IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

Puerto Rico Soccer league NFP Corp., Joseph Marc Serralta Ives, Maria Larracuente, Jose R. Olmo-Rodriguez, and Futbol Boricua (FBNET), Inc., *Plaintiffs*, v. Federación Puertorriqueña de Futbol, Inc., Iván Rivera-Gutierrez, José "Cukito" Martinez, Gabriel Ortiz, Luis Mozo Cañete, Fédération Internationale de Football Association (FIFA), and Confederation of North, Central America and Caribbean Association Football (CONCACAF, *Defendants*.	CIVIL ACTION NO. 23-1203 (RAM)

PLAINTIFFS' RESPONSE IN OPPOSITION TO DEFENDANTS' JOINT MOTION FOR ENTRY OF A PROTECTIVE AND CONFIDENTIALITY ORDER AND RULE 502(d) ORDER

TO THE HONORABLE COURT:

COME NOW Plaintiffs Puerto Rico Soccer League NFP Corp. ("PRSL"), Joseph Marc Serralta Ives, Maria Larracuente, Jose R. Olmo-Rodriguez, and Futbol Boricua (FBNET), Inc. (collectively, "Plaintiffs"), through undersigned counsel, and hereby oppose Defendants' Joint Motion for Entry of a Protective and Confidentiality Order and Rule 502(d) Order (Dkt. No. 169, filed March 6, 2025) ("Defendants' Motion"). For the reasons set forth below, this Court should reject Defendants' proposed Protective Order (Dkt. No. 169-1, Exhibit 1) and Rule 502(d) Order (Dkt. No. 169-2, Exhibit 2) and adopt Plaintiffs' position that a single-tier "CONFIDENTIAL"

designation adequately protects all parties, that no conflict of interest precludes Mr. Olmo-Rodriguez or Mr. Reyes from serving as counsel, and that the Hague Evidence Convention does not apply to discovery in this case.

I. INTRODUCTION

Defendants' Motion seeks to impose an overly restrictive discovery regime that exceeds what is necessary to protect their legitimate interests, threatens Plaintiffs' right to broad discovery under the Federal Rules of Civil Procedure, and mischaracterizes the positions and roles of Plaintiffs' counsel. The First Circuit has consistently emphasized that protective orders must be narrowly tailored to avoid unduly restricting a party's access to evidence. *See Poliquin v. Garden Way, Inc.*, 989 F.2d 527, 532 (1st Cir. 1993) (protective orders must balance confidentiality needs with the right to discovery). Defendants fail to meet their burden under Federal Rule of Civil Procedure 26(c) and First Circuit precedent to justify their proposed two-tier confidentiality system, restrictions on Plaintiffs' counsel, or invocation of foreign law to shield discovery.

Plaintiffs propose a single-tier "CONFIDENTIAL" designation that sufficiently safeguards sensitive information while preserving access for all counsel, including Mr. Olmo-Rodriguez and Mr. Reyes, who have no conflicts of interest under applicable ethical rules. Furthermore, Plaintiffs have never agreed to the applicability of the Hague Evidence Convention; to the contrary, Defendant FIFA's corporate representative, Mattias Grafström, must testify under the Federal Rules of Civil Procedure, as this Court has already found personal jurisdiction over FIFA.

II. ARGUMENT

I. A Single-Tier "CONFIDENTIAL" Designation Sufficiently Protects Defendants' Interests, and a "Highly Confidential-Attorneys' Eyes Only" Tier Is Unwarranted

Defendants seek a two-tier confidentiality system, including a "Highly Confidential-Attorneys' Eyes Only" ("HC-AEO") designation, arguing it is necessary to protect competitively sensitive information in this antitrust case (Dkt. No. 169 at 5-6). However, under First Circuit law, the party seeking a protective order bears the burden of showing "good cause" with specific evidence of harm, not mere speculation. *See Pub. Citizen v. Liggett Grp., Inc.*, 858 F.2d 775, 789 (1st Cir. 1988) ("The party seeking the protective order must demonstrate that confidentiality is warranted with specific facts, not conclusory statements."). Defendants fail to meet this standard.

A single-tier "CONFIDENTIAL" designation adequately protects Defendants' interests. The First Circuit has cautioned against overly restrictive protective orders that hinder a party's ability to prosecute its case. *See Anderson v. Cryovac, Inc.*, 805 F.2d 1, 7 (1st Cir. 1986) (discovery should be "as broad as possible" unless a specific showing of harm justifies restriction). Defendants' speculative assertions about "competitive secrets" (Dkt. No. 169 at 5) lack the requisite specificity. They cite no concrete examples of documents requiring HC-AEO protection, relying instead on generalized concerns about trade secrets or business strategies (Dkt. No. 169-1 at 4-5). This falls short of the "particularized showing" required by *Public Citizen*, 858 F.2d at 789.

Moreover, Defendants' cited cases from other circuits (e.g., *Brown Bag Software v. Symantec Corp.*, 960 F.2d 1465 (9th Cir. 1992)) are inapposite in the First Circuit, where the focus is on balancing confidentiality with discovery rights. A "CONFIDENTIAL" designation, limiting disclosure to litigation participants who sign a confidentiality agreement (Dkt. No. 169-1, Exhibit A), provides ample protection without excluding Plaintiffs' counsel or representatives from accessing critical evidence. Defendants' proposal risks "unduly restrict[ing] the flow of discovery," contrary to First Circuit policy. *See Gill v. Gulfstream Aerospace Corp.*, 399 F.3d 391, 401 (1st Cir. 2005).

