



IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

BILLY & LACY HURSH,

Plaintiffs,

v.

STATE FARM FIRE AND
CASUALTY COMPANY; MARK D.
WELTY; and MARK D. WELTY
INSURANCE AGENCY, INC.,

Defendants.

SEP 23 2026
RICK WARREN
COURT CLERK
88

Case No. CJ-2025-2626
Honorable Amy Palumbo

PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY REGARDING
PLAINTIFFS' MOTION TO DE-DESIGNATE

I. NOTICE OF SUPPLEMENTAL AUTHORITY: JUDGE SHEPERD'S ORDER.

Since the filing of Plaintiffs' Motion to De-Designate on August 4, 2026, some of the documents pending have been ruled upon and introduced into the public record. This supplement is intended to provide clarity on the documents remaining to be de-designated by this Court, if the Court so inclines to de-designate. Furthermore, six key depositions took place in Bloomington, Illinois. *See* Section II below.

On July 7, 2026, Plaintiffs filed a Motion to De-Designate in *West v. State Farm, et al.*, CJ-2025-135 (the "West Matter"), attaching Exhibits 2-7 to be de-designated. On August 6, 2026, Plaintiffs filed a Reply in Support of their Motion to De-Designate, specifically incorporating another 44 exhibits to be de-designated. On August 20, 2026, Judge Sheperd granted Plaintiffs' Motion to Strike and De-Designate, striking State Farm's blanket confidentiality designations and de-designating 31 documents, specifically Exhibits 2-7, 9, 11, 12, 14-16, 24, 26-38, 40-42 and 44-45 identified in Plaintiffs' Reply. *See* Ex. 25, Judge Sheperd Order. Thereafter, Plaintiffs filed a Response motion, attaching the 31 documents into the public record.

The exhibits which have been de-designated by Judge Sheperd and are no longer pending in front of this court are Exhibits 3-7, 9, 16, 18, 20-23 in Plaintiffs' Motion to De-Designate, filed August 4, 2026. The exhibits remaining outstanding are Exhibits 10-15, 17, and 19 from Plaintiffs' Motion to De-Designate and the thirteen documents referenced in footnote one of Plaintiffs' Reply in Support of their Motion to De-Designate.¹ (Re-attached as the first 13 Exhibits to this Motion for ease of reference). *See also* Ex. 23, Index of Documents Left to Be De-Designated.

¹ *See e.g.* Ex. 1. HUR00063569-73; Ex. 2. HUR00034836; Ex. 3. HUR00044257, Ex. 4. HUR00068381, Ex. 5. HUR00069466, Ex. 6. HUR00037462, Ex. 7. HUR00125604, Ex. 8. HUR00053719, Ex. 9. HUR00008080, Ex. 10. HUR00078333, Ex. 11. HUR00027781, Ex. 12. HUR00061156, 13. HUR00125604.

Plaintiffs also incorporate and request this Court de-designate Exhibit 14 (HUR00158701-19), Exhibit 15 (HUR00039527-34) and Exhibit 16 (HUR00156099) to this Motion, as these documents are not confidential and due to the six depositions taken in the last month, Court guidance is required before the depositions set to take place in this Court's courtroom on September 29 and October 1 of 2026.²

II. NOTICE OF DEPOSITION TESTIMONY.

Plaintiffs deposed Wensley Herbert on August 26, Scott Welsh on August 27, and Kathy Ress on August 28 of this year in this case. Subsequently, Plaintiffs deposed the same witnesses in the West Matter three weeks later. However, the testimony of each witness in this case was starkly different to the testimony three weeks later. For example, in this case, Ms. Ress testified:

[REDACTED]

² The parties are set for the deposition of Wayne Stewart and Nicole Manduca as corporate representatives to take place in Judge Palumbo's courtroom on September 29 and October 1 of 2026. Plaintiffs' counsel has secured a court reporter and videographer for both days, as well as a courtroom technician to assist with projecting exhibits.

See Ex. 17, Ress Hursh Depo at 86:4-8; 89:14-17; 281:18-21, 319:15-320:3 (emphasis added).

