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21 UNITED STATES DISTRICT COURT  
 22 CENTRAL DISTRICT OF CALIFORNIA

23	MARK RATAJ,	)	CASE NO.: 2:16-cv-02974-GW-JEMx)
24		)	
25	Plaintiff,	)	
26		)	
27	v.	)	<del>PROPOSED</del> PROTECTIVE
28		)	ORDER
29		)	
30	MASSACHUSETTS MUTUAL LIFE	)	
31	INSURANCE COMPANY;	)	
32	STANDARD INSURANCE	)	
33	COMPANY,	)	
34		)	
35	Defendants.	)	
36		)	

1 Subject to the approval of this Court, Plaintiff Mark Rataj (“Plaintiff”) and  
2 Defendant Massachusetts Mutual Life Insurance Company (“MassMutual”)  
3 stipulate as follows:

4 1. Purposes and Limitations

5 Discovery in this action is likely to involve production of confidential,  
6 proprietary, trade secret and/or private information for which special protection  
7 from public disclosure and from use for any purpose other than prosecuting this  
8 litigation may be warranted. Accordingly, the parties hereby stipulate to and  
9 petition the Court to enter the following Stipulated Protective Order. The parties  
10 acknowledge that this Order does not confer blanket protections on all disclosures  
11 or responses to discovery and that the protection it affords from public disclosure  
12 and use extends only to (1) protected health information as defined by the Health  
13 Insurance Portability and Accountability Act of 1996 (“HIPAA”) 45 C.F.R.  
14 160.103 and (2) confidential, proprietary and trade secret materials relating to  
15 MassMutual’s business practices, strategies or other confidential information or  
16 (3) other items identified by the parties that are entitled to confidential treatment  
17 under the applicable legal principles. The parties further acknowledge, as set forth  
18 in Section 9, below, that this Stipulated Protective Order does not entitle them to  
19 file confidential information under seal; Civil Local Rules 79-5, 79-6, and 79-7 set  
20 forth the procedures that must be followed and the standards that will be applied  
21 when a party seeks permission from the court to file material under seal.

22 2. Good Cause Statement

23 This action is likely to involve production of personal health information  
24 and other valuable confidential, trade secret and/or proprietary business  
25 information for which special protection from public disclosure and from use for  
26 any purpose other than prosecution of this action is warranted; or information  
27 otherwise generally unavailable to the public or which may be privileged or  
28 otherwise protected from disclosure under state or federal statutes, court rules, case

1 decisions, or common law. Accordingly, to expedite the flow of information, to  
2 facilitate the prompt resolution of disputes over confidentiality of discovery  
3 materials, to adequately protect information the parties are entitled to keep  
4 confidential, to ensure that the parties are permitted reasonable necessary uses of  
5 such material in preparation for and in the conduct of trial, to address their  
6 handling at the end of the litigation, and serve the ends of justice, a protective  
7 order for such information is justified in this matter. It is the intent of the parties  
8 that information will not be designated as confidential for tactical reasons and that  
9 nothing be so designated without a good faith belief that it has been maintained in  
10 a confidential, non-public manner, and there is good cause why it should not be  
11 part of the public record of this case.

12 3. A document constitutes or contains "Confidential Material" when it  
13 has been given that designation by the party producing it or by the party to whom  
14 the information relates ("the Designating Party"). A party or nonparty may  
15 designate documents or information as "Confidential Material" as follows:

16 a. In the case of documents and information contained in  
17 documents, designation must be made by placing the following legend on each  
18 page of the document before production: **"CONTAINS CONFIDENTIAL**  
19 **MATERIAL, SUBJECT TO PROTECTIVE ORDER."**

20 b. In the case of discovery responses and information contained in  
21 discovery responses, designation must be made by (i) placing a statement at the  
22 start or end of the responses specifying that the responses, or part of the responses,  
23 are designated Confidential Material, and (ii) placing the following legend on each  
24 page (including the caption page) of any discovery response containing designated  
25 Confidential Material: **"CONTAINS CONFIDENTIAL MATERIAL,**  
26 **SUBJECT TO PROTECTIVE ORDER."**

27 c. In the case of depositions and hearings, designation of the  
28 portions of the transcript (including exhibits) that contain Confidential Material

