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7 **WESTCHESTER SURPLUS LINES INSURANCE**  
**COMPANY**

8  
 9 **UNITED STATES DISTRICT COURT**  
 10 **CENTRAL DISTRICT OF CALIFORNIA**

11 **CITIZENS OF HUMANITY, LLC, a**  
 12 **California limited company, and CM**  
 13 **LAUNDRY, LLC, a California limited**  
 liability company,

14 Plaintiffs,

15 v.

16 **WESTCHESTER SURPLUS LINES**  
 17 **INSURANCE COMPANY, and Does 1**  
 thru 10, Inclusive,

18 Defendant.

**Case No. 2:15-CV-02278 ODW (AJWx)**

**Matter Assigned to Honorable Judge**  
**Otis D. Wright II in Courtroom 11**

**PROTECTIVE ORDER GOVERNING**  
**CONFIDENTIAL INFORMATION**

Discovery Cutoff:	March 28, 2016
Motion Cutoff:	May 5, 2016
Trial Date:	June 28, 2016

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 20 After having reviewed the Stipulation of the Parties Regarding  
 21 Confidentiality of Documents and Things, and good cause appearing, this Court  
 22 orders as follows:

23 1. This Stipulation for a Protective Order governs the use of all produced  
 24 documents, responses to interrogatories and requests for admissions, deposition  
 25 transcripts, and any other information, documents, objects or things, as well as any  
 26 and all copies, abstracts, digests, notes, and summaries thereof, that have been or  
 27 will be produced by any party or third-party (the "Producing Party") in this  
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1 Litigation pursuant to the Federal Rules of Civil Procedure. These materials are  
2 collectively referred to hereinafter as “Discovery Material.”

3 2. Any Discovery Material produced by any party or third-party as part  
4 of discovery in this Litigation may be designated by the Producing Party as  
5 “CONFIDENTIAL” as follows:

6 a. The Producing Party may designate as  
7 “CONFIDENTIAL” any Discovery Material that it  
8 produces in this Litigation which it believes, in good  
9 faith after a review and determination by counsel for the  
10 Producing Party with respect to each document or file,  
11 constitutes, contains, reflects or discloses confidential,  
12 non-public research and analysis, development or  
13 commercial or personal information or Discovery  
14 Material protected by the attorney-client and/or work-  
15 product privileges, or other information for which a good  
16 faith claim of need of protection from disclosure can be  
17 made under the Federal Rules of Civil Procedure and/or  
18 other applicable law (“Confidential Material”).

19 3. No Discovery Material shall be marked “CONFIDENTIAL” if it:

20 a. Was known to the receiving party without  
21 obligation of confidentiality prior to disclosure by the  
22 Producing Party, as evidenced by the receiving party’s  
23 written records;

24 b. Is subsequently disclosed to the receiving party by  
25 a third-party having no obligation of confidentiality to  
26 the Producing Party with respect to such information;

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c. Is independently developed by employee(s) of the receiving party who had no access to such information before such development; or

d. Is published or becomes generally known to the public through means not constituting a breach of this Stipulation for a Protective Order or an obligation of confidentiality to the producing party.

e. Furthermore, information already in the possession of the Receiving Party shall not become Confidential Information merely because the Producing Party produces copies stamped Confidential Information.

4. Any Discovery Material that is produced during this Litigation voluntarily, in response to a discovery request, or pursuant to a Court Order, in oral, written, or other form, including as part of any document, including but not limited to transcripts, exhibits, answers to interrogatories, as well as any physical object, recording, electronic file, or other thing, that is asserted by the Producing Party to contain or constitute Confidential Material shall be so designated by the Producing Party.

a. Documents and Physical Items: If Confidential Material is contained in a document or other physical item, such documents and physical items shall be clearly and prominently marked on their face with the appropriate legend: "CONFIDENTIAL". When an item (such as a disk) containing more than one electronic file is produced, each electronic file on that disk that is confidential should be branded with the legend "CONFIDENTIAL" and have "CONFIDENTIAL" in the file name of each file designated as such.

1           b.     Transcripts: Deposition or other pretrial testimony  
2           may be designated as “Confidential” by (i) a statement on  
3           the record, by counsel, at the time of such disclosure, or  
4           (ii) written notice sent to all counsel of record for the  
5           parties within fifteen (15) business days after receipt of  
6           the transcript of the deposition or other pretrial testimony  
7           unless the parties agree to an extension of this time  
8           period for designation. Notwithstanding any provision of  
9           this subsection, Discovery Material used or referenced  
10          during a deposition or other pretrial testimony shall  
11          maintain any confidentiality designation accorded such  
12          material hereunder regardless of the designation of any  
13          part of the transcript.

