

1 **BASED UPON THE STIPULATION OF THE PARTIES, FILED**
2 **CONCURRENTLY HEREWITH, IT IS HEREBY ORDERED:**

3 That to preserve the protectible character of claimed proprietary
4 information in the pending action, the following shall govern the disclosure of
5 information regarded as confidential:

6 **A. LIMITATIONS ON USE OF CONFIDENTIAL INFORMATION**

7 1. **“Confidential Information”** as used herein means any type of
8 information which is designated as confidential by the supplying party, whether it be
9 a document or thing, information contained in a document or thing, information
10 revealed during a deposition, information revealed in an interrogatory answer or
11 otherwise. Documents so designated shall be accessible only to the following persons:

12 (a) Parties to this action;

13 (b) Attorneys of record in this litigation and any associated counsel,
14 and employees of such attorneys and counsel to whom it is
15 necessary that the information be disclosed for purposes of this
16 litigation, as well as in house general counsel for the corporate
17 parties;

18 (c) Any person employed by a party or its/his attorneys of record in
19 this litigation or jointly by the parties as an independent expert
20 who agrees in writing to be bound by the terms of this Protective
21 Order; and

22 (d) The Court, arbitrators and/or mediators.

23 2. Any information designated as **Confidential Information** shall not be
24 made available by the party receiving it to any persons or entities other than those
25 persons identified hereinabove in paragraph 1, except when disclosure is required by
26 law or is disclosed by a third party who has a lawful right to so disclose.

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1 3. Any information designated as **Confidential Information** shall not be used by
2 the other party *for any purpose other than in connection with this litigation.*

3 **B. LIMITATIONS ON THE USE OF CONFIDENTIAL INFORMATION**
4 **--COUNSELS' EYES ONLY**

5 4. “**Confidential Information -- Counsels’ Eyes Only**” as used herein
6 means any type of information which is designed as confidential -- counsels’ eyes
7 only by the supplying party, whether it be a document or thing, information contained
8 in a document or thing, information revealed during a deposition, information revealed
9 in an interrogatory answer or otherwise. Documents so designated shall be accessible
10 only to the following persons:

11 (a) Attorneys of record in this litigation and any associated counsel,
12 and employees of such attorneys and counsel to whom it is necessary that the
13 information be disclosed for purposes of this litigation as well as in house general
14 counsel for the corporate parties; and

15 (b) Any person employed by a party or its/his attorneys of record in
16 this litigation or jointly by the parties as an independent expert who agrees in
17 writing to be bound by the terms of this Protective Order; and

18 (c) The Court, during trial, arbitration and/or mediation.

19 5. Any information designated as **Confidential Information -- Counsels’**
20 **Eyes Only** shall not be made available by the party receiving it to any persons or
21 entities other than those persons identified hereinabove in paragraph 4, except when
22 disclosure is required by law or is disclosed by a third party who has a lawful right to
23 so disclose.

24 6. Any information designated as **Confidential Information -- Counsels’**
25 **Eyes Only** shall not be used by the other party *for any purpose other than in*
26 *connection with this litigation.*

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1 **C. PROCEDURE FOR DESIGNATION OF**
2 **CONFIDENTIAL INFORMATION**

3 7. Documents and things produced which contain **Confidential**
4 **Information** may be designated as such by marking each page of the document or
5 thing substantially as follows:

6 **“CONFIDENTIAL” or “CONFIDENTIAL**
7 **PURSUANT TO PROTECTIVE ORDER”**

8 In lieu of marking the original of documents, the party may mark the copies that
9 are produced or exchanged. If documents are produced for inspection pursuant to the
10 Protective Order, marking of the documents as **Confidential Information** may be
11 delayed until after the selection of the documents for copying by the receiving party,
12 but before copying.

13 8. Information disclosed at the deposition of a party or one of its/her present
14 or former officers, directors, employees, agents, or independent experts retained by
15 a party for purposes of this litigation may be designated as **Confidential Information**
16 by indicating on the record at the deposition that the testimony is **Confidential**
17 **Information** and subject to the provisions of this Order.

18 9. The designating party shall have the right to have all persons, except the
19 witness, and those persons identified hereinabove in paragraph 1, and court personnel
20 excluded from the deposition room before the taking of testimony or any part thereof
21 which the designating party designates as **Confidential Information**

22 10. Responses to particular interrogatories and requests for admission which
23 contain **Confidential Information** shall contain a statement to the effect that “This
24 Response Contains Confidential Information.” Each portion of the response to a
25 particular interrogatory which contains **Confidential Information** shall be contained
26 in brackets. The **“Confidential Information”** legend shall be placed on the first page
27 of any set of responses which contain responses containing **Confidential**
28 **Information.**

1 **D. PROCEDURE FOR DESIGNATION OF CONFIDENTIAL**
2 **INFORMATION -- COUNSELS' EYES ONLY**

3 11. Documents and things produced which contain **Confidential**
4 **Information -- Counsels' Eyes Only** may be designated as such by marking each
5 page of the document or things substantially as follows:

6 **“CONFIDENTIAL -- COUNSELS' EYES ONLY”**

7 In lieu of marking the original of documents, the party may make the copies that
8 are produced or exchanged. If documents are produced for inspection pursuant to the
9 Protective Order, marking of the documents as **Confidential Information --**
10 **Counsels' Eyes Only** may be delayed until after the selection of the documents for
11 copying by the receiving party, but before copying.

12 12. Information disclosed at the deposition of a party or one of its/her present
13 or former officers, directors, employees, agents, or independent experts retained by
14 a party for purposes of this litigation may be designated as **Confidential Information**
15 **-- Counsels' Eyes Only** by indicating on the record at the deposition that the
16 testimony is **Confidential Information – Counsels' Eyes Only** and subject to the
17 provisions of this Order.