1 must be made by the Designating Party by: (i) making a statement to that effect on  
2 the record in the course of the deposition or hearing; or (ii) sending a letter to all  
3 counsel within the time permitted for the review and signing of the deposition by  
4 the witness (in the event of a deposition) or within 45 days of receipt of the  
5 transcript of the hearing (in the event of a hearing). Once designated, the original  
6 and each copy of the transcript that contains Confidential Material must bear (or  
7 must be modified by counsel to bear) the following legend on its cover:

8 **“CONTAINS CONFIDENTIAL MATERIAL, SUBJECT TO PROTECTIVE**  
9 **ORDER.”**

10 4. For purposes of this Order, “Confidential Material” includes the  
11 following types of documents and information:

12 a. information that is proprietary or constitutes a trade secret,  
13 including, without limitation, information, materials, and other documents  
14 reflecting non-public business or financial strategies and confidential  
15 competitive information that, if disclosed, could result in prejudice or harm to the  
16 disclosing party; and

17 b. protected health information as defined by the Health Insurance  
18 Portability and Accountability Act of 1996 (“HIPAA”), 45 C.F.R. 160.103.

19 4.1 Any copies or reproductions, excerpts, summaries, or other  
20 documents or media that contain or incorporate Confidential Material as defined  
21 above will also be treated as Confidential Material under this Order.

22 4.2 Nothing in this Order will be construed as requiring Defendant to  
23 produce any personal or identifying information regarding any individual or any  
24 other policyholder, nor policyholder information that is protected from disclosure  
25 under applicable state or federal law.

26 5. Confidential Material may be used solely for the purpose of  
27 conducting this litigation and not for any other purpose whatsoever. For the

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1 purpose of conducting this litigation, Confidential Material may be used by, copied  
2 by, exhibited to, or disclosed to the following persons or entities only:

- 3 a. The parties to this action;
- 4 b. The parties' attorneys and their respective employees;
- 5 c. Any witness from whom testimony is taken or will be taken in  
6 this action, except that the witness may be shown copies of Confidential Material  
7 only during his or her testimony and in preparation for the testimony, and only to  
8 the extent relevant to the testimony. The witness may not retain any Confidential  
9 Material;
- 10 d. Consultants, experts, and investigators employed by the parties  
11 or their attorneys in the prosecution or defense of any aspect of this litigation;
- 12 e. Court reporters used in connection with this action and their  
13 employees;
- 14 f. The Court and its staff; and
- 15 g. The jury, if any, in the trial of this case.

16 6. No disclosure may be made to any person under Paragraphs 2(c), (d)  
17 or (e) until that person has executed an "Understanding and Agreement" in the  
18 form attached as Exhibit A. With respect to consultants, experts, and investigators  
19 employed by the parties to this litigation, Exhibit A must be fully executed by the  
20 consultant, expert, or investigator and retained by counsel for the party employing  
21 the consultant, expert, or investigator.

22 7. All persons described in paragraphs 2(a) through (g) above are  
23 prohibited from disclosing any portion of Confidential Material to any other  
24 person, or from using any information obtained from the Confidential Material,  
25 except as permitted by this stipulation.

26 8. Nothing in this stipulation prevents the use of information that is  
27 publicly available.

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1           9. Any motion papers, briefs, memoranda, affidavits, declaration,  
2 exhibits, transcripts, or other papers filed with the Clerk of the Court that contain  
3 any Confidential Material must comply with the procedures for filing documents  
4 under seal set forth in Local Rules 79-5, 79-6, and 79-7.

5           10. If any party or nonparty bound by this stipulation intends to disclose,  
6 discuss, or otherwise refer to any Confidential Material in open court at any  
7 hearing or trial, that person must notify the Court, the Designating Party, and all  
8 other parties to this action of its intention to do so, and must not disclose, discuss,  
9 or otherwise refer to the Confidential Material until permitted by the Court.

10           11. A party's inadvertent failure to designate disclosed materials as  
11 Confidential Material does not waive its right to do so and may be remedied by  
12 prompt written notice upon discovery of the error, in which case the material in  
13 question will be subject to the protections of this Order.

14           12. Notwithstanding anything to the contrary in this stipulation, any party  
15 may use the following documents or information without restriction, regardless of  
16 whether they have been designated as Confidential Material:

17           a. its own documents or information;

18           b. documents or information concerning or reflecting transactions  
19 or communications to which it is a party; and

20           c. documents or information developed or obtained independently  
21 of discovery in this action.

