



UNITED STATES OF AMERICA

BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of)

1-800 CONTACTS, INC.,)
a corporation,)

Respondent)

DOCKET NO. 9372

ORIGINAL

**MEMORIAL EYE, PA'S AMENDED MOTION FOR IN CAMERA
TREATMENT OF MEMORIAL EYE DOCUMENTS**

Memorial Eye, PA (hereinafter "Memorial Eye") hereby files its Amended Motion for In Camera Treatment of Memorial Eye documents that the Federal Trade Commission and 1-800-Contacts, Inc. have proposed to submit as evidence in the Matter of 1-800 Contacts, Inc. ("1 800 Contacts"), a corporation.

I.

Background and Protective Orders Entered in Prior Litigation

Memorial Eye owns and operates a small chain of optometric centers in the north Houston area and has always been a privately held entity. Both the Federal Trade Commission and 1-800-Contacts, Inc. have given notice that they intend to admit as evidence certain Memorial Eye records in the pending proceeding. "Attachment A" (attached to this motion) is the proposed exhibit list that 1-800 Contacts sent to Memorial Eye along with its notice. "Exhibit A" (attached to this motion) is the proposed exhibit list that the Federal Trade Commission sent to Memorial Eye along with its notice.

In a lawsuit that was ultimately settled between 1-800 Contacts and Memorial Eye (*1-800 Contacts, Inc. v. Memorial Eye, PA.*, Civil Action No. 2:08-cv-00983), the United

States District Court of Utah entered two orders that remain in force and impact the treatment of certain categories of Memorial Eye documents.

The Stipulated Protective Order (Attachment 1 to Deposition of Eric Holbrook) extends confidentiality protection to documents designated confidential or attorney's eyes only in *1-800 Contacts, Inc. v. Memorial Eye, PA.*, Civil Action No. 2:08-cv-00983.

"Attachment 1" to Declaration of Eric Holbrook. The Stipulated Protective Order does not have an expiration date.

A later order entered by the same federal district court in Utah allowed 1-800 Contacts, pursuant to 1-800 Contacts' motion, to provide the Federal Trade Commission with redacted copies of select Memorial Eye documents containing [REDACTED]

[REDACTED] **"Attachment 2" to Declaration of Eric Holbrook.**

These documents included a [REDACTED]

[REDACTED], hand-picked by 1-800 Contacts to further its case.

II.

Confidential Documents

Memorial Eye has set forth in the attached Declaration of Eric Holbrook, General Manager of Memorial Eye, PA, reasons for treating certain designated documents as confidential and warranting *in camera* treatment.

For the reasons set forth in the attached **Declaration of Eric Holbrook**, **Memorial Eye**, Memorial Eye respectfully requests that the documents set forth in the Holbrook Declaration be treated as confidential for either five years or indefinitely depending on the class of documents and be viewed *in camera* in this proceeding.

The categories of documents, and the term of the requested confidentiality, are set forth in the Holbrook Declaration and the Proposed Order. The Holbrook Declaration lays out the factual foundation for Memorial Eye's requests.

III.

Stipulated Protective Order in Earlier Civil Action

Memorial Eye contends that the Stipulated Protective Order in *1-800 Contacts, Inc. v. Memorial Eye, P.A.*, Civil Action No. 2:08-cv-00983 requires that [REDACTED]

[REDACTED] be treated as confidential indefinitely and be accorded in camera treatment in this case.

At the very least, [REDACTED] [REDACTED] should be treated as confidential indefinitely and be accorded in camera treatment in this case. Those portions are set forth in Holbrook's Declaration under Exhibit S.

IV.

Order Granting Relief in Earlier Civil Action

Memorial Eye further contends that the Order Granting Motion for Relief from Protective Order in *1-800 Contacts, Inc. v. Memorial Eye, P.A.*, Civil Action No. 2:08-cv-00983 requires that certain records of customer communications with Memorial Eye and certain Memorial Eye customer order information be redacted and that such redacted records be used in this proceeding instead of the original unredacted records. Those records are identified in Exhibits A and D of the Holbrook Declaration.

