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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION**

HEALTHCARE ALLY  
MANAGEMENT OF CALIFORNIA,  
LLC,  
  
Plaintiff,  
  
vs.  
  
ASSURANT, INC., AND DOES 1-20,  
  
Defendants.

) Case No. 2:16-CV-07359-DMG (GJSx)  
) **PROTECTIVE ORDER ENTERED**  
) **UPON STIPULATION OF THE**  
) **PARTIES**  
) **SEE CHANGES MADE BY THE**  
) **COURT IN BOLD**

**STIPULATED PROTECTIVE ORDER**  
Case No. 2:16-CV-07359-DMG (GJSx)

1 **1. PURPOSES AND LIMITATIONS**

2 Discovery in this action is likely to involve production of confidential, proprietary,  
3 or private information for which special protection from public disclosure and from use  
4 for any purpose other than prosecuting this litigation may be warranted. Accordingly, the  
5 parties hereby stipulated to and petitioned the Court to enter the following Stipulated  
6 Protective Order:

7  
8 The parties acknowledge that this Order does not confer blanket protections on all  
9 disclosures or responses to discovery and that the protection it affords from public  
10 disclosure and use extends only to the limited information or items that are entitled to  
11 confidential treatment under the applicable legal principles. The parties further  
12 acknowledge, as set forth in Section 13.3, below, that this Stipulated Protective Order  
13 does not entitle them to file confidential information under seal. Instead, Civil Local  
14 Rule 79-5 sets forth the procedures that must be followed and the standards that will be  
15 applied when a party seeks permission from the Court to file material under seal.

16 **2. GOOD CAUSE STATEMENT**

17 This action is likely to involve individual healthcare information protected by state  
18 and federal privacy laws, as well as proprietary business information for which special  
19 protection from public disclosure and from use for any purpose other than prosecution of  
20 this action is warranted. Such confidential and proprietary materials and information  
21 consist of, among other things, information related to the medical conditions and  
22 treatments of third parties, as well as confidential business practices related to claims  
23 processing practices, information otherwise generally unavailable to the public, or which  
24 may be privileged or otherwise protected from disclosure under state or federal statutes,  
25 court rules, case decisions, or common law. Accordingly, to expedite the flow of  
26 information, to facilitate the prompt resolution of disputes over confidentiality of  
27 discovery materials, to adequately protect information the parties are entitled to keep  
28 confidential, to ensure that the parties are permitted reasonable necessary uses of such

1 material in preparation for and in the conduct of trial, to address their handling at the end  
2 of the litigation, and serve the ends of justice, a protective order for such information is  
3 justified in this matter. It is the intent of the parties that information will not be  
4 designated as confidential for tactical reasons and that nothing be so designated without a  
5 good faith belief that it has been maintained in a confidential, non-public manner, and  
6 there is good cause why it should not be part of the public record of this case.

7 **3. DEFINITIONS**

8 3.1 Action: This pending federal law suit.

9 3.2 Challenging Party: A Party or Non-Party that challenges the designation of  
10 information or items under this Order.

11 3.3 “CONFIDENTIAL” Information or Items: Information (regardless of how it  
12 is generated, stored or maintained) or tangible things that qualify for protection under  
13 Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause  
14 Statement.

15 3.4 Counsel: Outside Counsel of Record and House Counsel (as well as their  
16 support staff).

17 3.5 Designating Party: A Party or Non-Party that designates information or  
18 items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

19 3.6 Disclosure or Discovery Material: All items or information, regardless of  
20 the medium or manner in which it is generated, stored, or maintained (including, among  
21 other things, testimony, transcripts, and tangible things), that are produced or generated in  
22 disclosures or responses to discovery in this matter.

23 3.7 Expert: A person with specialized knowledge or experience in a matter  
24 pertinent to the litigation who has been retained by a Party or its counsel to serve as an  
25 expert witness or as a consultant in this Action.

