

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )  
 )  
STEVEN NEWBERN and CLAUDIA )  
NEWBERN, )  
 )  
Plaintiffs, )  
 )  
VS. )  
 )  
FORD MOTOR COMPANY and )  
STEPHEN RONALD MCGEE, )  
 )  
Defendants. )

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT  
C/A NO. 2013-CP-10-2928

FILED  
2013 DEC 18 PM 2:59  
JULIE J. ARMSTRONG  
CLERK OF COURT  
BY \_\_\_\_\_

**RECEIVED**  
FEB 17 2017  
SC Court of Appeals

**STIPULATED SHARING AND NON-SHARING PROTECTIVE ORDER**

In order to preserve and maintain the confidentiality of certain confidential, commercial and/or proprietary documents and information produced or to be produced by FORD MOTOR COMPANY ("Ford") in this action, it is ordered that:

1. Documents to be produced by Ford in this litigation that contain confidential, commercially sensitive and/or proprietary information shall hereafter be referred to as "Protected Documents." A document or portion of a document that Ford determines in good faith to be a Protected Document may be designated as confidential by marking or placing the applicable notice "Subject to Non-Sharing Protective Order," "Subject to Protective Order," "Confidential," or substantially similar language on media containing Protected Documents, on the document itself, or on a copy of the document, in such a way that it does not obscure the text or other content of the document.

2. As used in this Order, the term "documents" means all written material, videotapes and all other tangible items, produced in whatever format (e.g., hard copy, electronic,

*R*

digital, etc.) and on whatever media (e.g., hard copy, videotape, computer diskette, CD-ROM, DVD, hard drive or otherwise).

3. Any document or any information designated as "Subject to Non-Sharing Protective Order," "Subject to Protective Order," "Confidential," or substantially similar language in accordance with the provisions of this Order shall only be used, shown or disclosed as provided in this Order.

4. The burden of proving that a Protected Document contains confidential information is on Ford. Prior to designating any material as "Protected," Ford must make a bona fide determination that the material is, in fact, a trade secret, confidential technical information or other commercially sensitive information, the dissemination of which would damage Ford's competitive position. If a party disagrees with the "Protected" designation of any document, the party will so notify Ford in writing. After meeting and conferring regarding the issue, and assuming the objecting party maintains its objection, Ford will file a motion within 30 days after receipt of this written notification for the purpose of establishing that said document is confidential. Any document so marked as "Protected" will continue to be treated as such pending final judicial determination as to its confidential status. Should Ford not file a motion for these purposes within 30 days of receipt of the written notification of an objection to the document's "protected" designation, the document shall be treated as non-protected.

5. Protected Documents and any copies thereof received pursuant to paragraph 6 below shall be maintained confidential by the receiving party, his/her attorney, other representatives, and expert witnesses, and shall be used only for preparation for the trial of this matter, subject to the limitations set forth herein.

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6. Protected Documents shall be disclosed only to "Qualified Persons." Qualified Persons are limited to:

- a. Counsel of Record for the parties, and the parties;
- b. Non-technical and clerical staff employed by Counsel of Record and involved in the preparation and trial of this action;
- c. Experts and non-attorney consultants retained by the parties for the preparation and/or trial of this case, provided that no disclosure shall be made to any expert or consultant who is employed by a competitor of Ford; and
- d. The Court, the Court's staff, witnesses, and the jury in this case; and
- e. With respect to documents designated as "Sharing" or "Subject to Protective Order," attorneys representing Plaintiff(s) and the experts and non-attorney consultants retained by such attorneys, in other cases pending against Ford involving a Ford Focus and involving the same allegations asserted in this case, provided no disclosure shall be made to any expert or consultant who is employed by a competitor of Ford.

7. Plaintiff/Plaintiffs' Counsel must make reasonable efforts to ensure the individuals described in paragraphs 6(c) and 6(e) above are Qualified Persons.

8. Before receiving access to any Protected Document or the information contained therein, each person described in paragraphs 6(c) and 6(e) above shall execute a "Written Assurance" in the form contained in Exhibit A, attached hereto. Counsel for Plaintiffs shall retain each such executed Written Assurance and shall keep a list identifying (a) all persons described in paragraphs 6(c) and 6(e) above to whom Protected Documents have been disclosed,

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and (b) all Protected Documents disclosed to such persons. Each such executed Written Assurance and list shall be submitted to counsel for Ford at the termination of this litigation or upon Order of the Court requiring production, whichever comes first. However, for consulting experts who were not designated as testifying experts, Plaintiffs' counsel may redact the name, address, and signature of the consultant before disclosing the executed Exhibit A and document list for that person. To the extent the "Qualified Persons" described in paragraph 6(c) or 6(e) above include privileged non-testifying expert consultants, Counsel for Plaintiffs shall retain each such executed Exhibit A and shall keep a list identifying (a) all such non-testifying expert consultants described in paragraphs 6(c) and 6(e) above to whom Protected Documents have been disclosed, and (b) all Protected Documents disclosed to such persons. In the event that Ford seeks to compel the production of each unredacted and executed Exhibit A for good cause, Counsel for Plaintiffs shall submit each unredacted and executed Exhibit A and list to the Court for *in camera* inspection. Persons described in paragraph 6(b) shall be covered under the signature of Counsel of Record.

9. As the Protected Documents may only be distributed to Qualified Persons, Plaintiffs/Plaintiffs' Counsel, and all persons described in paragraph 6 above, may not post Protected Documents on any website or internet accessible document repository and shall not under any circumstance sell, offer for sale, advertise, or publicize either the Protected Documents and the Confidential information contained therein or the fact that such persons have obtained Ford's Protected Documents and Confidential information.

