team that competes in Formula 1 racing.

26. “Ticket Revenue(s)” means any monies and/or profits generated or expected to be generated from Formula 1 or Formula 1 Team(s) operations, contracts, Agreements, or other arrangements related to ticket sales.

27. Unless otherwise specified, the term “Relevant Time Period” means the period from January 1, 2014 until December 31, 2024.

28. “You” and “Your” mean the responding party or parties, their predecessors, successors, subsidiaries, departments, divisions, joint ventures and/or affiliates, including, without limitation, any organization or Entity which they manage or control, together with all present and former directors, officers, employees, agents, representatives or any persons acting or purporting to act on their behalf.

INSTRUCTIONS

1. This Subpoena and any Documents You produce pursuant to this Subpoena will be subject to a Protective Order entered by the federal court presiding over this Litigation, a copy of which is attached to this Subpoena as Attachment B.

2. All Documents produced must be sent simultaneously to counsel for the Defendants and to counsel for the Plaintiffs.

3. Electronically Stored Information must be produced in conformance with the Court’s order on Electronically Stored Information, which is attached to this Subpoena as Attachment C. If You cannot meet these requirements, or it would be burdensome to do so, then we can meet and confer on format.

4. These requests call for the production of all responsive Documents that are within Your possession, custody or control or the possession, custody, or control of Your predecessors, successors, parents, subsidiaries, divisions or affiliates, or any of Your respective directors, officers, managing agents, agents, employees, attorneys, accountants or other representatives. A Document shall be deemed to be in Your control if You have the right to secure the Document or a copy of the Document from another person having possession or custody of the Document.

5. If any Document covered by these requests is redacted or withheld by reason of a claim of attorney-client privilege, attorney work-product protection, or any other privilege or protection, please furnish a log providing the following information with respect to each such redacted or withheld Document: date, author, recipients, general subject matter sufficient to make a prima facie determination whether the asserted privilege has been properly invoked, and legal basis upon which the Document has been redacted or withheld.

6. With respect to any Document maintained or stored electronically, please harvest it in a manner that maintains the integrity and readability of all data, including all metadata.

7. All Documents stored as electronic data on magnetic, optical, other storage media, or in the cloud as “active” or “backup” files shall be produced in their native formats with any associated metadata. Encrypted or password-protected Documents should be produced in a form permitting them to be reviewed.

8. Please organize electronic Documents produced for inspection in the same manner that You store them (*e.g.*, if maintained by a custodian, such as e-mail residing on an e-mail server, please organize Documents for production by custodian; if maintained as a subfolder of “My Documents” on a custodian’s hard drive, please organize Documents for production by custodian with path information preserved, etc.).

9. At Your election, Documents maintained or stored in paper, hard-copy form can be produced as searchable .PDF (*i.e.*, portable document format files with embedded text) and in an appropriate and usable manner (*e.g.*, by copying such data onto an external hard drive).

10. These requests require paper Documents in the same form and same order as they are kept in the usual course of business or organized and labeled to correspond with the requests. If You choose the former method, the Documents are to be produced in the boxes, file folders,

binders, and other containers in which the Documents are found. The titles, labels or other descriptions on the boxes, file folders, binders, or other containers are to be left intact.

11. Documents stored as electronic data on magnetic, optical, or other storage media as “active” or “backup” files shall be produced in their native formats with any associated metadata.

12. To the extent responsive Documents reside on databases and other such systems and files, You are requested to produce the relevant database in usable form and/or permit access for inspection, review, and extraction of responsive information.

13. Each Document request shall be separately set forth and accorded a separate answer. Each response shall first set forth verbatim the Document request to which it is responsive, followed by Your response.

14. No part of a Document request shall be left unanswered merely because an objection was interposed to another part of the Document request.

15. If You object to any Document request or subpart thereof, the objection shall state with specificity all grounds. Any ground not stated shall be waived.

16. If You are unable to answer any Document request, the reasons for Your inability to answer shall be separately stated in detail for each Document request.

17. These requests shall be deemed continuing so as to require further and supplemental production in accordance with Federal Rule of Civil Procedure 26(e).

18. These Document requests seek all responsive Documents created or generated during the Relevant Time Period, as well as responsive Documents created or generated outside the Relevant Time Period, but which contain information Concerning the Relevant Time Period.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

For each category of Revenue specified below, Documents sufficient to show the total amount of and percentage received by and shared among Formula 1 and Formula 1 Teams during the Relevant Time Period.

- a) Revenue(s)
- b) Broadcast Revenue(s)
- c) Sponsorship Revenue(s)
- d) Ticket Revenue(s)
- e) Seat Licensing Revenue(s)
- f) Concession Revenue(s)
- g) Merchandise Revenue(s)
- h) Intellectual Property Revenue(s)
- i) Expansion Fee Revenue(s)
- j) Franchise Sale Revenue(s)
- k) Gambling Related Revenue(s)
- l) Facility or Location Revenue(s)
- m) Internet Programming Revenue(s)
- n) Signage Revenue(s)
- o) Other Revenue(s)

REQUEST FOR PRODUCTION NO. 2:

Documents sufficient to show how the allocation of each category of Revenue specified below between Formula 1 and Formula 1 Teams is determined, including any formulas or other guidelines used to make such determination during the Relevant Time Period.

