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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MARIO LOPEZ, an individual; and
COURTNEY LOPEZ, an individual,

Plaintiffs,

v.

FEDERAL INSURANCE COMPANY, a
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No. 2:17-cv-05435-MWF-KS

DISCOVERY MATTER

**[PROPOSED] ORDER RE
STIPULATED PROTECTIVE
ORDER**

1 The following procedures shall be employed and the following restrictions shall
2 govern during this litigation with respect to the disclosure of any information,
3 documents, or things obtained by any party to this action where such items are asserted
4 to contain or comprise trade secret, confidential, or proprietary information as follows:

5 1. A. PURPOSES AND LIMITATIONS

6 Discovery in this action is likely to involve production of confidential,
7 proprietary, or private information for which special protection from public disclosure
8 and from use for any purpose other than prosecuting this litigation may be warranted.
9 Accordingly, the parties hereby stipulate to and petition the Court to enter the
10 following Stipulated Protective Order. The parties acknowledge that this Order does
11 not confer blanket protections on all disclosures or responses to discovery and that the
12 protection it affords from public disclosure and use extends only to the limited
13 information or items that are entitled to confidential treatment under the applicable
14 legal principles. The parties further acknowledge, as set forth in Section 12.3, below,
15 that this Stipulated Protective Order does not entitle them to file confidential
16 information under seal; Civil Local Rule 79-5 sets forth the procedures that must be
17 followed and the standards that will be applied when a party seeks permission from the
18 court to file material under seal.

19 B. GOOD CAUSE STATEMENT

20 This insurance coverage action is likely to involve private, commercial,
21 financial, and/or proprietary information for which special protection from public
22 disclosure and from use for any purpose other than prosecution of this action is
23 warranted. Such confidential, private, and proprietary materials and information
24 consist of, among other things, confidential business, personal, or financial
25 information, information regarding confidential business practices, or other
26 confidential research, development, or commercial information (including information
27 implicating privacy rights of third parties), information otherwise generally unavailable
28 to the public, or which may be privileged or otherwise protected from disclosure under

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

12 2. DEFINITIONS

13 2.1 Action: this pending federal law suit.

14 2.2 Challenging Party: a Party or Non-Party that challenges the designation
15 of information or items under this Order.

16 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
17 how it is generated, stored or maintained) or tangible things that qualify for
18 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
19 the Good Cause Statement.

20 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
21 their support staff).

22 2.5 Designating Party: a Party or Non-Party that designates information or
23 items that it produces in disclosures or in responses to discovery as
24 “CONFIDENTIAL.”

25 2.6 Disclosure or Discovery Material: all items or information, regardless
26 of the medium or manner in which it is generated, stored, or maintained (including,
27 among other things, testimony, transcripts, and tangible things), that are produced or
28 generated in disclosures or responses to discovery in this matter.

1 2.7 Expert: a person with specialized knowledge or experience in a matter
2 pertinent to the litigation who has been retained by a Party or its counsel to serve as
3 an expert witness or as a consultant in this Action.

4 2.8 House Counsel: attorneys who are employees of a party to this Action.
5 House Counsel does not include Outside Counsel of Record or any other outside
6 counsel.

7 2.9 Non-Party: any natural person, partnership, corporation, association, or
8 other legal entity not named as a Party to this action.

9 2.10 Outside Counsel of Record: attorneys who are not employees of a
10 party to this Action but are retained to represent or advise a party to this Action and
11 have appeared in this Action on behalf of that party or are affiliated with a law firm
12 which has appeared on behalf of that party, and includes support staff.

13 2.11 Party: any party to this Action, including all of its officers, directors,
14 employees, consultants, retained experts, and Outside Counsel of Record (and their
15 support staffs).

16 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
17 Discovery Material in this Action.

18 2.13 Professional Vendors: persons or entities that provide litigation
19 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
20 demonstrations, and organizing, storing, or retrieving data in any form or medium)
21 and their employees and subcontractors.

22 2.14 Protected Material: any Disclosure or Discovery Material that is
23 designated as “CONFIDENTIAL.”

24 2.15 Receiving Party: a Party that receives Disclosure or Discovery
25 Material from a Producing Party.

26 3. SCOPE

27 The protections conferred by this Stipulation and Order cover not only Protected
28 Material (as defined above), but also (1) any information copied or extracted from

1 Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected
2 Material; and (3) any testimony, conversations, or presentations by Parties or their
3 Counsel that might reveal Protected Material. Any use of Protected Material at trial
4 shall be governed by the orders of the trial judge. This Order does not govern the use
5 of Protected Material at trial.