Thereafter, in direct opposition to this testimony, Ms. Ress testified in the West Matter the following:

[REDACTED]

See Ex. 18, Ress West Depo at 126:6-127:6; 150:10-14; 151:13-17; 186:2-7 (emphasis added).

Furthermore, Scott Welsh testified to the following in this case:

[REDACTED]

[REDACTED]

See Ex. 19, Welsh Hursh Depo at 227:13-20; 231:3-9; 384:10-23 (emphasis added). However, in direct opposition to this testimony, Mr. Welsh testified in the West Matter the following:

[REDACTED]

See Ex. 20, Welsh West Depo at 67:7-15; 161:10-162:3; 230:18-231:4 (emphasis added). Lastly, Wensley Herbert testified to the following in this case:

[REDACTED]

See Ex. 21, Herbert Hursh Depo at 112:9-15; 259:1-6 (emphasis added). However, in direct opposition to this testimony, Mr. Herbert testified in the West Matter the following:

[REDACTED]

See Ex. 22, Herbert West Depo at 46:5–47:6, 132:21–134:8 (emphasis added). All three of the West Matter depositions are filled with inaccuracies and inconsistencies when compared to the depositions taken in this matter of the same witnesses just three weeks prior by the same group of attorneys.

III. DEPOSITION TESTIMONY REQUIRES URGENT COURT GUIDANCE ON CONFIDENTIALITY OF HUR00158701-19 (EX. 14) AND HUR00039527-34 (EX. 15).

At Mr. Wensley Herbert's deposition, Plaintiffs' counsel presented a document, Exhibit 133, that has also been produced in this case. *See* Exhibit 14. State Farm's counsel took a break after the presentation of Exhibit 133 and reopened the record by suddenly claiming that Exhibit 133 was produced in error and may be privileged, which has required urgent Court guidance. *See* Ex. 22 at 353:25-354:4 ("On Exhibit 133, based on the questions that were asked today, we are a little worried that there may be privileged communications that were inadvertently produced and we're going to investigate that.").

Some of the testimony was so damning that State Farm now seeks to claw back Exhibit 133 and Mr. Herbert's testimony. *See* Ex. 24, Rother Letter. First, Mr. Herbert confirmed that SEO stands for Senior Executive Offsite and the CEO, CFO, and COO attend and review SEO material:

[REDACTED]

[REDACTED]

See Ex. 22, Herbert West Depo at 120:5-122:1; 335:5-9.

No such request to clawback Exhibit 14 has yet been made in this case, but Plaintiffs expect it to be raised and preemptively raise this issue with this Court before next week's depositions take place. Furthermore, despite disagreeing that such testimony cited or documents filed as Exhibits to this Motion meet the standard for filing under seal, Plaintiffs are currently forced to file under seal to cooperate with State Farm's overbroad designations of confidentiality on documents sought

to be used in public pleadings and testimony which relates to intentional bad faith efforts to reduce claim payments.

Because Plaintiffs are relying on these documents in pleadings, these exhibits are being improperly sealed from the public, so there is no conflation of sealing records with discovery confidentiality. As Judge Heaton has noted, “[t]he considerations change significantly once documents are used in litigation of the case. Court proceedings are public proceedings and there is a ‘strong presumption in favor of public access to judicial records.’” *Coker v. Hartford Life Group Ins. Co., et al*, CIV-06-0911-HE, 02/21/2007 Order (footnotes and internal citations omitted).

Plaintiffs intend to use the same exhibit produced in this case, HUR00158701-19, in depositions set to take place next week in this case. *See* Ex. 14. As this Court will be hearing Plaintiffs’ Motion to De-Designate on Monday, September 28, right before the depositions are to take place, Plaintiffs explicitly request this Court de-designate Exhibit 14 and Ex. 15 to this Motion.

