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 7

8 **UNITED STATES DISTRICT COURT**
 9 **CENTRAL DISTRICT OF CALIFORNIA**

10 MONARCH LIFE INSURANCE
 11 COMPANY, a corporation,

12 Plaintiff,

13 vs.

14 ROBERT M. TURNER, M.D.,

15 Defendant.

Case No. 8:17-cv-01732-JLS-JCG

(Honorable Jay C. Gandhi)

DISCOVERY MATTER

**STIPULATED PROTECTIVE
 ORDER**

Courtroom: 10A

Complaint Filed: October 3, 2017

19 ROBERT M. TURNER, M.D.,

20 Defendant and Counter-
 21 Claimant,

22 vs.

23 MONARCH LIFE INSURANCE
 24 COMPANY, and DOES 1 through 30,
 Inclusive,

25 Plaintiff and Counter-
 26 Defendant,

1 Plaintiff and Counter-Defendant Monarch Life Insurance Company
2 (“Monarch”) and Defendant and Counter-Claimant Robert M. Turner, M.D. (“Dr.
3 Turner”) hereby stipulate as follows:
4

5 **1. A. PURPOSE AND LIMITS OF THIS ORDER**

6 Discovery in this action is likely to involve production of confidential,
7 proprietary, or private information for which special protection from public
8 disclosure and from use for any purpose other than prosecuting this litigation may
9 be warranted. Accordingly, the parties hereby stipulate to and petition the Court to
10 enter the following Stipulated Protective Order. The parties acknowledge that this
11 Order does not confer blanket protections on all disclosures or responses to
12 discovery and that the protection it affords from public disclosure and use extends
13 only to the limited information or items that are entitled to confidential treatment
14 under the applicable legal principles. The parties further acknowledge, as set forth in
15 Section 12.3, below, that this Stipulated Protective Order does not entitle them to
16 file confidential information under seal; Civil Local Rule 79-5 sets forth the
17 procedures that must be followed and the standards that will be applied when a party
18 seeks permission from the Court to file material under seal.
19

20 **B. GOOD CAUSE STATEMENT**

21 There is good cause for issuance of the Order pursuant to Federal Rule of
22 Civil Procedure 26(c) because discovery will include the production of confidential,
23 proprietary or trade secret documents and/or information for which special
24 protection from public disclosure and from use for any purpose other than
25 prosecution of this action is warranted. Such materials include but are not limited to
26 disability income insurance policy files, bank and business records that contain
27 financial, medical, insurance-related and/or other private information belonging to
28 Dr. Turner and, in some cases to non-parties such as Dr. Turner’s current or former

1 business partners. Discovery may also involve the production of certain
2 confidential, proprietary or private information belonging to Monarch, such as
3 materials relating to its disability income insurance business including, but not
4 limited to, information pertaining to claims handling, internal company procedures
5 and/or company financial information, the disclosure of which would give
6 Monarch's competitors information that otherwise could not be obtained, and which
7 competitors could adopt at a substantial cost savings. The confidential, proprietary
8 or trade secret documents and information are not otherwise generally unavailable to
9 the public, and may be privileged or otherwise protected from disclosure under state
10 or federal statutes, court rules, case decisions, or common law. Without a protective
11 order, the confidentiality of the foregoing materials cannot be adequately
12 maintained. This Stipulation and the Order shall govern the designation and
13 handling of the aforementioned materials.

14 Accordingly, to expedite the flow of information, to facilitate the prompt
15 resolution of disputes over confidentiality of discovery materials, to adequately
16 protect information the parties are entitled to keep confidential, to ensure that the
17 parties are permitted reasonable necessary uses of such material in preparation for
18 and in the conduct of trial, to address their handling at the end of the litigation, and
19 serve the ends of justice, a protective order for such information is justified in this
20 matter. It is the intent of the parties that information will not be designated as
21 confidential for tactical reasons and that nothing will be so designated without a
22 good faith belief that it has been maintained in a confidential, non-public manner,
23 and there is good cause why it should not be part of the public record of this case.

24

25 **2. DEFINITIONS**

26 2.1 Action: The above-captioned lawsuit.

27 2.2 Challenging Party: a Party or Non-Party that challenges the
28 designation of information or items under this Order.

1 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
2 how it is generated, stored or maintained) or tangible things that qualify for
3 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
4 the Good Cause Statement.

