

## **TENTATIVE DECISION**

Defendant seeks a protective order over certain categories of information to prevent the dissemination of that information outside this litigation. The categories indicated by defendant are 1. warranty policies and procedure manuals and 2. the manufacturer's written statement of policies and procedures used to evaluate customer requests for restitution or replacement pursuant to "Lemon Law" claims. (Code of Civil Procedure, section 871.26(h)).

The information defendant seeks to be protected is expressly within the disclosure requirements in the newly enacted statutory scheme related to Lemon Law cases. These disclosures were developed to be accomplished absent a request, without court involvement, and on a shortened timeline. (Code Civ. Proc., § 871.26, subd. (b)—"Within 60 days after the filing of the answer or other responsive pleading, all parties shall, without awaiting a discovery request, provide to all other parties an initial disclosure and documents pursuant to subdivisions (f), (g), and (h)."). The statutory scheme only applies to those manufacturers who have "opted in." Defendant has "opted in" to the newly enacted revision of the Lemon Law statutes pursuant to AB1755, effective 1/1/25.

Defendant relies on Code of Civil Procedure section 2031.060, permitting a request for a protective order in response to a discovery demand. However, that is not the case here. The request for a protective order is directed at a *statutorily required disclosure*, not a demand. It is unclear whether these traditional procedures apply. And if they do, what type of good cause is required? It surely must include consideration of reasons to vary from the statutory scheme, rather than just good cause "to protect any party or other person from unwarranted annoyance, embarrassment, oppression, or undue burden and expense." (Code Civ. Proc. § 2031.060.)

Assuming for the sake of argument that CCP 2031.060 does apply, defendant argues the court can impose a protective order that "a trade secret or other confidential research, development, or commercial information not be disclosed, or be disclosed only to specified persons or only in a specified way." There must be good cause to issue a protective order.

Defendant produced the declaration of Kimberly Lukas, Customer Experience Manager in the unit responsible for handling vehicle repurchase requests from GM customers in California. She states that the documents that fall within these disclosure categories are maintained confidentially within GM, not all employees have access, they cannot be printed, and GM controls access to these documents. This all may be true, but these are not reasons to deem them confidential for purposes of imposing a protective order. As such, the court finds the evidence is conclusory and lacks specificity and sustains plaintiff's objections on those grounds. Due to this finding, the court need not address the objections lodged by plaintiff to the declaration of Todd Gale.

The motion for entry of a confidential order is denied because: (1) the statutory scheme which requires disclosure did not include a protective order indicating these categories are to be used in the instant litigation only; (2) Defendant has not provided good cause for varying from the statutory scheme; and (3) Defendant's evidence on the issue of confidentiality is perfunctory at best.

The parties are directed to appear in person or by Zoom.