- a) Revenue(s)
- b) Broadcast Revenue(s)
- c) Sponsorship Revenue(s)
- d) Ticket Revenue(s)
- e) Seat Licensing Revenue(s)
- f) Concession Revenue(s)
- g) Merchandise Revenue(s)
- h) Intellectual Property Revenue(s)
- i) Expansion Fee Revenue(s)
- j) Franchise Sale Revenue(s)
- k) Gambling Related Revenue(s)
- l) Facility or Location Revenue(s)
- m) Internet Programming Revenue(s)
- n) Signage Revenue(s)

o) Other Revenue(s)

REQUEST FOR PRODUCTION NO. 3:

Documents sufficient to show the number of tickets sold for each Formula 1 and/or Formula 1 Team event, number in attendance at each Formula 1 and/or Formula 1 Team event, and broadcast ratings of each Formula 1 and/or Formula 1 Team event during the Relevant Time Period.

REQUEST FOR PRODUCTION NO. 4:

Documents sufficient to show the Revenues and any other value Formula 1 receives or derives from Formula 1's and Formula 1 Teams' intellectual property.

REQUEST FOR PRODUCTION NO. 5:

Documents sufficient to show the Revenues and any other value Formula 1, Formula 1 Team(s), or other Entities or individual(s), including owner(s) of Formula 1 Team(s), has or expects to receive or derive from the sale, expansion, or change of control of any Formula 1 Team(s) during the Relevant Time Period.

REQUEST FOR PRODUCTION NO. 6:

All Documents and Communications relating to any research, study, analysis, and estimate on the value of Formula 1 Teams or the value of any charter, franchise, and license for Formula 1 Teams during the Relevant Time Period.

REQUEST FOR PRODUCTION NO. 7:

The Concorde Agreements entered, negotiated, and in effect during the Relevant Time Period.

REQUEST FOR PRODUCTION NO. 8:

Formula 1's constitutions, bylaws, and other rulebooks Relating to Formula 1 and Formula 1 Team financial arrangements, operating procedures, rules, and guidelines.

ATTACHMENT B

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

2311 RACING LLC d/b/a 23XI RACING and
FRONT ROW MOTORSPORTS, INC.,

Plaintiffs,

v.

NATIONAL ASSOCIATION FOR STOCK
CAR AUTO RACING, LLC, and JAMES
FRANCE,

Defendants.

Civil Action No. 3:24-cv-886

**STIPULATED
PROTECTIVE ORDER**

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 that 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. The parties further acknowledge that this Stipulated Protective Order does not entitle them to file confidential information under seal; Local Civil Rule 6.1 sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal. The following restrictions and procedures shall apply to certain information, documents and excerpts from documents supplied by the parties to each other in response to discovery requests:

1. **DEFINITIONS**

- a. “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).
- b. “HIGHLY CONFIDENTIAL – OCO” Information or Items: very sensitive and confidential material the disclosure of which to another Party or Non-Party would create a substantial risk of serious harm that could not be avoided by less restrictive means.
- c. Counsel (without qualifier): Outside Counsel of Record and In-House Counsel (as well as their support staff).
- d. Designating Party: a Party or Non-Party that designates Discovery Material as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – OCO.”
- e. Discovery Material: all items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including, among other things, testimony, transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery in this matter.
- f. Expert: a person with specialized knowledge or experience in a matter pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this action.
- g. In-House Counsel: attorneys who are employees of a party to this action. In-House Counsel does not include Outside Counsel of Record or any other outside counsel.
- h. Non-Party: any natural person, partnership, corporation, association, or other legal entity not named as a Party to this action.

- i. Outside Counsel of Record: attorneys who are not employees of a party to this action but are retained to represent or advise a party to this action and have appeared in this action on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.
 - j. Party: any party to this action, including all of its officers, directors, employees, consultants, retained experts, and Outside Counsel of Record (and their support staffs).
 - k. Producing Party: a Party or Non-Party that produces Discovery Material in this action.
 - l. Professional Vendors: persons or entities that provide litigation support services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.
 - m. Protected Material: any Discovery Material that is designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – OCO.” Protected Material is also referred to herein as “Confidential Information.”
 - n. Receiving Party: a Party that receives Discovery Material from a Producing Party.
2. **SCOPE**. The protections conferred by this Stipulation and Order cover not only Protected Material (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all copies, excerpts, or compilations of Protected Material; and (3) any testimony, conversations, or presentations by Parties or their Counsel that might reveal Protected Material. However, the protections conferred by this Stipulation and Order do not cover the following information: (a) any information that is in the public domain at the time of disclosure

to a Receiving Party or becomes part of the public domain after its disclosure to a Receiving Party as a result of publication not involving a violation of this Order, including becoming part of the public record through trial or otherwise; and (b) any information known to the Receiving Party prior to the disclosure or obtained by the Receiving Party after the disclosure from a source who obtained the information lawfully and under no obligation of confidentiality to the Designating Party. Any use of Protected Material at trial shall be governed by a separate agreement or order.

