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11 Attorneys for Defendant  
 12 THE PRUDENTIAL INSURANCE  
 COMPANY OF AMERICA (erroneously  
 13 sued as PRUDENTIAL INSURANCE  
 COMPANY OF AMERICA)

14  
 15 **UNITED STATES DISTRICT COURT**  
 16 **EASTERN DISTRICT OF CALIFORNIA**

18 DONNA L. MURRAY,  
 19 Plaintiff,

20 v.

21 PRUDENTIAL INSURANCE COMPANY  
 22 OF AMERICA; and DOES 1 through 50,  
 inclusive,

23 Defendants.  
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Case No.: 09-cv-03480-MCE-JFM

**STIPULATION AND PROTECTIVE  
 ORDER**

Honorable Morrison C. England, Jr.

Trial Date: Feb. 27, 2012  
 Discovery Cut-off: April 27, 2011  
 Motion Cut-off: July 28, 2011

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**STIPULATED PROTECTIVE ORDER**

To expedite the flow of discovery material, facilitate the prompt resolution of disputes over confidentiality, adequately protect material claimed by Donna L. Murray (“Plaintiff”) and The Prudential Insurance Company of America (“Prudential”) (collectively “the Parties”) to be confidential and/or proprietary, and ensure that protection is afforded only to material so designated by the Parties and entitled under the applicable legal principles to treatment as Confidential, pursuant to the Court’s authority under Federal Rule of Civil Procedure 26(c), Local Rules 141 and 141.1, IT IS ORDERED:

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1. Confidential Documents. This Order shall govern all documents produced or exchanged that are stamped or otherwise marked by a Party or Non-Party from whom discovery is sought with the legend “Confidential.” Confidential documents which may be subject to this Order shall include: (a) Prudential’s policies, procedures, guidelines, memoranda and manuals, which contain proprietary and commercially sensitive information, the disclosure of which might adversely affect Prudential’s competitive position, business operation, or economic interests; (b) Plaintiff’s claim file, which contains personal and confidential information of Plaintiff and proprietary and commercially sensitive information of Prudential; (c) financial information of an individual or entity; (d) the Group Contract between Prudential and JPMorgan Chase Bank, as Trustee for the American Institute of Certified Public Accountants Insurance Trust.

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2. Scope of Confidential Designation. The special treatment accorded Confidential document(s) shall reach:

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- a) All documents currently or hereafter designated Confidential as set forth in Paragraph 1 above;
  - b) All copies, extracts, compilations and complete or partial summaries prepared from such documents;
  - c) Any portion of a deposition transcript or exhibit, or portion thereof,

1 that refers to or discusses such documents, copies, extracts or  
2 summaries; and

- 3 d) Any portion of any discovery answer or response, affidavit,  
4 declaration, brief, or other paper filed with the Court, or as an  
5 exhibit to such paper, that discusses or refers to such documents,  
6 copies, extracts or summaries.

7 3. Restrictions on Disclosure of Confidential Documents. Except  
8 with prior written consent of all Parties and Nonparties asserting confidential  
9 treatment, and except as provided elsewhere in this Order, documents designated  
10 Confidential and all information contained in them or derived from them, may not be  
11 disclosed to any person other than:

- 12 a) The Parties and counsel of record for the Parties;  
13 b) Secretaries, paralegal assistants, and other employees of such  
14 counsel who are assisting in the prosecution and/or defense of this  
15 lawsuit;  
16 c) Actual or potential deposition or trial witnesses in this action, to the  
17 extent reasonably necessary to prepare the witnesses to testify  
18 concerning this lawsuit and the author or recipient of the  
19 documents or the original source of the confidential information.  
20 In no event, however, shall disclosure be made under this  
21 subparagraph to any witness who is or has been employed by or  
22 associated with any competitor or customer of Prudential unless the  
23 Confidential documents in question were written by, seen by or  
24 copied to such witness;  
25 d) Outside consultants and experts solely retained for the purpose of  
26 assisting counsel and the Parties in the prosecution and/or defense  
27 of this suit;  
28 e) The Court and its employees, any court exercising appellate

1 jurisdiction with respect to the determinations of this Court, the  
2 triers of fact, court reporters transcribing testimony and notarizing  
3 officers; and

- 4 f) Those persons, if any, specifically engaged by the Parties or their  
5 counsel for the limited purpose of making photocopies or images of  
6 documents and other professional vendors employed by the Parties  
7 or their counsel to assist in the preparation and trial of this  
8 litigation.

9 “Disclosure” is intended to be interpreted broadly, and means copying (including  
10 handwritten copies), exhibiting, showing, communicating, describing, allowing access  
11 to, or otherwise releasing to any person the documents subject to this Order or any of  
12 these documents’ content, except as expressly authorized by this Order.