14          c.     Information in Other Forms: All Confidential  
15          Material not reduced to documentary, tangible, or  
16          physical forms or that cannot be conveniently designated  
17          shall be designated by the Producing Party by notifying  
18          all parties of the appropriate designation in writing.

19          5.     In the absence of written permission from the Producing Party or  
20          court Order, Discovery Material designated as “CONFIDENTIAL” shall not be  
21          disclosed to any person other than the following individuals, who are each deemed  
22          a “Qualified Person” under this Paragraph:

23               a.     counsel of record for parties to this Litigation and  
24               their support staff, including paralegals and clerical  
25               assistants;

26               b.     opposing parties and their representatives, officers,  
27               agents, and/or employees who are directly involved in,  
28               and whose access to such Discovery Material is

1 reasonably required for, the management, prosecution,  
2 defense, or settlement of this Litigation or the supervision  
3 of counsel of record;

4 c. non-party witnesses who are called to be deposed  
5 during discovery or trial, whether willingly or under  
6 subpoena issued by a court of competent jurisdiction over  
7 the witness;

8 d. stenographic, court reporting, or clerical personnel;

9 e. in-house counsel for the parties to this Litigation;

10 f. subject to the provisions of paragraph 7 below,  
11 experts and consultants and their staff who are employed  
12 for the purposes of this Litigation; and

13 g. the Court, including necessary secretarial, clerical,  
14 and support personnel assisting the Court;

15 h. regulatory authorities upon formal demand, or to  
16 satisfy legal or regulatory requirements, provided that  
17 written notice is given to the Party designating such  
18 material as "Confidential Material" at least five (5) days  
19 prior to disclosure to the regulatory authorities, or as  
20 soon as practicable if disclosure is required by regulatory  
21 authorities in less than five (5) days; and

22 i. commercial photocopying firms or ESI vendors  
23 employed by a Party to this Litigation.

24 6. The inadvertent or unintentional disclosure by the Producing Party of  
25 Confidential Material, regardless of whether the material was so designated at the  
26 time of disclosure, shall not be deemed a waiver in whole or in part of the  
27 Producing Party's claim of confidentiality, either as to the specific information  
28 disclosed or as to any other information relating to the same or related subject

1 matter, provided that the Producing Party shall promptly upon discovery of the  
2 inadvertent or unintentional disclosure notify the receiving party in writing that the  
3 information is Confidential. Such notification shall constitute a designation of the  
4 information and thereby subject it to the provisions of this Stipulation for a  
5 Protective Order. Disclosure by the receiving party of inadvertently or  
6 unintentionally disclosed Confidential Material prior to receipt of such notice shall  
7 not be deemed a violation of this Stipulation for a Protective Order. However,  
8 those persons to whom disclosure was made are to be advised by the receiving  
9 party that the information is Confidential and must be treated in accordance with  
10 this Stipulation for a Protective Order, and the receiving party must make a good  
11 faith effort to retrieve and return all copies of such inadvertently disclosed  
12 information which have been disseminated to unauthorized persons, including any  
13 notes, summaries, compilations or other documents concerning same.

14 7. No person described under Paragraphs 5(f) may access Discovery  
15 Material designated “CONFIDENTIAL” until such person agrees to be bound by  
16 the terms of the Stipulation for a Protective Order by executing the undertaking in  
17 Exhibit A. Before any other person described in Paragraph 5 is shown any  
18 Discovery Material designated “CONFIDENTIAL”, that person must be shown a  
19 copy of the Court’s Protective Order and instructed that he or she is bound by its  
20 provisions.

21 8. If a producing party inadvertently produces documents or other  
22 tangible items that it considers privileged or attorney work-product, in whole or in  
23 party, it may retrieve such documents or items, or parts thereof, as follows:

- 24 a. The producing party must give written notice to all parties who  
25 received copies of the inadvertently produced document or material in  
26 question. This notice must state the nature of the producing party’s  
27 claim that the inadvertently produced document is privileged or  
28 otherwise protected.

- 1           b. Upon receipt of such notice, all parties who have received copies of  
2           the inadvertently produced documents or material shall promptly  
3           return it to the producing party and destroy any other copies thereof.  
4           In the event that only portions of a document or material are claimed  
5           to be privileged or otherwise protected, the producing party shall  
6           furnish redacted copies of such documents or material, removing only  
7           the part(s) thereof claimed to be privileged or otherwise protected, to  
8           all parties within ten (10) days of their return to the producing party.
- 9           c. If a party receiving notice of an inadvertent production of a document  
10          or material challenges the producing party's claim of protection, the  
11          recipient of such notice may promptly move for an order compelling  
12          production of such documents or material on the ground that the claim  
13          of protection is not well founded. However, the party moving to  
14          compel cannot contend that the producing party waived the protection  
15          by the inadvertent production.