5 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
6 their support staff).

7 2.5 Designating Party: a Party or Non-Party that designates information or
8 items that it produces in disclosures or in responses to discovery as
9 “CONFIDENTIAL.”

10 2.6 Disclosure or Discovery Material: all items or information, regardless
11 of the medium or manner in which it is generated, stored, or maintained (including,
12 among other things, testimony, transcripts, and tangible things), that are produced or
13 generated in disclosures or responses to discovery in this matter.

14 2.7 Expert: a person with specialized knowledge or experience in a matter
15 pertinent to the litigation who has been retained by a Party or its counsel to serve as
16 an expert witness or as a consultant in this Action.

17 2.8 House Counsel: attorneys who are employees of a party to this Action.
18 House Counsel does not include Outside Counsel of Record or any other outside
19 counsel.

20 2.9 Non-Party: any natural person, partnership, corporation, association, or
21 other legal entity not named as a Party to this action.

22 2.10 Outside Counsel of Record: attorneys who are not employees of a
23 party to this Action but are retained to represent or advise a party to this Action and
24 have appeared in this Action on behalf of that party or are affiliated with a law firm
25 which has appeared on behalf of that party, and includes support staff.

26 2.11 Party: any party to this Action, including all of its officers, directors,
27 employees, consultants, retained experts, and Outside Counsel of Record (and their
28 support staffs).

1 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
2 Discovery Material in this Action.

3 2.13 Professional Vendors: persons or entities that provide litigation
4 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
5 demonstrations, and organizing, storing, or retrieving data in any form or medium)
6 and their employees and subcontractors.

7 2.14 Protected Material: any Disclosure or Discovery Material that is
8 designated as “CONFIDENTIAL.”

9 2.15 Receiving Party: a Party that receives Disclosure or Discovery
10 Material from a Producing Party.

11
12 **3. SCOPE**

13 The protections conferred by this Stipulation and Order cover not only
14 Protected Material (as defined above), but also (1) any information copied or
15 extracted from Protected Material; (2) all copies, excerpts, summaries, or
16 compilations of Protected Material; and (3) any testimony, conversations, or
17 presentations by Parties or their Counsel that might reveal Protected Material. Any
18 use of Protected Material at trial shall be governed by the orders of the trial judge.
19 This Order does not govern the use of Protected Material at trial.

20
21 **4. DURATION**

22 Even after final disposition of this litigation, the confidentiality obligations
23 imposed by this Order shall remain in effect until a Designating Party agrees
24 otherwise in writing or a court order otherwise directs. Final disposition shall be
25 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with
26 or without prejudice; and (2) final judgment herein after the completion and
27 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
28

1 including the time limits for filing any motions or applications for extension of time
2 pursuant to applicable law.

3
4 **5. DESIGNATING PROTECTED MATERIAL**

5 5.1 Exercise of Restraint and Care in Designating Material for Protection:

6 Each Party or Non-Party that designates information or items for protection under
7 this Order must take care to limit any such designation to specific material that
8 qualifies under the appropriate standards. The Designating Party must designate for
9 protection only those parts of material, documents, items, or oral or written
10 communications that qualify so that other portions of the material, documents,
11 items, or communications for which protection is not warranted are not swept
12 unjustifiably within the ambit of this Order.

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

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

21 5.2 Manner and Timing of Designations: Except as otherwise provided in
22 this Order (*see, e.g.*, second paragraph of section 5.2(a), below), or as otherwise
23 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
24 under this Order must be clearly so designated before the material is disclosed or
25 produced.

26 Designation in conformity with this Order requires:

27 (a) for information in documentary form (e.g., paper or electronic
28 documents, but excluding transcripts of depositions or other pretrial or trial

1 proceedings), that the Producing Party affix, at a minimum, the legend
2 “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that
3 contains protected material. If only a portion or portions of the material on a page
4 qualifies for protection, the Producing Party also must clearly identify the protected
5 portion(s) (e.g., by making appropriate markings in the margins). A Party or Non-
6 Party that makes original documents available for inspection need not designate
7 them for protection until after the inspecting Party has indicated which documents it
8 would like copied and produced. During the inspection and before the designation,
9 all of the material made available for inspection shall be deemed
10 “CONFIDENTIAL.” After the inspecting Party has identified the documents it
11 wants copied and produced, the Producing Party must determine which documents,
12 or portions thereof, qualify for protection under this Order. Then, before producing
13 the specified documents, the Producing Party must affix the “CONFIDENTIAL
14 legend” to each page that contains Protected Material. If only a portion or portions
15 of the material on a page qualifies for protection, the Producing Party also must
16 clearly identify the protected portion(s) (e.g., by making appropriate markings in the
17 margins).

