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 6 Attorneys for Defendant
 Century National Insurance Company
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8 **UNITED STATES DISTRICT COURT**
 9 **DISTRICT OF NEVADA**

10 RODNEY HERMANSON, an individual,
 11 Plaintiff,

CASE NO: 2:19-cv-00656-RFB-EJY

12 vs.

13 CENTURY NATIONAL INSURANCE
 COMPANY, a foreign insurance
 14 company, DOES 1-100, and
 ROES 1-X, inclusive,
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16 Defendants.
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 19 **STIPULATION OF CONFIDENTIALITY AND PROTECTIVE ORDER**

20 The parties, by their respective counsel, hereby agree to this Stipulation of
 21 Confidentiality and Protective Order (this "Order"). To expedite the flow of discovery
 22 material, facilitate the prompt resolution of disputes over confidentiality, protect material
 23 entitled to be kept confidential, and ensure that protection is afforded only to material
 24 entitled to such treatment, the parties agree as follows:

25
 26 **I. DEFINITIONS**

27 A. "Confidential Information" is defined herein as a trade secret or other confidential
 28 research, evaluation, development or commercial information or material, or

1 material that solely involves other parties, the disclosure of which is likely to
2 prejudice the right of one or more parties or non-parties hereto, including
3 information concerning proprietary research and development; business and
4 marketing strategy; regulatory compliance and communication; financial results
5 and projections; employee records; company policies and procedures; and
6 similar documentation which is designated as "Confidential" by the Producing
7 Party (or, in the case of medical records by the party securing the records),
8 whether it be a Document, information contained in a Document, information
9 revealed during a deposition, information revealed in an interrogatory answer,
10 etc. In construing the scope of what constitutes "Confidential Information" as
11 defined herein, reference is to be made to applicable case law regarding
12 confidential or protected material.

13 B. "Stamped Confidential Document" means any Document which bears the mark
14 "CONFIDENTIAL" – or which shall otherwise have had the mark recorded on it in
15 a way that brings its attention to a reasonable examiner – to signify that it
16 contains Confidential Information subject to protection under this Order.

17 C. "Document" means all written, recorded, or graphic material, whether produced
18 or created by a party or another person, and whether produced pursuant to
19 subpoena, by agreement, or otherwise. Interrogatory answers, responses to
20 requests for admission, deposition transcripts and exhibits, pleadings, motions,
21 affidavits, and briefs that quote, summarize, or contain Confidential Information
22 may be accorded status as a Stamped Confidential Document, but, to the extent
23 feasible, shall be prepared in such a manner that the Confidential Information is
24 bound separately from that not entitled to protection.

25 D. "Producing Party" means the party that produced the Confidential Information.

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- 1 (3) Third-party contractors retained for the purpose of organizing, filing,
2 coding, converting, storing, or retrieving data or designing database
3 programs for handling Documents.
- 4 E. Before disclosing Confidential Information or Stamped Confidential Documents to
5 any person pursuant to paragraph D, the party proposing such disclosure shall
6 show a copy of this Order to such person, and he/she shall sign the Undertaking
7 attached as Exhibit 1.
- 8 F. Before disclosing Confidential Information or Stamped Confidential Documents
9 pursuant to paragraph D to any person who is a competitor (or an employee of a
10 competitor) of the Producing Party, the party proposing to make such disclosure
11 shall give at least twenty-one (21) days advance notice in writing, which shall
12 identify the person(s) to whom the disclosure will be made and a detailed
13 explanation of why disclosure to such person(s) is necessary, to counsel for the
14 Producing Party. If, within fourteen (14) days, after receiving advanced notice,
15 the Producing Party objects in writing to the proposed disclosure, the disclosure
16 shall not be made until the parties have resolved the matter or the court has ruled
17 on it. The party seeking to disclose any Confidential Information without
18 obtaining an Undertaking as provided for as Exhibit 1 of this Order shall have the
19 obligation to go forward and obtain approval from the court prior to making to
20 make such a disclosure. At any hearing regarding a dispute over the confidential
21 nature of any information designated as Confidential Information, the Producing
22 Party which has identified the information as Confidential Information shall have
23 the burden to prove by a preponderance of evidence that the confidential nature
24 of any such information.
- 25 G. A recipient of Confidential Information and/or Stamped Confidential Documents
26 shall exercise due care to restrict access to those persons described in II(C)(1).
27 Any summary, copy of, or excerpt from a Stamped Confidential Document shall
28 be subject to this Order to the same extent as the Stamped Confidential