16           9.     The parties may also informally agree in writing that Confidential  
17          Material may be disclosed to a person not otherwise qualified under this  
18          Stipulation for a Protective Order to receive such information. In the event that a  
19          party intends to disclose Confidential Material to a person not qualified to receive  
20          such information hereunder (for example, for use at a deposition), and the parties  
21          cannot informally agree, a party may request the Court rule on such disclosure.

22           10.    All Confidential Material produced in this Litigation may be used  
23          only for purposes of this Litigation, including the Litigation itself, any appeals, and  
24          settlement and/or licensing negotiations intended to resolve this Litigation. All  
25          Confidential Material shall be maintained and used by the parties and any person  
26          listed in Paragraph 5 only in the strictest of confidence and not disclosed to any  
27          other person without the prior, written consent of the Producing Party or upon  
28          order by the Court.

1           11. Deposition Procedures: In the event that a deposition in this litigation  
2 is attended by a person not authorized to receive Confidential Material, then any  
3 other party may have such person excluded from the deposition during any  
4 portion(s) of the deposition that it reasonably believes may result in the disclosure  
5 of its Confidential Material.

6           12. Response to a Subpoena / Court Order: In the event that a receiving  
7 party receives a subpoena or is ordered by another court or governmental entity to  
8 produce the Confidential Material of another party, the receiving party shall notify  
9 the Producing Party immediately of that subpoena or order and shall promptly  
10 provide said subpoena or order, if it is in writing, to the Producing Party so that the  
11 Producing Party may object to the subpoena or order. If the Producing Party  
12 chooses to object to the subpoena or order, it shall provide a copy of said objection  
13 to the receiving party. If the receiving party receives nothing from the Producing  
14 Party prior to the time for its compliance with the subpoena or order, the receiving  
15 party may comply with its obligations under the subpoena or order.

16           13. In the event a party wishes to use any Confidential Material, or any  
17 papers containing or making reference to the contents of such material or  
18 information, in any pleading or document filed with the court in this Litigation, the  
19 confidential portion of such pleading or document and Confidential Material shall  
20 be filed under seal utilizing the procedures set forth in Local Rule 79-5, until such  
21 time as the court orders otherwise or denies permission to file under seal. The  
22 sealed material, information, or papers shall plainly state on the first page of any  
23 bound or stapled document “UNREDACTED VERSION OF DOCUMENT(S)  
24 SOUGHT TO BE SEALED.” The restrictions, if any that will govern the use of  
25 Confidential Material at trial or hearings will be determined at a later date by the  
26 court, in consultation with the parties.

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1           14. Notwithstanding any other provision of this Stipulation for a  
2 Protective Order, a party producing Confidential Material may choose to withdraw  
3 its designation by doing so in writing.

4           15. Nothing in this Stipulation for a Protective Order constitutes a finding  
5 or admission that any of the information disclosed or contained in the designated  
6 items is or is not confidential, and nothing herein shall prevent any party from  
7 contending, during the progress of this Litigation, that any or all of such  
8 information is not confidential. Any party may request from the Producing Party a  
9 change in the designation of any item or information and/or permission to disclose  
10 such item or information to persons in addition to those specified herein in  
11 Paragraph 5. Such request shall be in writing, state the grounds, and be served on  
12 all counsel including counsel for the Producing Party. The requested change shall  
13 occur or the requested permission shall be granted, unless an objection for good  
14 cause is served on the requesting party within twenty (20) business days after  
15 service of such request. In the event such objection is timely served, neither the  
16 requested change shall occur nor the requested permission shall be granted, until  
17 the objection is resolved by written agreement of the parties or Order of this Court.  
18 In any disagreement over a designation, the party making the designation bears the  
19 ultimate burden of showing that the designation is proper. No party to this  
20 Litigation shall be obligated to challenge the propriety of any designation, and a  
21 failure to do so shall not act as a waiver of its right to make a subsequent attack on  
22 the propriety of such designation, nor shall such failure to challenge constitute an  
23 admission that any information is, in fact, confidential. Any designation of  
24 information as Confidential Material shall govern hereunder unless and until such  
25 designation is modified by the designating party, the Court, or agreement of the  
26 parties.

27           16. Production by Non-Parties: If any Confidential Material is produced  
28 by a non-party to this Litigation, such non-party shall be considered a Producing

1 Party within the meaning of those terms as used in the context of this Stipulation  
2 for a Protective Order and shall have the right to designate information as  
3 “CONFIDENTIAL.”

