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Attorneys for Defendants
Seth MacFarlane and Fox Broadcasting Company

FILED
LOS ANGELES SUPERIOR COURT

MAY 08 2000
JOHN A. CLARKE CLERK
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

JIM KEESHEN and JIM KEESHEN
PRODUCTIONS, INC.,

Plaintiffs,

v.

SETH McFARLANE; FOX
BROADCASTING COMPANY; THE
IRV SHECHTER COMPANY; JOHN
GOLDSMITH; and DOES 1 through
100, inclusive,

Defendants.

Case No. BC 211205

STIPULATION AND ~~PROPOSED~~
PROTECTIVE ORDER

D-46

1 Plaintiffs Jim Keeshen and Jim Keeshen Productions, Inc. ("Plaintiffs") and
2 defendants Seth McFarlane, Fox Broadcasting Company, The Irv Shechter Company, and
3 John Goldsmith ("Defendants"), by and through their respective counsel of record, hereby
4 enter into the following stipulation:

5 1. Any Party (herein used to refer individually to Plaintiffs, Defendants, and
6 any other party who later appears in this action and becomes bound by the terms of this
7 Protective Order) may designate as "Confidential" any testimony, documents, records or
8 tangible things – and any copies, abstracts, excerpts or analyses thereof – used, served or
9 produced by the Parties or by third parties in response to formal discovery demands or
10 subpoenas which the designating Party in good faith believes contain, reflect, regard, or
11 disclose any trade secret or confidential financial, business, or proprietary information.
12 All materials designated as "Confidential" shall be referred to in this Protective Order as
13 "Confidential Information."

14 2. No Party may disclose or use any Confidential Information other than in
15 accordance with the terms and conditions of this Protective Order.

16 3. Confidential Information shall not be used for any purpose other than the
17 conduct of this litigation, and no one shall be permitted access to Confidential Information
18 except to the extent necessary to assist in the prosecution, defense, settlement, or appeal of
19 this action. Notwithstanding the foregoing, any Party may use its own Confidential
20 Information for any purpose whatsoever.

21 4. Confidential Information shall be disclosed only to "Qualified Persons,"
22 which shall include the following:

23 (a) Outside counsel of record in this action, and staff and supporting
24 personnel of such attorneys (*i.e.*, paralegal assistants, secretarial, stenographic and clerical
25 employees and contractors, and outside copying services) who are working on this
26 litigation and under the direction of such attorneys and to whom it is necessary that the
27 materials be disclosed for purposes of this litigation;

28 (b) Inside counsel of the Parties, and staff and supporting personnel of

1 such attorneys (*i.e.*, paralegal assistants, secretarial, stenographic and clerical employees
2 and contractors, and outside copying services) who are working on this litigation and
3 under the direction of such attorneys and to whom it is necessary that the materials be
4 disclosed for purposes of this litigation;

5 (c) Any Party who is an individual, and the current officers, directors and
6 other employees of the Parties who are business entities, but only to the extent necessary
7 to assist in the conduct and preparation of this litigation and only after compliance with
8 Paragraph 6 herein;

9 (d) Persons who are expressly retained or sought to be retained by a
10 Party as consultants or testifying experts, such as accountants, statisticians, economists,
11 industry or technical experts; provided that the disclosure of Confidential Information to
12 any persons under this subparagraph shall only be to the extent necessary to perform their
13 work on this litigation;

14 (e) The author or addressee of a particular document that has been
15 designated as Confidential Information, as well as any person who prepared or reviewed
16 that document prior to the filing of this action;

17 (f) Any other persons who are designated to receive Confidential
18 Information by order of this Court, after notice to the Parties, or by written stipulation of
19 the Parties; and

20 (g) The Court, Court personnel, jurors, and any court reporters used in
21 connection with this litigation.

