

VIRGINIA: IN THE CIRCUIT COURT FOR THE COUNTY OF FAIRFAX

PAUL SHAO,

Plaintiff,

v.

Case No.: 2021-03802

Jury Trial Demanded

ALLSTATE INSURANCE COMPANY,

Defendant.

**PLAINTIFF'S SECOND REPLY TO THE MOTION FOR PROPOSED PROTECTIVE
ORDER**

Shao opposed Allstate's 10-24-22 STIPULATED PROTECTIVE ORDER because it did not contain a definition of Confidential Information and Materials, the absence of which could confer blanket protection on all disclosures or responses to discovery, the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles per LCR 26(c).

Allstate objected to Shao's definition of Confidential Information and Materials in the First Reply as being legally not well-written. Shao has thus provided a standard legal qualification of Confidential Information and Materials as follows: "However, Confidential Information does not include any information that i) is or becomes publicly available without breach of this section 6, ii) was in recipient's possession before receipt from discloser, iii) was rightfully disclosed to recipient by a third party without restriction on disclosure, or iv) is independently developed by recipient without any use of the Confidential Information as can be shown by documentary evidence." The response from Allstate is as follows, "Mr. Shao - thank you for sending. With a few changes to your proposed language (which we are happy to explain), I believe we will be able to reach an agreement here. We will respond with our edits as soon as we can." 48 hours has passed since and Shao has not heard from Allstate. Plaintiff trusts the Court would determine what is the customary language to be employed.

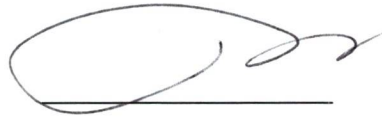
Wherefore, Shao respectfully requests that this Court enter the [Modified] [Proposed] Protective Order modified, if deemed necessary, by the Court with consideration of Allstate's forthcoming suggested changes of language.

Dated: November ¹⁰9, 2022.

Respectfully Submitted

PAUL SHAO,

Pro se litigant

A handwritten signature in black ink, appearing to read 'Paul Shao', written over a horizontal line.

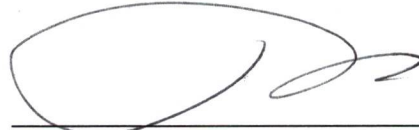
Paul Shao

9233 Lee Masey Drive,
Lorton, Virginia 22079
(202) 290-6300 Telephone
paulyshao@gmail.com

CERTIFICATE OF SERVICE

I certified that on November¹⁰/~~9~~, 2022, a copy of the foregoing PLAINTIFF'S SECOND REPLY TO THE MOTION FOR PROPOSED PROTECTIVE ORDER was filed with the clerk's office of the Court, emailed, and mailed to Defendant at the following address:

Bret C. Marfut
bmarfut@sayfarth.com
SEYFARTH SHAW LLP
975 F Street, N.W.
Washington, DC 20004-1454

A handwritten signature in black ink, appearing to read "Paul Shao", is written above a horizontal line.

Paul Shao

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Case No.: 2021-03802

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[MODIFIED] [PROPOSED] PROTECTIVE ORDER

Upon a showing of good cause in support of the entry of a protective order to protect the discovery and dissemination of Confidential Information, IT IS HEREBY ORDERED:

1. This Protective Order shall apply to all documents, materials, and information appropriately designated as Confidential as outlined herein. This includes, without limitation, documents produced, answers to interrogatories, responses to requests for admission, deposition testimony, and other information or documents disclosed pursuant to the disclosure or discovery duties created by the Rules of the Supreme Court of Virginia.

2. “Confidential Information” means any document, electronically stored information, testimony, or response to a discovery request, including any extract, abstract, chart, summary, note, or copy made therefrom—not made available to the public—and designated by one of the parties in the manner provided below as containing: customer information, information that implicates common law and/or statutory privacy interests; competitive business information, or information that a party believes is otherwise entitled to protection. However, Confidential Information does not include any information that i) is or becomes publicly available without breach of this section 6, ii)

was in recipient's possession before receipt from discloser, iii) was rightfully disclosed to recipient by a third party without restriction on disclosure, or iv) is independently developed by recipient without any use of the Confidential Information as can be shown by documentary evidence.

3. Any designation of Confidential Information must have been reviewed by an attorney who made a good faith determination that the information is entitled to protection, or, in the case of a *pro se* party, by the party producing the information.

