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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA – WESTERN DISTRICT
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11 FEDERAL INSURANCE COMPANY
12 as subrogee of David Abadi,

13 Plaintiff,

14 vs.

15 BRASSCRAFT MANUFACTURING
16 COMPANY,

16 Defendant.
17

CASE NO. 2-20-cv-03750-JFW-PVCx

**STIPULATED PROTECTIVE
ORDER**

18 Pursuant to the Stipulated Protective Order filed by the parties, IT IS HEREBY
19 ORDERED discovery shall be governed as follows:

20 1. INTRODUCTION

21 1.1 Purposes and Limitations

22 Disclosure and discovery activity in this action are likely to involve production
23 of confidential, proprietary, or private information for which special protection from
24 public disclosure and from use for any purpose other than prosecuting this litigation
25 may be warranted. Accordingly, the parties hereby stipulate to and petition the Court
26 to enter the following Stipulated Protective Order. The parties acknowledge that this
27 Order does not confer blanket protections on all disclosures or responses to discovery
28 and that the protection it affords from public disclosure and use extends only to the

1 limited information or items that are entitled to confidential treatment under the
2 applicable legal principles. The parties further acknowledge, as set forth in Section
3 12.3 below, that this Stipulated Protective Order does not entitle them to file
4 confidential information under seal; Civil Local Rule 79-5 sets forth the procedures
5 that must be followed and the standards that will be applied when a party seeks
6 permission from the court to file material under seal.

7 1.2 Good Cause Statement

8 The parties submit this Stipulated Protective Order for good cause. This is a
9 subrogation case brought by Plaintiff Federal Insurance Company based on property
10 damage as a result of flooding that occurred to the home of its insured, David Abadi,
11 on February 20, 2017. Plaintiff alleges the loss was caused by a water angle stop
12 designed and manufactured by Defendant BrassCraft Manufacturing Company
13 (“BrassCraft”). BrassCraft denies that its water angle stop was defective in any
14 manner, including in its design, manufacture, or warning. The parties anticipate
15 discovery regarding the design and manufacture of the subject product, which will
16 likely lead to the production of design documents and product specifications. Such
17 documents contain confidential and proprietary information regarding the design and
18 manufacture of BrassCraft’s products. Public dissemination of this material and
19 information is likely to result in substantial harm to BrassCraft’s protected business
20 information, trade secrets, and competitive advantages it holds in the market.

21 2. DEFINITIONS

22 The following definitions apply for the purposes of this Order.

23 2.1 Challenging Party: a Party or Non-Party that challenges the designation
24 of information or items under this Order.

25 2.2 “CONFIDENTIAL” Information or Items: any document, information,
26 or thing may be designated “Confidential” if the producing party determines in good
27 faith that it contains confidential or proprietary information.

28 2.3 Counsel: Outside Counsel of Record and In-House Counsel (as well as

1 their support staff).

2 2.4 Designating Party: a Party or Non-Party that designates information or
3 items that it produces in disclosures or in responses to discovery as
4 “CONFIDENTIAL.”

5 2.5 Disclosure or Discovery Material: all items or information, regardless
6 of the medium or manner in which it is generated, stored, or maintained (including,
7 among other things, testimony, transcripts, answers to interrogatories, documents,
8 responses to requests for admissions, tangible things, and informal exchanges of
9 information), that are produced or generated in disclosures or responses to discovery
10 in this matter, whether formally or informally.

11 2.6 Expert: a person with specialized knowledge or experience in a matter
12 pertinent to the litigation who has been retained by a Party or its counsel to serve as
13 an expert witness or as a consultant in this action.

14 2.7 In-House Counsel: attorneys who are employees of a party to this action.
15 In-House Counsel does not include Outside Counsel of Record or any other outside
16 counsel.

17 2.8 Non-Party: any natural person, partnership, corporation, association, or
18 other legal entity not named as a Party to this action.

19 2.9 Outside Counsel of Record: attorneys who are not employees of a party
20 to this action but are retained to represent or advise a party to this action and have
21 appeared in this action on behalf of that party or are affiliated with a law firm which
22 has appeared on behalf of that party.

23 2.10 Party: any party to this action, including all of its officers, directors,
24 employees, consultants, retained experts, and Outside Counsel of Record (and their
25 support staffs).

