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STEPHANIE M. AMEY,
Plaintiff,
vs.

STANDARD INSURANCE COMPANY, an
Oregon Corporation, and DOES 1 through 30,
inclusive,
Defendants.

CASE NO. 2:17-cv-02299-MCE-CKD

**STIPULATED CONFIDENTIALITY
AGREEMENT AND PROTECTIVE
ORDER**

Judge: Hon. Morrison C. England
Courtroom: 7
1st Amended Complaint filed: 11/9/17
Trial Date: None

1
2 **1. INTRODUCTION**

3 1.1 PURPOSES AND LIMITATIONS.

4 Disclosure and discovery activity in this action are likely to involve production of
5 confidential, proprietary, or private information for which special protection from public disclosure
6 and from use for any purpose other than prosecuting this litigation would be warranted.
7 Accordingly, the parties hereby jointly move the Court to enter the following Protective Order. The
8 parties acknowledge that this Order does not confer blanket protections on all disclosures or
9 responses to discovery and that the protection it affords extends only to the limited information or
10 items that are entitled under the applicable legal principles to treatment as confidential. The parties
11 further acknowledge, as set forth in Section 10, below, that this Stipulated Protective Order creates
12 no entitlement to file confidential information under seal; and Local Rule 141 sets forth the
13 procedures that must be followed when a party seeks permission from the court to file material under
14 seal.

15 1.2 GOOD CAUSE STATEMENT.

16 This action is likely to involve confidential and/or private information of third parties, trade
17 secrets and other valuable research, development, commercial, financial, technical and/or proprietary
18 information for which special protection from public disclosure and from use for any purpose other
19 than prosecution of this action is warranted. Such confidential and proprietary materials and
20 information consist of, among other things, confidential business or financial information,
21 information regarding confidential business practices, or other confidential research, development,
22 or commercial information (including information implicating privacy rights of third parties),
23 information otherwise generally unavailable to the public, or which may be privileged or otherwise
24 protected from disclosure under state or federal statutes, court rules, case decisions, or common law.
25 Accordingly, to expedite the flow of information, to facilitate the prompt resolution of disputes over
26 confidentiality of discovery materials, to adequately protect information the parties are entitled to
27 keep confidential, to ensure that the parties are permitted reasonable necessary uses of such material
28 in preparation for and in the conduct of trial, to address their handling at the end of the litigation, and

1 serve the ends of justice, a protective order for such information is justified in this matter. It is the
2 intent of the parties that information will not be designated as confidential for tactical reasons and
3 that nothing be so designated without a good faith belief that it has been maintained in a confidential,
4 non-public manner, and there is good cause why it should not be part of the public record of this
5 case.

6 **2. DEFINITIONS**

7
8 2.1 Party: any party to this action, including all of its officers, directors, employees,
9 consultants, retained experts, and outside counsel (and their support staff).

10 2.2 Disclosure or Discovery Material: all items or information, regardless of the medium
11 or manner generated, stored, or maintained (including, among other things, testimony, transcripts, or
12 tangible things) that are produced or generated in disclosures or responses to discovery in this
13 matter.

14 2.3 “Confidential” Information or Items: information (regardless of how generated, stored
15 or maintained) or tangible things that qualify for protection under standards developed under Rule 26
16 of the Federal Rules of Civil Procedure (“FRCP”).

17 2.4 “Highly Confidential — Attorneys’ Eyes Only” Information or Items: extremely
18 sensitive “Confidential Information or Items” whose disclosure to another Party or nonparty would
19 create a substantial risk of serious injury that could not be avoided by less restrictive means.

20 2.5 Receiving Party: a Party that receives Disclosure or Discovery Material from a
21 Producing Party.

22 2.6 Producing Party: a Party or non-party that produces Disclosure or Discovery Material
23 in this action.

24 2.7 Designating Party: a Party or non-party that designates information or items that it
25 produces in disclosures or in responses to discovery as “Confidential” or “Highly Confidential —
26 Attorneys’ Eyes Only.”

27 2.8 Protected Material: any Disclosure or Discovery Material that is designated as
28 “Confidential” or as “Highly Confidential — Attorneys’ Eyes Only.”

