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NATIONWIDE MUTUAL INSURANCE COMPANY, erroneously sued as
7 Nationwide Insurance Co., AMCO INSURANCE COMPANY, and ALLIED
PROPERTY & CASUALTY INSURANCE COMPANY, erroneously sued as
8 Allied Insurance Co.

9
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14 CLIFFORD ORLOFF, OLGA SHALYGIN ORLOFF, and ORLOFF PROPERTY
MANAGEMENT INC.
15

16 **UNITED STATES DISTRICT COURT**
17 **EASTERN DISTRICT OF CALIFORNIA**

18 CLIFFORD ORLOFF, OLGA
19 SHALYGIN ORLOFF, and ORLOFF
PROPERTY MANAGEMENT, INC.,

20 Plaintiffs,
21

22 vs.

23 NATIONWIDE INSURANCE CO.,
AMCO INSURANCE CO., ALLIED
24 INSURANCE CO., and DOES 1
through 50,

25 Defendants.
26

No: 2:14-cv-01017-MCE-DAD

**STIPULATION AND PROTECTIVE
ORDER**

27 **TO THE COURT, ALL PARTIES AND THEIR RESPECTIVE COUNSEL**
28 **OF RECORD:**

1 **IT IS HEREBY STIPULATED AND AGREED** to, by and between the parties
2 to this action, through their respective attorneys of record, HINES CARDER, LLP for
3 Defendants, NATIONWIDE MUTUAL INSURANCE COMPANY, erroneously
4 sued as Nationwide Insurance Co., AMCO INSURANCE COMPANY, and
5 ALLIED PROPERTY & CASUALTY INSURANCE COMPANY, erroneously
6 sued as Allied Insurance Co. (“Defendants”), and SIMON LAW for Plaintiffs
7 CLIFFORD ORLOFF, OLGA SHALYGIN ORLOFF, and ORLOFF PROPERTY
8 MANAGEMENT INC. (“Plaintiffs”), that certain documents produced in connection
9 with discovery proceedings in this action shall be subject to the following confidentiality
10 agreement (“the Agreement”):

11 1. The documents that are the subject of this Agreement include proprietary
12 and confidential documents of Defendants containing trade secret, proprietary or other
13 confidential research, development or commercial information, and which Defendants
14 contend are protected by trade secret privileges under Civil Code § 3426 et seq. and
15 Federal Rule of Civil Procedure 26 and which Defendants are producing to Plaintiffs
16 pursuant to discovery procedures while the above-referenced action is pending and
17 marked by Defendants as “CONFIDENTIAL” (the “Confidential Documents”).
18 Defendants may seek leave from the Court at any time to designate documents as
19 “CONFIDENTIAL” that have been inadvertently produced without having been marked
20 as such due to human error.

21 2. The Confidential Documents, and all copies or extracts therefrom, excerpts,
22 summaries, compilations, testimony, conversations, presentations by parties or counsel to
23 or in court, or in any other settings that might reveal said information, and information
24 learned from the Confidential Documents, are confidential and proprietary in nature and
25 protected by privacy rights and trade secret laws. It is the intent of the parties to preserve
26 the confidentiality of the Confidential Documents and the information learned from them.
27 The Confidential Documents and the information learned from them are not to be used in
28 any fashion other than for the purposes of this litigation, and are not to be disclosed to

1 any persons or entities except as set forth herein, and are to be kept confidential to the
2 greatest extent possible, even within the confines of this litigation.

3 3. In the event Defendants mark any document or testimony
4 “CONFIDENTIAL” which Plaintiffs believe is not protected by any trade secret privilege
5 or is not confidential or proprietary in nature, the parties shall within thirty (30) days of
6 Plaintiffs’ request, meet and confer in good faith regarding removal of the
7 “CONFIDENTIAL” designation. In the event the parties are unable to reach an
8 agreement regarding designation of the documents as Confidential Documents subject to
9 this Protective Order or designation of testimony as subject to the restrictions of this
10 Protective Order, Defendants may or shall move the Court for a court-ordered protective
11 order designating the subject documents as “CONFIDENTIAL,” and nothing within this
12 Stipulated Protective Order shall preclude Defendants from making such motion. By
13 proceeding in this order and fashion, Plaintiffs waive any claim or assertion that a motion
14 for a court-ordered protective order brought pursuant to this section 3 is not timely sought
15 or filed. The parties agree to continue to afford the material confidential protection until
16 the Court rules on any such motion.

