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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

RICHARD MEIER,

Plaintiff,

v.

ALLIED INTERSTATE, LLC,

Defendant.

Case No. 18-CV-1562-GPC-BGS

**ORDER GRANTING JOINT
MOTION FOR ENTRY OF
PROTECTIVE ORDER**

[ECF 11]

The Court GRANTS the parties' request for entry of their stipulated Protective Order.

The Court recognizes that at least some of the documents and information ("materials") being sought through discovery in the above-captioned action are, for competitive reasons, normally kept confidential by the parties. The parties have agreed to be bound by the terms of this Protective Order ("Order") in this action.

The materials to be exchanged throughout the course of the litigation between the parties may contain trade secret or other confidential research, technical, cost, price, marketing or other commercial information, as is contemplated by Federal Rule of Civil Procedure 26(c)(1)(G). The purpose of this Order is to protect the confidentiality of such materials as much as practical during the litigation. THEREFORE:

1 **DEFINITIONS**

2 1. The term “confidential information” will mean and include information
3 contained or disclosed in any materials, including documents, portions of documents,
4 answers to interrogatories, responses to requests for admissions, trial testimony,
5 deposition testimony, and transcripts of trial testimony and depositions, including data,
6 summaries, and compilations derived therefrom that is deemed to be confidential
7 information by any party to which it belongs.

8 2. The term “materials” will include, but is not be limited to: documents;
9 correspondence; memoranda; bulletins; blueprints; specifications; customer lists or
10 other material that identify customers or potential customers; price lists or schedules
11 or other matter identifying pricing; minutes; telegrams; letters; statements; cancelled
12 checks; contracts; invoices; drafts; books of account; worksheets; notes of
13 conversations; desk diaries; appointment books; expense accounts; recordings;
14 photographs; motion pictures; compilations from which information can be obtained
15 and translated into reasonably usable form through detection devices; sketches;
16 drawings; notes (including laboratory notebooks and records); reports; instructions;
17 disclosures; other writings; models and prototypes and other physical objects.

18 3. The term “counsel” will mean outside counsel of record, and other
19 attorneys, paralegals, secretaries, and other support staff employed at Katten Muchin
20 Rosenman LLP and Meier LLC.

21 **GENERAL RULES**

22 4. Each party to this litigation that produces or discloses any materials,
23 answers to interrogatories, responses to requests for admission, trial testimony,
24 deposition testimony, and transcripts of trial testimony and depositions, or information
25 that the producing party believes should be subject to this Protective Order may
26 designate the same as “CONFIDENTIAL” or “CONFIDENTIAL - FOR COUNSEL
27 ONLY.”

28 a. Designation as “CONFIDENTIAL”: Any party may designate
information as “CONFIDENTIAL” only if, in the good faith belief of such party and

1 its counsel, the unrestricted disclosure of such information could be potentially
2 prejudicial to the business or operations of such party.

3 b. Designation as “CONFIDENTIAL - FOR COUNSEL ONLY”: Any
4 party may designate information as “CONFIDENTIAL - FOR COUNSEL ONLY”
5 only if, in the good faith belief of such party and its counsel, the information is among
6 that considered to be most sensitive by the party, including but not limited to trade secret
7 or other confidential research, development, financial or other commercial information.

8 5. In the event the producing party elects to produce materials for inspection,
9 no marking need be made by the producing party in advance of the initial inspection.
10 For purposes of the initial inspection, all materials produced will be considered as
11 “CONFIDENTIAL - FOR COUNSEL ONLY,” and must be treated as such pursuant
12 to the terms of this Order. Thereafter, upon selection of specified materials for copying
13 by the inspecting party, the producing party must, within a reasonable time prior to
14 producing those materials to the inspecting party, mark the copies of those materials
15 that contain confidential information with the appropriate confidentiality marking.

16 6. Whenever a deposition taken on behalf of any party involves a disclosure
17 of confidential information of any party:

18 a. the deposition or portions of the deposition must be designated as
19 containing confidential information subject to the provisions of this Order; such
20 designation must be made on the record whenever possible, but a party may designate
21 portions of depositions as containing confidential information after transcription of the
22 proceedings; [A] party will have until fourteen (14) days after receipt of the deposition
23 transcript to inform the other party or parties to the action of the portions of the
24 transcript to be designated “CONFIDENTIAL” or “CONFIDENTIAL - FOR
25 COUNSEL ONLY.”