3. **DESIGNATING MATERIAL FOR PROTECTION.** Counsel for any party or nonparty, in complying with discovery requests, may designate any document or portion thereof as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – OCO”.

- a. The parties, in conducting discovery from nonparties, shall provide to each nonparty a copy of this Stipulated Protective Order so as to inform each such nonparty of their rights herein.
- b. Manner and Timing of Designations. Except as otherwise provided in this Order, or as otherwise stipulated or ordered, Discovery Material that qualifies for protection under this Order may be designated as Confidential by placing or affixing the designation “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – OCO,” or any other appropriate notice, together with an indication of the portion or portions of the document considered to be “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – OCO.” “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – OCO” contained in electronic documents may also be designated as confidential by placing the “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – OCO,” or any

other appropriate notice, in the document metadata, image file, or through another mechanism that clearly identifies the document as confidential. Masked or otherwise redacted copies of documents may be produced where the portions masked or redacted contain privileged matter, provided that the copy produced shall indicate at the appropriate point that portions have been masked or redacted and the reasons therefor.

- c. Deposition Testimony. The Party or nonparty desiring to designate any or all portions of oral testimony as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – OCO” shall do so by stating orally on the record on the day that the oral testimony is being given or by notifying the parties in writing of the intention to designate any or all portions of oral testimony as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – OCO” after the oral testimony is given within 30 days of the testimony. Oral testimony shall be treated as HIGHLY CONFIDENTIAL – OCO until the 30 days expires.
- d. Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the Designating Party’s right to secure protection under this Order for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

4. **USE LIMITED TO THIS ACTION**. Unless otherwise ordered by the Court, or otherwise provided for herein, the Confidential Information disclosed will be held and used

by the person(s) receiving such information solely for use in connection with the above-captioned action.

5. **CHALLENGING CONFIDENTIALITY DESIGNATIONS.** In the event a party challenges another party's confidentiality designation, counsel shall make a good faith effort to resolve the dispute, and in the absence of a resolution, the challenging party may thereafter seek resolution by the Court. Nothing in this Protective Order constitutes an admission by any party that confidential information disclosed in this case is relevant or admissible.

6. **ACCESS TO AND USE OF PROTECTED MATERIAL.** A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a Non-Party in connection with this case only for prosecuting, defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to the categories of persons and under the conditions described in this Order. When the litigation has been terminated, a Receiving Party must comply with the provisions of Paragraph 12 of this Order. Protected Material must be stored and maintained by a Receiving Party at a location and in a secure manner that ensures that access is limited to the persons authorized under this Order.

- a. Information or documents designated as "CONFIDENTIAL" shall not be disclosed to any person, except:
 - i. the Receiving Party's Outside Counsel of Record in this action;
 - ii. Employees of such counsel assigned to and necessary to assist in the litigation;
 - iii. In-House Counsel of the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed the

- “Acknowledgment and Agreement to Be Bound” (Exhibit A);
- iv. Experts (as defined in this Order) of the Receiving Party for this litigation, to the extent deemed necessary by counsel, who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);
 - v. The Court or as exhibits to motions;
 - vi. Court reporters and their staff, professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);
 - vii. any witness or deponent who may have authored or received the information in question or who had access to the material in the ordinary course of their employment.
- b. Disclosure of “HIGHLY CONFIDENTIAL – OCO” Information or Items. Unless otherwise ordered by the Court or permitted in writing by the Designating Party, a Receiving Party may disclose any material designated “HIGHLY CONFIDENTIAL – OCO” only to:
- i. the Receiving Party’s Outside Counsel of Record in this Action and employees of Outside Counsel of Record to whom disclosure is reasonably necessary;
 - ii. Experts (as defined in this Stipulated Protective Order) of the Receiving Party to whom disclosure is reasonably necessary and who have signed the “Acknowledgment and Agreement to Be

- Bound” (Exhibit A);
- iii. the Court and its personnel;
 - iv. court reporters and their staff and Professional Vendors to whom disclosure is reasonably necessary and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);
 - v. the author or recipient of a document containing the information; and
 - vi. any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the Parties engaged in settlement discussions and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A).
- c. Prior to disclosing or displaying information designated “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – OCO” to any person, counsel shall:
- i. Inform the person of the confidential nature of the information or documents; and
 - ii. Inform the person that this Court has enjoined the use of the information or documents by him/her for any purpose other than this litigation and has enjoined the disclosure of that information or documents to any other person.

7. **WRITTEN PERMISSION NEEDED TO PUBLICLY FILE PROTECTED MATERIAL.**

Without written permission from the Designating Party or a court order secured after appropriate notice to all interested persons, a Party may not file any Protected Material in the public record.