22           13. This stipulation applies with equal force to any and all copies,  
23 extracts, compilations, summaries, and oral recitation of Confidential Material.

24           14. Within sixty days of final termination of this action, or sooner if so  
25 ordered by this Court, counsel for the party receiving any Confidential Material  
26 must transmit all Confidential Material (including all copies) to counsel for the  
27 Designating Party.

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1           15. A party is not obligated to challenge the propriety of a confidentiality  
2 designation at the time it is made. Failure to do so does not preclude a subsequent  
3 challenge to the designation. In the event that counsel for a party receiving  
4 documents, testimony or information in discovery designated as "Confidential"  
5 objects to such designation with respect to any or all of such items, said counsel  
6 shall advise counsel for the Designating Party, in writing, of such objections, the  
7 specific documents, testimony or information to which each objection pertains,  
8 and the specific reasons and support for such objections (the "Designation  
9 Objections"). Counsel for the Designating Party shall have thirty (30) days from  
10 receipt of the written designation Objections to either (a) agree in writing to de-  
11 designate documents, testimony or information pursuant to any or all of the  
12 Designation Objections and/or (b) file a motion with the Court seeking to uphold  
13 any and all designations on documents, testimony or information addressed by the  
14 Designation Objections (the "Designation Motion"). Pending a resolution of the  
15 Designation Motion by the Court, any and all existing designations on the  
16 documents, testimony or information at issue in such Motion shall remain in place.

17           The Designating Party shall have the burden on any Designation Motion of  
18 establishing the applicability of its "Confidential" designation. In the event that  
19 the Designation Objections are neither timely agreed to nor timely addressed in  
20 the Designation Motion, then such documents, testimony or information shall  
21 be de-designated in accordance with the Designation Objection applicable to  
22 such material.

23           16. Any dispute concerning the application of this Order will be heard by  
24 the Court upon motion by any party.

25           17. If any Party has obtained Confidential Material under the terms of this  
26 Order and receives a request to produce such Confidential Material by subpoena or  
27 other compulsory process commanding the production of such Confidential  
28 Material, the Party must promptly (within 3 business days) notify the Designating

1 Party, including in such notice the date set for the production of such subpoenaed  
2 information and, unless prohibited by applicable law, enclosing a copy of the  
3 subpoena or other form of process.

4 18. The parties agree that this stipulation binds them regardless of  
5 whether the Order is signed by the Court, unless the Court enters a different  
6 protective order in place of this stipulation.

7 DATED: August 19, 2016 GIANELLI & MORRIS

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9  
10 By: /s/ Adrian J. Barrio  
11 ROBERT S. GIANELLI  
12 JOSHUA S. DAVIS  
13 ADRIAN J. BARRIO  
14 Attorneys for Plaintiff  
Mark Rataj

15 DATED: August 19, 2016 HINSHAW & CULBERTSON LLP

16  
17  
18 By: /s/ Misty A. Murray  
19 MARTIN E. ROSEN  
20 MISTY A. MURRAY  
21 Attorneys for Defendant  
Massachusetts Mutual Life Ins. Co.

22  
23 \* Filer's Attestation: Pursuant to Local Rule 5-4.3.4(a)(2)(i) regarding signatures,  
24 Adrian J. Barrio hereby attests that concurrence in the filing of this document and  
25 its content has been obtained by all signatories listed.  
26  
27  
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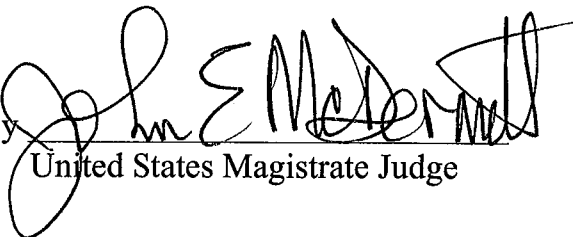
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~~PROPOSED~~ ORDER

Good cause appearing, the Court approves this Stipulation and Protective Order.

IT IS SO ORDERED.

Dated: 8/30/2016

By   
United States Magistrate Judge

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**EXHIBIT A**  
**UNDERSTANDING AND AGREEMENT**

I affirm that I have read the stipulated protective order in *Mark Rataj v. Massachusetts Mutual Life Insurance Company, et al.*, Case No. 2:16-cv-02974-GW-JEMx). I understand its terms and agree to be bound by them.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

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