1 2.9 Outside Counsel: attorneys who are not employees of a Party but who are retained to
2 represent or advise a Party in this action.

3 2.10 House Counsel: attorneys who are employees of a Party.

4 2.11 Counsel (without qualifier): Outside Counsel and House Counsel (as well as their
5 support staffs).

6 2.12 Expert: a person with specialized knowledge or experience in a matter pertinent to the
7 litigation who has been retained by a Party or its counsel to serve as an expert witness or as a
8 consultant in this action and who is not a past or a current employee or of a competitor of a Party's
9 and who, at the time of retention, is not anticipated to become an employee of a Party or a
10 competitor of a Party's. This definition includes a professional jury or trial consultant retained in
11 connection with this litigation.

12 2.13 Professional Vendors: persons or entities that provide litigation support services (e.g.,
13 photocopying; videotaping; translating; preparing exhibits or demonstrations; organizing, storing,
14 retrieving data in any form or medium; etc.) and their employees and subcontractors.

15 **3. SCOPE**

16 The protections conferred by this Stipulation and Order cover not only Protected Material (as
17 defined above), but also any information copied or extracted therefrom, as well as all copies,
18 excerpts, summaries, or compilations thereof, plus testimony, conversations, or presentations by
19 parties or counsel to or in court or in other settings that might reveal Protected Material.

20 **4. DURATION**

21 Even after the termination of this litigation, the confidentiality obligations imposed by this
22 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order
23 otherwise directs.

24 **5. DESIGNATING PROTECTED MATERIAL**

25 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party or
26 non-party that designates information or items for protection under this Order must take care to limit
27 any such designation to specific material that qualifies under the appropriate standards. A
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1 Designating Party must take care to designate for protection only those parts of material, documents,
2 items, or oral or written communications that qualify — so that other portions of the material,
3 documents, items, or communications for which protection is not warranted are not swept
4 unjustifiably within the ambit of this Order.

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

9 If it comes to a Party's or a non-party's attention that information or items that it designated
10 for protection do not qualify for protection at all, or do not qualify for the level of protection initially
11 asserted, that Party or non-party must promptly notify all other parties that it is withdrawing the
12 mistaken designation.

13 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order
14 (see, e.g., second paragraph of section 5.2(a), below), or as otherwise stipulated or ordered, material
15 that qualifies for protection under this Order must be clearly so designated before the material is
16 disclosed or produced.

17 Designation in conformity with this Order requires:

18 (a) for information in documentary form (apart from transcripts of
19 depositions or other pretrial or trial proceedings), that the Producing Party affix the Legend
20 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL — ATTORNEYS' EYES ONLY" at the top or
21 bottom of each page that contains protected material. If only a portion or portions of the material on
22 a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s)
23 (e.g., by making appropriate markings in the margins) and must specify, for each portion, the level
24 of protection being asserted (either "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL —
25 ATTORNEYS' EYES ONLY").

26 A Party or non-party that makes original documents or materials available for inspection
27 need not designate them for protection until after the inspecting Party has indicated which material it
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1 would like copied and produced. During the inspection and before the designation, all of the
2 material made available for inspection shall be deemed “HIGHLY CONFIDENTIAL —
3 ATTORNEYS’ EYES ONLY.” After the inspecting Party has identified the documents it wants
4 copied and produced, the Producing Party must determine which documents, or portions thereof,
5 qualify for protection under this Order, then, before producing the specified documents, the
6 Producing Party must affix the appropriate legend (“CONFIDENTIAL” or “HIGHLY
7 CONFIDENTIAL — ATTORNEYS’ EYES ONLY”) at the top or bottom of each page that contains
8 protected Material. If only a portion or portions of the material on a page qualifies for protection,
9 the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate
10 markings in the margins) and must specify, for each portion, the level of protection being asserted
11 (either “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”).