17 4. Except as provided herein, the parties agree Defendants need not file a
18 motion for protective order pursuant to Federal Rules of Civil Procedure 26.

19 5. Immediately following the conclusion of this litigation, either by
20 settlement, judgment, dismissal or otherwise, counsel for the party or parties to which
21 Confidential Documents were produced shall destroy the Confidential Documents,
22 including any copies made of the Confidential Documents and including any extracts
23 and/or summaries of the Confidential Documents containing information taken from the
24 Confidential Documents. Each party shall provide written notice to the other side that
25 the Confidential Documents have been destroyed or, in the alternative, return the
26 Confidential Documents to the other side with a cover letter confirming all Confidential
27 Documents have been returned. The parties and Counsel for the parties shall not discuss
28 the Confidential Documents or information gleaned from the Confidential Documents at

1 all with any person or party at any time after conclusion of the litigation, other than with
2 their respective counsel and clients in the above-captioned action, counsel for Plaintiff,
3 counsel for Defendants, and the Court under seal.

4 6. The Confidential Documents shall be disclosed only to:

5 a. The Court and its officers in accordance with Paragraph 8 herein;

6 b. The parties; Counsel of Record for the parties and the staff assigned to
7 assist Counsel of Record in this matter;

8 c. Any experts or consultants retained by any of the Parties; provided such
9 expert or consultant complies with Paragraph 7 herein;

10 d. Witnesses during depositions in accordance with Paragraph 9 herein;

11 e. Persons recording testimony involving such Confidential information,
12 including Court reporters, stenographers and audio and/or video technicians, and clerical
13 staff employed by any of the foregoing;

14 f. Mediators who may be authorized by the parties to mediate the case; and

15 g. Such other persons as hereafter may be designated by written stipulation
16 of the parties, or by the Order of the Court.

17 To “disclose” the Confidential Documents means to provide the Confidential
18 Documents, or any one of them, to provide any documents which discuss the
19 Confidential Documents, or to discuss or refer to any of the contents of the Confidential
20 Documents.

21 7. The Confidential Documents may be disclosed to an expert or consultant
22 under Paragraph 6 of the Agreement only upon the expert or consultant signing Exhibit 1
23 to the Protective Order. Said expert or consultant witnesses shall not disclose the
24 Confidential Documents to any person or entity other than staff and/or colleagues
25 employed by the expert or consultant’s firm who assist them with their assignment. Said
26 expert or consultant shall either (A) return the Confidential Documents and all copies
27 thereof, including extracts and/or summaries of the Confidential Documents containing
28 information taken from the Confidential Documents, to the party’s respective counsel at

1 the conclusion of the litigation, or (B) destroy the Confidential Documents and all copies
2 thereof, including extracts and/or summaries of the Confidential Documents containing
3 information taken from Confidential Documents at the conclusion of the litigation. The
4 original of such signed Exhibit 1 shall be retained by counsel for each party who intends
5 to or does provide such expert or consultant any such Confidential Documents, until the
6 conclusion of the above-captioned action, including any appeals. If requested to do so by
7 counsel for any party, counsel shall provide a copy of such declarations to counsel
8 making the request, unless such disclosure would provide information not otherwise
9 subject to discovery (e.g., identification of non-testifying consultant experts or retained
10 experts prior to expert disclosure date or identification of potential witnesses in violation
11 of work product protection or any privilege). The parties agree not to use these
12 declarations for any purpose other than monitoring and enforcing compliance with this
13 Protective Order. The parties further agree to treat the declarations as confidential.

14 8. If Plaintiffs wish to submit to the Court any “Confidential” material,
15 Plaintiffs shall provide Defendants’ counsel thirty (30) days advance notice of the intent
16 to so submit so that Defendants can file with the Court a Notice of Request and Request
17 to Seal Documents pursuant to Local Rule 141. Defendants shall file such Notice of
18 Request and Request to Seal Documents no later than seven (7) business days from
19 receipt of written notice by Plaintiffs and shall advise the Court therein of any filing
20 deadlines affecting Plaintiffs’ intended submission to the Court. During any deposition in
21 which any of the Confidential Documents or confidential material subject to this
22 Protective Order are offered as an exhibit, or a witness is questioned about the specific
23 contents of same, whether or not offered as an exhibit, all persons present at the
24 deposition shall agree to observe the confidentiality of the Confidential Documents and
25 the material terms of this Protective Order. Said agreement shall be placed on the record
26 at the deposition, and this Protective Order shall be made an exhibit to the deposition. No
27 witness shall be permitted to take any of the Confidential Documents, or any copies of
28 same, from the deposition, nor shall they be permitted to retain any of the Confidential

