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12 Attorneys for Defendants

Attorneys for Plaintiff and The Class

13
 14 UNITED STATES DISTRICT COURT
 15 CENTRAL DISTRICT OF CALIFORNIA

17 ELEANOR BENDALL, an individual,
 on behalf of herself and all others
 18 similarly situated,

Case No. SACV 13-00842-DOC (Ex)

STIPULATED PROTECTIVE ORDER

19 Plaintiff,

20 v.

21 AMERICAN AUTOMOTIVE SERVICE
 SOLUTIONS, INC. an Illinois
 22 Corporation; MARATHON
 FINANCIAL INSURANCE
 23 COMPANY, INC., an Illinois
 Corporation; and DOES 1 through 50,
 24 inclusive,

25 Defendants.

1 Pursuant to F.R.C.P. 26(c), Plaintiff and Defendants (collectively the
2 “Parties”) agree as follows and respectfully move the Court to enter the same as a
3 Protective Order:

4 WHEREAS, the Parties desire to exchange documents in the above
5 captioned matter (the “Litigation”);

6 WHEREAS, certain materials to be exchanged may constitute or contain
7 confidential, proprietary, or commercial information, as more fully discussed
8 below;

9 WHEREAS, the Parties are willing to enter into this Stipulated Protective
10 Order regarding confidential information;

11 WHEREAS, the Parties agree that an Order containing the terms set forth
12 herein may be entered by the Court without further notice in order to safeguard the
13 confidentiality of certain information and documents;

14 WHEREAS, by entering this agreement, a Party has not waived the right to
15 challenge the appropriateness of discovery in this matter; and

16
17 I. “Confidential Material” shall mean and include all papers, records,
18 data, information and other materials produced, exchanged or disclosed by the
19 Parties with a stamped designation of “Confidential,” and portions of such
20 documents that contain proprietary financial information belonging to the
21 disclosing Party. Confidential Material must be treated as confidential by all
22 Parties to the Litigation and used only for the prosecution and defense of claims
23 in the Litigation and for no other purpose. In designating information as
24 Confidential Material the Party seeking to protect the confidentiality of such
25 information (the “Designating Party”) will make such designation only as to that
26 information that the Designating Party in good faith believes satisfy the definition
27 set forth above.

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1 II. Except as otherwise ordered by a court of competent jurisdiction, all
2 Confidential Material produced in the Litigation may be disclosed, transmitted,
3 disseminated and used *only* by the following persons:

- 4 A. the Parties;
- 5 B. attorneys of the Parties actively working on this case;
- 6 C. persons regularly employed with the attorneys actively working
7 on the case whose assistance is required by said attorneys in this action;
- 8 D. the Court and its employees (“Court Personnel”);
- 9 E. stenographic reporters who are engaged in proceedings
10 necessarily incident to the conduct of this action;
- 11 F. expert witnesses (testifying and non-testifying) and consultants
12 retained in connection with this action, to the extent such disclosure is
13 necessary for preparation, trial or other proceedings in this case;
- 14 G. deponents and witnesses; and
- 15 H. other persons by written agreement of the Parties.

16 III. Prior to disclosure of any of the Confidential Material to those
17 identified in Paragraphs II above, counsel for the Parties shall provide a copy of
18 this Stipulated Protective Order to the person to whom the Confidential Material is
19 to be disclosed, disseminated or divulged, and have them sign an Affidavit of
20 Compliance in the form attached hereto as Exhibit A. Such affidavits shall be
21 maintained by counsel and not subject to production except for an *in camera*
22 review by the Court upon application by a Party.

23 IV. Confidential Material will not be used in any document of public
24 record, including but not limited to motions filed with the Court, unless filed as
25 suppressed (or equivalent), or unless the parties have agreed otherwise in writing.
26 Whenever a deposition involves the disclosure of confidential information, the
27 deposition or portions thereof shall, at the election of counsel, be designated as
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1 confidential and shall be subject to the provisions of this Stipulated Protective
2 Order. Such designation shall be made on the record during the deposition.
3 Notwithstanding the foregoing, Confidential Material may be publicly disclosed at
4 any trial or evidentiary hearing in the Litigation.

5 V. If, after entry of this Stipulated Protective Order, a document is
6 produced by a party and not labeled as Confidential Material when produced the
7 party may not thereafter designate it as Confidential Material unless the disclosure
8 was inadvertent and the party so designates it as Confidential Material within
9 twenty-eight (28) days of the date of the original production of the document.