Both 1-800 Contacts and the Federal Trade Commission are in agreement that

redacted versions of the documents contained in Exhibits A and D of the Holbrook Declaration should be used in evidence in this proceeding instead of the unredacted originals. The redactions were implemented [REDACTED]

[REDACTED]

[REDACTED]

V.

Positions of the Parties

The FTC does not oppose this motion.

Respectfully submitted,

s/Anthony W. Hong
Anthony W. Hong
TX Bar Number 00792589
3730 Kirby, Suite 1200
Houston, Texas 77098
Phone: (713) 927-6673
Fax: (713) 432-9984

ATTORNEYS FOR THIRD-
PARTY MEMORIAL EYE, PA

CERTIFICATE OF SERVICE

I hereby certify that I have served the aforementioned instrument on the parties on this April 10, 2017.

s/Anthony W. Hong
Anthony W. Hong

PUBLIC/REDACTED

ORIGINAL

**ATTACHMENT A to MEMORIAL EYE AMENDED MOTION FOR IN
CAMERA TREATMENT OF MEMORIAL EYE DOCUMENTS**

(REDACTED)

PUBLIC/REDACTED

ORIGINAL

**EXHIBIT A to MEMORIAL EYE AMENDED MOTION FOR IN CAMERA
TREATMENT OF MEMORIAL EYE DOCUMENTS**

(REDACTED)

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of)
)
1-800 CONTACTS, INC.,)
a corporation,)
)
Respondent)

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DOCKET NO. 9372

DECLARATION OF ERIC HOLBROOK

I, Eric Holbrook, pursuant to 28 U.S.C. §1746, make the following statement:

1. I am the General Manager of Memorial Eye, P.A. ("Memorial Eye"). I have personal knowledge of the facts set forth in this declaration, and if called as a witness I could and would testify competently under oath to such facts.

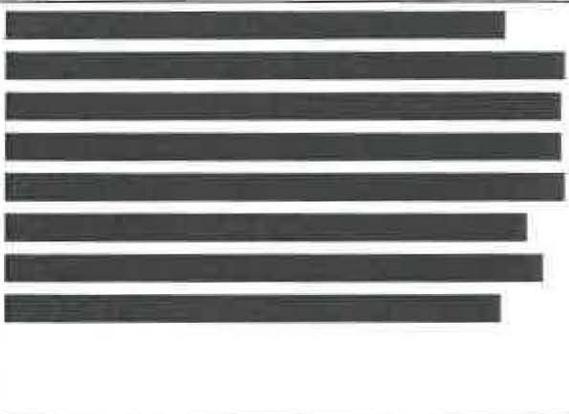
2. Appended as Attachment 1 to this declaration is a true and correct copy of the protective order entered by the U.S. District Court for the District of Utah in *1-800 Contacts, Inc. v. Memorial Eye, PA, et al.*, Civil Action No. 208-cv-00983-TS.

3. Appended as Attachment 2 to this declaration is a true and correct copy of an order requiring redaction of select records (a small sample of communications between Memorial Eye and customers/prospective customers and a small sample of Memorial Eye order records that included the sensitive personal information of customers and employees). 1-800 Contacts, Inc. had requested a modification to the protective order to allow a subset of communications and order information that 1-800 Contacts had handpicked to be turned over to the Federal Trade Commission. This order was also entered by the U.S. District Court for the

			[REDACTED]
B	CX0326 CX1316 RX0409 RX1795 RX1797	[REDACTED]	[REDACTED]
C	CX1309 CX1310 CX1311	[REDACTED]	[REDACTED]

			[REDACTED]
K	RX1788	[REDACTED]	[REDACTED]
L	RX1790	[REDACTED]	[REDACTED]
M	RX1800	[REDACTED]	[REDACTED]

			[REDACTED]
N	RX1802	[REDACTED]	[REDACTED]
O	RX1803 RX1804	[REDACTED]	[REDACTED]

			
P	CX1624 CX1625 CX1626 CX1627 CX1628 CX1629 CX1630 CX1631 CX1632 CX1633 CX1634 CX1635 CX1636 CX1637 CX1638		
Q	CX9024, p. 33, lines 5-25 p. 34, lines 1-25 p. 35, lines 1-19		