26 3.8 “HIGHLY CONFIDENTIAL” Information or Items: Extremely sensitive  
27 “CONFIDENTIAL” information or items whose disclosure to another Party or Non-Party  
28 would create a substantial risk of serious injury that could not be avoided by less

1 restrictive means. This definition includes: (1) material which has not been made public  
2 and which is protected from disclosure by federal or state constitutional, statutory and  
3 common law, including, but not limited to, rights of privacy of the parties to this  
4 stipulation and of third parties; and (2) any confidential material that constitutes or refers  
5 to trade secrets, other highly sensitive information of a competitive or financial nature, or  
6 individual personal information from employee files.

7       3.9 House Counsel: Attorneys who are employees of a party to this Action.  
8 House Counsel does not include Outside Counsel of Record or any other outside counsel.

9       3.10 Non-Party: Any natural person, partnership, corporation, association, or  
10 other legal entity not named as a Party to this action.

11       3.11 Outside Counsel of Record: Attorneys who are not employees of a Party to  
12 this Action but are retained to represent or advise a Party to this Action and have  
13 appeared in this Action on behalf of that Party or are affiliated with a law firm which has  
14 appeared on behalf of that Party, and includes support staff.

15       3.12 Party: Any party to this Action, including all of its officers, directors,  
16 employees, consultants, retained experts, and Outside Counsel of Record (and their  
17 support staffs).

18       3.13 Producing Party: A Party or Non-Party that produces Disclosure or  
19 Discovery Material in this Action.

20       3.14 Professional Vendors: Persons or entities that provide litigation support  
21 services (e.g., photocopying, videotaping, translating, preparing exhibits or  
22 demonstrations, and organizing, storing, or retrieving data in any form or medium) and  
23 their employees and subcontractors.

24       3.15 Protected Material: Any Disclosure or Discovery Material that is designated  
25 as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL.”

26       3.16 Receiving Party: A Party that receives Disclosure or Discovery Material  
27 from a Producing Party.

28

1 **4. SCOPE**

2 The protections conferred by this Stipulation and Order cover not only Protected  
3 Material (as defined above), but also (1) any information copied or extracted from  
4 Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected  
5 Material; and (3) any testimony, conversations, or presentations by Parties or their  
6 Counsel that might reveal Protected Material.

7 Any use of Protected Material at trial shall be governed by the orders of the trial  
8 judge. This Order does not govern the use of Protected Material at trial.

9 **5. DURATION**

10 **The Parties agree that even after final disposition of this litigation, they intend**  
11 **to abide by the confidentiality obligations imposed by this Order until a Designating**  
12 **Party agrees otherwise in writing.** Final disposition shall be deemed to be the later of:  
13 (1) dismissal of all claims and defenses in this Action, with or without prejudice; and (2)  
14 final judgment herein after the completion and exhaustion of all appeals, rehearings,  
15 remands, trials, or reviews of this Action, including the time limits for filing any motions  
16 or applications for extension of time pursuant to applicable law.

17 **However, once a case proceeds to trial, information that was designated as**  
18 **confidential or maintained pursuant to this protective order that is used or**  
19 **introduced as an exhibit at trial becomes public and will be presumptively available**  
20 **to all members of the public, including the press, unless compelling reasons**  
21 **supported by specific factual findings to proceed otherwise are made to the trial**  
22 **judge in advance of the trial. See *Kamakana*, 447 F.3d at 1180-81. Accordingly, the**  
23 **terms of this protective order do not extend beyond the commencement of trial.**

24 **6. DESIGNATING PROTECTED MATERIAL**

25 6.1 Exercise of Restraint and Care in Designating Material for Protection. Each  
26 Party or Non-Party that designates information or items for protection under this Order  
27 must take care to limit any such designation to specific material that qualifies under the  
28 appropriate standards. The Designating Party must designate for protection only those

1 parts of material, documents, items, or oral or written communications that qualify so that  
2 other portions of the material, documents, items, or communications for which protection  
3 is not warranted are not swept unjustifiably within the ambit of this Order.