12 (b) for testimony given in deposition or in other pretrial or trial
13 proceedings, that the Party or non-party offering or sponsoring the testimony identify on the record,
14 before the close of the deposition, hearing, or other proceeding, all protected testimony, and further
15 specify any portions of the testimony that qualify as “HIGHLY CONFIDENTIAL —
16 ATTORNEYS’ EYES ONLY.” When it is impractical to identify separately each portion of
17 testimony that is entitled to protection, and when it appears that substantial portions of the testimony
18 may qualify for protection, the Party or non-party that sponsors, offers, or gives the testimony may
19 invoke on the record (before the deposition or proceeding is concluded) a right to have up to 20 days
20 after receipt of transcripts from the court reporter to identify the specific portions of the testimony as
21 to which protection is sought and to specify the level of protection being asserted
22 (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY”). Only
23 those portions of the testimony that are appropriately designated for protection within the 20 days
24 shall be covered by the provisions of this Stipulated Protective Order.

25 Transcript pages containing Protected Material must be separately bound by the court
26 reporter, who must affix to the top of each such page the legend “CONFIDENTIAL” or “HIGHLY
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1 CONFIDENTIAL — ATTORNEYS’ EYES ONLY,” as instructed by the Party or nonparty offering
2 or sponsoring the witness or presenting the testimony.

3 (c) for information produced in some form other than documentary, and
4 for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the
5 container or containers in which the information or item is stored the legend “CONFIDENTIAL”
6 “HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY.” If only portions of the information
7 or item warrant protection, the Producing Party, to the extent practicable, shall identify the protected
8 portions, specifying whether they qualify as “Confidential” or as “Highly Confidential — Attorneys’
9 Eyes Only.”

10 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
11 designate qualified information or items as “Confidential” or “Highly Confidential — Attorneys’
12 Eyes Only” does not, standing alone, waive the Designating Party’s right to secure protection under
13 this Order for such material. If material is appropriately designated as “Confidential” or “Highly
14 Confidential — Attorneys’ Eyes Only” after the material was initially produced, the Receiving
15 Party, on timely notification of the designation, must make reasonable efforts to assure that the
16 material is treated in accordance with the provisions of this Order.

17 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS.**

18 6.1 Timing of Challenges. Unless a prompt challenge to a Designating Party’s
19 confidentiality designation is necessary to avoid foreseeable substantial unfairness, unnecessary
20 economic burdens, or a later significant disruption or delay of the litigation, a Party does not waive
21 its right to challenge a confidentiality designation by electing not to mount a challenge promptly
22 after the original designation is disclosed.

23 6.2 Meet and Confer. A Party that elects to initiate a challenge to a Designating Party’s
24 confidentiality designation must do so in good faith and must begin the process by conferring
25 directly (in voice to voice dialogue; other forms of communication are not sufficient) with counsel
26 for the Designating Party. In conferring, the challenging Party must explain the basis for its belief
27 that the confidentiality designation was not proper and must give the Designating Party an
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1 opportunity to review the designated material, to reconsider the circumstances, and, if no change in
2 designation is offered, to explain the basis for the chosen designation. A challenging Party may
3 proceed to the next stage of the challenge process only if it has engaged in this meet and confer
4 process first.

5 6.3 Judicial Intervention. A Party that elects to press a challenge to a confidentiality
6 designation after considering the justification offered by the Designating Party may file and serve a
7 motion that identifies the challenged material and sets forth in detail the basis for the challenge.
8 Each such motion must be accompanied by a competent declaration that affirms that the movant has
9 complied with the meet and confer requirements imposed in the preceding paragraph and that sets
10 forth with specificity the justification for the confidentiality designation that was given by the
11 Designating Party in the meet and confer dialogue.

12 The burden of persuasion in any such challenge proceeding shall be on the Designating
13 Party. Until the court rules on the challenge, all parties shall continue to afford the material in
14 question the level of protection to which it is entitled under the Producing Party's designation.

15 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

16 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or
17 produced by another Party or by a non-party in connection with this case only for prosecuting,
18 defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to
19 the categories of persons and under the conditions described in this Order. When the litigation has
20 been terminated, a Receiving Party must comply with the provisions of section 11, below (FINAL
21 DISPOSITION).

