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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

BETH WHEELER,  
Plaintiff,  
v.  
UNITED FINANCIAL CASUALTY  
COMPANY, individually and d/b/a  
Progressive, Progressive Insurance and  
Progressive.com; DOES 1 to 15,  
Defendants.

NO. 2:16-cv-01875-SB

**ORDER DENYING  
STIPULATED MOTION FOR  
PROTECTIVE ORDER**

Before the Court is parties’ Stipulated Protective Order Regarding Production and Dissemination of Trade Secret, Confidential and Proprietary Information, ECF No. 21. The parties seek a protective order to protect confidential, proprietary, and private information. This motion was heard without oral argument.

The product of pretrial discovery is presumptively public, though Federal Rule of Civil Procedure Rule 26(c) permits a district court to override this presumption upon a showing of “good cause.” *San Jose Mercury News, Inc. v. U.S. District Court—Northern Dist. (San Jose)*, 187 F.3d 1096, 1103 (9th Cir. 1999). Rule 26(c) provides that a “court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.” Prior to the grant of a protective order, the moving party must

**ORDER DENYING STIPULATED MOTION  
FOR PROTECTIVE ORDER + 1**

1 certify it has “conferred or attempted to confer with other affected parties in an  
2 effort to resolve the dispute without court action.” Fed. R. Civ. P. 26(c) (emphasis  
3 added).

4         Where the parties agree, as here, that certain information should remain  
5 confidential, it may be prudent to enter into an agreement setting forth in writing  
6 what information shall remain private. It is unnecessary, however, for such an  
7 agreement to have this Court’s imprimatur. A court issued protective order is less  
8 necessary since Rule 5(d) was amended to only require filing discovery material  
9 actually used in support of an action. Because not all discovery material need be  
10 filed, most discovery material is not readily accessible to the public. Therefore, the  
11 primary concern regarding confidential materials is how the parties themselves  
12 handle such material. This Court will not hesitate to issue a protective order when  
13 it is necessary; however, the moving party or parties must demonstrate good cause  
14 exists and must bear the “burden of showing specific prejudice or harm” that will  
15 result if no protective order is granted. *Phillips v. G.M. Corp.*, 307 F.3d 1206,  
16 1210-11 (9th Cir. 2002). In other words, the moving party must demonstrate why  
17 the parties cannot resolve the issue without court action—a standard that will  
18 generally not be met when the parties agree to the terms of a proposed protective  
19 order.

20         The motion at hand fails to demonstrate specific harm or prejudice that will  
21 result if no protective order is granted. Additionally, the parties appear to be in  
22 agreement on what material is appropriate for discovery and how it should be  
23 handled. Accordingly, the Court denies the stipulated motion for protective order.

24         The Court encourages the parties to continue cooperating with respect to the  
25 handling of potentially sensitive discovery material. The parties may, upon proper  
26 showing tied to specific discovery material, move the Court to seal certain  
27 discovery filings.

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**ORDER DENYING STIPULATED MOTION  
FOR PROTECTIVE ORDER + 2**

1 Accordingly, **IT IS HEREBY ORDERED:**

2 The Parties' Stipulated Protective Order Regarding Production and  
3 Dissemination of Trade Secret, Confidential and Proprietary Information, ECF  
4 No. 21, is **DENIED**.

5 **IT IS SO ORDERED.** The District Court Executive is hereby directed to  
6 file this Order and provide copies to counsel.

7 **DATED** this 23rd day of February, 2017.

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10 Stanley A. Bastian  
11 United States District Judge  
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