26 b. the disclosing party will have the right to exclude from attendance at the
27 deposition, during such time as the confidential information is to be disclosed, any
28 person other than the deponent, counsel (including their staff and associates), the court
reporter, and the person(s) agreed upon pursuant to paragraph 8 below; and

1 c. the originals of the deposition transcripts and all copies of the deposition must
2 bear the legend “CONFIDENTIAL” or “CONFIDENTIAL - FOR COUNSEL
3 ONLY,” as appropriate, and the original or any copy ultimately presented to a court for
4 filing must not be filed unless it can be accomplished under seal, identified as being
5 subject to this Order, and protected from being opened except by order of this Court.

6 7. All confidential information designated as “CONFIDENTIAL” or
7 “CONFIDENTIAL FOR COUNSEL ONLY” must not be disclosed by the receiving
8 party to anyone other than those persons designated within this Order and must be
9 handled in the manner set forth below and, in any event, must not be used for any
10 purpose other than in connection with this litigation, unless and until such designation
11 is removed either by agreement of the parties, or by order of the Court.

12 8. Information designated “CONFIDENTIAL - FOR COUNSEL ONLY” must
13 be viewed only by counsel (as defined in paragraph 3) of the receiving party, and by
14 independent experts under the conditions set forth in this Paragraph. The right of any
15 independent expert to receive any confidential information will be subject to the advance
16 approval of such expert by the producing party or by permission of the Court.

17 9. Information designated “confidential” must be viewed only by counsel (as
18 defined in paragraph 3) of the receiving party, by independent experts (pursuant to the
19 terms of paragraph 8), by court personnel, and by the additional individuals listed below,
20 provided each such individual has read this Order in advance of disclosure and has
21 agreed in writing to be bound by its terms:

22 a) Executives who are required to participate in policy decisions with
23 reference to this action;

24 b) Technical personnel of the parties with whom Counsel for the parties find
25 it necessary to consult, in the discretion of such counsel, in preparation for trial of this
26 action; and

27 c) Stenographic and clerical employees associated with the individuals
28 identified above.

1 10. With respect to material designated “CONFIDENTIAL” or
2 “CONFIDENTIAL – FOR COUNSEL ONLY,” any person indicated on the face of
3 the document to be its originator, author or a recipient of a copy of the document, may
4 be shown the same.

5 11. All information which has been designated as “CONFIDENTIAL” or
6 “CONFIDENTIAL -FOR COUNSEL ONLY” by the producing or disclosing party,
7 and any and all reproductions of that information, must be retained in the custody of
8 the counsel for the receiving party identified in paragraph 3, except that independent
9 experts authorized to view such information under the terms of this Order may retain
10 custody of copies such as are necessary for their participation in this litigation.

11 12. Before any materials produced in discovery, answers to interrogatories,
12 responses to requests for admissions, deposition transcripts, or other documents which
13 are designated as confidential information are filed with the Court for any purpose, the
14 party seeking to file such material must secure a court order allowing the filing of a
15 document under seal. An application to file a document under seal shall be served on
16 opposing counsel, and on the person or entity that has custody and control of the
17 document, if different from opposing counsel. If opposing counsel, or the person or
18 entity who has custody and control of the document, wishes to oppose the application,
19 he/she must contact the chambers of the judge who will rule on the application, to
20 notify the judge’s staff that an opposition to the application will be filed.

21 13. At any stage of these proceedings, any party may object to a designation of
22 the materials as confidential information. The party objecting to confidentiality must
23 notify, in writing, counsel for the designating party of the objected-to materials and the
24 grounds for the objection. If the dispute is not resolved consensually between the parties
25 within seven (7) days of receipt of such a notice of objections, the objecting party may
26 move the Court for a ruling on the objection. The materials at issue must be treated as
27 confidential information, as designated by the designating party, until the Court has ruled
28 on the objection or the matter has been otherwise resolved.

1 14. All confidential information must be held in confidence by those
2 inspecting or receiving it, and must be used only for purposes of this action. Counsel
3 for each party, and each person receiving confidential information must take reasonable
4 precautions to prevent the unauthorized or inadvertent disclosure of such information.
5 If confidential information is disclosed to any person other than a person authorized by
6 this Order, the party responsible for the unauthorized disclosure must immediately bring
7 all pertinent facts relating to the unauthorized disclosure to the attention of the other
8 parties and, without prejudice to any rights and remedies of the other parties, make every
9 effort to prevent further disclosure by the party and by the person(s) receiving the
10 unauthorized disclosure.