4 Mass, indiscriminate, or routinized designations are prohibited. Designations that  
5 are shown to be clearly unjustified or that have been made for an improper purpose (*e.g.*,  
6 to unnecessarily encumber the case development process or to impose unnecessary  
7 expenses and burdens on other parties) may expose the Designating Party to sanctions.

8 If it comes to a Designating Party's attention that information or items that it  
9 designated for protection do not qualify for protection, that Designating Party must  
10 promptly notify all other Parties that it is withdrawing the inapplicable designation.

11 6.2 Manner and Timing of Designations. Except as otherwise provided in this  
12 Order (*see, e.g.*, second paragraph of Section 6.2(a) below), or as otherwise stipulated or  
13 ordered, Disclosure or Discovery Material that qualifies for protection under this Order  
14 must be clearly so designated before the material is disclosed or produced.

15 Designation in conformity with this Order requires:

16 (a) for information in documentary form (*e.g.*, paper or electronic  
17 documents, but excluding transcripts of depositions or other pretrial or trial  
18 proceedings), that the Producing Party affix at a minimum, the legend  
19 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL," to each page that contains  
20 protected material. If only a portion or portions of the material on a page qualifies  
21 for protection, the Producing Party also must clearly identify the protected  
22 portion(s) (*e.g.*, by making appropriate markings in the margins).

23 A Party or Non-Party that makes original documents available for inspection  
24 need not designate them for protection until after the inspecting Party has indicated  
25 which documents it would like copied and produced. During the inspection and  
26 before the designation, all of the material made available for inspection shall be  
27 deemed "HIGHLY CONFIDENTIAL." After the inspecting Party has identified  
28 the documents it wants copied and produced, the Producing Party must determine

1 which documents, or portions thereof, qualify for protection under this Order.  
2 Then, before producing the specified documents, the Producing Party must affix  
3 the appropriate legend (either “CONFIDENTIAL” or “HIGHLY  
4 CONFIDENTIAL”) to each page that contains Protected Material. If only a  
5 portion or portions of the material on a page qualifies for protection, the Producing  
6 Party also must clearly identify the protected portion(s) (e.g., by making  
7 appropriate markings in the margins).

8 (b) for testimony given in depositions, that the Designating Party identify  
9 the Disclosure or Discovery Material on the record, before the close of the  
10 deposition, and further specify any portions that qualify as “HIGHLY  
11 CONFIDENTIAL.”

12 (c) for information produced in some form other than documentary and for  
13 any other tangible items, that the Producing Party affix in a prominent place on the  
14 exterior of the container or containers in which the information is stored the legend  
15 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL.” If only a portion or  
16 portions of the information warrants protection, the Producing Party, to the extent  
17 practicable, shall identify the protected portion(s).

18 6.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure  
19 to designate qualified information or items does not, standing alone, waive the  
20 Designating Party’s right to secure protection under this Order for such material. Upon  
21 timely correction of a designation, the Receiving Party must make reasonable efforts to  
22 assure that the material is treated in accordance with the provisions of this Order.

## 23 **7. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

24 7.1 Timing of Challenges. Any Party or Non-Party may challenge a designation  
25 of confidentiality at any time that is consistent with the Court’s Scheduling Order.

26 7.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution  
27 process under Local Rule 37.1, *et seq.*



1           7.3    The burden of persuasion in any such challenge proceeding shall be on the  
2 Designating Party. Frivolous challenges, and those made for an improper purpose (*e.g.*,  
3 to harass or impose unnecessary expenses and burdens on other parties) may expose the  
4 Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn  
5 the confidentiality designation, all parties shall continue to afford the material in question  
6 the level of protection to which it is entitled under the Producing Party’s designation until  
7 the Court rules on the challenge.