6 4. DURATION

7 Even after final disposition of this litigation, the confidentiality obligations
8 imposed by this Order shall remain in effect until a Designating Party agrees otherwise
9 in writing or a court order otherwise directs. Final disposition shall be deemed to be the
10 later of (1) dismissal of all claims and defenses in this Action, with or without
11 prejudice; and (2) final judgment herein after the completion and exhaustion of all
12 appeals, rehearings, remands, trials, or reviews of this Action, including the time limits
13 for filing any motions or applications for extension of time pursuant to applicable law.

14 5. DESIGNATING PROTECTED MATERIAL

15 5.1 Exercise of Restraint and Care in Designating Material for Protection.

16 Each Party or Non-Party that designates information or items for protection under
17 this Order must take care to limit any such designation to specific material that
18 qualifies under the appropriate standards. The Designating Party must designate for
19 protection only those parts of material, documents, items, or oral or written
20 communications that qualify so that other portions of the material, documents,
21 items, or communications for which protection is not warranted are not swept
22 unjustifiably within the ambit of this Order. Mass, indiscriminate, or routinized
23 designations are prohibited. Designations that are shown to be clearly unjustified or
24 that have been made for an improper purpose (e.g., to unnecessarily encumber the case
25 development process or to impose unnecessary expenses and burdens on other parties)
26 may expose the Designating Party to sanctions. If it comes to a Designating Party's
27 attention that information or items that it designated for protection do not qualify for
28

1 protection, that Designating Party must promptly notify all other Parties that it is
2 withdrawing the inapplicable designation.

3 5.2 Manner and Timing of Designations. Except as otherwise provided in
4 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
5 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
6 under this Order must be clearly so designated before the material is disclosed or
7 produced. Designation in conformity with this Order requires:

8 (a) for information in documentary form (e.g., paper or electronic documents,
9 but excluding transcripts of depositions or other pretrial or trial proceedings),
10 that the Producing Party affix at a minimum, the legend “CONFIDENTIAL”
11 (hereinafter “CONFIDENTIAL legend”), to each page that contains protected
12 material. If only a portion or portions of the material on a page qualifies for
13 protection, the Producing Party also must clearly identify the protected
14 portion(s) (e.g., by making appropriate markings in the margins). A Party or
15 Non-Party that makes original documents available for inspection need not
16 designate them for protection until after the inspecting Party has indicated which
17 documents it would like copied and produced. During the inspection and before
18 the designation, all of the material made available for inspection shall be deemed
19 “CONFIDENTIAL.” After the inspecting Party has identified the documents it
20 wants copied and produced, the Producing Party must determine which
21 documents, or portions thereof, qualify for protection under this Order. Then,
22 before producing the specified documents, the Producing Party must affix the
23 “CONFIDENTIAL legend” to each page that contains Protected Material. If
24 only a portion or portions of the material on a page qualifies for protection, the
25 Producing Party also must clearly identify the protected portion(s) (e.g., by
26 making appropriate markings in the margins).

27 (b) for testimony given in depositions that the Designating Party identify
28 the Disclosure or Discovery Material on the record, before the close of the

1 deposition all protected testimony.

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

8 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
9 failure to designate qualified information or items does not, standing alone, waive
10 the Designating Party’s right to secure protection under this Order for such material.
11 Upon timely correction of a designation, the Receiving Party must make reasonable
12 efforts to assure that the material is treated in accordance with the provisions of this
13 Order.

14 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

15 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
16 designation of confidentiality at any time that is consistent with the Court’s Scheduling
17 Order.

18 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
19 resolution process under Local Rule 37.1 et seq.

20 6.3 The burden of persuasion in any such challenge proceeding shall be on
21 the Designating Party. Frivolous challenges, and those made for an improper purpose
22 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
23 expose the Challenging Party to sanctions. Unless the Designating Party has waived or
24 withdrawn the confidentiality designation, all parties shall continue to afford the
25 material in question the level of protection to which it is entitled under the Producing
26 Party’s designation until the Court rules on the challenge.