		[REDACTED]	[REDACTED]
Q	CX9024, p. 54, lines 24-25 p. 55, lines 1- 25 p. 56, lines 1- 25 p. 57, line 1 p. 211, lines 24-25 p. 212, lines 1-25 p. 213, lines 1-25 p. 214, lines 1-25 p. 215, lines 1-25 p. 216, lines 1-25 p. 217, lines 1-22 And corrections to these passages pursuant to	[REDACTED]	[REDACTED]

	attached errata sheet.		[REDACTED]
Q	CX9024, p. 61, lines 18-25 p. 62, lines 1- 25 p. 63, lines 1- 25 p. 64, line 1 p. 65, lines 6- 25 p. 66, lines 1- 25 p. 67, lines 1- 13 p. 67, lines 22-25 p. 68, lines 1- 25 p. 69, lines 18-25 p. 70, lines 1- 11 p. 71, lines 2- 17 p. 76, lines 2- 15 p. 78, lines	[REDACTED]	[REDACTED]

13-21		
p. 84, lines 5-11, lines 21-25		
p. 85, lines 1-5		
p. 166, lines 9-25		
p. 167, lines 1-25		
p. 168, lines 1-25		
p. 169, lines 1-25		
p. 170, lines 1-25		
p. 171, lines 1-25		
p. 172, lines 1-25		
p. 173, lines 8-25		
p. 174, lines 1-25		
p. 175, lines 1-24		
p. 176, lines 11-17		
p. 177, lines 13-23		
p. 188, lines		

15-25		
p. 189, lines 1-25		
p. 190, lines 1-25		
p. 191, lines 1-25		
p. 192, lines 1-25		
p. 193, lines 1-13		
p. 194, lines 17-22		
p. 195, lines 3-25		
p. 196, lines 1-25		
p. 197, lines 1-25		
p. 198, lines 1-25		
p. 199, lines 1-25		
p. 200, lines 1-25		
p. 201, lines 1-13		
And corrections to these passages		

	pursuant to attached errata sheet		
Q	CX9024, p. 80, lines 18-25 p. 81, lines 1-25 p. 82, lines 1-19 p. 149, lines 2-16 p. 241, lines 24-25 p. 242, lines 1-25 p. 243, lines 1-25 p. 244, lines 1-2 And corrections to these passages pursuant to attached errata sheet	[REDACTED]	[REDACTED]
Q	CX9024, p. 99, lines 3-22	[REDACTED]	[REDACTED]

p. 100, lines 19-25	[REDACTED]	[REDACTED]
p. 101, lines 1-6	[REDACTED]	[REDACTED]
p. 101, lines 20-25	[REDACTED]	[REDACTED]
p. 102, lines 1-5, lines 13- 25		
p. 103, lines 1-25		
p. 104, lines 1-25		
p. 105, lines 1-25		
p. 106, lines 1-25		
p. 107, lines 1-25		
p. 108, lines 1-25		
p. 109, lines 1-25		
p. 110, lines 1-25		
p. 111, lines 1-25		
p. 112, lines 1-25		
p. 113, lines 1-25		

p. 114, lines 1-25		
p. 115, lines 1-25		
p. 116, lines 1-25		
p. 117, lines 1-25		
p. 118, lines 1-25		
p. 119, lines 1-25		
p. 120, lines 1-25		
p. 121, lines 1-19		
p. 229, lines 1-17		
p. 232, lines 10-25		
p. 233, lines 1-25		
p. 234, lines 1-25		
And corrections to these passages pursuant to attached		

	errata sheet		
Q	CX9024	[REDACTED]	[REDACTED]
	p. 93, line 14	[REDACTED]	[REDACTED]
	p. 99, line 22	[REDACTED]	[REDACTED]
	p. 101, line 3	[REDACTED]	[REDACTED]
	p. 108, line 18, line 23	[REDACTED]	[REDACTED]
	p. 110, line 3	[REDACTED]	[REDACTED]
	p. 113, line 22	[REDACTED]	[REDACTED]
	p. 114, line 4, lines 7-9	[REDACTED]	[REDACTED]
	p. 115, line 2	[REDACTED]	[REDACTED]
	p. 116, lines 12-13, line 21, line 24	[REDACTED]	[REDACTED]
	p. 120, line 1	[REDACTED]	[REDACTED]
	R	RX0676	[REDACTED]
		[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	