1 Documents, nor shall they be permitted to disclose any of the Confidential Documents.
2 Within thirty (30) days of receipt of the original or a certified copy of the deposition
3 transcript, if Defendants contend testimony pertaining to any document marked
4 “CONFIDENTIAL” is subject to this Protective Order, counsel for Defendants shall
5 provide written notice to counsel for Plaintiffs of the page and line numbers so
6 designated. If a document designated as “CONFIDENTIAL” is used as an exhibit at a
7 deposition, that document and the deposition testimony concerning it shall be deemed
8 “CONFIDENTIAL” matter regardless of whether a party makes any formal designation
9 thereof in connection with the deposition. If any portion of a deposition transcript is
10 designated and/or deemed a “CONFIDENTIAL” matter, including exhibits, any
11 production or lodging of the transcript in its entirety shall be produced and/or lodged
12 under seal pursuant to Paragraph 8, above.

13 9. The parties reserve the right to seek an order from the Court, on noticed
14 motion, to modify or change this Protective Order, including the right to have documents
15 designated as confidential deemed not confidential. This Protective Order and the
16 Confidential Documents governed hereby can only be deemed not confidential by an
17 order of the Court upon motion or by stipulation.

18 10. Notwithstanding the termination of this action by settlement, judgment,
19 dismissal or otherwise, the United States District Court for the Eastern District of
20 California shall retain jurisdiction to enforce the Agreement.

21 **IT IS SO STIPULATED.**

22 Dated: January 23, 2015

HINES CARDER, LLP

23
24 /s/ Nicole M. Hampton

Nicole M. Hampton

Attorneys for Defendants

25 NATIONWIDE MUTUAL INSURANCE

26 COMPANY, AMCO INSURANCE

27 COMPANY AND ALLIED PROPERTY &

28 CASUALTY INSURANCE COMPANY

1 Dated: January 23, 2015

SIMON LAW

2
3 /s/ David Simon

4 David Simon

5 Attorney for Plaintiffs

6 CLIFFORD ORLOFF, OLGA SHALYGIN

7 ORLOFF, and ORLOFF PROPERTY

8 MANAGEMENT, INC.

9 ATTESTATION OF CONCURRENCE IN FILING

10 I hereby attest and certify that on January 23, 2015, I received concurrence from
11 Plaintiffs’ counsel, David Simon, to file this document with his signature attached.

12 I certify under penalty of perjury under the laws of the United States of America
13 that the foregoing is true and correct. Executed on January 23, 2015.

14 /s/ Nicole M. Hampton

15 Nicole M. Hampton

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17 **EXHIBIT 1**

18
19 I, _____, declare:

20 1. I hereby acknowledge that I have read the Stipulated Protective Order
21 regarding the Confidential Documents (hereinafter “Order”) in the case of *Clifford Orloff,*
22 *et al. v. Nationwide Insurance Company, et al,* U.S. District Court for the Eastern District
23 of California, Case No. 2:14-cv-01017-MCE-DAD (the “Lawsuit”) and I understand
24 the terms of the Order and agree to abide by and be bound by the terms of the Order.

25 2. I further acknowledge that I understand that the Confidential Documents
26 may not be disclosed to anyone, except as authorized by this Order.

27 3. I further acknowledge that the Confidential Documents may not be used for
28 any purpose other than as required for my work in the Lawsuit. I further understand and

1 acknowledge that any dissemination or use of such Confidential Documents or
2 information in a manner inconsistent with the Protective Order may subject me to
3 contempt proceedings.

4 4. I hereby consent to the jurisdiction of said Court for purposes of enforcing
5 this Protective Order.

6 5. Upon final resolution of the Lawsuit, I shall either (A) return all copies of
7 the Confidential Documents to the attorney, entity or person that retained me or my firm
8 in the Lawsuit, or that provided me with the Confidential Documents, or (B) destroy all
9 copies of those Confidential Documents in my possession, custody or control.

10 I declare under penalty of perjury under the laws of the State of California that the
11 foregoing is true and correct.

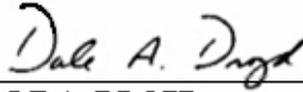
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13 Dated: _____ By: _____

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ORDER

Pursuant to the parties' stipulation, IT IS SO ORDERED.

Dated: January 26, 2015



DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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