This Protective Order does not provide for the automatic sealing of such documents. In the event that a Party anticipates including any Protected Material in any pleading, motion, exhibit, or other paper to be filed with the Court, the Party planning to file such papers shall file a motion to seal such materials prior to including them in the papers. If the Court grants the motion to seal, such papers shall be filed under seal. Protected Material contained in the papers shall remain under seal until further order of the Court; provided, however, that such papers may be furnished to persons or entities who may receive Protected Material pursuant to Paragraph 6. Upon or after filing any paper containing Protected Material, the filing Party shall file on the public record a copy of the paper containing redactions such that the public version does not reveal Protected Material within one business day of the sealed filing

8. **PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION.** If any Party receives a discovery request in any investigation or in any other proceeding or matter that may require the disclosure of any information or items designated in this action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – OCO,” that Party must promptly notify in writing the Designating Party of such request. Such notification shall be in writing and served to the Designating Party at last fifteen (15) business days before production, and shall include a copy of this Protective Order. Nothing herein shall be construed as requiring the recipient of the discovery request or anyone else covered by this Protective Order to challenge or appeal any order requiring production of Confidential Material, to subject itself to any penalties for non-compliance with any such order, or to seek any relief from the Court. The recipient shall not oppose the Designating Party’s efforts to challenge the disclosure of Confidential Material.

9. **A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**

PRODUCED IN THIS LITIGATION. The terms of this Order are applicable to information produced by a Non-Party in this action and designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – OCO.” Such information produced by Non-Parties in connection with this litigation is protected by the remedies and relief provided by this Order. Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional protections. In the event that a Party is required, by a valid discovery request, to produce a Non-Party’s Confidential Information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party’s Confidential Information, then the Party shall:

- a. promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;
- b. promptly provide the Non-Party with a copy of the Stipulated Protective Order in this litigation, the relevant discovery request(s), and a reasonably specific description of the information requested; and
- c. make the information requested available for inspection by the Non-Party.

If the Non-Party fails to object or seek a protective order from the Court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party’s Confidential Information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the Court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

10. **UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL.**

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

12. **INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL.**

13. Subject to the provisions of this Order, if the Producing Party discloses information in connection with the pending litigation that the Producing Party thereafter claims to be privileged or protected by the attorney-client privilege or work product protection (“Protected Information”), the disclosure of that Protected Information will not constitute or be deemed a waiver or forfeiture—in this or any other action—of any claim of privilege or work product protection that the Producing Party would otherwise be entitled to assert with respect to the Protected Information and its subject matter.

- a. This Order protects any disclosure of Protected Information, whether that disclosure is inadvertent or otherwise.
- b. Each party is entitled to decide, in its sole discretion, the appropriate degree of care to exercise in reviewing materials for privilege. Irrespective of the care that is actually exercised in reviewing materials for privilege, the Court hereby orders that disclosure of Protected

Information in discovery conducted in this litigation shall not waive any claim of privilege or work product protection that the Producing Party would otherwise be entitled to assert with respect to the Protected Information and its subject matter.

- c. A Producing Party must notify the Receiving Party, in writing, that it has disclosed that Protected Information without intending a waiver by the disclosure. Upon receipt of notification, the Receiving Party shall immediately take all reasonable steps to destroy or return all copies, electronic or otherwise, of such document or other information, and shall provide a certification that it will cease further review, dissemination, and use of the Protected Information.
- d. This Order shall be interpreted to provide the maximum protection allowed to the Disclosing Party by Federal Rule of Evidence 502(d). The provisions of Federal Rule of Evidence 502(b)(2) are inapplicable to the production of Protected Information under this Order. However, if for any reason, a Court finds that this Section is inapplicable to Protected Information, then Rule 502(b) will apply in its absence.

14. **FINAL DISPOSITION.** Unless otherwise ordered or agreed to in writing by the Producing Party, within sixty (60) days after the final termination of this litigation by settlement or exhaustion of all appeals, all parties in receipt of Protected Material shall use reasonable efforts to either return such materials and copies thereof to the Producing Party or destroy such Confidential Material and certify that fact in writing. The Receiving Party's reasonable efforts shall not require the return or destruction of Protected Material from (i)

disaster recovery or business continuity backups, (ii) data stored in back-end databases critical to application operability and system-generated temporary folders, (iii) archived data with limited end-user accessibility, or (iv) material that is subject to legal hold obligations or commingled with other such material. Backup storage media will not be restored for purposes of returning or certifying destruction of Protected Material, but such retained information shall continue to be treated in accordance with the Order and destroyed in due course. Counsel for the parties shall be entitled to retain copies of court papers (and exhibits thereto), correspondence, pleadings, deposition and trial transcripts (and exhibits thereto), legal memoranda, expert reports, communications, and attorney work product that contain or refer to Protected Material, provided that such counsel and employees of such counsel shall not disclose such Protected Material to any person, except pursuant to court order. Nothing shall be interpreted in a manner that would violate any applicable canons of ethics or codes of professional responsibility.

15. The foregoing is entirely without prejudice to the right of any party to apply to the Court for any further Protective Order relating to Confidential Information; or to object to the production of documents or information; or to apply to the Court for an order compelling production of documents or information; or for modification of this Order.

SO ORDERED.