10. To the extent that Protected Documents or information obtained therefrom are used in the taking of depositions and/or used as exhibits at trial, such documents or information shall remain subject to the provisions of this Order, along with the transcript pages of the

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deposition testimony and/or trial testimony dealing with, referring to or referencing the Protected Documents or information.

11. All documents that are filed with the Court that contain any portion of any Protected Document or information taken from any Protected Document shall be filed under seal pursuant to local court practice or in a sealed envelope or other appropriate sealed container on which shall be endorsed the title of the action to which it pertains, an indication of the nature of the contents of such sealed envelope or other container, the phrase "Subject to Protective Order" or "Subject To Non-Sharing Protective Order," and a statement substantially in the following form: "This envelope or container shall not be opened without order of the Court, except by officers of the Court and counsel of record, who, after reviewing the contents, shall return them to the clerk in a sealed envelope or container."

12. Any court reporter or transcriber who reports or transcribes testimony in this action shall agree that all "confidential" information designated as such under this Order shall remain "confidential" and shall not be disclosed by them, except pursuant to the terms of this Order, and that any notes or transcriptions of such testimony (and any accompanying exhibits) will be retained by the reporter or delivered to counsel of record.

13. To the extent Ford is requested to produce documents it has determined should not be subject to the sharing provision of this protective order in paragraph 6(e), Ford will designate such documents as "Non-Sharing." Documents designated as "Non-Sharing" shall not be shared under paragraph 6(e).

14. With respect to Protected Documents designated as "Non-Sharing," within one hundred and twenty (120) days after the conclusion of this case, counsel for the parties who received Protected Documents, including any documents that any such party disclosed to any

person described in paragraph 6(c) above, shall either (a) return to Ford the Protected Documents; or (b) securely destroy the Protected Documents and certify such destruction to Ford within one hundred and fifty (150) days after the conclusion of this case.

15. With respect to documents designated as "Sharing" or "Subject to Protective Order," Counsel for the parties shall not be required to return the Protected Documents to Ford after the conclusion of this case and may retain the documents pursuant to the terms of this Order.

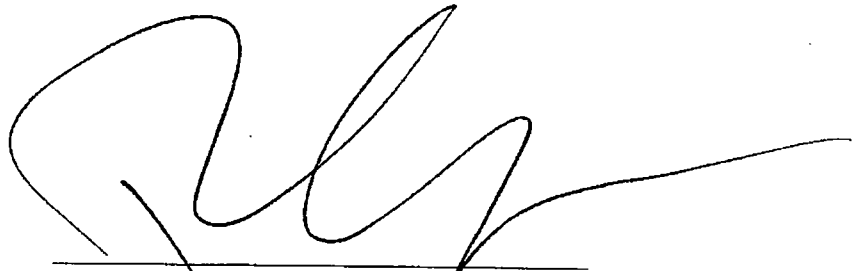
16. Inadvertent or unintentional production of documents or information containing confidential information that should have been designated as Protected Document(s) shall not be deemed a waiver in whole or in part of the party's claims of confidentiality.

17. This Protective Order may not be waived, modified, abandoned or terminated, in whole or part, except by an instrument in writing signed by the parties. If any provision of this Protective Order shall be held invalid for any reason whatsoever, the remaining provisions shall not be affected thereby.


18. After termination of this litigation, the provisions of this Order shall continue to be binding. This Court retains and shall have jurisdiction over the parties and recipients of the Protected Documents for enforcement of the provisions of this Order following termination of this litigation.

19. This Protective Order shall be binding upon the parties hereto, upon their attorneys, and upon the parties' and their attorneys' successors, executors, personal representatives, administrators, heirs, legal representatives, assigns, subsidiaries, divisions, employees, agents, independent contractors, or other persons or organizations over which they have control.

IT IS SO ORDERED.



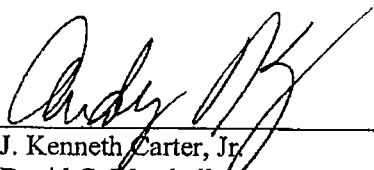
JUDGE, NINTH JUDICIAL CIRCUIT  
STATE OF SOUTH CAROLINA



\_\_\_\_\_, South Carolina  
\_\_\_\_\_, 2013


**WE AGREE:**

12/9, 2013

By:   
\_\_\_\_\_  
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David C. Marshall  
Andrew W. Kunz  
Turner, Padgett, Graham & Laney, P.A.  
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**ATTORNEYS FOR DEFENDANT  
FORD MOTOR COMPANY**

Dec 5, 2013

By:   
\_\_\_\_\_  
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**ATTORNEYS FOR PLAINTIFFS**

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CHARLESTON )  
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**EXHIBIT A**

**AFFIDAVIT OF** \_\_\_\_\_, being duly sworn and personally appearing before the undersigned attesting officer, duly authorized by law to administer oaths, deposes and says that the within statements are true and correct:

1.

I have read the Stipulated Sharing and Non-Sharing Protective Order attached hereto, and I understand its terms and meanings.

2.

I agree that my signature below submits me to the jurisdiction of the State of South Carolina, County of Charleston in which the action of *Steven Newbern and Claudia Newbern v. Ford Motor Company and Stephen Ronald McGee*, Civil Action No. 2013-CP-10-2923, is pending, and binds me to the provisions of the Stipulated Sharing and Non-Sharing Protective Order, including to all promises undertaken in the Order, as if originally agreed by me.

Further Affiant sayeth not.

This \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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**AFFIANT**

SUBSCRIBED AND SWORN to before me  
this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

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NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_