8    **8.    ACCESS TO AND USE OF PROTECTED MATERIAL**

9           8.1    Basic Principles. A Receiving Party may use Protected Material that is  
10 disclosed or produced by another Party or by a Non-Party in connection with this Action  
11 only for prosecuting, defending, or attempting to settle this Action. Such Protected  
12 Material may be disclosed only to the categories of persons and under the conditions  
13 described in this Order. When the Action has been terminated, a Receiving Party must  
14 comply with the provisions of Section 14 below (FINAL DISPOSITION).

15           Protected Material must be stored and maintained by a Receiving Party at a  
16 location and in a secure manner that ensures that access is limited to the persons  
17 authorized under this Order.

18           8.2    Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise  
19 ordered by the Court or permitted in writing by the Designating Party, a Receiving Party  
20 may disclose any information or item designated “CONFIDENTIAL” only to:

21                   (a) the Receiving Party’s Outside Counsel of Record in this Action, as well  
22 as employees of said Outside Counsel of Record to whom it is reasonably  
23 necessary to disclose the information for this Action;

24                   (b) the officers, directors, and employees (including House Counsel) of the  
25 Receiving Party to whom disclosure is reasonably necessary for this Action;

26                   (c) Experts (as defined in this Order) of the Receiving Party to whom  
27 disclosure is reasonably necessary for this Action and who have signed the  
28 “Acknowledgment and Agreement to Be Bound” (Exhibit A);



- 1 (d) the court and its personnel;
- 2 (e) court reporters and their staff;
- 3 (f) professional jury or trial consultants, mock jurors, and Professional
- 4 Vendors to whom disclosure is reasonably necessary for this Action and who have
- 5 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);
- 6 (g) the author or recipient of a document containing the information or a
- 7 custodian or other person who otherwise possessed or knew the information; and
- 8 (h) any mediator or settlement officer, and their supporting personnel,
- 9 mutually agreed upon by any of the parties engaged in settlement discussions.

10 8.3 Disclosure of “HIGHLY CONFIDENTIAL” Information or Items: Unless

11 otherwise ordered by the Court or permitted in writing by the Designating Party, a

12 Receiving Party may disclose any information or item designated “HIGHLY

13 CONFIDENTIAL” only to:

- 14 (a) the Receiving Party’s Outside Counsel of record in this action, as well
- 15 as employees of said Counsel to whom it is reasonably necessary to disclose the
- 16 information for this Action;
- 17 (b) the Receiving Party’s House Counsel;
- 18 (c) Experts (as defined in this Order): (1) to whom disclosure is
- 19 reasonably necessary for this litigation; and (2) who have signed the
- 20 “Acknowledgment and Agreement to Be Bound” (Exhibit A);
- 21 (d) the Court and its personnel;
- 22 (e) court reporters, their staffs, and professional vendors to whom
- 23 disclosure is reasonably necessary for this litigation and who have signed the
- 24 “Acknowledgment and Agreement to Be Bound” (Exhibit A); and
- 25 (f) the author of the document or the original source of the information.

26 **9. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN**

27 **OTHER LITIGATION**

28 If a Party is served with a subpoena or a court order issued in other litigation that  
compels disclosure of any information or items designated in this Action as

1 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL,” that Party must:

2 (a) promptly notify in writing the Designating Party. Such notification shall  
3 include a copy of the subpoena or court order;

4 (b) promptly notify in writing the party who caused the subpoena or order to  
5 issue in the other litigation that some or all of the material covered by the subpoena  
6 or order is subject to this Protective Order. Such notification shall include a copy  
7 of this Stipulated Protective Order; and

8 (c) cooperate with respect to all reasonable procedures sought to be pursued  
9 by the Designating Party whose Protected Material may be affected.

10 If the Designating Party timely seeks a protective order, the Party served with the  
11 subpoena or court order shall not produce any information designated in this action as  
12 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” before a determination by the  
13 court from which the subpoena or order issued, unless the Party has obtained the  
14 Designating Party’s permission. The Designating Party shall bear the burden and  
15 expense of seeking protection in that court of its confidential material and nothing in  
16 these provisions should be construed as authorizing or encouraging a Receiving Party in  
17 this Action to disobey a lawful directive from another court.

