

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION**

RICHARD K. TOLAND

PLAINTIFF

v.

No. 2:12-cv-44-DPM

STATE FARM MUTUAL INSURANCE CO.

DEFENDANT

ORDER

The parties' joint motion for a protective order, *No. 36*, is granted. The Court adopts the parties' proposed order with some changes, to which the parties have consented. The Court orders:

1. This Order governs the handling, disclosure, and disposition of all discovery material in this action, including all documents, information, depositions, interrogatory answers, admissions, and responses.
2. State Farm may designate by written notice that discovery material is confidential if State Farm believes that the material contains or reflects its trade secrets or other confidential or proprietary information, research, development, or commercial information.
3. All confidential information, as it is reviewed for inspection or copying by Toland, is subject to the terms of this Order, and State Farm may

designate information as confidential as part of the photocopying process.

4. State Farm may designate information disclosed in depositions as confidential by indicating on the record at the deposition that the testimony is confidential and is subject to the provisions of this Order. Or State Farm may notify Toland in writing within ninety days of receipt of the transcript of the specific pages and lines of the transcript that should be treated as confidential. All deposition transcripts shall be treated as confidential from the time taken until ninety days after receipt of the transcript.

5. Discovery material designated as confidential by State Farm may be used by Toland only for purposes of preparing for and conducting pretrial and trial proceedings in this action and in *Alexandra Sims v. State Farm Mutual Automobile Insurance Company*, No. 4:13-cv-00371, which is pending in the United States District Court for the Eastern District of Arkansas.

6. Documents designated by State Farm as confidential will be returned to counsel for State Farm within forty-five days of the conclusion of this proceeding or the proceeding in *Alexandra Sims v. State Farm Mutual Automobile Insurance Company*, No. 4:13-cv-00371, whichever is later.

7. Confidential discovery material, and information derived from that material, may only be shown to Toland and his counsel of record in this matter and *Alexandra Sims v. State Farm Mutual Automobile Insurance Company*, No. 4:13-cv-00371. Toland and his counsel may disclose confidential information only to the following persons:

a. Employees or independent contractors of Toland's counsel and experts or consultants working with counsel who are required to assist in this action, provided that they are given a copy of this Order and advised that they are bound by it;

b. Officers, employees, agents, or representatives of Toland who are preparing for or conducting pretrial or trial proceedings in the above-referenced actions, but only to the extent necessary to do so and provided that they are given a copy of this Order and advised that they are bound by it;

c. Persons who are deposed or who are acting as witnesses at any hearing or trial conducted by the Court in the above-referenced actions provided that they are given a copy of this Order and advised that they are bound by it; and

d. This Court or any other court before which the above-referenced actions are pending, including any Court personnel, jurors, and all other persons lawfully present in the Court proceeding.

8. Any person having access to confidential discovery material is prohibited from disclosing that information to others, except as provided in this Order, and must take appropriate measures to safeguard the information to prevent its willful or inadvertent disclosure.

9. Before filing any confidential discovery material with the Court, Toland must first give State Farm ten business days' actual notice and an itemization of the confidential material to be filed (by Bates number, deposition transcript page, deposition exhibit number, or other identification). If State Farm moves for a permanent or temporary sealing order under Federal Rule of Civil Procedure 26(c) within this ten-day period, then Toland may not file the confidential material with the Court until the Court rules on the sealing motion. But if Toland's rights will be prejudiced by the delay, then he may file the confidential discovery material under seal for presentation to the Court pending resolution of the motion for a permanent or temporary sealing order.

10. The parties shall minimize filings under seal, and shall, if practicable, file redacted materials in the public docket. FED. R. CIV. P. 5.2.

11. Any designation of confidentiality by State Farm under this Order will not restrict the use of confidential discovery material at trial or in connection with motions, hearings, or other communications with the Court in the above-referenced actions, provided that any confidential material, or any pleading, motion, or other paper containing confidential information, is treated as confidential and filed by Toland under seal.

12. State Farm is authorized to redact from any confidential discovery material all identifying and private information regarding non-parties to the litigation, including names, policy numbers, account numbers, contact information, and banking or loan institutions used.

13. The provisions of this Order will not prohibit State Farm from seeking additional protection as it deems necessary for other confidential material.

14. The provisions of this Order will not affect State Farm's right to object to the production of discovery material.

15. The provisions of this Order will not affect Toland's right to object to State Farm's designation of any discovery material as confidential.

So Ordered.

D.P. Marshall Jr.

D.P. Marshall Jr.
United States District Judge

22 October 2013