27 7. ACCESS TO AND USE OF PROTECTED MATERIAL

28 7.1 Basic Principles. A Receiving Party may use Protected Material that is

1 disclosed or produced by another Party or by a Non-Party in connection with this
2 Action only for prosecuting, defending, or attempting to settle this Action. Such
3 Protected Material may be disclosed only to the categories of persons and under the
4 conditions described in this Order. When the Action has been terminated, a
5 Receiving Party must comply with the provisions of section 13 below (FINAL
6 DISPOSITION). Protected Material must be stored and maintained by a Receiving
7 Party at a location and in a secure manner that ensures that access is limited to the
8 persons authorized under this Order.

9 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
10 otherwise ordered by the court or permitted in writing by the Designating Party, a
11 Receiving Party may disclose any information or item designated
12 “CONFIDENTIAL” only to:

- 13 (a) the Receiving Party’s Outside Counsel of Record in this Action, as
14 well as employees of said Outside Counsel of Record to whom it is reasonably
15 necessary to disclose the information for this Action;
- 16 (b) the Receiving Party as well as the officers, directors, and employees
17 (including House Counsel) of the Receiving Party to whom disclosure is
18 reasonably necessary for this Action;
- 19 (c) Experts (as defined in this Order) of the Receiving Party to whom
20 disclosure is reasonably necessary for this Action and who have signed the
21 “Acknowledgment and Agreement to Be Bound” (Exhibit A);
- 22 (d) the court and its personnel;
- 23 (e) court reporters and their staff;
- 24 (f) professional jury or trial consultants, mock jurors, and Professional
25 Vendors to whom disclosure is reasonably necessary for this Action and who
26 have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);
- 27 (g) the author or recipient of a document containing the information or a
28 custodian or other person who otherwise possessed or knew the information;

1 (h) during their depositions, witnesses, and attorneys for witnesses, in the
2 Action to whom disclosure is reasonably necessary provided: (1) the deposing
3 party requests that the witness sign the form attached as Exhibit A hereto; and
4 (2) they will not be permitted to keep any confidential information unless they
5 sign the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless
6 otherwise agreed by the Designating Party or ordered by the court. Pages of
7 transcribed deposition testimony or exhibits to depositions that reveal Protected
8 Material may be separately bound by the court reporter and may not be disclosed
9 to anyone except as permitted under this Stipulated Protective Order; and
10 (i) any mediator or settlement officer, and their supporting personnel,
11 mutually agreed upon by any of the parties engaged in settlement discussions.

12 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
13 IN OTHER LITIGATION

14 If a Party is served with a subpoena or a court order issued in other litigation
15 that compels disclosure of any information or items designated in this Action as
16 “CONFIDENTIAL,” that Party must:

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

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

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

25 If the Designating Party timely seeks a protective order, the Party served with
26 the subpoena or court order shall not produce any information designated in this
27 action as “CONFIDENTIAL” before a determination by the court from which
28 the subpoena or order issued, unless the Party has obtained the Designating

1 Party's permission. The Designating Party shall bear the burden and expense of
2 seeking protection in that court of its confidential material and nothing in these
3 provisions should be construed as authorizing or encouraging a Receiving Party
4 in this Action to disobey a lawful directive from another court.

5 9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE
6 PRODUCED IN THIS LITIGATION

7 (a) The terms of this Order are applicable to information produced by a
8 Non-Party in this Action and designated as "CONFIDENTIAL." Such
9 information produced by Non-Parties in connection with this litigation is
10 protected by the remedies and relief provided by this Order. Nothing in these
11 provisions should be construed as prohibiting a Non-Party from seeking
12 additional protections.

13 (b) In the event that a Party is required, by a valid discovery request, to
14 produce a Non-Party's confidential information in its possession, and the Party
15 is subject to an agreement with the Non-Party not to produce the Non-Party's
16 confidential information, then the Party shall:

17 (1) promptly notify in writing the Requesting Party and the Non-Party
18 that some or all of the information requested is subject to a confidentiality
19 agreement with a Non-Party;

20 (2) promptly provide the Non-Party with a copy of the Stipulated
21 Protective Order in this Action, the relevant discovery request(s), and a
22 reasonably specific description of the information requested; and

23 (3) make the information requested available for inspection by the
24 Non-Party, if requested.

25 (c) If the Non-Party fails to seek a protective order from this court within
26 14 days of receiving the notice and accompanying information, the Receiving
27 Party may produce the Non-Party's confidential information responsive to the
28 discovery request. If the Non-Party timely seeks a protective order, the

1 Receiving Party shall not produce any information in its possession or control
2 that is subject to the confidentiality agreement with the Non-Party before a
3 determination by the court. Absent a court order to the contrary, the Non-Party
4 shall bear the burden and expense of seeking protection in this court of its
5 Protected Material.