18 **10. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**  
19 **PRODUCED IN THIS LITIGATION**

20 The terms of this Order are applicable to information produced by a Non-Party in  
21 this Action and designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL.”  
22 Such information produced by Non-Parties in connection with this litigation is protected  
23 by the remedies and relief provided by this Order. Nothing in these provisions should be  
24 construed as prohibiting a Non-Party from seeking additional protections.

25 In the event that a Party is required, by a valid discovery request, to produce a  
26 Non-Party’s confidential information in its possession, and the Party is subject to an  
27 agreement with the Non-Party not to produce the Non-Party’s confidential information,  
28 then the Party shall:

(a) promptly notify in writing the Requesting Party and the Non-Party that

1 some or all of the information requested is subject to a confidentiality agreement  
2 with a Non-Party;

3 (b) promptly provide the Non-Party with a copy of the Stipulated Protective  
4 Order in this Action, the relevant discovery request(s), and a reasonably specific  
5 description of the information requested; and

6 (c) make the information requested available for inspection by the Non-  
7 Party, if requested.

8 If the Non-Party fails to seek a protective order from this Court within 14 days of  
9 receiving the notice and accompanying information, the Receiving Party may produce the  
10 Non-Party's confidential information responsive to the discovery request. If the Non-  
11 Party timely seeks a protective order, the Receiving Party shall not produce any  
12 information in its possession or control that is subject to the confidentiality agreement  
13 with the Non-Party before a determination by the Court. Absent a court order to the  
14 contrary, the Non-Party shall bear the burden and expense of seeking protection in this  
15 court of its Protected Material.

16 **11. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

17 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
18 Protected Material to any person or in any circumstance not authorized under this  
19 Stipulated Protective Order, the Receiving Party must immediately: (a) notify in writing  
20 the Designating Party of the unauthorized disclosures; (b) use its best efforts to retrieve  
21 all unauthorized copies of the Protected Material; (c) inform the person or persons to  
22 whom unauthorized disclosures were made of all the terms of this Order; and (d) request  
23 such person or persons to execute the "Acknowledgment and Agreement to Be Bound"  
24 that is attached hereto as Exhibit A.

25 **12. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**  
26 **PROTECTED MATERIAL**

27 The inadvertent disclosure of any privileged or work-product protected documents  
28 shall not constitute a waiver of any privilege or protection in this case or in any other  
federal or state proceeding. This paragraph of this protective order shall be interpreted to

1 provide the maximum protection allowed by Federal Rule of Evidence 502(d). In the  
2 case of inadvertently produced privileged and/or work-product documents, the documents  
3 together with all copies thereof shall be returned to the party claiming privilege and/or  
4 work-product immunity, or, in the alternative, the Receiving Parties shall take reasonable  
5 steps to destroy said documents and copies thereof, within seven days of receipt of notice  
6 of the inadvertent production. Any notes or summaries made therefrom also shall be  
7 destroyed. The obligation to destroy documents does not extend to archival and back-up  
8 tapes; however, the party returning the documents agrees not to access the documents  
9 claimed to be inadvertently produced using its archival and back-up tapes. The  
10 Receiving Parties who return inadvertently produced documents pursuant to this order do  
11 not waive their right to challenge the privileged and/or work-product status of those  
12 documents. In support of such a challenge, the Receiving Parties returning inadvertently  
13 produced documents may, at that time, challenge the privileged and/or work-product  
14 claim by filing a Motion to Compel along with a copy of the returned documents to the  
15 Court under seal to be opened *in camera*.

16 **13. MISCELLANEOUS**

17 13.1 Right to Further Relief. Nothing in this Order abridges the right of any  
18 person to seek its modification by the Court in the future.