			[REDACTED]
S	RX0677, CX1300	[REDACTED]	[REDACTED]
	p. 127, lines 14-17, 19-20	[REDACTED]	[REDACTED]
	p. 129, lines 5-7, 21-23	[REDACTED]	[REDACTED]
	p. 130, lines 8-9	[REDACTED]	[REDACTED]
	p. 132, lines 12-14, 18-19	[REDACTED]	[REDACTED]
	p. 135, lines 7-12, 13-18	[REDACTED]	[REDACTED]
	p. 138, lines 14-25	[REDACTED]	[REDACTED]
	p. 139, lines 1-25	[REDACTED]	[REDACTED]
	p. 141, lines 21-25	[REDACTED]	[REDACTED]
	p. 142, lines 1-17	[REDACTED]	[REDACTED]
	p. 143, lines 2-25	[REDACTED]	[REDACTED]
	p. 144, lines 8-25	[REDACTED]	[REDACTED]
	p. 145, lines 1-6	[REDACTED]	[REDACTED]
			[REDACTED]

			[REDACTED]
S	RX0677, CX1300 p. 129, line 2, 4 p. 131, line 25 p. 133, lines 4-5, 11 p.141, line 12 p. 143, line 19, line 22 p. 144, lines 1-4	[REDACTED]	[REDACTED]
S	RX0677, CX1300 p. 146, lines 19-25 p. 147, lines 11	[REDACTED]	[REDACTED]

Pursuant to 28 U.S.C. § 1746, I declare, under the penalty of perjury, that the foregoing is true and correct to the best of my knowledge, information, and belief.

4/9/17
DATE

Eric Holbrook
NAME/TITLE
Eric Holbrook
General Manager
Memorial Eye, P.A.

PUBLIC

ORIGINAL

ATTACHMENT 1 TO HOLBROOK DECLARATION

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Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

1-800 CONTACTS, INC.,
a Delaware corporation,

Plaintiff,

vs.

**MEMORIAL EYE, P.A. d/b/a as
SHIPMYCONTACTS.COM, SHIP-MY-
CONTACTS.COM and
IWANTCONTACTS.COM,** a Texas
Professional Association,

Defendant.

STIPULATED PROTECTIVE ORDER

Civil Action No. 2:08-cv-00983

Judge Ted Stewart

Having considered the parties' proposed Stipulated Protective Order and corresponding Motion, and finding good cause in support thereof,

IT IS HEREBY ORDERED:

1. In connection with the discovery proceedings in this action, the parties or third-party may designate as CONFIDENTIAL or CONFIDENTIAL – ATTORNEYS’ EYES ONLY any document, thing, material, testimony, or other information derived therefrom (hereinafter “Confidential Material”) under the terms of this Stipulated Protective Order (hereinafter “Order”) which the party or third-party believes reflects any confidential or proprietary information, including research, development, commercial, financial, technical, or personnel information. A claim of confidentiality must be made in good faith.

Any Confidential Material which a party believes in good faith is so commercially sensitive that it should not be disclosed to a director, in-house counsel, officer, employee, partner, or consultant of the nonproducing party may be designated by the disclosing party as CONFIDENTIAL – ATTORNEYS’ EYES ONLY.

2. Confidential Material shall be so designated by stamping copies of each page of each document produced to a party with the legend CONFIDENTIAL or CONFIDENTIAL – ATTORNEYS’ EYES ONLY as is appropriate. Any claim of confidentiality shall be made at the time the document or copy is produced. If, at the time of disclosure, a disclosing party inadvertently fails to mark a document which it considers to contain Confidential Material, the disclosing party may remedy the omission pursuant to Paragraph 10 of this Order.

3. Testimony taken at a deposition may be designated as containing Confidential Material by either making a statement to that effect on the record at the deposition or other proceeding, or by giving written notice to all counsel of record within thirty (30) days after a deposition transcript is received by the deponent or his counsel. The court reporter taking and transcribing such proceeding shall clearly mark each page having CONFIDENTIAL or

CONFIDENTIAL – ATTORNEYS’ EYES ONLY testimony with the appropriate designation. The testimony and the transcript of that testimony are to be treated as CONFIDENTIAL – ATTORNEYS’ EYES ONLY until thirty (30) days after receipt of the transcript by counsel for the disclosing party. At that time, the transcript, to the extent not otherwise designated as CONFIDENTIAL or CONFIDENTIAL – ATTORNEYS’ EYES ONLY during the course of the deposition or thereafter in a writing served on other counsel, shall be considered nonconfidential.