10 VI. Notwithstanding anything to the contrary herein, any Party may freely
11 disclose its own Confidential Material in any manner it chooses, including to third
12 parties. Once a Party discloses its own Confidential Material without providing for
13 the continued confidential treatment of that information, the disclosed Confidential
14 Material shall no longer be subject to the terms of this Stipulated Protective Order.

15 VII. No documents or other material shall become "Confidential Material"
16 or be subject to this Stipulated Protective Order by virtue of a Party's designation
17 if such document or other material already is publicly available or in the possession
18 of a non-designating Party or other non-party. Notwithstanding the foregoing,
19 documents previously exchanged by the Parties pursuant to their informal
20 confidentiality agreement may be designated as confidential and be protected
21 hereunder.

22 VIII. A Party may challenge a Party's designation of information or
23 materials produced herein as Confidential by serving a written objection upon the
24 Designating Party. The Designating Party shall notify the challenging Party in
25 writing of the bases for the asserted designation within 7 calendar days after
26 receiving any written objection. The Parties shall confer in good faith as to the
27 validity of the designation within 7 calendar days after the challenging Party has
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1 received the notice of the bases for the asserted designation. If an agreement as to
2 the designation is still not reached, the objecting Party may make an appropriate
3 application to the Court requesting that specifically identified documents be
4 excluded from the provisions of this Stipulated Protective Order. The Designating
5 Party shall have the burden to demonstrate that the designation of Confidential is
6 proper. Until a dispute over the asserted designation is finally resolved by the
7 Parties or the Court, all Parties and other persons shall treat the information or
8 materials in question as designated as Confidential.

9 IX. Any Party may apply to the Court, on written notice and in
10 accordance with the Rules of Civil Procedure, for an order amending, modifying,
11 or vacating this Stipulated Protective Order or any provision of it.

12 X. Neither the taking of, nor the failure to take, any action to enforce the
13 provisions of this Stipulated Protective Order, nor the failure to object or take any
14 action, shall constitute a waiver of any right of any of the Parties to seek and obtain
15 protection or relief of any kind.

16 XI. The Parties agree that any dispute, objection or matter relating in
17 any way to or arising in connection with this Stipulated Protective Order shall
18 be heard and decided by the Court in the Litigation pursuant to Colorado law.

19 XII. This Stipulated Protective Order shall continue to be binding
20 throughout and after the conclusion of the Litigation, unless modified by the Court
21 upon application of any Party, such modification being expressly reserved to
22 accommodate the Parties' changing discovery needs as this case develops. Upon
23 final termination of the Litigation, whether by judgment, settlement, or otherwise,
24 all Confidential Material (and all copies thereof) shall be returned to the
25 Designating Party or destroyed. Counsel may retain a copy of all Confidential
26 Material and all briefs, pleadings, or other filings with the Court, or attorney work
27 product which incorporates or discloses Confidential Material, which need not be
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1 destroyed, but shall remain subject to this Protective Order, unless otherwise
2 agreed to in writing by the Parties hereto.

3 DATED: January 9, 2014

Respectfully Submitted,
STONEBARGER LAW, APC

6 /s/ Gene J. Stonebarger
7 GENE J. STONEBARGER
8 RICHARD D. LAMBERT
9 75 Iron Point Circle, Suite 145
10 Folsom, CA 95630

11 DATED: January 9, 2014

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/s/ Thomas A. Kearney
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17 DATED: January 9, 2014

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IT IS SO ORDERED.

DATED: January 9, 2014



Honorable Charles F. Eick,
Magistrate Judge

Exhibit A

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ELEANOR BENDALL, an individual, on
behalf of herself and all others similarly
situated,

Plaintiff,

v.

AMERICAN AUTOMOTIVE SERVICE
SOLUTIONS, INC. an Illinois Corporation;
MARATHON FINANCIAL INSURANCE
COMPANY, INC., an Illinois Corporation;
and DOES 1 through 50, inclusive,

Defendants.

Case No. SACV 13-00842-DOC (Ex)

**ACKNOWLEDGEMENT AND
AGREEMENT OF CONFIDENTIALITY**

I certify that I have read the Protective Order for the above-styled case. I fully understand the terms of the Order. I acknowledge that I am bound by the terms of the Order, and I agree to comply with those terms. I understand and acknowledge that failure to comply with the terms of this Order could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner, nor take any actions that would lead to the disclosure of, any information or item that is subject to this Protective Order to any person or entity except in strict compliance with the provisions of this Order. I consent to the personal jurisdiction of the United States District Court, Central District of California, for any proceeding involving the enforcement of this Order.

Signature

Print Name

Affiliation

Date