Signed: December 20, 2024



Kenneth D. Bell
United States District Judge



STIPULATED AND AGREED TO on December 16, 2024

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Western District of North Carolina on _____ in the case of *2311 Racing LLC et al v. National Association for Stock Car Auto Racing, LLC et al* (W.D.N.C. 3:24-cv-00886-FDW-SCR). I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order. I further agree to submit to the jurisdiction of the United States District Court for the Western District of North Carolina for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

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

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____

ATTACHMENT C

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

2311 RACING LLC d/b/a 23XI RACING and
FRONT ROW MOTORSPORTS, INC.,

Plaintiffs,

v.

NATIONAL ASSOCIATION FOR STOCK
CAR AUTO RACING, LLC, and JAMES
FRANCE,

Defendants.

Civil Action No. 3:24-cv-886

**STIPULATED ORDER REGARDING THE PRODUCTION OF
DOCUMENTS AND ELECTRONICALLY STORED INFORMATION**

To expedite the flow of discovery material and to facilitate the consistency in the format of the Documents to be produced by the Parties in this case, Plaintiffs and Defendants (Plaintiffs and Defendants individually are referred to as a “Party;” and collectively “Parties”), by and through their respective counsel hereby stipulate and agree to the terms of this Stipulated Order Regarding the Production of Documents and Electronically Stored Information (“ESI Order”):

IT IS HEREBY STIPULATED, subject to the approval of the Court that:

1. This ESI Order shall govern the production of Documents and electronically stored information (“ESI”) by the Parties in the above captioned litigation (“this Action”).
2. This ESI Order shall also govern productions made by any third party who is subpoenaed in this Action unless otherwise agreed to by the issuing Party and the third party. Accordingly, this ESI Order shall be attached to any subpoena issued in this Action.
3. The production specifications in this ESI Order apply to paper records and ESI that are produced in the first instance in this Action. The terms and specifications of this ESI Order

shall only apply to productions made after the date of entry of this ESI Order. Productions in this Action that were delivered before the date of entry of this ESI Order are exempt from the terms of the ESI Order, unless the Producing Party and Receiving Party otherwise agree. Furthermore, productions received from third parties shall be produced to the other Parties in the format that such Documents and/or information was produced by the third parties, unless the Parties agree otherwise. Similarly, productions made by a Party in another matter, that are being reproduced in this matter, may be produced in the format that such Documents and/or information were produced in the other matter. The Parties agree to meet and confer to the extent that the Receiving Party requests that the Documents be produced in a format as described in this ESI Order.

4. To the extent a technical term is not defined herein, those technical terms shall be defined by the “The Sedona Conference Glossary: E-Discovery and Digital Information Management,” Fifth Ed., February 2020.

A. Definitions:

1. “Document” or “Documents” are used in their broadest sense, to the full extent permitted by Rules 26 and 34 of the Federal Rules of Civil Procedure (“Federal Rules”).
2. “Electronically stored information” or “ESI,” as used herein has the same meaning as contemplated by the Federal Rules.
3. “Family” means email and all related attachments.
4. “Paper Records” or “Hard Copy Documents” means Documents existing in paper form at the time of collection.

5. “Native Format” means and refers to an electronic Document’s associated file structure defined by the original creating application. For example, the Native Format of an Excel workbook is a .xls or .xlsx file.
6. “Metadata” refers to application and system information of a Document that contains data about the Document, as opposed to describing the content of a Document, as the term is described and used in “The Sedona Conference Glossary: E-Discovery and Digital Information Management,” Fifth Ed., February 2020.
7. “Optical Character Recognition” or “OCR” means the process of recognizing and creating a Document containing visible text within an image.
8. “Hash Value” is a unique numerical identifier that can be assigned to a file, a group of files, or a portion of a file, based on a standard mathematical algorithm applied to the characteristics of the data set.
9. “Confidentiality Designation” means the legend affixed to “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – OCO” Discovery Material as defined by, and subject to, the terms of the Stipulated Protective Order entered in this Action.
10. “Searchable Text” means the native text extracted from ESI and any Optical Character Recognition text (“OCR text”) generated from a Hard-Copy Document or electronic image.
11. “Producing Party” has the same meaning as provided in the Protective Order.
12. “Receiving Party” has the same meaning as provided in the Protective Order.
13. “Duplicate ESI” means exact duplicate Documents (based on MD5 or SHA-1 hash values).

B. Paper Records: Paper records will be scanned or otherwise converted into electronic form in the following format:

1. All Documents shall be scanned to single page Group 4, TIFF format, at least 300 dpi and 8 ½ x 11-inch page size, except for Documents requiring higher resolution or different page size.
2. In scanning paper Documents, to the extent reasonably discernable, distinct Documents should not be merged into a single record, and single Documents should not be split into multiple records (i.e., paper Documents should be logically unitized). The Parties will make their best efforts to have their vendors unitize Documents correctly and will commit to address situations where there are improperly unitized Documents.
3. Productions of the images shall be made using an image load file (.OPT or .LFP) and a delimited database/metadata load file (.DAT). Each image file should have a unique file name which shall be the Bates number of the page.

C. Objective Coding Fields: The following objective coding fields should be provided, if applicable: (1) beginning Bates number; (2) ending Bates number; (3) beginning attachment Bates number; (4) ending attachment Bates number; (5) page count; and (6) source location/custodian.

