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4 UNITED STATES DISTRICT COURT
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6 SOUTHERN DISTRICT OF CALIFORNIA

7 THANE CHARMAN, individually and) Case No. 20-CV-00710-BEN-BLM
8 on behalf of all others similarly situated,)
9 Plaintiff,)
10 vs.) ORDER GRANTING JOINT MOTION
11) FOR PROTECTIVE ORDER
12 SELECTQUOTE INSURANCE)
13 SERVICES,) [ECF NO. 17]
14 Defendant.)

15 The Court recognizes that certain documents and information being sought
16 through discovery in the above-captioned action are, for competitive reasons or to
17 comply with applicable federal law, normally kept confidential by the parties. The
18 parties have agreed to be bound by the terms of this Protective Order (“Order”) in
19 this action.

20 The referenced documents and information contain confidential personally
21 identifiable information and/or proprietary information, as determined by the
22 parties, as well as other technical, marketing and other commercial information, as
23 is contemplated by Federal Rule of Civil Procedure 26(c)(1)(G). The purpose of
24 this Order is to protect the confidentiality of the Protected Information as much as
25 practical during the litigation. THEREFORE:

26 DEFINITIONS

27 1. The term “Protected Information,” shall include any information
28 marked by the parties as “Confidential.”

1 2. The term “counsel” will mean counsel of record, and other attorneys,
2 paralegals, secretaries, and other support staff employed in the law firms of
3 Kazerouni Law Group, APC and Madar Law Corporation, for plaintiff, Thane
4 Charman (“Plaintiff”), and Sessions, Fishman, Nathan, & Israel, LLP for
5 Defendant. “Counsel” also includes in-house attorneys for Defendant, SelectQuote
6 Insurance Services.

7 3. The term “Party” will mean any party to this action, including all of its
8 officers, directors, employees, retained experts, and Counsel of Record (and their
9 support staffs) as referenced above.

10 4. The term “Expert” will mean a person with specialized knowledge or
11 experience in a matter pertinent to the litigation who has been retained by a Party
12 or its counsel to serve as an expert witness or as a consultant in this action.

13 GENERAL RULES

14 5. Each party to this litigation that produces or discloses any Protected
15 Information, answers to interrogatories, responses to requests for admission, trial
16 testimony, deposition testimony, and transcripts of trial testimony and depositions,
17 or information that the producing party believes should be subject to this Protective
18 Order may designate the same as “CONFIDENTIAL” or “CONFIDENTIAL - FOR
19 COUNSEL ONLY.”

20 a. Designation as “CONFIDENTIAL”: Any party may designate
21 information as “CONFIDENTIAL” only if, in the good faith belief of such party
22 and its counsel, the public disclosure of such information could be potentially
23 prejudicial to the business or operations of such party.

24 b. Designation as “CONFIDENTIAL - FOR COUNSEL ONLY”: Any
25 party may designate information as “CONFIDENTIAL - FOR COUNSEL ONLY”
26 only if, in the good faith belief of such party and its counsel, the information is
27 only if, in the good faith belief of such party and its counsel, the information is
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1 among that considered to be most sensitive by the party, disclosure of which could
2 subject the disclosing party to substantial prejudice.

3 6. In the event the producing party elects to produce Protected
4 Information for inspection, no marking need be made by the producing party in
5 advance of the initial inspection. For purposes of the initial inspection, all Protected
6 Information produced will be considered as “CONFIDENTIAL” and must be
7 treated as such pursuant to the terms of this Order. Thereafter, upon selection of
8 specified Protected Information for copying by the inspecting party, the producing
9 party must, within a reasonable time prior to producing those Protected Information
10 to the inspecting party, mark the copies of those Protected Information that contain
11 confidential information with the appropriate confidentiality marking.
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13 7. Whenever a deposition taken on behalf of any party involves a
14 disclosure of confidential information of any party:

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

24 b. the disclosing party will have the right to exclude any person other than
25 the deponent, counsel (including their staff and associates), the court
26 reporter, and the person(s) agreed upon pursuant to paragraph 8 below
27 from attendance at the deposition, only if the parties prior to the deposition
28 identify that some information to be exchanged will be designated as

1 “CONFIDENTIAL – FOR COUNSEL ONLY.” The exclusion will be
2 limited to the times during which such time as the confidential
3 information (intended for counsel only) is to be disclosed; and

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

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

16 9. Information designated “CONFIDENTIAL - FOR COUNSEL
17 ONLY” must be viewed only by counsel (as defined in paragraph 3) of the receiving
18 party, and by independent experts under the conditions set forth in this Paragraph.
19 The right of any independent expert to receive any confidential information will be
20 subject to the advance approval of such expert by the producing party or by
21 permission of the Court. The party seeking approval of an independent expert must
22 provide the producing party with the name and curriculum vitae of the proposed
23 independent expert, and an executed copy of the form attached hereto as Exhibit A,
24 in advance of providing any confidential information of the producing party to the
25 expert. Any objection by the producing party to an independent expert receiving
26 confidential information must be made in writing within fourteen (14) days
27 following receipt of the identification of the proposed expert. Confidential
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1 information may be disclosed to an independent expert if the fourteen (14) day
2 period has passed, and no objection has been made. The approval of independent
3 experts must not be unreasonably withheld.