26 2.11 Producing Party: a Party or Non-Party that produces Disclosure or
27 Discovery Material in this action.

28 2.12 Professional Vendors: persons or entities that provide litigation support

1 services (e.g., photocopying, videotaping, translating, preparing exhibits or
2 demonstrations, and organizing, storing, or retrieving data in any form or medium)
3 and their employees and subcontractors.

4 2.13 Protected Material: any Disclosure or Discovery Material that is
5 designated as “CONFIDENTIAL.”

6 2.14 Receiving Party: a Party that receives Disclosure or Discovery Material
7 from a Producing Party.

8 3. SCOPE

9 3.1 The protections conferred by this Stipulation and Order cover not only
10 Protected Material (as defined above), but also (1) any information copied or extracted
11 from Protected Material; (2) all copies, excerpts, summaries, or compilations of
12 Protected Material; and (3) any testimony, oral, written, or electronic conversations,
13 or presentations by Parties or their Counsel that might reveal Protected Material. Any
14 use of Protected Material at trial shall be governed by a separate agreement or order.

15 4. DURATION

16 4.1 Even after final disposition of this litigation, the confidentiality
17 obligations imposed by this Order shall remain in effect until a Designating Party
18 agrees otherwise in writing or a court order otherwise directs. Final disposition shall
19 be deemed to be the later of (1) dismissal of all claims and defenses in this action,
20 with or without prejudice; or (2) final judgment herein after the completion and
21 exhaustion of all appeals, re-hearings, remands, trials, or reviews of this action,
22 including the time limits for filing any motions or applications for extension of time
23 pursuant to applicable law.

24 5. DESIGNATING PROTECTED MATERIAL

25 5.1 Good Faith Basis. If the Designating Party has a good faith belief that
26 the Disclosure or Discovery Information qualifies for protection, the Producing Party
27 may designate such Disclosure or Discovery Material as “CONFIDENTIAL”
28 Information by marking such material in accordance with subsection 5.2. If it comes

1 to a Designating Party's attention that information or items that it designated for
2 protection do not qualify for protection, that Designating Party must promptly notify
3 all other Parties that it is withdrawing the mistaken designation.

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

9 Designation in conformity with this Order requires:

10 (a) for information in documentary form (e.g., paper or electronic documents,
11 but excluding transcripts of depositions or other pretrial or trial proceedings), that the
12 Producing Party affix the legend "CONFIDENTIAL" to each page that contains
13 protected material. If only a portion or portions of the material on a page qualifies for
14 protection, the Producing Party also must clearly identify the protected portion(s)
15 (e.g., by making appropriate markings in the margins, or above or below the subject
16 portion.)

17 A Party or Non-Party that makes original documents or materials available for
18 inspection need not designate them for protection until after the inspecting Party has
19 indicated which material it would like copied and produced. During the inspection
20 and before the designation, all of the material made available for inspection shall be
21 deemed "CONFIDENTIAL." After the inspecting Party has identified the documents
22 it wants copied and produced, the Producing Party must determine which documents,
23 or portions thereof, qualify for protection under this Order. Then, before producing
24 the specified documents, the Producing Party must affix the "CONFIDENTIAL"
25 legend to each page that contains Protected Material. If only a portion or portions of
26 the material on a page qualifies for protection, the Producing Party also must clearly
27 identify the protected portion(s) (e.g., by making appropriate markings in the margins
28 or above or below the subject portion.)

1 (b) for testimony given in deposition or in other pretrial or trial proceedings,
2 that the Designating Party identify all protected testimony within (30) days of receipt
3 of the transcript of the deposition, hearing, or other proceeding.

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

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

16 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

17 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
18 designation of confidentiality within (30) days after receipt of the document
19 containing the designation of confidentiality.

20 6.2 Meet and Confer. The Challenging Party will initiate the dispute
21 resolution process (and, if necessary, request a telephonic hearing and file a discovery
22 motion) under Local Rule 37.1 et seq.