1 Document itself, and must be labeled as Confidential. A recipient shall not
2 duplicate any Stamped Confidential Document or excerpt therefrom except for
3 use as working copies and for filing in court.
4

5 **III. DECLASSIFICATION OF STAMPED CONFIDENTIAL DOCUMENT**

6 A party may challenge, by motion, the propriety of a confidential designation at
7 any time within 90 days of the production of the Confidential Information and/or
8 Stamped Confidential Document. If a Document is declassified either by agreement of
9 the parties or by a court order, the terms of this Order will no longer apply to future
10 handling or production or dissemination of declassified Documents.
11

12 **IV. CONFIDENTIAL INFORMATION IN DEPOSITIONS**

- 13 A. A deponent, other than a current employee of the Producing Party, shall be
14 shown a copy of this Order and shall be asked to sign the undertaking attached
15 as Exhibit 1 before being shown or examined about Confidential Information
16 and/or Stamped Confidential Documents, except that any deponent may be
17 shown and examined about Stamped Confidential Documents or other
18 Documents without being shown this Order and being asked to sign the
19 undertaking if the Document reflects that the deponent was the author or
20 recipient. Regardless of whether a deponent signs the undertaking, this Order
21 shall apply to any deponent who is shown or examined about Confidential
22 Information and/or Stamped Confidential Documents.
- 23 B. Parties and deponents, may, within 45 days after receiving the deposition
24 transcript from the court reporter, designate pages of the transcript (and exhibits
25 thereto) as confidential by underlining or otherwise designating the portions of
26 the pages that are confidential. The parties and the court reporter shall
27 thereafter mark such pages in all copies of the transcript with the following
28 legend, "CONFIDENTIAL – SUBJECT TO CONFIDENTIALITY ORDER." Upon

1 expiration of the 45-day period, the entire deposition will be treated as subject to
2 this Order. If the deposition transcript is filed and a timely designation made, the
3 confidential portions and exhibits shall be filed under seal.
4

5 **V. SUBPOENA FOR STAMPED CONFIDENTIAL DOCUMENTS**

6 If Stamped Confidential Documents or other Documents containing Confidential
7 Information are subpoenaed by any person, court, administrative or legislative body, the
8 party to whom the subpoena is directed shall not, to the extent permitted by applicable
9 law, provide or otherwise disclose such Documents or information until twenty-one (21)
10 days after giving counsel for the Producing Party notice in writing of the subpoena,
11 accompanied by a copy of the subpoena. If the Producing Party objects to the
12 subpoena, the party to whom the subpoena is directed agrees not to produce
13 Documents in response to it until the resolution of the objection by the appropriate court.
14

15 **VI. FILING AND USE OF STAMPED CONFIDENTIAL**
16 **DOCUMENTS FOR PRETRIAL PURPOSES**

- 17 A. Stamped Confidential Documents shall be filed under seal and shall remain
18 sealed in the Clerk's office so long as they retain their status as Stamped
19 Confidential Documents.
- 20 B. To the extent that any party wishes to use Stamped Confidential Documents
21 during a hearing in this action, such party agrees to notify the Producing Party
22 and the court at least fourteen (14) days in advance of the hearing so that the
23 hearing can be conducted *in camera*, and agrees to submit any Stamped
24 Confidential Documents to the court for its *in camera* inspection. In the event
25 that, during any hearing in which a party submits Stamped Confidential
26 Documents, the court cannot ensure the continued confidentiality of such
27 information, or any party or person objects to the procedures set forth in this
28 paragraph, the parties agree to the entry of a temporary sealing order until a

1 motion to seal court records permanently is filed and ruled upon. Any transcript
2 of an *in camera* hearing shall be treated as confidential pursuant to this Order
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4 **VII. USE OF CONFIDENTIAL INFORMATION AT TRIAL**

5 Use of Confidential Information and/or Stamped Confidential Documents at trial
6 shall be determined by subsequent agreement of the parties or an order of court.
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8 **VIII. PROPER USE OF CONFIDENTIAL INFORMATION**

9 Persons obtaining access to Confidential Information and/or Stamped
10 Confidential Documents pursuant to this Order shall use the information for preparation
11 and trial of this litigation only – including appeals and retrials – and shall not use such
12 information for any other purpose, including business, governmental, commercial, or
13 administrative or judicial proceedings. Should any Person wish to attach a Stamped
14 Confidential Document to a Pleading or any like document to be filed of record or
15 served in this case, it must first be brought to the attention of the court that the
16 documents must be filed under seal.
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18 **IX. NON-TERMINATION**