First, Exhibit 14 lays out State Farm’s knowledge of the exact scheme Plaintiffs have been alleging since filing their petition. State Farm has engaged in an intentional scheme to reduce first-party payments and knew it was improper when doing so. Exhibit 14 went directly to the CEO and C-suite, as Exhibit 14 specifically states on page one, “[REDACTED]” *See* Ex. 14 at HUR00158701. Here are a few examples of some of the bad faith evidenced presented to the senior executives at State Farm, including the CEO, in Exhibit 14, and Plaintiffs are including screenshots so the Court can see how the original text in portions are crossed out and replaced with others and comments placed into the document itself:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

See Ex. 14 at HUR00158703, 704, 705, 707. It is shocking to see that State Farm executives knew in 2020 [REDACTED]

[REDACTED],” but carried their tactics to reduce indemnity out anyway, causing Plaintiffs’ injuries.

State Farm wishes to continue its bad faith practices in the dark and limit Plaintiffs’ ability to use documents which prove the Scheme in the public record. This is unjust because “[t]he view that parties may *exclusively* control which documents appear on a face of a public record, while simultaneously using those documents to obtain a judicial determination of legal rights is one which has been criticized by different members of [the Oklahoma Supreme] Court.” *See State ex rel. Oklahoma State Board of Medical Licensure & Supervision v. Rivero*, 2021 OK 31, ¶ 90, 489 P.3d 36. State Farm seeks to rely on these documents as defenses and attach them to briefs under seal to prevent the public from learning of the hidden tactics implemented to reduce first-party coverage.

State Farm must have a good faith basis for any “confidential” designation, and has failed to make any good faith showing on why the documents at issue are somehow a trade secret, confidential research, personal confidential information, development or commercial information. *See Hursh Protective Order* at ¶ 1. (“The party making the designation of confidential material represents that it has done so after a bona fide determination made in good faith that the material is in fact trade secret or other confidential information as defined in paragraph 3.”).

Under the Protective Order, blanket designations do not control, because “[t]he fact a document has been designated as “Confidential” shall not create a presumption the document is, in fact, confidential or a trade secret entitled to protection by this Protective Order. **The burden of establishing that a document or testimony contains trade secret or personal confidential information and is entitled to the protection of this Protective Order shall remain on the party making the designation. Further, a party’s agreement to this Protective Order does not prejudice the party’s right to move the Court to lift the Protective Order for good cause.”**). *Id.* at p. 3

In fact, on this subject, one court wrote:

The proposed order...permits any party, in his or its *unfettered discretion*, to make as “Confidential Material” or designate as “Confidential” essentially *anything that that party wishes to keep from public view*. * * * In this Court’s experience, such orders regularly result in *vast amounts of documentation being deemed confidential* when in fact there is *no valid basis* therefore. * * * Just given the names of the corporate defendants, *the Court can only assume that the nature of the businesses involved here have to do with the promotion and sale of insurance and other financial products. If so, these are hardly the kinds of businesses deeply steeped in trade secrets and other truly confidential materials.* * * * [Such orders] are not favored by this Court.

