

02802-71561 (RER)

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

AMERICAN NATIONAL PROPERTY AND CASUALTY COMPANY,	)	
	)	
Plaintiff, Counterclaim-Defendant,	)	CIVIL ACTION
	)	
V.	)	NO. 3:11-CV-219
	)	
CAROL ANN STUTTE; LAURA JEAN STUTTE,	)	JURY TRIAL DEMANDED
	)	
Defendants, Counterclaim-Plaintiffs,	)	
	)	
and	)	
	)	
CHASE HOME FINANCE, LLC,	)	
	)	
Defendant.	)	

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**ANPAC’S MOTION FOR ORDER OF CONFIDENTIALITY**

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Comes now American National Property and Casualty Company (“ANPAC”), by and through counsel, pursuant to *Federal Rule of Civil Procedure 26(c)* and moves this Honorable Court for an order of confidentiality concerning designated documents to be produced herein pursuant to *Federal Rule of Civil Procedure 34*. ANPAC avers that defendants’ Request for Production #8 seeks to discover ANPAC’s proprietary or trade secret information. That request states as follows:

8. All claims manuals (including superseded pages of versions or volumes that have been revised) and other claims handling guidelines and instructional materials that were prepared or used by You at any time since 2002 (including,

without limitation, training manuals, seminar materials, policy annotations, workbooks, and guideline memoranda) concerning Homeowners policies.

Because of the unique nature and compilation of its handling / investigation policies and procedures, ANPAC asserts the information sought is trade secret protected and therefore is not appropriate for unlimited release through discovery. The following reasons illustrate why ANPAC asserts trade secret protection in relation to these document:

1. This information and the process to compile the information has economic value and is confidential and proprietary.
2. ANPAC expends significant financial and employee resources to develop compilation systems for the information.
3. The information and process is not generally known to persons not affiliated with ANPAC
4. The information and process is not readily ascertainable to persons not affiliated with ANPAC.
5. ANPAC does not disclose this process to the public or other insurance companies.
6. Access to this information or this process is restricted within ANPAC and accessible only by certain employees who have knowledge of protective access codes.

The parties have reached an agreement concerning the terms under which the requested documents may be produced, which have been incorporated into a proposed Agreed Order of Confidentiality. Counsel for the defendants have authorized Counsel

for ANPAC to sign their names to this order indicating their agreement. A Word copy of that proposed Agreed Order of Confidentiality will be submitted to Magistrate Clifford C. Shirley for consideration via email pursuant Chapter VI, section C.2 of the Electronic Case Filing System User Manual. A pdf copy is submitted herewith. For the reasons stated herein ANPAC respectfully requests the court to enter the proposed Agreed Order of Confidentiality.

Respectfully submitted,

**s/ N. Mark Kinsman**

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**CERTIFICATE OF SERVICE**

The undersigned certifies that a true copy of this pleading or document was served via the Court's ECF filing system upon:

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This the 23 day of August, 2012.

s/N. Mark Kinsman

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STUTTE,	)	
	)	
Defendants, Counterclaim-Plaintiffs,	)	
	)	

**AGREED ORDER OF CONFIDENTIALITY**

Came the parties, by counsel, and represented to the Court that they have determined that this action may involve the discovery and disclosure of confidential and sensitive information, including confidential and commercial information, proprietary information and trade secrets. Accordingly, the parties agree and it is hereby ORDERED as follows:

1. "CONFIDENTIAL INFORMATION" is hereby defined as a trade secret or other commercial information or material, the disclosure of which is likely to prejudice the rights of one or more of the parties hereto or the rights of any third party presenting that information.
2. Any party or witness in this litigation may, in good faith, designate information or materials disclosed, produced or filed by that party or person in the course of this litigation as "CONFIDENTIAL INFORMATION" in the manner hereinafter set forth or by separate written agreement of the parties herein at any time.
3. All or any part of a document disclosed, produced or filed by any party in this litigation may be designated as "CONFIDENTIAL" by the disclosing party or person by marking

the word "CONFIDENTIAL" on the face of the document and on each subsequent page. In the event documents are produced in electronic form, such as on a compact disk or other electronic medium, all documents contained therein may be designated as "CONFIDENTIAL" by the disclosing party by marking the word "CONFIDENTIAL" on the exterior of the electronic medium. If a party prints paper copies of any of the documents contained on such disk or electronic medium, the face of each printed copy shall be marked with the word "CONFIDENTIAL" and shall be subject to the terms of this order.

4. Documents designated "CONFIDENTIAL" may be used and referred to in depositions, but will not be attached to deposition transcripts. Further, if any portion of the text of such documents is read into the record in a deposition, the producing party may petition to Court for leave to have that deposition sealed.

5. All or any part of responses to interrogatories, requests for admission or requests for production of documents may be designated as "CONFIDENTIAL" by the responding party by marking the words on the face of the response and each page so designated.

6. Documents designated "CONFIDENTIAL" may be used and referred to in briefs and affidavits. The producing party may petition the Court to have such briefs or affidavits sealed.

7. Material designated as "CONFIDENTIAL" shall be used or disclosed solely in this action, and in accordance with this Stipulation, and such "CONFIDENTIAL INFORMATION" shall not be used in any other litigation or for any other purpose without order of the Court.

8. Other than Court personnel, commercial photocopying firms, or as provided below, access to "CONFIDENTIAL INFORMATION" shall be limited to:

- (a) the parties;
- (b) counsel of record for the respective parties and employees of said counsel; and
- (c) experts and consultants who are employed, retained or otherwise consulted by counsel or a party for the purpose of assisting in this litigation.

9. Counsel shall inform each person to whom they disclose or give access to “CONFIDENTIAL INFORMATION” of the terms of this Stipulation as well as the obligation to comply with those terms.

10. “CONFIDENTIAL INFORMATION” may be disclosed in a deposition in this action in accordance with paragraph 4 above, and the producing party shall so advise the court reporter.

11. “CONFIDENTIAL INFORMATION” may be disclosed to the Court in connection with any filing or proceeding in this action only in accordance with paragraph 6 above.

12. Upon the termination of this action by judgment, settlement or otherwise, all parties shall either (a) return to counsel for such producing party, or (b) destroy, all “CONFIDENTIAL INFORMATION” received from such party, including all copies, prints, summaries and other reproduction of such information in the possession of the parties, their counsel, retained experts or consultants. If a party elects to destroy CONFIDENTIAL INFORMATION upon the termination of this action, it shall so advise the producing party of such election via a letter or e-mail.

13. This Agreed Order of Confidentiality shall not affect the ability of any party to use any documents for the purposes of this case or to use any document as an exhibit at trial, and the trial of this case shall not be closed to the public.

14. This Agreed Order of Confidentiality shall survive the termination of this action and continue in full force and effect.

ENTER.

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United States Magistrate Judge

**AGREED:**

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