D. OCR Text Files: Document-level OCR should be provided as a separate text file. The file name of each text file should correspond to the file name of the first image file of the Document with which it is associated. The text files will not contain the redacted portions of the Documents.

E. ESI: The Parties will produce responsive, complete families of ESI in TIFF format according to the following specifications:

1. All TIFF formatted Documents will be single page, Group 4 TIFF at 300 X 300 dpi resolution and 8½ X 11-inch page size, except for Documents requiring different resolution or page size.
2. An image load file, in standard Opticon format, showing the Bates number endorsed onto the lower right corner of each page but not obscuring the content on any page and the appropriate unitization of the Documents, will accompany all Document images.
3. Each imaged version of an electronic Document will be created directly from the original electronic Document.
4. TIFFs shall be produced as black and white, single-page TIFF images in accordance with the technical specifications set out above, unless agreed with the opposing Party or ordered by a court. Upon written request that identifies a reasonable number of individual Documents at issue by Bates number, a Party shall produce color images for those Documents. Documents produced in color shall be produced as single page, 300 DPI, color JPG images with the quality setting of 75% or higher. To the extent there is Metadata that identifies a Document as containing comments, tracked changes, speaker's notes, or other hidden text, or to the extent that a Receiving Party identifies by Bates number such a Document, and that Document is not produced in Native Format pursuant to this ESI Order, such Document should be produced with all comments, tracked changes, speaker's notes, or other hidden text, and any other hidden content made visible in the first instance.
5. All TIFF files are to be provided with an accompanying searchable text (.TXT) file extracted from the Native Format electronic Document (not generated as an OCR file from the TIFF image(s)), and such text files shall contain the full text extraction. To the extent reasonably feasible, extracted text shall provide all comments, tracked changes, speaker's

notes, and text from hidden worksheets, slides, columns and rows. In the case of Documents with redacted text, OCR’ed text of the redacted Documents may be provided in lieu of extracted text. OCR software should be set to the highest quality setting during processing. For Documents in foreign languages, the OCR shall be performed using an OCR tool and settings suitable for the particular byte or multi-byte languages.

6. Each text file shall be named according to the Bates number of the first page of the corresponding image files (e.g., BATES00000001 .TXT).
7. In the case of emails, the corresponding text file shall include, where reasonably available: (1) the individual(s) to whom the communication was directed (“To”); (2) the author(s) of the email communication (“From”); (3) who was copied and blind copied on such email (“CC” and “BCC”); (4) the subject line of the email (“RE” or “Subject”); (5) the names of any attachments; and (6) the text (body) of the email.
8. The following Metadata fields associated with each electronic Document will be produced, to the extent they are available. The field names set forth below are provided for illustrative purposes. Metadata field names may be different so long as the field as named contains the information identified in the field descriptions provided below. The Parties need not rename default Metadata fields. No Party shall be required to manually populate any Metadata fields that do not exist as a Document is maintained in the ordinary course of business.

Field Name	Field Description	Required For Email	Required For Non- E-Mail ESI
Custodian	Name of custodian(s) of email(s) or Document(s) produced (Last Name, First Name format) as available	X	X

Duplicate Custodian (or similar name)	Name of duplicate custodian(s) of email(s) or Document(s) produced	X	X
BegBates	Beginning Bates# (including Prefix)	X	X
EndBates	Ending Bates# (including Prefix)	X	X
BegAttach	Beginning Bates number of the first Document in an attachment range (only in emails with attachments)	X	X
EndAttach	Ending Bates number of the last Document in attachment range (only in emails with attachments)	X	X
From	From field extracted from an email message	X	
Author	Author field extracted from the metadata of a non-email Document		X
To	To or Recipient field extracted from an email message	X	
Cc	Carbon Copy ("Cc") field extracted from an email message	X	
Bcc	Blind Carbon Copy ("Bcc") field extracted from an email message	X	
EmailSubject	Subject line extracted from an email message	X	
Filename	Original name of Document as appeared in original location		X
Title	Title field extracted from the metadata of a non-email Document		X
DateSent	Sent date of an email message (mm/dd/yyyy format) (a given email will have either a DateSent or DateRecvd, but not both)	X	
DateRecvd	Received date of an email message (mm/dd/yyyy format) (a given email will have either a DateSent or DateRecvd, but not both)	X	
DateCreated	Date that a non-email Document was created (mm/dd/yyyy format)		X
DateLastModified	The application recorded time on which the Document was last modified		X
TimeSent	Time email was sent (hh:mm:ss format) (a given email will have either	X	

	a TimeSent or TimeRecvd, but not both)		
TimeRecvd	Time email was received (hh:mm:ss format) (a given email will have either a TimeSent or TimeRecvd, but not both)	X	
FileExtension	The file extension for the Document		X
FilePath	File path storage location of the Document or email if the source application allows for the creation of folders	X	X
NativeLink	Relative path to any Documents produced in Native Format	X	X
TextLink	Relative path to any OCR/extracted text Documents in the production set	X	X
HashValue	MD5 or SHA-1 hash value used to deduplicate the data	X	X
Confidentiality Designation	Confidentiality Designation for produced Documents	X	X
Redaction	Identifies if a Document has been redacted	X	X
Conversation_ID	For Teams and other chat data, identifies all messages and family items that belong to the same conversation		X
ConversationType	For Teams and other chat data, identifies the content type (e.g., 1:1 Chat, Group Chat, Channel Post)		X