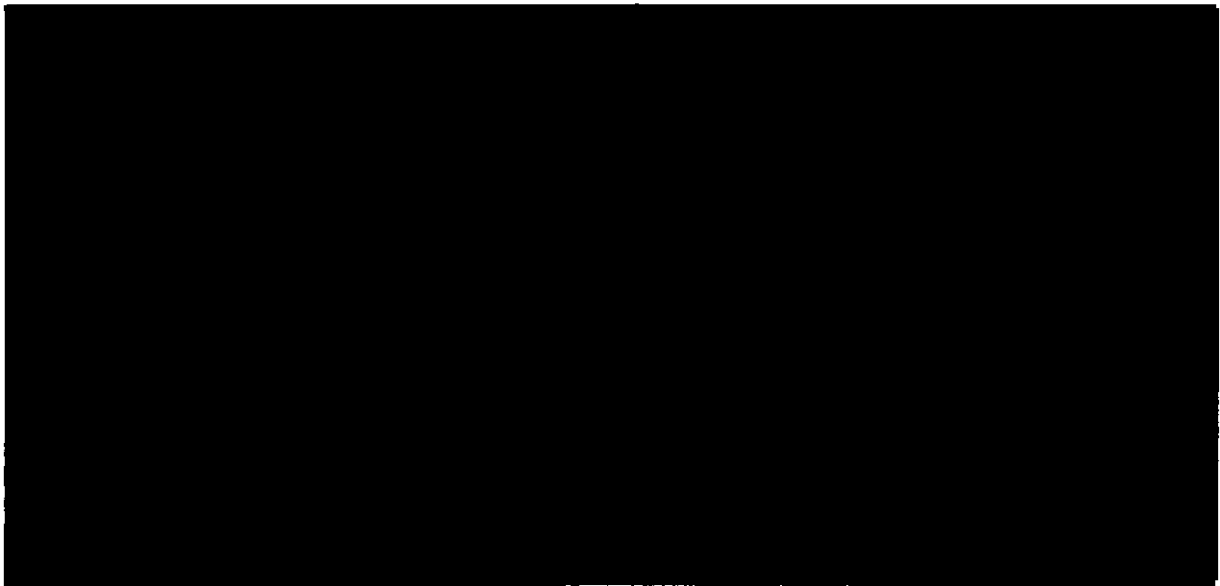
Kruanelis v. Sentinel Benefits Group, Inc., 2000 WL 33159206 (Mass. Super. Ct.) (emphasis added). *See also Star Scientific, Inc. v. Carter*, 204 F.R.D. 410, 416 (S.D. Ind. 2001) (holding that portion of protective order giving the parties “unilateral authority” to designate documents as confidential was “over-broad”). The Protective Order entered in this case gives this Court the sole ability to determine what is and is not confidential, and places the burdens squarely on State Farm, who has failed to meet it.

Here, the Protective Order specifically states that claim handling on first party insureds claims are NOT trade secrets. (See Protective Order, at ¶3(a)(ii)) (“‘Trade secret’ shall explicitly not include any aspects of the handling of Plaintiffs’ claim as first-party insureds, including but

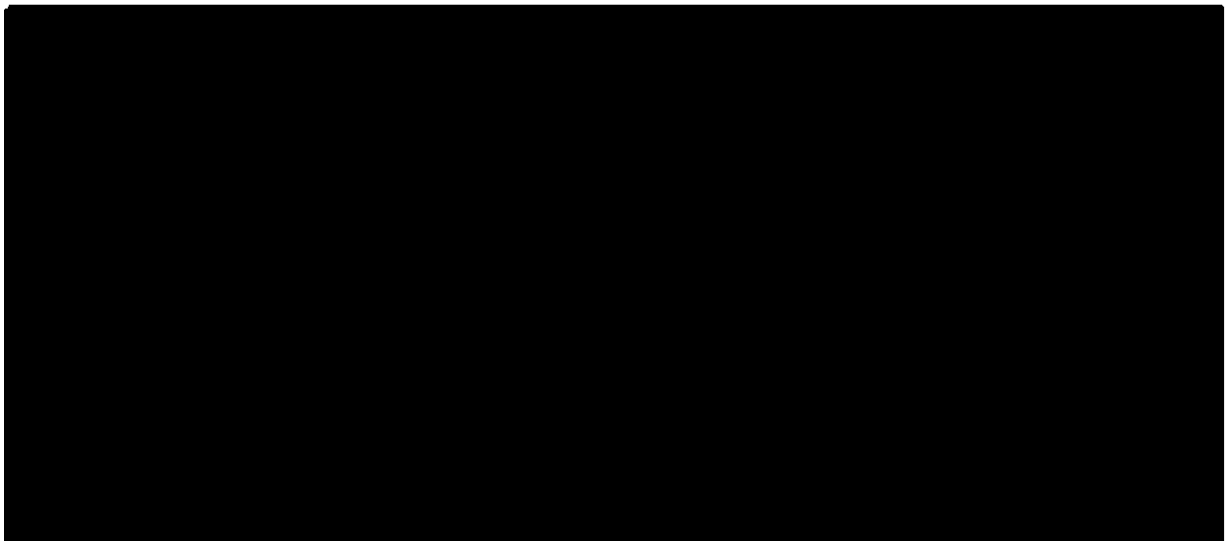
not limited to attempts to lower indemnity payments on Plaintiffs' claim, including the total roof replacement requested, and anything regarding denying or partially denying Plaintiffs' claim.”)