11 15. No party will be responsible to another party for disclosure of confidential
12 information under this Order if the information in question is not labeled or otherwise
13 identified as such in accordance with this Order.

14 16. If a party, through inadvertence, produces any confidential information
15 without labeling or marking or otherwise designating it as such in accordance with this
16 Order, the designating party may give written notice to the receiving party that the
17 document or thing produced is deemed confidential information, and that the document
18 or thing produced should be treated as such in accordance with that designation under
19 this Order. The receiving party must treat the materials as confidential, once the
20 designating party so notifies the receiving party. If the receiving party has disclosed the
21 materials before receiving the designation, the receiving party must notify the
22 designating party in writing of each such disclosure. Counsel for the parties will agree
23 on a mutually acceptable manner of labeling or marking the inadvertently produced
24 materials as “CONFIDENTIAL” or “CONFIDENTIAL - FOR COUNSEL ONLY -
25 SUBJECT TO PROTECTIVE ORDER.”

26 17. Nothing within this Order will prejudice the right of any party to object to
27 the production of any discovery material on the grounds that the material is protected
28 as privileged or as attorney work product.

1 18. Nothing in this Order will bar counsel from rendering advice to their
2 clients with respect to this litigation and, in the course thereof, relying upon any
3 information designated as confidential information, provided that the contents of the
4 information must not be disclosed.

5 19. This Order will be without prejudice to the right of any party to oppose
6 production of any information for lack of relevance or any other ground other than the
7 mere presence of confidential information. The existence of this Order must not be
8 used by either party as a basis for discovery that is otherwise improper under the Federal
9 Rules of Civil Procedure.

10 20. Nothing within this Order will be construed to prevent disclosure of
11 confidential information if such disclosure is required by law or by order of the Court.

12 21. Upon final termination of this action, including any and all appeals, counsel
13 for each party must, upon request of the producing party, return all confidential
14 information to the party that produced the information, including any copies, excerpts,
15 and summaries of that information, or must destroy same at the option of the receiving
16 party, and must purge all such information from all machine-readable media on which
17 it resides. Notwithstanding the foregoing, counsel for each party may retain all pleadings,
18 briefs, memoranda, motions, and other documents filed with the Court that refer to or
19 incorporate confidential information, and will continue to be bound by this Order with
20 respect to all such retained information. Further, attorney work product materials that
21 contain confidential information need not be destroyed, but, if they are not destroyed,
22 the person in possession of the attorney work product will continue to be bound by this
23 Order with respect to all such retained information.

24 22. Within 30 days from the date the case is closed with the Court, any
25 designating party shall move *ex parte* for an order for the return or destruction of any
26 documents that were filed under seal with the Court that remain in the Court's
27 possession.

28 23. The restrictions and obligations set forth within this Order will not apply
to any information that: (a) the parties agree should not be designated confidential

1 information; (b) the parties agree, or the Court rules, is already public knowledge; (c) the
2 parties agree, or the Court rules, has become public knowledge other than as a result of
3 disclosure by the receiving party, its employees, or its agents in violation of this Order;
4 or (d) has come or will come into the receiving party's legitimate knowledge
5 independently of the production by the designating party. Prior knowledge must be
6 established by preproduction documentation.

7 24. The restrictions and obligations within this Order will not be deemed to
8 prohibit discussions of any confidential information with anyone if that person already
9 has or obtains legitimate possession of that information.

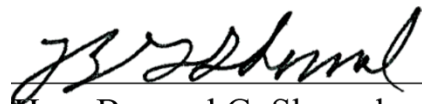
10 25. Transmission by email or some other currently utilized method of
11 transmission is acceptable for all notification purposes within this Order.

12 26. This Order does not change, amend, or circumvent any other Court rule
13 or local rule.

14 27. The Court may modify the terms and conditions of this Order for good
15 cause, or in the interest of justice, or on its own order at any time in these proceedings.
16 The parties prefer that the Court provide them with notice of the Court's intent to
17 modify the Order and the content of those modifications, prior to entry of such an
18 order.

19 **IT IS SO ORDERED.**

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21 Dated: January 15, 2019

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23 Hon. Bernard G. Skomal
24 United States Magistrate Judge
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