4. When Confidential Information is produced or otherwise disclosed by a party, it will be designated in the following manner:

a. By placing or affixing on the document (in a manner that will not interfere with legibility) the following or other appropriate notice: "Confidential."

b. By imprinting the word "Confidential" next to or above any response to a discovery request; and

c. With respect to transcribed testimony, whenever possible, by indicating on the record what portions of the transcript should be designated "Confidential." Alternatively, after transcription, a party may designate portions of the transcript as Confidential provided that written notice of the designation is promptly given to all counsel of record within thirty (30) days after notice by the court reporter of the completion of the transcript.

d. Groups of documents, such as medical records, or insurance company claim log documents can be designated through a group designation with a cover page

marked "Confidential" and with Bates stamp numbers for the designated group of documents.

5. Confidential Information shall be subject to the following restrictions:

a. It shall be used only for the purpose of this litigation and not for any other purpose whatsoever; and

b. It shall not be communicated or disclosed by any party's counsel or a party in any manner, either directly or indirectly, to anyone except for purposes of this case and pursuant to the restrictions stated herein.

6. Confidential Information shall not, without the consent of the designating party or further Order of the Court, be disclosed, except that such information may be disclosed to:

a. attorneys actively working on this case.

b. persons regularly employed or associated with the attorneys actively working on the case whose assistance is required by said attorneys in the preparation for trial, at trial, or at other proceedings in this case;

c. the parties, including designated representatives for plaintiff and defendants; expert witnesses, individuals evaluating the case for liability or settlement purposes, and consultants retained in connection with this proceeding, to the extent such disclosure is necessary for preparation, trial or other proceedings in this case.

d. the Court and/or its employees ("Court Personnel");

e. stenographic reporters who are engaged in proceedings necessarily incident to the conduct of this action.

f. deponents, witnesses, or potential witnesses provided all such individuals have received a copy of this Protective Order; and

g. other persons by written agreement of all the parties.

7. Prior to disclosing any Confidential Information to any person listed above (other than the parties, counsel, persons employed by counsel, court personnel, and stenographic reporters), counsel (or the disclosing party if that party is not represented by counsel) shall provide such person with a copy of this Protective Order and receive a signed agreement that the recipient will abide by the terms of the Protective Order.

8. A party may object to the designation of information as Confidential by giving written notice to the party designating the disputed information. The written notice shall identify the information to which the objection is made. If the parties cannot resolve the objection within ten (10) business days after the time the notice is received, it shall be the obligation of the party contesting the designating of the information as Confidential to file an appropriate motion pursuant to the discovery procedures controlling the case requesting that the Court determine whether the disputed information should be subject to the terms of this Protective Order. If such a motion is timely made, the disputed information shall be treated as Confidential Information under the terms of this Protective Order until the Court rules on the motion. In any proceeding or hearing relating to the issue of Confidentiality, the burden shall be upon the party making the claim of confidentiality to demonstrate the need and right for the document to be held in confidence.

9. If either party wishes to file publicly with the Court any information or document(s) designated as Confidential by the other party, the party seeking to file (the

“Filing Party”) shall first confer with the party that made the confidentiality designation (the “Designating Party”) regarding whether an Order permitting the filing of the Confidential Information under seal should be sought. If the parties agree not to seek such an Order, the Filing Party may proceed to file the Confidential Information as in the normal course. However, if the Designating Party requests a sealed filing, the Filing Party may seek an Order to file the Confidential Information under seal, pursuant to the rules of the Court. The Confidential Information may not be filed while the motion is still pending.

10. At the conclusion of this case, including completion of all possible appellate procedures, each document and all copies thereof which have been designated as Confidential shall be returned to the party that designated it Confidential, or the parties may elect to destroy Confidential documents at the conclusion of the time required by the rules governing attorneys for maintenance of such document, except that one copy of the document maybe retained either physically or electronically in compliance with the retention policy of the law firm. Where the parties agree to destroy Confidential documents, the destroying party shall provide all parties with an affidavit confirming the destruction.

11. Nothing in this Protective Order shall be construed to prevent a party from using Confidential Information during depositions, during a Court hearing, or at the trial of this matter. Procedures for the protection of Confidential matters at trial, if any, shall be arrived at separately by the parties or otherwise determined by the Court in advance of trial.

12. Notwithstanding any other provision of this Order to the contrary, no

party is precluded from sharing any Confidential Information or document(s) with any lawfully constituted government or enforcement authority, pursuant to a lawful subpoena provided, however, that reasonable notice shall be given to the other party prior to any such disclosure.

13. The inadvertent or unintentional disclosure by the supplying party of Confidential Information, regardless of whether the material was so designated at the time of disclosure, shall not be deemed a waiver, in whole or in part, of a party's claim of confidentiality, either as to the specific material disclosed or as to any other material relating thereto or on the same or related subject matter.

14. This Protective Order may be modified by the Court at any time for good cause shown following notice to all parties and an opportunity for them to be heard.

ORDERED this _____ day of _____, 2022.

BY THE COURT:

Circuit Court Judge