This is because first party claim handling materials cannot be considered trade secret or proprietary under Oklahoma law. *See e.g. Beers v. Hillory*, 2010 OK CIV APP 99, ¶ 30, 241 P.3d 285 (“The Unfair Claims Settlement Practices Act can provide the district court for guidance in determining whether particular conduct on the part of an insurer is unreasonable and sufficient to constitute a basis for a bad faith claim.”); 36 O.S. § 1250.5(1-2) (Provision of the Oklahoma Unfair Claims Settlement Practices Act) (“1. 1. Failing to fully disclose to first-party claimants, benefits, coverages, or other provisions of any insurance policy or insurance contract when the benefits, coverages or other provisions are pertinent to a claim; 2. Knowingly misrepresenting to claimants pertinent facts or policy provisions relating to coverages at issue[.]”); 36 O.S. § 1250.7 (Provision of the Oklahoma Unfair Claims Settlement Practices Act) (“No property and casualty insurer shall deny a claim because of a specific policy provision, condition, or exclusion unless reference to such provision, condition, or exclusion is included in the denial. A denial shall be given to any claimant in writing, and the claim file of the property and casualty insurer shall contain a copy of the denial.”); *Christian v. American Home Assur. Co.*, 1977 OK 141, ¶ 12, 577 P.2d 899 (An insurer must act fairly when adjusting a claim.); *Milroy v. Allstate Ins. Co.*, 2007 OK CIV APP 6, ¶ 18, 151 P.3d 922 (“The duty of good faith and fair dealing is inherent in every contract of insurance.”).

These documents are explicitly not confidential or attorney-client privileged. For example, Exhibit 14 has a redaction on HUR00158702 titled “Redacted – AC” purporting to be an attorney-client protected communication:



However, State Farm produced another document which does not redact this section:



Ex. 15 at HUR00039528. It would appear as though State Farm redacted the Accenture industry standard and State Farm's focus on improving towards an industry standard on roofs as an attorney client privileged communication, which it cannot be. First, third-party data provided by Accenture cannot be considered a privileged communication between State Farm and its attorneys, as the third-party destroys the privilege. As the Oklahoma Supreme Court provided in 1934:

In *Ratzlaff v. State*, 122 Okl. 263, 249 P. 934, 937, this court said: “* * * The mere fact that a communication is made to an attorney does not, of itself, make such communication privileged. To have that effect, it must have been made in confidence of the relation and under such circumstances as to imply that it should forever remain a secret in the breast of the confidential advisor.”

Howsley v. Clark, ¶ 13, 1934 OK 93. Not only did State Farm redact third-party data which it acknowledges came from a third-party (“Source: Accenture Consulting Services”), it also kept this exact language industry standard language pervasive throughout documents which have been designated by Judge Sheperd. See Ex. 25, Sheperd Order.

Furthermore, it is well established that the mere inclusion of a lawyer as a recipient of a copy of a draft document circulated by one business person to other business people seeking comments on the draft would not, standing alone, warrant the protection of the attorney-client privilege. See, e.g., *In re Grand Jury Proceedings*, 616 F.3d 1172, 1182 (10th Cir. 2010) (citation omitted) (“[T]he mere fact that an attorney was involved in a communication does not automatically render the communication subject to the attorney-client privilege”); *Guardiola v. Adams County School District No. 14*, 2019 WL 5535224, *2 (D. Colo. 2019) (“The Court [was not] persuaded by Defendants’ argument that chain e-mails, which are now routine in a wide variety of transactions, should be subject to the privilege, in their entirety, merely because one or more links in the chain come from legal counsel.”); *A.H. ex rel. Hadjih v. Evenflo Co., Inc.*, 2012 WL 1957302, *6 (D. Colo. 2012); *Colton v. U.S.*, 306 F.2d 633, 639 (2d Cir. 1962) (“[P]re-existing documents and financial records not prepared by the [clients] for the purpose of communicating with their lawyer in confidence ... have acquired no special protection from the simple fact of being turned over to an attorney.”); *Valassis Communications, Inc. v. News Corporation*, 2018 WL 4489285, *3 (S.D. N.Y. 2018) (“The mere inclusion of a lawyer as a recipient of a copy of a draft document circulated by one business person to other business people