22 5. Confidential Information such as trade secrets or any other particularly
23 sensitive, private or competitively valuable information may be further designated
24 "Restricted Confidential Information: For Counsel Only" (hereinafter referred to as
25 "Restricted Information"). All documents or things designated as Restricted Information
26 are included within the meaning of "Confidential Information" as used in this Protective
27 Order, and all provisions of this Protective Order that apply to Confidential Information
28 also shall apply to Restricted Information. However, Restricted Information shall be

1 disclosed only to a Qualified Person described in Paragraphs 4(a), 4(b), 4(d), 4(e), 4(f),
2 and 4(g), and shall not be given, shown, made available, communicated, or otherwise
3 disclosed to a Qualified Person described in Paragraph 4(c). A Qualified Person described
4 in Paragraphs 4(c) and 4(d) above shall not have access to Confidential Information until
5 he or she has certified in writing (by executing an Acknowledgment in the form attached
6 hereto as Exhibit "A") that he or she has read this Protective Order and agrees to be bound
7 by the terms and conditions hereof. The Party disclosing Confidential Information shall
8 retain a copy of all Acknowledgments signed by any such Qualified Persons to whom
9 disclosure is made, and shall provide a copy thereof to any other Party if so ordered by the
10 Court.

11 6. Individuals who are not Qualified Persons may be shown or review
12 Confidential Information if, and only if, counsel for the Party that designated the
13 information as Confidential is notified prior to disclosure and consents in writing to such
14 disclosure. If such written consent is given, each person to whom such material is to be
15 given, shown, made available, or communicated must first sign an Acknowledgment in
16 the form attached hereto as Exhibit "A" stating that he or she has read this Protective
17 Order and agrees to be bound by the terms hereof. Counsel disclosing the Confidential
18 Information shall, at the conclusion of the litigation, forward copies of all
19 Acknowledgments signed by any such individuals to the non-disclosing Parties' counsel.
20 In the event that counsel for the Party that designated the information as Confidential does
21 not consent in writing to the requested disclosure, the Parties shall make a good faith
22 effort to resolve the matter. Failing such resolution, any Party may file a duly noticed
23 motion seeking permission from the Court to make the requested disclosure. Disclosure
24 of the Confidential Information at issue may then be made upon issuance of an
25 appropriate order from the Court.

26 7. Any person who receives Confidential Information pursuant to this
27 Protective Order shall maintain such information in a manner intended to protect and
28

1 preserve – and shall use his, her, its, or their best efforts to protect and preserve – the
2 confidentiality of such information.

3 8. Parties shall designate Confidential Information as follows:

4 (a) In the case of documents, interrogatory answers, responses to
5 requests for admissions, and the information contained therein, designation shall be made
6 by placing the following legend, as appropriate, on each page of any such document prior
7 to production: “CONFIDENTIAL.” To further designate Restricted Information, one of
8 the following legends shall be placed on each page of any such document prior to
9 production: “RESTRICTED CONFIDENTIAL INFORMATION: FOR COUNSEL
10 ONLY”, “FOR COUNSEL’S EYES ONLY” or “RESTRICTED CONFIDENTIAL”
11 (collectively, a “RESTRICTED CONFIDENTIAL” designation). A Party furnishing
12 documents and things to another Party shall have the option to require that all or batches
13 of documents and things be treated as Confidential Information during inspection, and to
14 make its designations of particular documents and things as containing Confidential
15 Information at the time copies are made or produced. The inadvertent or unintentional
16 disclosure of Confidential Information without a CONFIDENTIAL or RESTRICTED
17 CONFIDENTIAL designation shall not be deemed a waiver in whole or in part of a
18 Party’s claim of confidentiality, either as to the specific information disclosed or as to any
19 other information relating thereto or on the same or related subject matter. Counsel for
20 the Parties shall, to the extent possible, upon discovery of inadvertent disclosure,
21 cooperate to restore the confidentiality of any Confidential Information that was
22 inadvertently or unintentionally disclosed.

23 (b) In the case of depositions, designation of those transcripts (including
24 exhibits) which contain Confidential Information (or Restricted Information, as the case
25 may be) shall be made by a statement to such effect on the record during the course of the
26 deposition by any counsel. Upon such designation, counsel shall attempt to identify and
27 designate in good faith those portions of the transcript and exhibits which contain
28 Confidential Information, and those portions of the transcript and exhibits so identified