18 (b) for testimony given in depositions that the Designating Party identify
19 the Disclosure or Discovery Material on the record, before the close of the
20 deposition all protected testimony.

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

27 5.3 Inadvertent Failures to Designate: If timely corrected, an inadvertent
28 failure to designate qualified information or items does not, standing alone, waive

1 the Designating Party's right to secure protection under this Order for such material.
2 Upon timely correction of a designation, the Receiving Party must make reasonable
3 efforts to assure that the material is treated in accordance with the provisions of this
4 Order.

5
6 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

7 6.1 Timing of Challenges: Any Party or Non-Party may challenge a
8 designation of confidentiality at any time that is consistent with the Court's
9 Scheduling Order.

10 6.2 Meet and Confer: The Challenging Party shall initiate the dispute
11 resolution process under Local Rule 37.1 *et seq.*

12 6.3 Burden of Persuasion: The burden of persuasion in any such challenge
13 proceeding shall be on the Designating Party. Frivolous challenges, and those made
14 for an improper purpose (e.g., to harass or impose unnecessary expenses and
15 burdens on other parties) may expose the Challenging Party to sanctions. Unless the
16 Designating Party has waived or withdrawn the confidentiality designation, all
17 parties shall continue to afford the material in question the level of protection to
18 which it is entitled under the Producing Party's designation until the Court rules on
19 the challenge.

20
21 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

22 7.1 Basic Principles: A Receiving Party may use Protected Material that is
23 disclosed or produced by another Party or by a Non-Party in connection with this
24 Action only for prosecuting, defending, or attempting to settle this Action. Such
25 Protected Material may be disclosed only to the categories of persons and under the
26 conditions described in this Order. When the Action has been terminated, a
27 Receiving Party must comply with the provisions of Section 13, below (FINAL
28 DISPOSITION).

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

4 7.2 Disclosure of “CONFIDENTIAL” Information or Items: Unless
5 otherwise ordered by the Court or permitted in writing by the Designating Party, a
6 Receiving Party may disclose any information or item designated
7 “CONFIDENTIAL” only to:

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

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

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

16 (d) the Court and its personnel;

17 (e) court reporters and their staff;

18 (f) professional jury or trial consultants, mock jurors, and Professional
19 Vendors to whom disclosure is reasonably necessary for this Action and who have
20 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

21 (g) the author or recipient of a document containing the information or a
22 custodian or other person who otherwise possessed or knew the information;

23 (h) during their depositions, witnesses ,and attorneys for witnesses, in the
24 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
25 requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they will
26 not be permitted to keep any confidential information unless they sign the
27 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
28 agreed by the Designating Party or ordered by the Court. Pages of transcribed

1 deposition testimony or exhibits to depositions that reveal Protected Material may
2 be separately bound by the court reporter and may not be disclosed to anyone except
3 as permitted under this Stipulated Protective Order; and

4 (i) any mediator or settlement officer, and their supporting personnel,
5 mutually agreed upon by any of the parties engaged in settlement discussions.

6
7 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
8 **PRODUCED IN OTHER LITIGATION**

9 If a Party is served with a subpoena or a Court order issued in other litigation
10 that compels disclosure of any information or items designated in this Action as
11 “CONFIDENTIAL,” that Party must:

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

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

18 (c) cooperate with respect to all reasonable procedures sought to be
19 pursued by the Designating Party whose Protected Material may be affected. If the
20 Designating Party timely seeks a protective order, the Party served with the
21 subpoena or court order shall not produce any information designated in this action
22 as “CONFIDENTIAL” before a determination by the Court from which the
23 subpoena or order issued, unless the Party has obtained the Designating Party’s
24 permission. The Designating Party shall bear the burden and expense of seeking
25 protection in that court of its confidential material and nothing in these provisions
26 should be construed as authorizing or encouraging a Receiving Party in this Action
27 to disobey a lawful directive from another court.