4 17. The designation of any material in accordance with this Stipulation for  
5 a Protective Order as Confidential Material is intended solely to facilitate the  
6 preparation and trial of this Litigation, and treatment of such material by the parties  
7 in conformity with such designation will not be construed in any way as an  
8 admission or agreement by any party that the designated material constitutes or  
9 contains any trade secret or Confidential Material.

10 18. Upon final termination of this Litigation, each party and other person  
11 subject to the terms of this Stipulation for a Protective Order, including individuals  
12 required to execute the undertaking attached hereto as Exhibit A, shall, within sixty  
13 (60) days of said termination, assemble (including from all officers, employees,  
14 and in-house counsel of the party, all support staff, and all experts and consultants)  
15 and return to the Producing Party all Discovery Material designated as  
16 “CONFIDENTIAL,” including all copies and other items of such Discovery  
17 Material, or in the alternative and at the option of the Receiving Party, either  
18 destroy all such confidential Discovery Material, or retain permanently all such  
19 confidential Discovery Material so long as the Receiving Party continues to  
20 maintain confidentiality.

21 19. If confidential Discovery Material is disclosed to any person other  
22 than in the manner authorized by this Protective Order, the party responsible for  
23 the disclosure must immediately bring all pertinent facts relating to such disclosure  
24 to the attention of the designating party, and without prejudice to the rights and  
25 remedies of the designating party, make every effort to retrieve the improperly  
26 disclosed confidential Discovery Material and to prevent further unauthorized  
27 disclosure on its own part or on the part of the recipient of such confidential  
28 Discovery Material.

1           20. Nothing in this Stipulation for a Protective Order shall be deemed a  
2 waiver of any right that any party might otherwise have under the Federal Rules of  
3 Civil Procedure or the Federal Rules of Evidence or the doctrines of attorney-client  
4 privilege or attorney work-product. This Stipulation for a Protective Order shall be  
5 without prejudice to any party to oppose production of any information or items on  
6 any ground permitted by the Federal Rules.

7           21. Any party to this Protective Order may, for good cause shown, move  
8 the Court for relief from all or any part of this Protective Order or for a  
9 modification of its provisions. The Protective Order, however, shall remain in  
10 effect until such time as it is modified or rescinded by the Court.

11           22. This Protective Order is not intended to govern the use of confidential  
12 Discovery Materials at trial in this action.

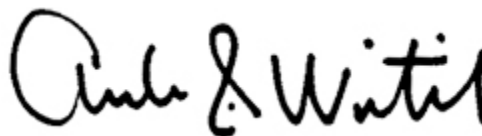
13           23. Nothing in this Stipulation for a Protective Order shall affect a party's  
14 use or disclosure of its own Confidential Material in any way.

15           24. This Protective Order and the agreements embodied herein shall  
16 survive the termination of this action and continue in full force and effect. To the  
17 extent permitted by law, the Court shall retain jurisdiction to enforce, modify, or  
18 reconsider this Protective Order, even after this action is terminated.

19           25. This Protective Order shall be without prejudice to the right of any  
20 party hereto to knowingly waive the applicability of this Order to any confidential  
21 Discovery Materials designated by that party.

22           **IT IS SO ORDERED.**

23  
24 DATED this 6<sup>th</sup> day of October, 2015.

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HON. ANDREW J. WISTRICH  
UNITED STATES MAGISTRATE JUDGE



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UNDERTAKING OF \_\_\_\_\_

STATE OF \_\_\_\_\_ )

) SS:

COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, being first duly sworn on oath,  
depose and say:

1. I have read and understand the contents of the Protective Order dated \_\_\_\_\_, filed in the above captioned litigation, and attached hereto.

2. I am properly classified as a “Qualified Person” identified in Paragraph 5 of the Protective Order, and I agree to comply with the conditions provided in the Protective Order prior to any disclosure to me of documents, things and/or any other information designated as containing, in whole or in part, “Confidential Material.”

3. I expressly agree that all documents, things and information which are disclosed to me pursuant to the Protective Order shall be maintained in strict confidence, and I shall not disclose or use the original or any copy of, or the subject matter of any of the documents, things or the information they contain, except in accordance with the terms of the Protective Order.

4. I shall not use or refer to any of the documents, things and/or any information that falls within the terms of the Protective Order other than in connection with this litigation and as prescribed in the Protective Order.

5. Further, I shall, upon notification that this litigation has terminated, return any and all originals and/or copies of the documents and things to counsel for the party who provided such documents, and I shall destroy any notes or memoranda I have which in any way concern the substance embraced by such documents, things and/or information.

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6. I do and shall subject myself to the continuing jurisdiction of the above-captioned Court over my person, wherever I shall be found, for purposes of enforcement of the Protective Order.

Date: \_\_\_\_\_

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Printed Name]