19 13.2 Right to Assert Other Objections. By stipulating to the entry of this  
20 Protective Order, no Party waives any right it otherwise would have to object to  
21 disclosing or producing any information or item on any ground not addressed in this  
22 Stipulated Protective Order. Similarly, no Party waives any right to object on any ground  
23 to use in evidence of any of the material covered by this Protective Order.

24 13.3 Filing Protected Material. A Party that seeks to file under seal any Protected  
25 Material must comply with Civil Local Rule 79-5. Protected Material may only be filed  
26 under seal pursuant to a court order authorizing the sealing of the specific Protected  
27 Material at issue. If a Party's request to file Protected Material under seal is denied by  
28 the Court, then the Receiving Party may file the information in the public record unless

1 otherwise instructed by the Court.

2 **14. FINAL DISPOSITION**

3 After the final disposition of this Action, as defined in Section 5 (DURATION),  
4 within 60 days of a written request by the Designating Party, each Receiving Party must  
5 return all Protected Material to the Producing Party or destroy such material. As used in  
6 this subdivision, "all Protected Material" includes all copies, abstracts, compilations,  
7 summaries, and any other format reproducing or capturing any of the Protected Material.  
8 Whether the Protected Material is returned or destroyed, the Receiving Party must submit  
9 a written certification to the Producing Party (and, if not the same person or entity, to the  
10 Designating Party) by the 60 day deadline that (1) identifies (by category, where  
11 appropriate) all the Protected Material that was returned or destroyed and (2) affirms that  
12 the Receiving Party has not retained any copies, abstracts, compilations, summaries or  
13 any other format reproducing or capturing any of the Protected Material.  
14 Notwithstanding this provision, Counsel are entitled to retain an archival copy of all  
15 pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda,  
16 correspondence, deposition and trial exhibits, expert reports, attorney work product, and  
17 consultant and expert work product, even if such materials contain Protected Material.  
18 Any such archival copies that contain or constitute Protected Material remain subject to  
19 this Protective Order as set forth in Section 5 (DURATION).

20 **15. VIOLATION OF THIS ORDER**

21 Any violation of this Order may be punished by any and all appropriate measures  
22 including, without limitation, contempt proceedings and/or monetary sanctions.  
23

24 **FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

25  
26 DATED: February 28, 2017



27  
28 \_\_\_\_\_  
GAIL J. STANDISH  
UNITED STATES MAGISTRATE JUDGE

STIPULATED PROTECTIVE ORDER  
Case No. 2:16-CV-07359-DMG (GJSx)

1 **EXHIBIT A**

2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

3  
4 I, \_\_\_\_\_ [print or type full name], of  
5 \_\_\_\_\_ [print or type full address], declare under penalty of perjury that I  
6 have read in its entirety and understand the Stipulated Protective Order that was issued by  
7 the United States District Court for the Central District of California on [date] in the case  
8 of *Healthcare Ally Management of California, LLC v. Assurant, Inc.*, 2:16-CV-07359-  
9 DMG (GJSx). I agree to comply with and to be bound by all the terms of this Stipulated  
10 Protective Order and I understand and acknowledge that failure to so comply could  
11 expose me to sanctions and punishment in the nature of contempt. I solemnly promise  
12 that I will not disclose in any manner any information or item that is subject to this  
13 Stipulated Protective Order to any person or entity except in strict compliance with the  
14 provisions of this Order.

15 I further agree to submit to the jurisdiction of the United States District Court for  
16 the Central District of California for the purpose of enforcing the terms of this Stipulated  
17 Protective Order, even if such enforcement proceedings occur after termination of this  
18 Action. I hereby appoint \_\_\_\_\_ [print or type full name] of  
19 \_\_\_\_\_ [print or type full address and telephone  
20 number] as my California agent for service of process in connection with this action or  
21 any proceedings related to enforcement of this Stipulated Protective Order.

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

23 City and State where sworn and signed: \_\_\_\_\_

24  
25 Printed name: \_\_\_\_\_

26  
27 Signature: \_\_\_\_\_

28