18 13. The designating party shall have the right to have all persons, except the
19 witness, and those persons identified hereinabove in paragraph 4, and court personnel
20 excluded from the deposition room before the taking of testimony or any part thereof
21 which the designating party designates as **Confidential Information**

22 14. Responses to particular interrogatories and requests for admission which
23 contain **Confidential Information -- Counsels' Eyes Only** shall contain a statement
24 to the effect that “This Response contains Confidential Information --
25 Counsels' Eyes Only.” Each portion of the response to a particular interrogatory
26 which contains **Confidential Information -- Counsels' Eyes Only** shall be
27 contained in brackets. The **“Confidential Information -- Counsels' Eyes Only”**
28 legend shall be placed on the first page of any set of responses which contain

1 responses containing **Confidential Information -- Counsels' Eyes Only.**"

2 **E. RETURN OF CONFIDENTIAL INFORMATION**

3 **AT THE CONCLUSION OF ACTION**

4 15. Within sixty (60) days after the conclusion of this litigation, any originals
5 or reproductions of any documents referring to or containing **Confidential**
6 **Information** and/or **Confidential Information -- Counsels' Eyes Only** shall be
7 returned to the producing party, except that work-product copies may be destroyed.
8 Legal memoranda or briefs referring to **Confidential Information** and/or
9 **Confidential Information -- Counsels' Eyes Only** may be retained by counsel.
10 Insofar as the provisions of any Protective Orders entered in this action restrict the
11 communication and use of the documents produced hereunder, such Orders shall
12 continue to be binding after the conclusion of this litigation, except (a) that there shall
13 be no restriction on documents that are used as exhibits (unless the exhibits were filed
14 under seal by permission of the Court); and (b) that a party may seek the written
15 permission of the producing party or further Order of the Court with respect to
16 dissolution or modification of this Protective Order.

17 **F. EFFECT OF PROTECTIVE ORDER**

18 16. The designation of any material in accordance with this Order as
19 constituting or containing **Confidential Information** and/or **Confidential**
20 **Information -- Counsels' Eyes Only** is intended solely to facilitate the preparation
21 and trial of this action, and treatment of such material by counsel of record for named
22 parties in conformity with such designation will not be construed in any way as an
23 admission or agreement by any party that the designated material constitutes or
24 contains any confidential or proprietary information.

25 **G. OTHER PROVISIONS**

26 17. Nothing shall prevent disclosure beyond the terms of this Order if the
27 party designating the information as **Confidential Information** and/or **Confidential**
28 **Information -- Counsels' Eyes Only** consents, in writing, to such disclosure, or

1 if the Court, after notice to all parties, orders such disclosure.

2 18. No party shall be responsible to another party for any use made of
3 information produced and not designated as **Confidential Information** and/or
4 **Confidential Information -- Counsels' Eyes Only**.

5 19. A party shall not be obligated to challenge the propriety of a
6 **Confidential Information** and/or **Confidential Information -- Counsels' Eyes Only**
7 designation at the time made, and a failure to do so shall not preclude a subsequent
8 challenge thereto. In the event that any party to this litigation disagrees at any stage
9 of these proceedings with the designation of any information as **Confidential**
10 **Information** and/or **Confidential Information -- Counsels' Eyes Only**, the parties
11 shall try first to dispose of such dispute in good faith on an informal basis. If the
12 dispute cannot be resolved, the party disputing the protected status may seek
13 appropriate relief from the Court, and the party asserting confidentiality shall have the
14 burden of proof.

15 20. No party shall file any document, discovery, testimony, exhibits or other
16 material with the Court, including, *inter alia*, transcripts of depositions, exhibits,
17 briefs and memoranda, which comprise or contain **Confidential Information** and/or
18 **Confidential Information -- Counsels' Eyes Only**, unless that party follows the
19 following procedure: The subject document shall be filed and kept by the Court in
20 sealed envelopes or other appropriately sealed containers on which shall be endorsed
21 the title of this action, an indication of the nature of the contents of such sealed
22 envelopes or other containers, the identity of the party filing the materials, the legend
23 **"CONFIDENTIAL -- PURSUANT TO PROTECTIVE ORDER"** and/or
24 **"CONFIDENTIAL -- COUNSELS' EYES ONLY"** and a statement substantially
25 in the following form:

26 This envelope [container] contains documents [objects]
27 subject to the Protective Order entered in this action. It is
28 not to be opened nor the contents thereof displayed,

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revealed or made public, except by Order of the United States District Court. Nothing herein shall prevent Court personnel access to the files to perform their duties.

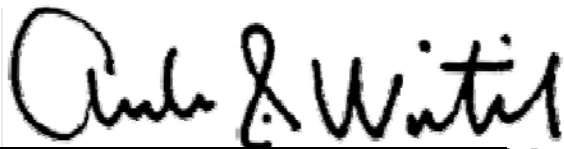
21. The Clerk of the Court is directed to maintain under seal all documents and transcripts of deposition testimony filed in this litigation which have been designated, in whole or in part, as **Confidential Information** and/or **Confidential Information -- Counsels' Eyes Only** by a party to this action.

22. This Order shall be without prejudice to the right of any person to object to the production of any discovery material on the basis that such material is protected as a privileged communication or work product.

23. This Order shall be without prejudice to the right of any person to apply to the Court for such further Protective Orders under the provision of the *Federal Rules of Civil Procedure* as justice may require.

IT IS HEREBY SO ORDERED.

DATED: 3/19/2015



The Honorable Andrew J. Wistrich
United States Magistrate Judge

Presented By:
MACGREGOR & BERTHEL

By Joshua N. Willis
Attorneys for Defendant,
Allstate Insurance Company