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

24 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered
25 by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any
26 information or item designated CONFIDENTIAL only to:
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1 (a) the Receiving Party's Outside Counsel of record in this action, as well as
2 employees of said Counsel to whom it is reasonably necessary to disclose the information for this
3 litigation and who have signed the "Agreement to Be Bound by Protective Order" that is attached
4 hereto as Exhibit A;

5 (b) the officers, directors, and employees (including House Counsel) of the
6 Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed
7 the "Agreement to Be Bound by Protective Order" (Exhibit A);

8 (c) experts (as defined in this Order) of the Receiving Party to whom disclosure is
9 reasonably necessary for this litigation and who have signed the "Agreement to Be Bound by
10 Protective Order" (Exhibit A);

11 (d) the Court and its personnel;

12 (e) court reporters, their staffs, and professional vendors to whom disclosure is
13 reasonably necessary for this litigation and who have signed the "Agreement to Be Bound by
14 Protective Order" (Exhibit A);

15 (f) during their depositions, witnesses in the action to whom disclosure is
16 reasonably necessary and who have signed the "Agreement to Be Bound by Protective Order"
17 (Exhibit A). Pages of transcribed deposition testimony or exhibits to depositions that reveal
18 Protected Material must be separately bound by the court reporter and may not be disclosed to
19 anyone except as permitted under this Stipulated Protective Order.

20 (g) the author of the document or the original source of the information.

21 7.3 Disclosure of "HIGHLY CONFIDENTIAL — ATTORNEYS' EYES ONLY"
22 Information or Items. Unless otherwise ordered by the court or permitted in writing by the
23 Designating Party, a Receiving Party may disclose any information or item designated "HIGHLY
24 CONFIDENTIAL — ATTORNEYS' EYES ONLY" only to:

25 (a) the Receiving Party's Outside Counsel of record in this action, as well as
26 employees of said Counsel to whom it is reasonably necessary to disclose the information for this
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1 litigation and who have signed the “Agreement to Be Bound by Protective Order” that is attached
2 hereto as Exhibit A;

3 (b) House Counsel of a Receiving Party to whom disclosure is reasonably
4 necessary for this litigation and who has signed the “Agreement to be Bound by Protective Order”
5 (Exhibit A);

6 (c) Experts (as defined in this Order) to whom disclosure is reasonably necessary
7 for this litigation and who have signed the “Agreement to Be Bound by Protective Order” (Exhibit
8 A);

9 (d) the Court and its personnel;

10 (e) court reporters, their staffs, and professional vendors to whom disclosure is
11 reasonably necessary for this litigation and who have signed the “Agreement to Be Bound by
12 Protective Order” (Exhibit A); and

13 (f) the author of the document or the original source of the information.

14 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER**
15 **LITIGATION**

16 If a Receiving Party is served with a subpoena or an order issued in other litigation that
17 would compel disclosure of any information or items designated in this action as
18 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY,” the
19 Receiving Party must so notify the Designating Party, in writing (by fax or electronic mail, if
20 possible) immediately and in no event more than three court days after receiving the subpoena or
21 order. Such notification must include a copy of the subpoena or court order. The Receiving Party
22 also must immediately inform in writing the Party who caused the subpoena or order to issue in the
23 other litigation that some or all the material covered by the subpoena or order is the subject of this
24 Protective Order. In addition, the Receiving Party must deliver a copy of this Protective Order
25 promptly to the Party in the other action that caused the subpoena or order to issue.

26 The purpose of imposing these duties is to alert the interested parties to the existence of this
27 Protective Order and to afford the Designating Party in this case an opportunity to try to protect its
28 confidentiality interests in the court from which the subpoena or order issued. The Designating

1 Party shall bear the burdens and the expenses of seeking protection in that court of its confidential
2 material — and nothing in these provisions should be construed as authorizing or encouraging a
3 Receiving Party in this action to disobey a lawful directive from another court.

4 **9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

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

12 **10. FILING PROTECTED MATERIAL**

13 Documents designated “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL —
14 ATTORNEYS’ EYES ONLY,” and all information contained therein or derived therefrom, may be
15 discussed or referred to in pleadings, motions, affidavits, briefs and other papers filed with the Court,
16 or attached as exhibits thereto, provided that such “confidential” documents and information, and
17 any portion of any paper filed with the Court that discusses or refers to them, are stamped
18 “confidential” and separately filed provisionally under seal with the Clerk of the Court. Applicable
19 law, including Civil Local Rule 79-5.1, govern the filing of documents under seal with the District
20 Court.