13 4. Location of “Confidential” Documents. Documents designated  
14 Confidential may be reviewed only in counsel’s office by the persons identified in  
15 paragraph 3, with the following exceptions: (a) the uses provided for in paragraphs 8  
16 and 11 below; (b) outside consultants or experts may possess one copy of any  
17 Confidential documents for use at their own offices, so long as the consultant or  
18 expert certifies compliance with this Order and agrees to return the Confidential  
19 documents to the Producing Party in accordance with paragraphs 6 and 13 below; and  
20 (c) Parties may possess one copy of any confidential documents for use at their own  
21 offices, if the Party resides in another state or if the party is a corporate entity and the  
22 appropriate in-house legal personnel is located in another state. For purposes of this  
23 Order, “counsel’s office” means (i) for the Plaintiff: Daniel S. Glass, 1006 Fourth  
24 Street, 10<sup>th</sup> Floor, Sacramento, CA 95814; and (ii) for the Defendant: Alston & Bird,  
25 LLP, 1201 W. Peachtree Street, Atlanta, Georgia 30309 and 333 S. Hope Street, 16<sup>th</sup>  
26 Floor, Los Angeles, California 90071. With these exceptions, documents designated  
27 Confidential and copies thereof shall not leave counsel’s office.

28 5. Litigation Use of Confidential Documents. All information

1 designated Confidential in accordance with the terms of this Order and produced or  
2 exchanged in the course of this action shall be used or disclosed solely for the purpose  
3 of this action and shall not be used for any other purpose, including business,  
4 governmental or commercial, or in any other administrative, arbitration or judicial  
5 proceedings or actions.

6           6.     Certification of Compliance. Prior to disclosing any Confidential  
7 information, materials, or documents to any individual identified in paragraphs 3(c) or  
8 3(d) above, a Party shall provide said individual with a copy of this Order and a copy  
9 of the Acknowledgment of Confidentiality attached hereto as Exhibit A. Said  
10 individuals shall sign the Acknowledgment of Confidentiality prior to being granted  
11 access to Confidential information, materials or documents. Counsel shall maintain a  
12 copy of the signed Acknowledgment of Confidentiality and shall provide opposing  
13 counsel with a copy of the Acknowledgment of Confidentiality within 10 days of  
14 demand therefore, unless the signatory is a consulting expert who has not been named  
15 as a witness.

16           7.     Responsibility of Attorneys. The attorneys of record are  
17 responsible for employing reasonable measures, consistent with this Order, to control  
18 duplication of, access to, preservation of, and distribution of copies of Confidential  
19 documents. It shall be the obligation of counsel, upon hearing of any breach or  
20 threatened breach of this Order by any person, promptly to notify counsel for the  
21 Receiving and Producing Parties of such breach or threatened breach.

22           8.     Use of Confidential Documents at Depositions. A deponent may,  
23 during the deposition, be shown and examined about confidential documents if the  
24 deponent is or was an employee of the Party producing such document, or if the  
25 provisions of paragraph 6 are met. Any Confidential documents marked as deposition  
26 exhibits shall be separated from the remainder of the deposition transcript and  
27 exhibits. When a Party uses or refers to Confidential documents or information at a  
28 deposition, the portion of the deposition transcript that relates to such documents or

1 information shall be stamped Confidential and separated from the remainder of the  
2 transcript, and shall be treated as Confidential under the provisions of this Order.

3           9.     Designating Portions of Deposition Transcripts Confidential. Any  
4 Party or Nonparty may, within 15 days after receiving a deposition transcript,  
5 designate portions of the transcript, or exhibits to it, as Confidential. At the  
6 deposition, the Parties will attempt in good faith to preliminarily identify and  
7 designate Confidential testimony and exhibits without prejudice to their right to so  
8 designate other testimony or exhibits or withdraw such designation after receipt of the  
9 transcript. Confidential deposition testimony or exhibits may be so designated by  
10 stamping the exhibits Confidential or by underlining the portions of the pages that are  
11 Confidential and stamping such pages Confidential. Until expiration of the 15-day  
12 period, the entire deposition transcript, and all exhibits to it, will be treated as  
13 Confidential under the provisions of this Order. If no Party or Nonparty timely  
14 designates testimony or exhibits from a deposition as being Confidential, none of the  
15 deposition testimony or exhibits will be treated as Confidential. If any other Party  
16 objects to the portions of the depositions which have been designated as Confidential,  
17 the objecting Party shall notify the Court of his objection and the Court will determine  
18 whether the designated portion of the depositions should be treated as Confidential  
19 under the provisions of this Order. If the Court determines that the designated  
20 portions are not Confidential, the Confidential designation shall be removed from the  
21 deposition transcript.

22           10.   Sealing Confidential Information: Documents, transcripts or  
23 papers designated by a Party or Non-Party as Confidential may be filed under seal  
24 only after a “Request to Seal Documents” pursuant to Local Rule 141 for good cause  
25 is filed and such protection is granted by the Court.