4 10. Information designated “confidential” must be viewed only by the
5 receiving Party (as defined in paragraph 3), by independent experts, by court
6 personnel, and by the additional individuals listed below, provided each such
7 individual has read this Order in advance of disclosure and has agreed in writing to
8 be bound by its terms:

- 9
- 10 a) Executives who are required to participate in policy decisions with
11 reference to this action;
 - 12 b) Technical personnel of the parties with whom Counsel for the parties find
13 it necessary to consult, in the discretion of such counsel, in preparation
14 for trial of this action; and
 - 15 c) Stenographic and clerical employees associated with the individuals
16 identified above.

17 11. With respect to Protected Information designated “CONFIDENTIAL”
18 or “CONFIDENTIAL – FOR COUNSEL ONLY,” any person indicated on the face
19 of the document to be its originator, author or a recipient of a copy of the document,
20 may be shown the same.

21 12. All information which has been designated as “CONFIDENTIAL” or
22 “CONFIDENTIAL -FOR COUNSEL ONLY” by the producing or disclosing party,
23 and any and all reproductions of that information, must be retained in the custody
24 of the counsel for the receiving party identified in paragraph 3, except that
25 independent experts authorized to view such information under the terms of this
26 Order may retain custody of copies such as are necessary for their participation in
27 this litigation.
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1 13. Filing under Seal. Before any materials produced in discovery,
2 answers to interrogatories, responses to requests for admissions, deposition
3 transcripts, or other documents which are designated as Confidential Information
4 are filed with the Court for any purpose, the party seeking to file such material must
5 seek permission of the Court to file the material under seal. No document may be
6 filed under seal, i.e., closed to inspection by the public except pursuant to a Court
7 order that authorizes the sealing of the particular document, or portions of it. A
8 sealing order may issue only upon a showing that the information is privileged or
9 protectable under the law. The request must be narrowly tailored to seek sealing
10 only of the confidential or privileged material. To file a document under seal, the
11 parties must comply with the procedures explained in Section 2.j of the Electronic
12 Case Filing Administrative Policies and Procedures Manual for the United States
13 District Court for the Southern District of California and Civil Local Rule 79.2. In
14 addition, in accordance with Judge Major's preferences, a party must file a 'public'
15 version of any document that it seeks to file under seal. In the public version, the
16 party may redact only that information that is deemed 'Confidential.' The party
17 should file the redacted document(s) simultaneously with a joint motion or ex parte
18 application requesting that the confidential portions of the document(s) be filed
19 under seal and setting forth good cause for the request.
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21 14. At any stage of these proceedings, any party may object to a
22 designation of the Protected Information as confidential information. The party
23 objecting to confidentiality must notify, in writing, counsel for the designating party
24 of the objected-to materials and the grounds for the objection. If the dispute is not
25 resolved consensually between the parties within seven (7) days of receipt of such
26 a notice of objections, the designating party may move the Court for a ruling on the
27 objection. The Protected Information at issue must be treated as confidential
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1 information, as designated by the designating party, until the Court has ruled on the
2 objection or the matter has been otherwise resolved.

3 15. All confidential information must be held in confidence by those
4 inspecting or receiving it, and must be used only for purposes of this action. Counsel
5 for each party, and each person receiving confidential information must take
6 reasonable precautions to prevent the unauthorized or inadvertent disclosure of such
7 information. If confidential information is disclosed to any person other than a
8 person authorized by this Order, the party responsible for the unauthorized
9 disclosure must immediately bring all pertinent facts relating to the unauthorized
10 disclosure to the attention of the other parties and, without prejudice to any rights
11 and remedies of the other parties, make every effort to prevent further disclosure by
12 the party and by the person(s) receiving the unauthorized disclosure.
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14 16. No party will be responsible to another party for disclosure of
15 confidential information under this Order if the information in question is not
16 labeled or otherwise identified as such in accordance with this Order.

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

3 18. Nothing within this order will prejudice the right of any party to object
4 to the production of any discovery material on the grounds that the material is
5 protected as privileged or as attorney work product.

6 19. Nothing in this Order will bar counsel from rendering advice to their
7 clients with respect to this litigation and, in the course thereof, relying upon any
8 information designated as confidential information, provided that the contents of
9 the information must not be disclosed.

10 20. This Order will be without prejudice to the right of any party to oppose
11 production of any information for lack of relevance or any other ground other than
12 the mere presence of confidential information. The existence of this Order must not
13 be used by either party as a basis for discovery that is otherwise improper under the
14 Federal Rules of Civil Procedure.

15 21. Nothing within this order will be construed to prevent disclosure of
16 confidential information if such disclosure is required by law or by order of the
17 Court.

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

4 23. The restrictions and obligations set forth within this order will not
5 apply to any information that: (a) the parties agree should not be designated
6 confidential information; (b) the parties agree, or the Court rules, is already public
7 knowledge; (c) the parties agree, or the Court rules, has become public knowledge
8 other than as a result of disclosure by the receiving party, its employees, or its agents
9 in violation of this Order; or (d) has come or will come into the receiving party's
10 legitimate knowledge independently of the production by the designating party.
11 Prior knowledge must be established by preproduction documentation.

12 24. The restrictions and obligations within this order will not be deemed
13 to prohibit discussions of any confidential information with anyone if that person
14 already has or obtains legitimate possession of that information.

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

17 26. This Order may be modified by agreement of the parties, subject to
18 approval by the Court.

19 27. Modification of the Protective Order by the Court: The Court may
20 modify the terms and conditions of this Order for good cause, or in the interest of
21 justice, or on its own order at any time in these proceedings. The parties prefer that
22 the Court provide them with notice of the Court's intent to modify the Order and the
23 content of those modifications, prior to entry of such an order.

24
25 IT IS SO ORDERED .

26 Dated: 7/15/2020

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28 Hon. Barbara L. Major
United States Magistrate Judge