Notwithstanding the treatment of any transcript of testimony as CONFIDENTIAL or CONFIDENTIAL – ATTORNEYS’ EYES ONLY for the thirty (30) day period as set forth in the preceding paragraph herein, any party representatives and other Qualified Persons may attend a deposition until such time as the deposition proceeding is designated CONFIDENTIAL or CONFIDENTIAL – ATTORNEYS’ EYES ONLY, and thereafter the portions of the deposition proceeding so designated shall be conducted only in the presence of Qualified Persons as established under paragraph 5 herein.

4. Confidential Material designated under this Order, the information contained therein, and any summaries, copies, abstracts, or other documents derived in whole or in part therefrom shall be used only for the purpose of the prosecution, defense, or settlement of this action, and for no other purpose.

5. Confidential Material produced pursuant to this Order designated as CONFIDENTIAL may be disclosed or made available only to the Court, to outside trial counsel for a party (including the paralegal, clerical, and secretarial staff employed by such outside trial counsel), and to the “Qualified Persons” designated below:

(a) two individuals, who are a party, or an officer, director, or employee of a party deemed necessary by counsel to aid in the prosecution, defense, or settlement of this action;

(b) in-house counsel for a party;

(c) outside experts or consultants (together with their clerical staff) retained by such counsel to assist in the prosecution, defense, or settlement of this action;

(d) court reporter(s) employed in this action; and

(e) any other person as to whom the parties agree in writing.

Prior to receiving any Confidential Material, each "Qualified Person" defined in 5(a), (b) and (c) above shall be provided with a copy of this Order and shall be bound thereby by signing a Nondisclosure Agreement in the form annexed hereto as Exhibit A, a copy of which shall be provided forthwith to counsel for each other party prior to disclosing any Confidential Material to the "Qualified Person." The other party shall have ten (10) days to provide written objection to any outside expert or consultant stating the basis for any such objection, during which time no Confidential Material shall be provided to such qualified person. In the event written objection is made to any outside expert or consultant, no Confidential Material shall be disclosed to the person objected to until the objection is resolved by the parties or the Court.

Confidential Material designated as CONFIDENTIAL - ATTORNEYS' EYES ONLY, and the information contained therein, shall be disclosed only to the Court, to outside trial counsel for the parties (including the paralegal, clerical, and secretarial staff employed by such outside trial counsel), and to the "Qualified Persons" listed in subparagraphs 5(c), and (d) above, but shall not be disclosed to a party, or to an officer, director, in-house counsel, or employee of a party, except as provided in the following paragraph herein, unless otherwise agreed in writing or

ordered by the Court. If disclosure of CONFIDENTIAL – ATTORNEYS' EYES ONLY material is made pursuant to this paragraph, all other provisions in this Order with respect to confidentiality shall also apply.

Disclosure to Authors, Previous Recipients, and Others. The designation of any document as CONFIDENTIAL or CONFIDENTIAL – ATTORNEYS' EYES ONLY shall not preclude any party from showing the document to any person: (a) who appears as the author or as an addressee on the face of the document, (b) who has been identified by the designating party as having been provided with the document or with the information therein prior to the date of execution of this Order by all parties, or (c) who participated, prior to the date of execution of this Order by all parties, in any meeting or communication to which the document refers. However, such person may not retain any Confidential Material documents or copies thereof, if not already in his or her possession.

Nothing contained in this Order shall affect the right of any designating party to disclose or use for any purpose the documents or information it produced and designated as CONFIDENTIAL or CONFIDENTIAL – ATTORNEY'S EYES ONLY. This Order shall not limit or affect the rights of any party to use or disclose any material or thing that has not been obtained through, or derived as a result of, this litigation.