19 The provisions of this Order shall not terminate at the conclusion of this action.
20 Within 120 days after final conclusion of all aspects of this litigation, all Documents,
21 including Stamped Confidential Documents, and all copies of same (other than exhibits
22 of record), shall be returned to the party or person which produced such documents or,
23 at the option of the Producing Party, destroyed. All counsel of record shall make
24 certification of compliance herewith and shall deliver the same to counsel for the
25 Producing party not more than 150 days after final termination of this litigation.
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X. MODIFICATION PERMITTED

Nothing in this Order shall prevent any party or other person from objecting to discovery that it believes to be otherwise improper or from seeking modification of this Order, including further provisions for categories of Documents requiring heightened protection.

XI. INADVERTENT DISCLOSURE

- A. Any inadvertent disclosure of confidential, proprietary, or privileged material will not be construed as a waiver, in whole or in part, of (1) the Producing Party's claims of confidentiality or privilege either as to the specific information inadvertently or unintentionally disclosed or more generally as to the subject matter of the information disclosed, or (2) the party's right to designate the material as confidential pursuant to this Order. A written representation by counsel for the Producing Party that the disclosure was inadvertent shall be deemed prima facie evidence of that fact.
- B. The Producing Party shall promptly notify the other party of an inadvertent disclosure following discovery of the inadvertent production, and that other party (i) shall in the case of a privileged Document, return the inadvertently disclosed Document forthwith, as well as any and all copies; or (ii) in the case of a confidential, proprietary Document, shall mark it and all copies, "CONFIDENTIAL – SUBJECT TO CONFIDENTIALITY ORDER." In the event that the other party cannot comply with these requirements – because, for example, the inadvertently produced Document has been given to a third party – the other party shall provide the Producing Party with the name, address, and telephone number of such person(s) as well as the date of and reason for the transmission of the Document.
- C. Notice of inadvertent disclosure shall apply to all copies of the Document inadvertently disclosed including Documents inadvertently produced in cases

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other than Case No: 2:19-cv-00656-RFB-EJY (such that inadvertent disclosure of a confidential or privileged Document in another jurisdiction shall not constitute a waiver of privilege under this Order.)

STIPULATED AND AGREED TO BY:

Dated this 14th day of May 2020.

Dated this 10th day of June ~~May~~ 2020.

Hall Jaffe & Clayton, LLP

Bauman Loewe Witt & Maxwell, LLC

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EXHIBIT 1

UNDERTAKING PURSUANT TO CONFIDENTIALITY ORDER

STATE OF NEVADA)
) SS
COUNTY OF CLARK)

I, Michael Hall, Esq. the undersigned, declare and say:

1. I am the attorney for Plaintiff Rodney Hermanson. I am employed by Hall Jaffe & Clayton, LLP. My business address is 7425 Peak Dr., Las Vegas, NV, 89128, telephone number 702-316-4111.

2. I have read and understand the Stipulation of Confidentiality and Protective Order (the "Order").

3. I understand that I may be receiving Confidential Information and/or Stamped Confidential Documents, as defined in the Order, and by executing this Undertaking I agree to be bound by all the provisions of the Order. I agree not to disclose Confidential Information or Stamped Confidential Documents to any person not entitled to receive it and agree not to use such information except in connection with this litigation.

4. I am informed and understand, and therefore acknowledge, that I may be subject to contempt of court or any other penalties authorized by law or statute if I fail to comply with each of the provisions of the Order.

5. I consent to and accept, generally and unconditionally, the jurisdiction of the U.S. District Court District of Nevada, in the matter entitled Rodney Hermanson v.

1 Century National Insurance Company, Case No.: 2:19-cv-00656-RFB-EJY for the
2 enforcement of the provisions of the Order.

3 I declare under penalty of perjury that the foregoing is true and correct.

4 Executed on _____ at _____.

5

6

Declarant

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8 Subscribed and sworn to before me this

9

_____ day of _____, 2020.

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Notary Public

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13 My Commission Expires:

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ORDER

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16 The Court having considered the Stipulation of the parties, and good cause
17 appearing, the Court hereby orders the entry of the Protective Order on the terms and
18 conditions provided for above.

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DATED this 18th day of June, 2020.

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UNITED STATES MAGISTRATE JUDGE

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