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

1 Party's designation until the Court rules on the challenge.

2 7. ACCESS TO AND USE OF PROTECTED MATERIAL

3 7.1 Basic Principles. A Receiving Party may use Protected Material that is
4 disclosed or produced by another Party or by a Non-Party in connection with this case
5 only for prosecuting, defending, or attempting to settle this litigation. Such Protected
6 Material may be disclosed only to the categories of persons and under the conditions
7 described in this Order. When the litigation has been terminated, a Receiving Party
8 must comply with the provisions of Section 12 below (FINAL DISPOSITION).

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

12 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
13 otherwise ordered by the court or permitted in writing by the Designating Party, a
14 Receiving Party may disclose any information or item designated
15 "CONFIDENTIAL" only to:

16 (a) the Receiving Party's Outside Counsel of Record in this action, as well
17 as employees of said Outside Counsel of Record to whom it is reasonably necessary
18 to disclose the information for this litigation;

19 (b) the officers, directors, and employees (including In-House Counsel) of
20 the Receiving Party to whom disclosure is reasonably necessary for this litigation;

21 (c) Experts (as defined in this Order) of the Receiving Party to whom
22 disclosure is reasonably necessary for this litigation and who have signed the
23 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

24 (d) Potential or actual witnesses in this action to whom disclosure is
25 reasonably necessary and who have signed the "Acknowledgement and Agreement to
26 be Bound" (Exhibit A). During their depositions, witnesses in this action to whom
27 disclosure is reasonably necessary may receive a copy of documents containing
28 Protected Material during the deposition and for the purpose of reviewing their

1 transcript, but may not retain a copy;

2 (e) the Court and its personnel;

3 (f) court reporters and their staff, professional jury or trial consultants, mock
4 jurors, and Professional Vendors to whom disclosure is reasonably necessary for this
5 litigation;

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) other persons only by written consent of the Designating Party or upon
9 order of the Court and on such conditions as may be agreed or ordered, who have
10 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A).

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

13 8.1 If a Party is served with a subpoena or a court order issued in other
14 litigation that compels disclosure of any information or items designated in this
15 action as “CONFIDENTIAL,” that Party must:

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

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

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

24 If the Designating Party timely seeks a protective order, the Party served with
25 the subpoena or court order shall not produce any information designated in this action
26 as “CONFIDENTIAL” before a determination by the court from which the subpoena
27 or order issued, unless the Party has obtained the Designating Party’s permission. The
28 Designating Party shall bear the burden and expense of seeking protection in that court

1 of its confidential material – and nothing in these provisions should be construed as
2 authorizing or encouraging a Receiving Party in this action to disobey a lawful
3 directive from another court.

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

6 9.1 (a) The terms of this Order are applicable to information produced by a
7 Non-Party in this action and designated as “CONFIDENTIAL.” Such information
8 produced by Non-Parties in connection with this litigation is protected by the
9 remedies and relief provided by this Order. Nothing in these provisions should be
10 construed as prohibiting a Non-Party from seeking additional protections.

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

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

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

21 (3) make the information requested available for inspection by the
22 Non-Party.

23 (c) If the Non-Party fails to object or seek a protective order from this court
24 within 14 days of receiving the notice and accompanying information, the Receiving
25 Party may produce the Non-Party’s confidential information responsive to the
26 discovery request. If the Non-Party timely seeks a protective order, the Receiving
27 Party shall not produce any information in its possession or control that is subject to
28 the confidentiality agreement with the Non-Party before a determination by the court.

1 Absent a court order to the contrary, the Non-Party shall bear the burden and expense
2 of seeking protection in this court of its Protected Material.

3 10.UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

4 10.1 If a Receiving Party learns that, by inadvertence or otherwise, it has
5 disclosed Protected Material to any person or in any circumstance not authorized
6 under this Stipulated Protective Order, the Receiving Party must immediately (a)
7 notify in writing the Designating Party of the unauthorized disclosures, (b) use its best
8 efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the
9 person or persons to whom unauthorized disclosures were made of all the terms of
10 this Order, and (d) request such person or persons to execute the “Acknowledgment
11 and Agreement to Be Bound” that is attached hereto as Exhibit A.

