

EXHIBIT A.1  
PROTOCOL FOR THE  
INADVERTENT PRODUCTION OF DOCUMENTS

In the absence of a Protective Order governing inadvertent production of documents, in the event a party discovers that it has inadvertently produced a document that it considers privileged or confidential, or received a document that it believes was inadvertently produced on the ground that it is privileged or confidential, the parties will undertake to resolve the issue by complying with the following protocol:

1. If a party produces privileged or confidential information or documents ("Privileged Material") that the recipient believes were produced inadvertently, the recipient immediately shall **promptly** either return, **sequester or destroy** such Privileged Material to the producing party **and** notify the producing party of the apparent inadvertent production.

2. If a producing party discovers that it inadvertently produced information or documents that it considers Privileged Material, in whole or in part, it may retrieve such Privileged Material or parts thereof as follows:

a. During the period within one hundred twenty (120) days after the date of the inadvertent production, the producing party may give written notice to all parties that the producing party claims said document, in whole or in

part, to be privileged material and must state the nature of the privilege.

b. Upon receipt of such notice, all parties who have received copies of the produced documents shall promptly return, **sequester or destroy** the **document** and shall certify that all copies of the documents in their possession, and in the possession of anyone who receives copies from them, have either been returned, **sequestered** or destroyed. **If sequestered, the party who received the allegedly privileged or confidential information must not use or disclose the information until the privilege claim has been resolved.** Moreover, all parties who have received copies of the produced documents shall not make any use of the contents of the allegedly Privileged Material, unless and until a party challenges the privileged claim and the court determines the claim of the producing party is not well founded. In the event that only parts of documents are claimed to be Privileged Material, the producing party shall furnish redacted copies of such documents, removing only the part(s) thereof claimed to be Privileged Material, to all parties within ten (10) days of their return to the producing party or their destruction by the receiving party.

c. After timely service of such notice, no motion to compel the production of the inadvertently produced document may rely on an allegation that any protection as to the document was waived by its inadvertent production. Nothing in

this paragraph shall preclude any recipient of such notice from promptly moving for an order compelling production of such document on the ground that the claim of privilege is not well founded.

d. During the period more than one hundred twenty (120) days after the inadvertent production, but in no event later than thirty (30) days prior to trial, the producing party may request the return of said document which it claims, in whole or in part, to be Privileged Material, pursuant to and in accordance with the following procedure:

- i. The producing party must give written notice to all parties that the producing party claims said document, in whole or in part, to be Privileged Material and must state the nature of the privilege;
- ii. Within ten (10) days of giving written notice pursuant to paragraph (i) above, the parties shall meet and confer to discuss the assertion of privilege. If the parties cannot reach agreement within ten (10) days of the giving of such written notice, the producing party shall file a Motion for Protective Order in accordance with the Superior Court Civil

Rules that seeks the return or destruction of the  
inadvertently produced privileged document(s).

e. Inadvertent production of privileged material, the return of which  
is requested in accordance with this section, shall not be considered a waiver of any  
claim of privilege.