6 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

7 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
8 Protected Material to any person or in any circumstance not authorized under this
9 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
10 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
11 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or
12 persons to whom unauthorized disclosures were made of all the terms of this Order,
13 and (d) request such person or persons to execute the “Acknowledgment and
14 Agreement to Be Bound” that is attached hereto as Exhibit A.

15 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
16 PROTECTED MATERIAL

17 When a Producing Party gives notice to Receiving Parties that certain
18 inadvertently produced material is subject to a claim of privilege or other protection,
19 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
20 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
21 may be established in an e-discovery order that provides for production without
22 prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar
23 as the parties reach an agreement on the effect of disclosure of a communication or
24 information covered by the attorney-client privilege or work product protection, the
25 parties may incorporate their agreement in the stipulated protective order submitted
26 to the court.

27 12. MISCELLANEOUS

28 12.1 Right to Further Relief. Nothing in this Order abridges the right of any

1 person to seek its modification by the Court in the future.

2 12.2 Right to Assert Other Objections. By stipulating to the entry of this
3 Protective Order no Party waives any right it otherwise would have to object to
4 disclosing or producing any information or item on any ground not addressed in this
5 Stipulated Protective Order. Similarly, no Party waives any right to object on any
6 ground to use in evidence of any of the material covered by this Protective Order.

7 12.3 Filing Protected Material. A Party that seeks to file under seal any
8 Protected Material must comply with Civil Local Rule 79-5. Protected Material may
9 only be filed under seal pursuant to a court order authorizing the sealing of the
10 specific Protected Material at issue. If a Party's request to file Protected Material
11 under seal is denied by the court, then the Receiving Party may file the information
12 in the public record unless otherwise instructed by the court.

13 13. FINAL DISPOSITION

14 After the final disposition of this Action, as defined in paragraph 4, within 60
15 days of a written request by the Designating Party, each Receiving Party must return
16 all Protected Material to the Producing Party or destroy such material. As used in
17 this subdivision, “all Protected Material” includes all copies, abstracts, compilations,
18 summaries, and any other format reproducing or capturing any of the Protected
19 Material. Whether the Protected Material is returned or destroyed, the Receiving
20 Party must submit a written certification to the Producing Party (and, if not the same
21 person or entity, to the Designating Party) by the 60 day deadline that (1) identifies
22 (by category, where appropriate) all the Protected Material that was returned or
23 destroyed and (2) affirms that the Receiving Party has not retained any copies,
24 abstracts, compilations, summaries or any other format reproducing or capturing any
25 of the Protected Material. Notwithstanding this provision, Counsel are entitled to
26 retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing
27 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert
28 reports, attorney work product, and consultant and expert work product, even if such

1 materials contain Protected Material. Any such archival copies that contain or
2 constitute Protected Material remain subject to this Protective Order as set forth in
3 Section 4 (DURATION).

4 14. Any violation of this Order may be punished by any and all appropriate
5 measures including, without limitation, contempt proceedings and/or monetary
6 sanctions.

7
8 **FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

9
10 Dated: November 8, 2017

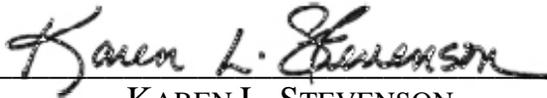
11 
12 _____
13 KAREN L. STEVENSON
14 UNITED STATES MAGISTRATE JUDGE

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address], declare under penalty of perjury
that I have read in its entirety and understand the Stipulated Protective Order that
was issued by the United States District Court for the Central District of California
in the case of *Mario Lopez et al. v. Federal Insurance Company*, United States
District Court for the Central District of California Case No. 2:17-cv-05435-MWF-KS.
I agree to comply with and to be bound by all the terms of this Stipulated Protective
Order and I understand and acknowledge that failure to so comply could expose me to
sanctions and punishment in the nature of contempt. I solemnly promise that I will not
disclose in any manner any information or item that is subject to this Stipulated
Protective Order to any person or entity except in strict compliance with the provisions
of this Order. I further agree to submit to the jurisdiction of the United States District
Court for the Central District of California for the purpose of enforcing the terms of
this Stipulated Protective Order, even if such enforcement proceedings occur after
termination of this action. I hereby appoint _____ [print or
type full name] of _____ [print or type full
address and telephone number] as my California agent for service of process in
connection with this action or any proceedings related to enforcement of this
Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____