26           11.   Use of Confidential Documents in Court. Documents determined  
27 to be Confidential under this Order, and all information contained in them or derived  
28 from them, may be used or offered into evidence at the trial of this suit provided that

1 sufficient advance notice is given to permit the designating Party or Nonparty to seek  
2 additional protections or relief from the Court if desired.

3           12. Declassification. Any Party may apply to the Court for a ruling  
4 that a document (or category of documents) stamped Confidential is not entitled to  
5 such status and protection. The Party that designated the document as Confidential  
6 shall be given notice of the application and an opportunity to respond. To maintain  
7 Confidential status, the proponent of confidentiality bears the burden of proof to show  
8 that there is good cause for the document to have such protection.

9           13. Non-Termination and Return of Documents. The provisions of  
10 this Order shall continue to apply to stamped Confidential documents and information  
11 after this suit has been terminated. Upon dissolution of matter, the Parties may seek to  
12 obtain the return of documents within 60 days after final conclusion of all aspects of  
13 this litigation by filing a motion with the Court. All Confidential documents and all  
14 copies of same (other than exhibits of record) shall be returned to the person that  
15 produced such documents or, at the option of the producer, destroyed. Additionally,  
16 any person in possession of Confidential documents that contain work product  
17 notations may destroy those documents rather than returning them to the Party that  
18 produced them. All counsel of record shall make certification of compliance herewith  
19 and shall deliver the same to counsel for the Party who produced the documents not  
20 more than 150 days after final termination of this litigation. Alternatively, the Parties  
21 and/or any Producing Non-Party may agree in writing on appropriate methods of  
22 destruction.

23           14. Subpoena by Other Courts or Agencies. If another court or an  
24 administrative agency subpoenas or orders production of Confidential documents that  
25 a Party has obtained under the terms of this Order, such Party shall promptly notify  
26 the Party who designated the document as Confidential of the service of such  
27 subpoena or order, and provide that Party with sufficient time in which to object.

28           15. No Admissions. Nothing contained in this Order, nor any action

1 taken in compliance with it, shall:

2 a) Operate as an admission by any Party that a particular  
3 document or information is, or is not, Confidential;

4 b) Operate as an admission by any Party that a particular  
5 document is, or is not, subject to discovery or admissible into evidence at the trial of  
6 this suit.

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9 Dated: \_\_\_\_\_  
October \_\_, 2010

DANIEL S. GLASS  
DANIEL S. GLASS ATTORNEY AT LAW

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Daniel S. Glass  
Attorneys for Plaintiff  
DONNA L. MURRAY

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14  
15 Dated: October 14, 2010

DEBORAH YOON JONES  
CHRISTINA HULL EIKHOFF  
SAYAKA KARITANI  
ALSTON & BIRD LLP


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Sayaka Karitani  
Attorneys for Defendant  
THE PRUDENTIAL INSURANCE  
COMPANY OF AMERICA (erroneously  
20 sued as PRUDENTIAL INSURANCE  
21 COMPANY OF AMERICA)



**ORDER**

1 Good cause appearing, IT IS HEREBY ORDERED that the terms of the  
2 Stipulated Protective Order set forth above shall govern in this case.  
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4 Dated: October 19, 2010

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6 MORRISON C. ENGLAND, JR.  
7 UNITED STATES DISTRICT JUDGE  
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1 **EXHIBIT A**

2 **ACKNOWLEDGMENT OF CONFIDENTIALITY**

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4 I hereby certify that I have read, reviewed and understand the Stipulated  
5 Protective Order Governing Confidential Materials (“Protective Order”) entered in the  
6 case of *Donna L. Murray v. The Prudential Insurance Company of America*, Case No.  
7 09-cv-03480-MCE-JFM, in the United States District Court for the Eastern District of  
8 California. I agree to abide fully and be bound by its terms with respect to any  
9 documents, materials or information designated or marked CONFIDENTIAL under  
10 the Protective Order that is furnished to me in any manner.

11 I agree not to disclose to anyone any documents, materials or information  
12 designated or marked CONFIDENTIAL other than as set forth in the Protective  
13 Order.

14 I agree not to make any copies of any documents, materials or  
15 information designated or marked CONFIDENTIAL except in accordance with the  
16 Protective Order and to return all CONFIDENTIAL documents to the Party or  
17 attorney who provided them and to return or destroy all copies.

18 I agree not to make use of any CONFIDENTIAL document under the  
19 Protective Order provided in this litigation for any purpose outside of this litigation.

20 I hereby consent to be subject to the personal jurisdiction and venue of  
21 the above-captioned Court with respect to any proceeding related to the Protective  
22 Order.

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24 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2010

25  
26 Signature \_\_\_\_\_

27  
28 Printed Name \_\_\_\_\_