6. All documents, information, or testimony filed with the Court by either party to this action which have previously been designated by the disclosing party as containing Confidential Material, and all items which reveal the content of such documents, information, and testimony, shall be filed in sealed envelopes or other appropriate sealed containers, prominently marked with the case caption, on which shall be endorsed the following or similar legend:

CONFIDENTIAL - FILED UNDER SEAL
PURSUANT TO PROTECTIVE ORDER

7. In the event that any Confidential Material is used in any court proceeding in this action, it shall not lose its designated status through such use, and the party using such material shall take all steps reasonably available to protect its confidentiality during such use.

8. If a party disagrees with the producing party's designation of Confidential Material as CONFIDENTIAL or CONFIDENTIAL – ATTORNEYS' EYES ONLY, the receiving party shall notify the disclosing party in writing and request a release of confidentiality. If such release is not forthcoming in writing within ten (10) days, the receiving party may apply to the Court for an order requiring the release of confidentiality. Upon such application, the burden shall reside on the party designating a document or information as having confidential status to establish entitlement to the designated status of CONFIDENTIAL or CONFIDENTIAL – ATTORNEYS' EYES ONLY.

This Order shall be without prejudice to the right of the parties: (a) to bring before the Court at any time the question of whether any particular document or information contains Confidential Material or whether its use should be restricted, or (b) to present a motion to the Court under FED. R. CIV. P. 26(c) for a separate protective order as to any particular document or information, including restrictions differing from those as specified herein. This Order shall not be deemed to prejudice the parties in any way in any future application for modification of this Order.

9. This Order is entered solely for the purpose of facilitating the exchange of documents and information between the parties to this action without involving the Court unnecessarily in the process. Nothing in this Order nor the production of any information or document under the

terms of this Order nor any proceedings pursuant to this Order shall be deemed to have the effect of an admission or waiver by either party or of altering the confidentiality or nonconfidentiality of any such document or information or altering any existing obligation of any party or the absence thereof.

10. This paragraph shall govern material inadvertently not initially designated CONFIDENTIAL or CONFIDENTIAL – ATTORNEYS' EYES ONLY. The initial failure to designate material in accordance with this Protective Order shall not preclude any party or third party, at a later date, from designating any material CONFIDENTIAL or CONFIDENTIAL – ATTORNEYS' EYES ONLY. A party or third party may, by written notice to counsel of record for the receiving party or parties, designate as CONFIDENTIAL or CONFIDENTIAL – ATTORNEYS' EYES ONLY previously produced material which it had inadvertently failed to so designate. Upon receipt of such notice, the receiving party shall promptly mark its copies of the material accordingly, shall thereafter treat the material as if it has been designated CONFIDENTIAL or CONFIDENTIAL – ATTORNEYS' EYES ONLY, shall restrict the disclosure or use of such material to only those persons qualified pursuant to this Order, and, if such material has previously been disclosed to persons not qualified pursuant to the Order, shall take reasonable steps to obtain all such previously disclosed material and advise such persons of the claims of the confidentiality.

11. This Order shall survive the final termination of this action, to the extent that the information contained in Confidential Material is not or does not become known to the public, and the Court shall retain jurisdiction to resolve any dispute concerning the use of information disclosed hereunder. Within sixty (60) days after settlement of this case, or after final

disposition and all appellate relief has been exhausted in this case, counsel for the parties shall assemble and return to each other all copies of documents, materials, and deposition transcripts designated as containing Confidential Material, or certify their destruction. However, outside trial counsel may retain intact an archival file copy of any pleading, deposition, or trial testimony transcript that includes or references Confidential Material. Counsel for the parties shall certify the destruction of any copies of Confidential Material containing notes or other attorney work product.

12. This Order shall not affect or impair the right of any person or party to raise or assert any defense, privilege, or objection to the production or use of any information involved in the litigation.

13. This Order shall not preclude any party from enforcing its rights against another party or any third party believed to be violating the rights of such party.

14. As officers of this Court, all counsel involved in the litigation shall use their best efforts to resolve issues relating to the terms of this Order without Court intervention.

15. As officers of this Court, all counsel involved in the litigation shall use their best efforts to ensure that their respective parties and representatives fully comply with the terms of this Order.

16. This Order shall be applicable to all further proceedings in the litigation, and the Court retains jurisdiction to make any modifications to this Order on its own initiative or upon request of any party.