9. Native Format Production of Documents:

- a. Unless redactions have been applied to the Document, the Parties will produce the following ESI types in Native Format:
 - i. Excel spreadsheets (.xls, .xlsx, .xlsm, .xlsb, .csv file formats)
 - ii. Audio/video multimedia files
 - iii. Animations
 - iv. PowerPoint or comparable presentations

- b. A Receiving Party may request that a reasonable number of individual Documents (identified by Bates number) be produced in Native Format. The Producing Party shall consider such requests and accommodate them if reasonable.
- c. Any Document produced in Native Format will be produced according to the following specifications:
 - i. A unique Bates number and Confidentiality Designation shall be used as the file name and the original file name and file extension shall be preserved in the corresponding load file. An example of this convention would be: “23XI_00000001_Confidential.xls”
 - ii. The Native Format Documents shall be accompanied by reference information that sets forth, for each Document, sufficient information to allow the Parties to track and authenticate the Native Format Documents produced, including: (i) the name of the custodian from whose files the electronic Document is produced; (ii) an appropriately calculated MD-5 Hash Value; (iii) the original name of the Document; and (iv) a Bates number.
 - iii. Any Document produced in Native Format need not be imaged. Instead, a single-page placeholder image shall be provided that indicates the Document was produced in Native Format and contains the Bates number and Confidentiality Designation of the corresponding Document.
 - iv. Native Excel or other spreadsheet files may be redacted by overwriting the data contained in a particular cell, row, column or tab so as to make clear the reason for the redaction (e.g., “Redacted Privilege”).

F. Redacted Documents:

1. The Parties reserve the right to withhold Documents and/or redact any information covered by the attorney-client privilege, attorney work product doctrine, or any other applicable privilege, rule, or statute prior to producing Documents in this Action. To the extent a Party redacts such information, the redaction must be labeled with the specific type(s) of privilege, rule or statute being asserted. Any Documents or information redacted or withheld from production on the basis of the attorney-client privilege or attorney work product doctrine must be included on a privilege log with enough information for the Receiving Party to validate the privilege claimed. The Parties agree that redacted documents need not be logged. Nevertheless, a Party may request a log entry for redacted documents where the claim of privilege is not clear on its face.
2. Extracted text will *not* be provided for Documents that have been redacted (e.g., for privilege), because the extracted text would reveal the redacted information. Instead, these Documents should be run through an OCR process to capture the visible text only and the results produced in lieu of the original extracted text. Redacted Documents which would otherwise be required to be produced in Native Format under terms of this ESI Order need not be produced in Native Format. To the extent that such redactions prevent the Document from being appropriately readable and the unreadable information is discoverable or necessary to contextualize the otherwise discoverable information contained in the Redacted Documents, the Parties will meet and confer to address the issue and provide the discoverable material in a readable format, which may include Documents with redactions in Native Format.

G. Data Load Files/Cross-Reference Files: Fielded data should be exchanged via a document-level-database load file in standard Concordance (DAT) file format. All image data should be delivered with a corresponding image load file in one of two formats; standard IPRO (LFP) or Opticon (OPT). The total number of image files referenced in the image load file should match the total number of images in the production delivery. This section is subject to the Parties' vendors being able to process the data; if not, the Parties will meet and confer.

H. De-duplicating Documents and De-NISTing Documents:

1. Each Party will de-duplicate ESI globally for exact duplicate Documents (based on MD5 or SHA-1 hash values at the parent Document level). This will result in the Producing Party producing only a single copy of responsive Duplicate ESI, provided that all other custodians of the Duplicate ESI are listed in the "Duplicate Custodians" (or similarly named) field. The Parties shall de-duplicate stand-alone Documents against stand-alone Documents and shall de-duplicate top-level email Documents against top-level email Documents. De-duplication shall not break apart families.
2. Common system and program files as defined by the NIST library need not be processed, reviewed or produced.

I. Email Threading: In order to limit the volume of duplicative content produced from email threads, use of email-threading analytics software is permitted to exclude email messages wholly contained and reviewable within later-in-time messages from the same email threads that are produced provided, however, that all responsive prior or lesser-included emails with attachments are produced. If a Producing Party proposes to use email threading to limit the volume of content produced from email threads, the Producing Party shall advise the Requesting Party.

J. Proprietary or Third-Party Software: To the extent that information produced pursuant to this ESI Order cannot be rendered or viewed without the use of proprietary or third-party software, the Parties shall meet and confer to minimize any expense or burden associated with the production of such information in an acceptable format.

K. Production Media: The Parties shall produce Documents electronically via a secure File Transfer Protocol (“FTP”) rather than through physical media (e.g., CD, DVD, or hard drive), unless such electronic transmission is impracticable, or the otherwise Parties agree on a different method of transmission. The produced Documents shall be password protected and/or encrypted.