seeking comments on the draft would not, standing alone, warrant the protection of the attorney-client privilege.”); *Upjohn Co. v. U.S.*, 449 U.S. 383, 396, 101 S. Ct. 677, 66 L. Ed. 2d 584, 7 Fed. R. Evid. Serv. 785, 30 Fed. R. Serv. 2d 1101 (1981) (“[The client] may not refuse to disclose any relevant fact within his knowledge merely because he incorporated a statement of such fact into his communication to his attorney.” (quoting *City of Philadelphia v. Westinghouse Elec. Corp.*, 205 F. Supp. 830, 831, 5 Fed. R. Serv. 2d 546 (E.D. Pa. 1962))); *Federal Trade Commission v. Abbvie Inc.*, 2016 WL 4478803, *3 (E.D. Pa. 2016) (“Pre-existing, non-privileged documents do not become privileged merely because they were later sent to an attorney. Every document sent to counsel in relation to a patent application is not automatically deemed privileged.”); *Federal Trade Commission v. Innovative Designs, Inc.*, 104 Fed. R. Evid. Serv. 727, 2017 WL 4310236, *7 (W.D. Pa. 2017) (“A party cannot avail itself of the protection of attorney-client privilege simply because a communication was routed through or copied to counsel.”).

Even if this Court found some communications herein were attorney client privileged, State Farm’s usage of attorney-client services to perpetrate a fraud against its policyholders would mean there was no privilege to this document. Oklahoma law has long acknowledged a crime/fraud exception to the attorney-client privilege. For example, Oklahoma Professional Rule of Professional Conduct 1.6 provides:

A lawyer may reveal information relating to representation of a client to the extent the lawyer reasonably believes necessary:

- (1) to prevent reasonably certain death or substantial bodily harm;
- (2) to prevent the client from committing:
 - (i) a crime; or
 - (ii) a fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services;
- (3) to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services, provided that the lawyer has first made reasonable efforts to

contact the client so that the client can rectify such criminal or fraudulent act, but the lawyer has been unable to do so, or the lawyer has contacted the client and called upon the client to rectify such criminal or fraudulent act and the client has refused or has been unable to do so;