28

1 **9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**
2 **PRODUCED IN THIS LITIGATION**

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

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

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

15 (2) promptly provide the Non-Party with a copy of the
16 Stipulated Protective Order in this Action, the relevant discovery
17 request(s), and a reasonably specific description of the information
18 requested; and (3) make the information requested available for
19 inspection by the Non-Party, if requested.

20 (c) If the Non-Party fails to seek a protective order from this Court within
21 14 days of receiving the notice and accompanying information, the Receiving Party
22 may produce the Non-Party’s confidential information responsive to the discovery
23 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
24 not produce any information in its possession or control that is subject to the
25 confidentiality agreement with the Non-Party before a determination by the Court.
26 Absent a court order to the contrary, the Non-Party shall bear the burden and
27 expense of seeking protection in this Court of its Protected Material.

28

1 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

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

10
11 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
12 **PROTECTED MATERIAL**

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

23
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 Protective Order no Party waives any right it otherwise would have to object to

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

4 12.3 Filing Protected Material: A Party that seeks to file under seal any
5 Protected Material must comply with Civil Local Rule 79-5. Protected Material
6 may only be filed under seal pursuant to a court order authorizing the sealing of the
7 specific Protected Material at issue. If a Party's request to file Protected Material
8 under seal is denied by the Court, then the Receiving Party may file the information
9 in the public record unless otherwise instructed by the Court.

10
11 **13. FINAL DISPOSITION**

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

1 constitute Protected Material remain subject to this Protective Order as set forth in
2 Section 4, above (DURATION).

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

6 DATED: April 9, 2018 HINSHAW & CULBERTSON LLP

7
8 By: /s/ Sandra I. Weishart
9 SANDRA I. WEISHART
10 CHAKAMEH GANJI
11 Attorneys for Plaintiff and Counter-
12 Defendant Monarch Life Insurance
13 Company

14 DATED: April 9, 2018 NEWMAYER & DILLION LLP

15 By:
16 /s/ Stephen M. Hauptman
17 STEPHEN M. HAUPTMAN
18 Attorney for Defendant and Counter-
19 Claimant Robert M. Turner, M.D.

20 **Signature Attestation**

21 Pursuant to Local Rule 5-4. 3.4(a)(2)(1), I hereby certify that the content of
22 this document is acceptable to Stephen Hauptman, counsel for Defendant and
23 Counter-Claimant, and that I have obtained Mr. Hauptman’s authorization to affix
24 his electronic signature to this document.

25 /s/ Sandra I. Weishart
26 Sandra I. Weishart

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ORDER

FOR GOOD CAUSE SHOWN,

IT IS SO ORDERED.

DATED: April 10, 2018



Honorable Jay C. Gandhi
United States Magistrate Judge

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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 on [date] in the case of *Monarch Life Insurance
Company v. Robert M. Turner, M.D.*, United States District Court, Central District
of California, Case No. 8:17-cv-01732-JLS-JCG. 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: _____

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CERTIFICATE OF SERVICE

Monarch Life Insurance Company

Case No. 8:17-cv-1732-JLS (JCGx)

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

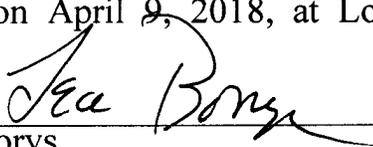
I am a citizen of the United States and employed in Los Angeles, California, at the office of a member of the bar of this Court at whose direction this service was made. I am over the age of 18 and not a party to the within actions; my business address is 633 West 5th Street, Los Angeles, CA 90071-2800.

On April 9, 2018, I served the document(s) entitled, STIPULATED PROTECTIVE ORDER on the interested parties in this action by placing true copies thereof enclosed in a sealed envelope(s) addressed as stated below:

SEE ATTACHED SERVICE LIST

(BY CM/ECF SERVICE): I caused such document(s) to be delivered electronically via CM/ECF as noted herein.

I declare under penalty of perjury under the laws of the United States that the above is true and correct and was executed on April 9, 2018, at Los Angeles, California.



Lea Borys

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SERVICE LIST

Monarch Life Insurance Company

Case No. 8:17-cv-1732-JLS (JCGx)

Stephen M. Hauptman, Esq.
Newmeyer & Dillion LLP
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*Attorneys for Defendant & Counter-
Claimant*
Robert M. Turner, M.D.