21 **11. FINAL DISPOSITION**

22 Unless otherwise ordered or agreed in writing by the Producing Party, within sixty days after
23 the final termination of this action, each Receiving Party must return all Protected Material to the
24 Producing Party. As used in this subdivision, “all Protected Material” includes all copies, abstracts,
25 compilations, summaries or any other form of reproducing or capturing any of the Protected
26 Material. With permission in writing from the Designating Party, the Receiving Party may destroy
27 some or all of the Protected Material instead of returning it. Whether the Protected Material is
28

1 returned or destroyed, the Receiving Party must submit a written certification to the Producing Party
2 (and, if not the same person or entity, to the Designating Party) by the sixty day deadline that
3 identifies (by category, where appropriate) all the Protected Material that was returned or destroyed
4 and that affirms that the Receiving Party has not retained any copies, abstracts, compilations,
5 summaries or other forms of reproducing or capturing any of the Protected Material.

6 Notwithstanding this provision, Counsel are entitled to retain an archival copy of all
7 pleadings, motion papers, transcripts, legal memoranda, correspondence or attorney work product,
8 even if such materials contain Protected Material. Any such archival copies that contain or
9 constitute Protected Material remain subject to this Protective Order as set forth in Section 4
10 (DURATION), above.

11 **12. MISCELLANEOUS**

12 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek
13 its modification by the Court in the future.

14 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order
15 no Party waives any right it otherwise would have to object to disclosing or producing any
16 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no
17 Party waives any right to object on any ground to use in evidence of any of the material covered by
18 this Protective Order.

19 **IT IS SO STIPULATED.**

20
21 Dated: May 14, 2018

SCHOECH LAW GROUP, PC

22
23 By /s/ _____
Matthew R. Schoech
Attorneys for Plaintiff
STEPHANIE M. AMEY

24
25 Dated: May 14, 2018

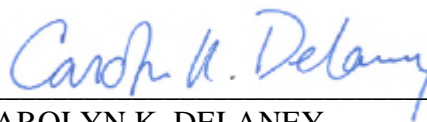
GORDON & REES LLP

26
27 By /s/ _____
Jordan S. Altura
Daniel S. Kubasak

IT IS SO ORDERED, with the following amendments and clarifications:

1. The parties shall comply with the provisions and procedures of Local Rules 140 and 141 with respect to sealing or redaction requests. To the extent that the parties' stipulation conflicts with the Local Rules, the Local Rules shall govern.
2. Prior to filing any motion related to this stipulated protective order or other discovery motion, the parties shall first exhaust informal meet-and-confer efforts and otherwise comply with Local Rule 251.
3. Nothing in this order limits the testimony of parties or non-parties, or the use of certain documents, at any court hearing or trial—such determinations will only be made by the court at the hearing or trial, or upon an appropriate motion.
4. Pursuant to Local Rule 141.1(f), the court will not retain jurisdiction over enforcement of the terms of this stipulated protective order after the action is terminated.

Dated: May 16, 2018



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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EXHIBIT "A"

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND BY PROTECTIVE ORDER

I, _____, declare as follows:

1. My address is _____.
2. My present employer is _____.
3. My present occupation or job description is _____.

I received a copy of the Confidentiality Agreement and Protective Order for the matter of *Stephanie M. Amey v. Standard Insurance Company*, United States District Court, Eastern District of California, Case No. 2:17-cv-02299-MCE-CKD (MCEx) ("Protective Order").

4. I have carefully read this Protective Order and certify that I understand its provisions.
5. I agree to comply with all the provisions of this Protective Order.
6. Subject to the terms of the Protective Order, I will hold in confidence, and will not

disclose to anyone not qualified under the Protective Order, any information contained in the Protected Material that is disclosed to me in this case.

7. Subject to the terms of the Protective Order, I will use such information that is disclosed to me only for purposes of this case.

8. Upon request, I will return and deliver all Protected Material that comes into my possession, and all documents or things that I have prepared relating thereto, to my counsel in this action, or to counsel for the Party by whom I am employed or retained or from whom I received the Protected Material.

9. I hereby submit to the jurisdiction of this Court for the purpose of enforcing the Protective Order in this case.

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1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct. Executed this _____ day of _____, 20__, at
3 _____ [City], _____ [State].
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