17. The producing party shall retain the original documents throughout this litigation if it has produced the original for inspection and has provided complete legible photocopies thereof.

However, nothing in this Order shall be construed to excuse a producing party from its obligation to make the original document available for inspection or prevent a party from seeking production of original documents in an appropriate instance.

SO STIPULATED:

Respectfully submitted,

Dated: June 1, 2010

/s/ Mark A. Miller

Bryan G. Pratt
Mark A. Miller
Attorneys for Plaintiff

Dated: June 1, 2010

/s/ Anthony W. Hong

Anthony W. Hong
(signed with permission by filing attorney)
Attorneys for Defendant

SO ORDERED:

Dated: 6/7/10

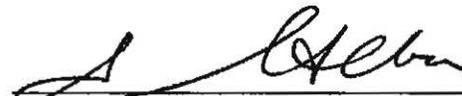

Judge Ted Stewart
United States District Court Judge
registrate

Exhibit A

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

1-800 CONTACTS, INC.,
a Delaware corporation,

Plaintiff,

vs.

**MEMORIAL EYE, P.A. d/b/a as
SHIPMYCONTACTS.COM, SHIP-MY-
CONTACTS.COM and
IWANTCONTACTS.COM,** a Texas
Professional Association,

Defendant.

**DECLARATION REGARDING
PROTECTIVE ORDER**

Civil Action No. 2:08-cv-00983

Judge Ted Stewart

1. My name is _____.
2. My address is _____.
3. My present employer is _____.
4. My present occupation or job description is _____.
5. I have received a copy of the Protective Order in this case. I have carefully read and understand the provisions of the Protective Order.
6. I will comply with all of the provisions of the Protective Order.
7. I will hold in confidence, and not disclose to anyone not authorized under the Protective Order, any Confidential Information disclosed to me, including, but not limited to, any notes, memoranda, summaries, exhibits, or other written graphic materials prepared from the Confidential Information.

8. I will return all materials containing Confidential Information which come into my possession and documents or things which I have prepared from these materials (including all copies) to counsel for the party by whom I am employed or retained.

9. I hereby submit to the jurisdiction of this Court for the purpose of enforcement of the Protective Order in this case.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT PURSUANT TO 28 U.S.C. § 1746.

Executed on: _____, 201__

Signature

Printed Name

Address

PUBLIC

ORIGINAL

ATTACHMENT 2 TO HOLBROOK DECLARATION

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

1-800 CONTACTS, INC.,
a Delaware corporation,

Plaintiff,

vs.

MEMORIAL EYE, P.A. et al., a Texas
Professional Association,

Defendant.

**ORDER GRANTING
MOTION FOR RELIEF FROM
PROTECTIVE ORDER**

Civil Action No. 2:08-cv-00983

Judge Ted Stewart
Magistrate Judge Brooke C. Wells

Before the Court is Plaintiff's Motion for Relief from Protective Order.¹ The Court has considered all the parties arguments, including arguments made in the telephonic hearing on January 7, 2014, and finds good cause supports the Motion. Therefore, the Court HEREBY GRANTS the Motion.

Therefore, Plaintiff 1-800 Contacts, Inc. is granted relief from the Stipulated Protective Order² to release the deposition exhibits taken from the deposition of Elio Sanchez submitted under seal with Plaintiff's reply brief³ ("the documents") with the patient-, customer-, and employee-related information redacted as agreed by the parties.

The bates numbering and confidentiality stamps that Defendant originally placed on the documents shall be restored before the documents are produced to the Federal Trade Commission. On or before February 9, 2015, Defendant shall provide Plaintiff with copies of the documents bearing the agreed redactions, bates numbers, and confidentiality designations.

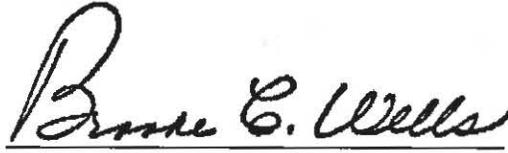
IT IS SO ORDERED.

¹ Docket no. 162.

² Docket no. 79.

³ Docket no. 164.

DATED this 2 February 2015.