II. Mr. Olmo-Rodriguez and Mr. Reyes Have No Conflicts of Interest Precluding Their Access to Discovery Materials

Defendants assert that Mr. Olmo-Rodriguez and Mr. Reyes, as counsel and alleged "competitive decision-makers" for PRSL, should be barred from accessing HC-AEO materials absent consent or court order (Dkt. No. 169 at 7-9). This argument misapplies ethical rules and lacks evidentiary support.

Under the ABA Model Rules of Professional Conduct, adopted in Puerto Rico via Local Rule 83E, no conflict exists here. Rule 1.7 prohibits representation only where there is a "significant risk" that the lawyer's duties to one client will materially limit representation of another. No such risk exists: Mr. Olmo-Rodriguez and Mr. Reyes represent all Plaintiffs, whose interests are aligned in challenging Defendants' alleged antitrust violations. Defendants' claim that their ownership interests in PRSL create a conflict (Dkt. No. 169 at 8) is baseless—ownership does not inherently impair zealous advocacy. *See In re Grand Jury Subpoena*, 274 F.3d 563, 571 (1st Cir. 2001) (ethical rules focus on actual conflicts, not hypothetical risks).

Defendants' reliance on *U.S. Steel Corp. v. United States*, 730 F.2d 1465 (Fed. Cir. 1984), is misplaced. Their roles as counsel and PRSL members, in Reyes's case, enhance their ability to litigate this case, not undermine it. The First Circuit permits counsel to wear multiple hats absent a clear conflict. *See United States v. Gannett Co.*, 835 F.2d 392, 395 (1st Cir. 1987) (no disqualification unless representation is "materially adverse" to a client's interests).

Even if an HC-AEO tier were adopted, excluding Mr. Olmo-Rodriguez and Mr. Reyes would be improper without a specific showing of harm, which Defendants have not made. *See Poliquin*, 989 F.2d at 532 (restrictions on counsel's access require "specific demonstration of need"). Their

participation ensures Plaintiffs can effectively challenge Defendants' alleged misconduct, consistent with the First Circuit's discovery-friendly approach.

III. The Hague Evidence Convention Does Not Apply, and FIFA's Mattias Grafström Must Testify Under the Federal Rules of Civil Procedure

Defendants' insistence on including language preserving rights under the Hague Evidence Convention and Swiss Penal Code Article 271 (Dkt. No. 169 at 10-11) is a red herring. Plaintiffs have never agreed to its applicability—quite the opposite—and this Court's jurisdiction over FIFA mandates compliance with the Federal Rules of Civil Procedure.

Contrary to Defendants' assertion (Dkt. No. 169 at 10), Plaintiffs' counsel never committed to using the Hague Convention. During the February 13, 2025 meet-and-confer, counsel stated only that they would *consider* Hague procedures if necessary, not that they conceded its applicability. Defendants' claim of an "abrupt about-face" (Dkt. No. 169 at 11) misrepresents the record. Plaintiffs have consistently maintained that FIFA, subject to this Court's personal jurisdiction, must produce its corporate representative, Mattias Grafström, under Rule 30(b)(6), not foreign law.

The Supreme Court and First Circuit have held that the Hague Convention is optional, not mandatory, where a court has jurisdiction over a party. *See Société Nationale Industrielle Aérospatiale v. U.S. Dist. Ct. for S. Dist. of Iowa*, 482 U.S. 522, 539-40 (1987) (Hague procedures are "permissive"); *In re Grand Jury Subpoena*, 646 F.3d 159, 164 (1st Cir. 2011) (same). FIFA's Swiss domicile does not override this Court's authority to compel discovery under the Federal Rules. Defendants' speculative concerns about Swiss Penal Code violations (Dkt. No. 169 at 11 n.7) are premature and irrelevant absent a specific discovery dispute. Including such language in

the Protective Order risks confusing the discovery process and delaying Plaintiffs' access to evidence, contrary to First Circuit efficiency goals. *See Gill*, 399 F.3d at 401.

IV. The Proposed Rule 502(d) Order Should Be Adopted Only if Aligned with Plaintiffs' Protective Order

Plaintiffs do not oppose a Rule 502(d) Order in principle (Dkt. No. 169 at 12), but it must complement a Protective Order reflecting Plaintiffs' single-tier "CONFIDENTIAL" framework. Defendants' proposed Rule 502(d) Order (Dkt. No. 169-2) assumes adoption of their two-tier system, which Plaintiffs reject. The Court should enter a Rule 502(d) Order only if it aligns with a Protective Order denying the HC-AEO tier and Hague Convention language, ensuring consistency across discovery protocols.

III. CONCLUSION

Defendants' Motion fails to justify their proposed Protective Order under First Circuit standards. A single-tier "CONFIDENTIAL" designation suffices to protect their interests, Mr. Olmo-Rodriguez and Mr. Reyes face no conflicts barring their access to discovery, and the Hague Evidence Convention does not apply given this Court's jurisdiction over FIFA. Plaintiffs respectfully request that the Court deny Defendants' Motion and adopt a Protective Order and Rule 502(d) Order consistent with Plaintiffs' position.

DATED this 10th day of March, 2025.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I electronically filed this document with the Clerk of Court using CM/ECF/PACER, which will send a notice of such filing to all attorneys of record in this case.

/s/ Jose R. Olmo-Rodríguez
José R. Olmo-Rodríguez, Esquire

/s/ Ibrahim Reyes
Ibrahim Reyes, Esquire