1 shall be separately marked and bound by the court reporter and labeled as containing
2 Confidential Information. If no such designation is made by a statement to such effect on
3 the record during the course of the deposition, within thirty (30) days after the court
4 reporter notifies all counsel that a completed transcript is available, any counsel may
5 designate portions of the transcript and exhibits as containing Confidential Information by
6 serving a notice to such effect on all other Parties. Such notice shall specify the particular
7 portions of the transcript and any exhibits that counsel wishes to designate as containing
8 Confidential Information by listing on a separate sheet of paper the numbers of the pages
9 of the transcript and the particular exhibits containing Confidential Information, so that
10 the sheet may be affixed to the face of the transcript and each copy thereof. If no
11 designation is made by a statement to such effect on the record during the course of the
12 deposition or within the thirty (30) day period described herein, the transcript shall be
13 considered not to contain any Confidential Information. Portions of a transcript
14 (including exhibits) designated as Confidential Information may only be disclosed in
15 accordance with the terms of this Protective Order.

16 (c) In the event that counsel for a Party believes it is necessary during the
17 course of a deposition to show Confidential Information to a deponent who is otherwise
18 not permitted access to such Confidential Information under the terms of this Protective
19 Order, counsel may immediately seek consent to do so from counsel for the designating
20 Party, who shall not unreasonably withhold such consent. If such consent is withheld, the
21 requesting counsel may apply to the Court for relief.

22 9. Nothing contained in this Protective Order constitutes an admission or
23 waiver of any claim or defense by any Party, and nothing contained herein shall affect the
24 right of any Party to make any objection, claim any privilege, or otherwise contest any
25 request for production of documents, interrogatory, request for admission, or question at a
26 deposition, or to seek further relief or protective orders from the Court. Nothing
27 contained herein shall further affect the right of any Party to introduce such Confidential
28 Information as evidence at any trial or hearing in this action.

1 10. In the event that any Confidential Information is used in any court
2 proceeding in connection with this litigation, it shall not lose its protected status under this
3 Protective Order through such use, and the Parties shall take all steps reasonably required
4 to protect its confidentiality during such proceedings.

5 11. A Party shall not be obligated to challenge the propriety of a Confidential
6 Information designation at the time such a designation is made, and a failure to do so shall
7 not preclude a subsequent challenge thereto. In the event that any Party disagrees at any
8 stage of these proceedings with such designation, such Party shall provide to the
9 designating Party written notice of its disagreement and shall thereafter make a good faith
10 effort to resolve the dispute. If the dispute cannot be resolved, the Party challenging the
11 propriety of the designation may file a duly noticed motion requesting appropriate relief
12 from the Court.

13 12. Confidential Information may be submitted to the Court for its review in
14 connection with pre-trial motions in this litigation. The submitting Party shall file the
15 Confidential Information in a separate, sealed envelope that bears the caption of this case
16 and the following statement: “[Name of Party] hereby submits the enclosed
17 CONFIDENTIAL INFORMATION for the Court’s use in connection with the [date]
18 [nature of motion] of [moving Party]. By Order of the Court, this envelope is not to be
19 opened nor the contents thereof displayed or revealed to anyone other than counsel of
20 record in this action or employees and agents of the Court, except pursuant to stipulation
21 of [designating Party] or further Order of the Court.”

22 13. Within sixty (60) days after the termination of litigation between the Parties,
23 all Confidential Information and all copies thereof shall be either returned to the Party that
24 produced it or destroyed and a certification of destruction under penalty of perjury
25 supplied to the designating Party; provided that, for each Party, outside counsel may retain
26 one complete and unredacted set of pleadings and papers filed with the Court or served on
27 the other Parties solely for reference in the event of, and only in the event of, further
28 proceedings or litigation between the Parties, or a dispute over the use or dissemination of

1 Confidential Information subject to the terms of this Protective Order. Such retained copy
2 of pleadings and papers shall be maintained in a file accessible only by outside counsel
3 bound by this Protective Order. This Order shall survive the final termination of this
4 litigation with respect to any such retained Confidential Information.