A handwritten signature in black ink that reads "Brooke C. Wells". The signature is written in a cursive style with a large initial 'B' and a distinct 'C' and 'W'.

Brooke C. Wells
Brooke C. Wells
United States Magistrate Judge

PUBLIC/REDACTED

ORIGINAL

**EXHIBIT A TO HOLBROOK DECLARATION
(REDACTED)**

PUBLIC/REDACTED

ORIGINAL

**EXHIBIT B TO HOLBROOK DECLARATION
(REDACTED)**

PUBLIC/REDACTED

**EXHIBIT C TO HOLBROOK DECLARATION
(REDACTED)**

PUBLIC/REDACTED

ORIGINAL

**EXHIBIT D TO HOLBROOK DECLARATION
(REDACTED)**

PUBLIC/REDACTED

ORIGINAL

**EXHIBIT E TO HOLBROOK DECLARATION
(REDACTED)**

PUBLIC/REDACTED

ORIGINAL

**EXHIBIT F TO HOLBROOK DECLARATION
(REDACTED)**

PUBLIC/REDACTED

ORIGINAL

**EXHIBIT G TO HOLBROOK DECLARATION
(REDACTED)**

PUBLIC/REDACTED

ORIGINAL

**EXHIBIT H TO HOLBROOK DECLARATION
(REDACTED)**

PUBLIC/REDACTED

ORIGINAL

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**EXHIBIT J TO HOLBROOK DECLARATION
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PUBLIC/REDACTED

ORIGINAL

**EXHIBIT K TO HOLBROOK DECLARATION
(REDACTED)**

PUBLIC/REDACTED

ORIGINAL

**EXHIBIT L TO HOLBROOK DECLARATION
(REDACTED)**

PUBLIC/REDACTED

ORIGINAL

**EXHIBIT M TO HOLBROOK DECLARATION
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PUBLIC/REDACTED

ORIGINAL

**EXHIBIT N TO HOLBROOK DECLARATION
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PUBLIC/REDACTED

ORIGINAL

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PUBLIC/REDACTED

ORIGINAL

**EXHIBIT P TO HOLBROOK DECLARATION
(REDACTED)**

PUBLIC/REDACTED

ORIGINAL

EXHIBIT Q TO HOLBROOK DECLARATION
(REDACTED)

PUBLIC/REDACTED

ORIGINAL

**EXHIBIT R TO HOLBROOK DECLARATION
(REDACTED)**

PUBLIC/REDACTED

ORIGINAL

EXHIBIT S TO HOLBROOK DECLARATION
(REDACTED)

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of)
)
1-800 CONTACTS, INC.,)
a corporation,)
)
Respondent)
_____)

DOCKET NO. 9372

ORIGINAL

ORDER

Having reviewed Memorial Eye, PA's Amended Motion for In Camera Treatment of Memorial Eye Documents, this court finds such motion to be meritorious.

The following Memorial Eye, PA documents shall be accorded confidential status for five years and shall be made subject to *in camera* inspection in this proceeding:

[REDACTED]

The following Memorial Eye, PA documents shall be accorded confidential status indefinitely and shall be made subject to *in camera* inspection in this proceeding:

[REDACTED]

shall use redacted, instead of unredacted, copies of the following documents in this proceeding:

[REDACTED]

[REDACTED]
[REDACTED]

SO ORDERED.

DATE

ADMINISTRATIVE LAW JUDGE

Notice of Electronic Service

I hereby certify that on April 17, 2017, I filed an electronic copy of the foregoing PROPOSED ORDER TO MEMORIAL EYE, PA'S AMENDED MOTION FOR IN CAMERA TREATMENT OF MEMORIAL EYE DOCUMENTS, with:

D. Michael Chappell
Chief Administrative Law Judge
600 Pennsylvania Ave., NW
Suite 110
Washington, DC, 20580

Donald Clark
600 Pennsylvania Ave., NW
Suite 172
Washington, DC, 20580

I hereby certify that on April 17, 2017, I served via E-Service an electronic copy of the foregoing PROPOSED ORDER TO MEMORIAL EYE, PA'S AMENDED MOTION FOR IN CAMERA TREATMENT OF MEMORIAL EYE DOCUMENTS, upon:

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Anthony Hong
Attorney

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