L. Identification and Collection of Documents and ESI:

1. The parties agree to meet and confer in good faith regarding the scope of discovery, including custodians that will be subject to discovery, non-custodial sources subject to discovery, applicable date range restrictions, and search methodologies to include search terms and/or technology assisted review. No party shall engage in the use of Technology Assisted or AI-assisted review of documents for production without per-document human review without first alerting the Requesting Party of their desire to do so and then meeting and conferring with the Requesting Party on an appropriate protocol governing the use of the selected technology that provides for adequate disclosure of metrics, control set details, prompts, validation and elusion testing, and other pertinent information to ensure the Producing Party’s use of the technology has been robust, defensible, and reliable.

- a. Documents Known to Be Responsive.

- i. Documents or ESI identified as part of this Action or reasonably known by the Producing Party to be responsive to a discovery request (subject to any

objection or claim of privilege or other protection) shall be produced without regard to whether it was responsive to any search methodology described herein or developed in accordance with this ESI Order, unless Counsel specifically identifies the Documents or ESI being withheld and has a specific objection for withholding each/any withheld Document or ESI.

b. Search Terms and Culling of ESI.

- i. The Parties agree to meet and confer about search terms used in the Producing Party's Documents and to exchange information about the search terms, date filters, or other culling methods used to identify potentially responsive materials.
- ii. The Receiving Party may propose additional terms or culling parameters. The Parties shall participate in an iterative and cooperative approach in which the Parties will meet and confer regarding reasonable and appropriate methods to identify responsive Documents, including opportunities for the Parties to propose modified search terms

c. Custodians.

- i. The Parties shall meet and confer in good faith to identify an agreed list of custodians for whom custodial hardcopy and ESI records will be collected and searched within 30 days following service of any Party's first request for the production of documents.

d. Non-Custodial Data Sources.

- i. To promote communication and cooperation, as soon as practicable, the Parties agree to begin exchanging information concerning non-custodial sources of ESI where relevant and responsive ESI is likely to be stored. The Parties shall meet and confer in good faith to discuss non-custodial sources of ESI, including a description of the source and the information contained therein based upon reasonable investigation by the Party identifying the non-custodial ESI source.

M. Mobile Electronic Device Documents, Data and Logs: The Parties shall meet and confer to address the scope and production format of any responsive Documents and data collected from any mobile electronic device.

N. Collaboration/Chat Software Programs (Teams/Slack): Where a discovery request requires production of information from any collaboration tools or short messaging applications, (e.g., Microsoft Teams, Slack, Google Chat), the Parties shall meet and confer on the appropriate approach to identifying, searching, and producing data from such sources.

O. Parent-Child Relationships for ESI Documents: Parent-child relationships shall be preserved to the extent possible. Attachments that are part of the email file (i.e., embedded within the .msg file, except files that are created as part of processing and would not be viewable in the ordinary course of viewing the document) are to be produced contemporaneously and sequentially immediately after the parent document. Any Party whose production is likely to contain “modern” or “hyperlinked” attachments to emails (that is, files associated with a transmittal email through a link or other reference to a shared or external storage location or resource (e.g., OneDrive or SharePoint for Microsoft 365, Google Drive for Google Workplace)) shall notify the other Parties of this likelihood *before* performing ESI

collections so that the Parties can meet and confer about the appropriate approach for discovery of these records. The Parties recognize that a wide variety of capabilities exist as to such records and that it is difficult to prescribe a standard without information as to each Party's individual capabilities.

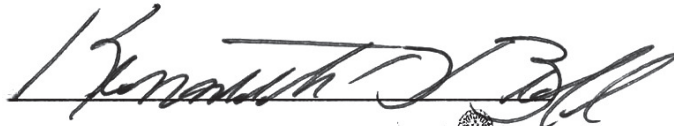
P. Miscellaneous Provisions.

- a. Except as to the formatting for production agreed to herein, all documents (electronic or otherwise) shall be produced as kept and maintained by the producing Party in the ordinary course of business.
- b. The Parties shall make good faith efforts to comply with and resolve any differences concerning compliance with these specifications. No Party may seek relief from the Court concerning compliance with these specifications unless it has conferred with the other Party.
- c. Nothing in these specifications shall be interpreted to require disclosure information protected by the attorney-client privilege, work-product doctrine, or any other applicable privilege or immunity. The Parties do not waive any objections as to the production, discoverability, admissibility, or confidentiality of documents. All productions shall be subject to the Protective Order entered by the Court in this Action.
- d. Any practice or procedure set forth herein may be varied by agreement of the Parties or Court order. Further, the Parties each retain the right to seek exceptions, amendments, or modifications to this ESI Protocol by party agreement or from the Court. Should any Party subsequently determine in good faith that it cannot proceed as required by this ESI Order or that the ESI Order requires modification, the Parties

will meet and confer to resolve any dispute at least fourteen days before seeking Court
intervention.

SO ORDERED.

Signed: December 20, 2024



Kenneth D. Bell
United States District Judge



STIPULATED AND AGREED TO on December 16, 2024

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