12 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
13 PROTECTED MATERIAL

14 11.1 When a Producing Party gives notice to Receiving Parties that certain
15 inadvertently produced material is subject to a claim of privilege or other protection,
16 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
17 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
18 may be established in an e-discovery order that provides for production without prior
19 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
20 parties reach an agreement on the effect of disclosure of a communication or
21 information covered by the attorney-client privilege or work product protection, the
22 parties may incorporate their agreement in the stipulated protective order submitted
23 to the court.

24 12.MISCELLANEOUS

25 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
26 person to seek its modification by the court in the future.

27 12.2 Right to Assert Other Objections. By stipulating to the entry of this
28 Stipulated Protective Order no Party waives any right it otherwise would have to

1 object to disclosing or producing any information or item on any ground not addressed
2 in this Stipulated Protective Order. Similarly, no Party waives any right to object on
3 any ground to use in evidence of any of the material covered by this Stipulated
4 Protective Order.

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

12 13.FINAL DISPOSITION

13 13.1 Unless otherwise agreed or ordered, this Order will remain in force after
14 dismissal or entry of final judgment not subject to further appeal, except with respect
15 to those documents and information that become a matter of public record.

16 13.2 Within sixty (60) days after the final disposition of this action each
17 Receiving Party must return all Protected Material to the Producing Party or destroy
18 such material. As used in this subdivision, "all Protected Material" includes all
19 reproductions, copies, abstracts, compilations, summaries, and any other format
20 reproducing or capturing any of the Protected Material. Whether the Protected
21 Material is returned or destroyed, the Receiving Party must submit a written
22 certification to the Producing Party (and, if not the same person or entity, to the
23 Designating Party) by the 60 day deadline that (1) identifies (by category, where
24 appropriate) all the Protected Material that was returned or destroyed and (2) affirms
25 that the Receiving Party has not retained any reproductions, copies, abstracts,
26 compilations, summaries or any other format reproducing or capturing any of the
27 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an
28 archival copy of all pleadings, motion papers, trial, deposition, and hearing

1 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert
2 reports, attorney work product, and consultant and expert work product, even if such
3 materials contain Protected Material. Any such archival copies that contain or
4 constitute Protected Material remain subject to this Stipulated Protective Order as set
5 forth in Section 4 (DURATION).

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7 **FOR GOOD CAUSE SHOWN BY THE PARTIES' STIPULATION, IT**
8 **IS SO ORDERED.**

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10 DATED: November 20, 2020



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12 PEDRO V. CASTILLO
13 UNITED STATES MAGISTRATE JUDGE
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Exhibit “A”

1 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

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3 **[ATTACH FULLY EXECUTED STIPULATED PROTECTIVE ORDER TO**
4 **THIS AFFIDAVIT]**

5 **UNITED STATES DISTRICT COURT**
6 **CENTRAL DISTRICT OF CALIFORNIA**

7

8 FEDERAL INSURANCE COMPANY
9 as subrogee David Abadi,

10 Plaintiff,

11 vs.

12 BRASSCRAFT MANUFACTURING
13 COMPANY,

13 Defendant

CASE NO. 2-20-cv-03750-JFW-PVC

**STIPULATED PROTECTIVE
ORDER**

14 I, _____, (insert name of recipient of the
15 documents) declare under penalty of perjury that the following is true and correct:

16 1. My full name and business address are:

17 _____.

18 2. I have read and fully understand the attached Stipulated Protective Order.

19 3. I am fully familiar with and agree to comply with and be bound by the
20 provisions of said Stipulated Protective Order, and submit to the jurisdiction of the
21 court in which this matter is pending for any proceedings with respect to said
22 Stipulated Protective Order.

23 4, I will not discuss or divulge to persons, other than those specifically
24 authorized by this Stipulated Protective Order, and will not copy or use, except solely
25 for the purposes of this action and for no other purposes, any documents, materials or
26 information obtained pursuant to said Stipulated Protective Order.

27 5. Within thirty (30) days from the entry of final judgment, settlement, or
28 dismissal in connection with this action, I agree to return to counsel for producing party

1 or destroy my original copies of all Confidential documents and information received
2 under this Stipulated Protective Order, together with all reproductions, copies, abstracts,
3 summaries, or other writings that contain, reflect, or disclose the substance of the
4 Confidential Information.

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6 EXECUTED this _____ day of _____, 20____.

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Signature of Declarant

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