5
6 Dated: February 24, 2000

M. RANDALL OPPENHEIMER
PETER J. McPARTLIN
PAUL A. ROSE
O'MELVENY & MYERS LLP

7
8
9 By 

Peter J. McPartlin

10 Attorneys for Defendants Seth
11 MacFarlane and Fox Broadcasting
Company

12 Dated: 3/15, 2000

13 PAUL HESSE
ARTER & HADDEN

14
15 By 

Paul Hesse

16 Attorneys for Defendants The Irv
17 Shechter Company and John Goldsmith

18 Dated: February 25, 2000

19 SCOTT H. CARR
BROWNE GREENE
GREENE, BROILLET, TAYLOR,
20 WHEELER & PANISH

21 By 

Scott H. Carr

22 Attorneys for Plaintiffs Jim Keeshen and
23 Jim Keeshen Productions, Inc.

24 **ORDER**

25 IT IS SO ORDERED.

26 Dated: 5-8-00

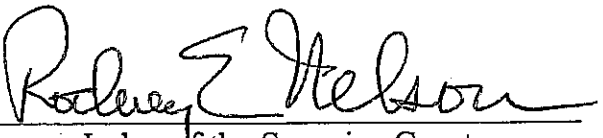
27 
28 Judge of the Superior Court

EXHIBIT "A"

AGREEMENT AND DECLARATION CONCERNING CONFIDENTIAL
INFORMATION COVERED BY A STIPULATION AND PROTECTIVE ORDER
ENTERED IN THE SUPERIOR COURT FOR LOS ANGELES COUNTY

I, the undersigned, hereby declare that:

1. I have read the attached Stipulation and Protective Order (the "Order") in the action entitled *Keeshen et al. v. MacFarlane, et al.*, Case Number BC 211205, presently pending in the Los Angeles Superior Court.

2. I understand the terms of the Order, and I agree to be bound by such terms and any subsequent modifications thereto.

3. I specifically understand that the Order requires me to keep confidential such Confidential Information (as defined in the Order) as is disclosed to me in the course of my involvement in this litigation, not to use any such Confidential Information except as necessary to assist in the prosecution, defense, settlement, or appeal of this action, and not to disclose any such Confidential Information to any person not authorized by the Order to receive such information.

4. I agree that I shall return or destroy all documents containing or restating Confidential Information which have been provided to me, together with any work product generated by me referencing, relying upon or utilizing in any way such Confidential Information, upon demand by the Court or the attorney or Party who furnished the Confidential Information to me.

5. I submit to the jurisdiction of the Superior Court for the County of Los Angeles, for the limited purpose of any proceeding to enforce the terms of the Order. I understand that I may be subject to contempt proceedings for violation of the Order if I do not comply with the Order's terms.

6. My address is _____.

7. My relationship to this case and the Parties thereto is: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this Agreement and Declaration is executed on _____, _____, at _____.

1 **PROOF OF SERVICE**

2 I, Cora Moncrief, declare:

3 I am a resident of the State of California and over the age of eighteen years, and
4 not a party to the within action; my business address is 1999 Avenue of the Stars, Seventh Floor,
Los Angeles, CA 90067-6035. On May 5, 2000, I served the within documents:

5 **STIPULATION AND [PROPOSED] PROTECTIVE ORDER**

- 6 by transmitting via facsimile the document(s) listed above to the fax number(s)
7 set forth below on this date before 5:00 p.m.
- 8 by placing the document(s) listed above in a sealed envelope with postage thereon
9 fully prepaid, in the United States mail at Los Angeles, California addressed as set
10 forth below.
- 11 by placing the document(s) listed above in a sealed _____ envelope
12 and affixing a pre-paid air bill, and causing the envelope to be delivered to a
_____ agent for delivery
- 13 by personally delivering the document(s) listed above to the person(s) at the
14 address(es) set forth below.

15 Paul D. Hesse, Esq.
16 ARTER & HADDEN
17 725 S. Figueroa Street, Ste. 3400
18 Los Angeles, CA 90017-5434
19 FAX: 213-617-9255

20 Scott H. Carr, Esq.
21 GREENE, BROILLET, TAYLOR
22 WHEELER & PANISH
23 100 Wilshire Blvd., #2100
24 Santa Monica, CA 90407-2131
25 FAX: 310-576-1220

26 I am readily familiar with the firm's practice of collection and processing
27 correspondence for mailing. Under that practice it would be deposited with the U.S. Postal
28 Service on that same day with postage thereon fully prepaid in the ordinary course of business. I
am aware that on motion of the party served, service is presumed invalid if postal cancellation
date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare that I am employed in the office of a member of the bar of this court at
whose direction the service was made.

Executed on May 5, 2000, at Los Angeles, California.


Cora Moncrief