

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,)	Civil Action No. 1:90-cv-00229-BR
)	
Plaintiff)	
)	
v.)	
)	
ROBERT BRACE and ROBERT BRACE)	
FARMS, INC.,)	
)	
Defendants)	

MOTION FOR ENTRY OF A STIPULATED PROTECTIVE ORDER

The Parties file this Motion for Entry of a Stipulated Protective Order seeking an order addressing third-party subpoenas and/or third-party requests for information from the mediator assigned to this case.

1. The Court has appointed David L. Cook to serve as mediator with regard to actions at Docket Nos. 90-229 and 17-006.
2. The Parties and Mr. Cook have exchanged proposed mediation agreements.
3. An issue has arisen regarding the potential for third-party subpoenas and/or third party requests of the mediator for information.
4. The Parties seek to have a full, thorough and good faith mediation, and wish to ensure, to the extent possible, that all information exchanged during the mediation process, including all nonpublic information received and/or reviewed by the mediator, is treated as confidential, and is not disclosed to any third parties under any conditions.

5. To that end, the Parties are jointly seeking the issuance of a protective order (“Order”) providing the following:

(a) Consistent with Section 6 of Court’s ADR Policies and Procedures, all nonpublic information received and/or reviewed by the mediator related to this ADR process is confidential, and the mediator shall treat is as such, including, but not limited to, refusing to disclose such information to any third party, whether requested to do so voluntarily or under subpoena.

(b) In the event that mediator receives a subpoena and/or other documents purporting to require him to turn over information that would otherwise be confidential under ADR Policies and Procedures, the mediator shall notify both parties of such request, and the Parties may file an appropriate motion seeking to prevent the disclosure of such information.

(c) Nothing in this Order is intended to insulate from disclosure any information that is identified as non-confidential or otherwise disclosable under the Court’s ADR Policies and Procedures.

6. The Parties believe that entry of this Order will allow for a full, thorough and good faith discussion of all positions as part of the ADR process.

WHEREFORE, the Parties request that the Court enter the Stipulated Protective Order attached hereto. .

<p>Respectfully submitted,</p> <p>THE KOGAN LAW GROUP, P.C..</p> <p>By: <u>/s/ Lawrence A Kogan</u> Lawrence A. Kogan, Esq. (<i>Pro Hac Vice Pending</i>) (NY # 2172955) 100 United Nations Plaza Suite #14F New York, New York, 10017</p> <p>(t)212 644-9240</p> <p>Email: lkogan@koganlawgroup.com</p> <p>Attorneys for Defendants, Robert Brace and Robert Brace Farms, Inc.</p>	<p>Respectfully submitted,</p> <p>FOR THE UNITED STATES</p> <p>JEFFREY H. WOOD Acting Assistant Attorney General U.S. Department of Justice Environment and Natural Resources Division</p> <p><u>/s/ Laura J. Brown</u> LAURA J. BROWN (PA Bar # 208171) CHLOE KOLMAN (IL Bar # 6306360) BRIAN UHOLIK (PA Bar # 209518) U.S. Department of Justice Environment and Natural Resources Division Environmental Defense Section 601 D Street, N.W., Suite 8000 Washington, DC 20004 Phone: (202) 514-3376 (Brown)</p>
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<p>Respectfully submitted,</p> <p>KNOX McLAUGHLIN GORNALL & SENNETT, P.C.</p> <p><u>By: /s/ Neal R. Devlin</u> Neal R. Devlin, Esq. (PA ID No. 89223) Alexander K. Cox, Esq. (PA ID No. 322065) 120 West Tenth Street Erie, PA 16501-1461 Telephone: (814) 459-2800 Fax: (814) 453-4530 Email: ndevlin@kmgslaw.com</p> <p>Attorneys for Defendants, Robert Brace and Robert Brace Farms, Inc.</p>	

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Defendants)	

STIPULATED PROTECTIVE ORDER

Upon consideration of the Parties Motion for Entry of Stipulated Protective Order, it is hereby ordered as follows:

(a) Consistent with Section 6 of Court’s ADR Policies and Procedures, the nonpublic information received and/or reviewed by the mediator related to this ADR process is confidential, and the mediator shall treat is as such, including, but not limited to, refusing to disclose such information to any third party.

(b) In the event that mediator receives a subpoena and/or other document purporting to require him to turn over information that would otherwise be confidential under the ADR Policies and Procedures, the mediator shall notify both parties of such request, and the parties may file an appropriate motion seeking to prevent the disclosure of such information, with notice of such motion to the requesting entity.

(c) Nothing in this Order is intended to insulate from disclosure any information that is identified as non-confidential or otherwise subject to disclosure under the Court’s ADR Policies and Procedures.

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 UNITED STATES ~~DISTRICT~~ JUDGE
 MAGISTRATE