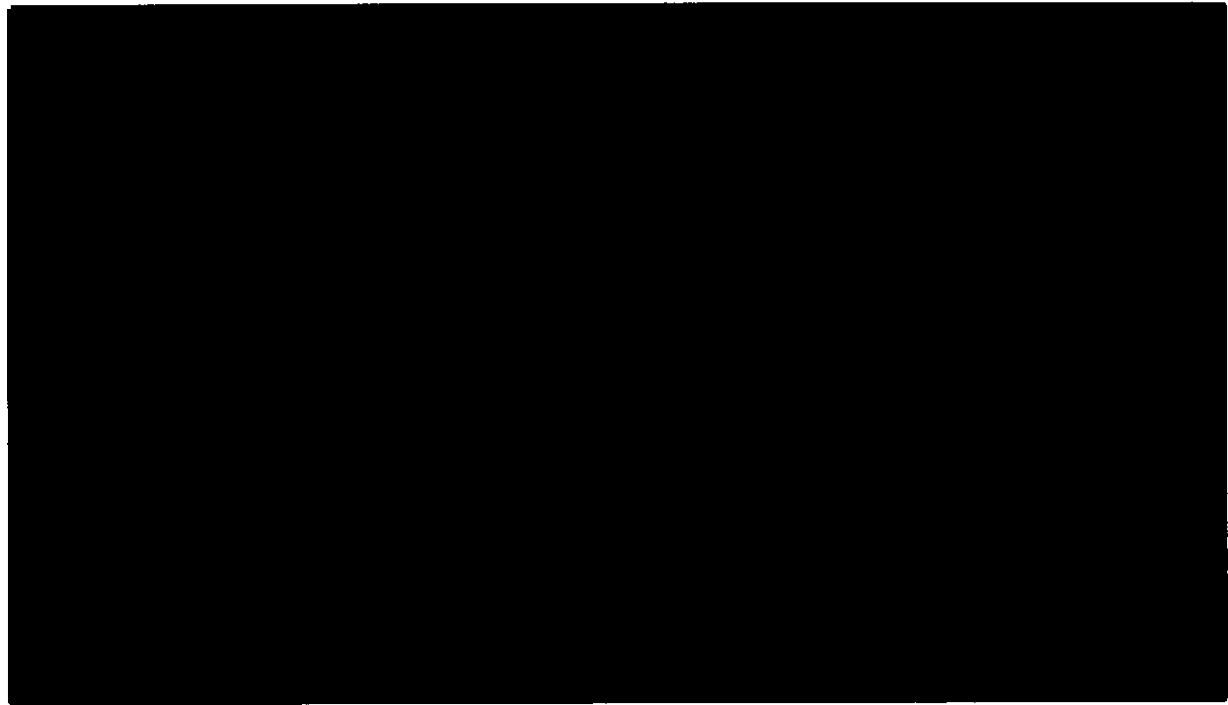
See also 12 O.S. § 2502 (“D. There is no privilege under this section: 1. If the services of the attorney were sought or obtained to enable or aid anyone to commit or plan to commit what the client knew or reasonably should have known to be a crime or fraud;”).

Because of the testimony taken last week which was directly contrary to the testimony taken in this case of the same executives, and the fact that these document issues has arisen in West related to Exhibit 14 and Exhibit 15, leads to the conclusion that the parties need this Court’s guidance for the depositions set to take place next week in this Court’s courtroom. Plaintiffs specifically request this Court de-designate Exhibit 14 and Exhibit 15 to this Motion at the hearing on September 28, 2026. In the alternative, Plaintiffs request this Court do an *in camera* review of an unredacted version of Exhibit 14 to determine if the redactions are truly privileged, which Plaintiffs dispute.

**IV. DEPOSITION TESTIMONY ON OUTCOME-BASED CLAIM HANDLING
REQUIRES COURT GUIDANCE ON CONFIDENTIALITY OF HUR00156099
(EX. 16).**

Exhibit 16 is a document titled “[REDACTED]” which Vice President Kathy Ress testified Accenture was involved with the development of. *See* Ex. 18, Ress West Depo at 151:13-17. This operations model which Accenture worked with State Farm on contains blatant bad faith plotting to reduce claim payouts and develop “[REDACTED]”

██████████.”



See Ex. 16 at HUR00156103. It is pure bad faith and a gross violation of the duties owed to first-party insureds that State Farm hired Accenture to develop an operations model for “██████████
██████████.” As such, this document cannot be considered privileged. Oklahoma law is clear that an insurer can never treat its insureds as an adversary, and engaging in outcome-based claim handling to save State Farm \$218-\$300 million dollars on claims that have not happened yet is the most adversarial conduct an insurance company could engage in. *Newport v. USAA*, 2000 OK 59, ¶ 15, 11 P.3d 190 (“An insurer may not treat its own insured in the manner in which an insurer may treat third-party claimants to whom no duty of good faith and fair dealing is owed and cannot offer less than an internal evaluation of how much the claim is worth.”);

Furthermore, this same operations model is where the “██████████” or “██████████” is developed and implemented to reduce claim payments for an “██████████” to the tune of “██████████” in the pockets of State Farm. See *id.* It even discusses leadership

intervention or what becomes team manager review required of full roof replacements to the estimated "[REDACTED]" of "[REDACTED]". See *id.*

CONCLUSION

Plaintiffs respectfully submit this Supplement of Authority regarding Judge Sheperd's Order on De-Designation, as well as the depositions testimony taken in this case and three weeks later in the West Matter pending in Comanche County. Plaintiffs respectfully request an Order designating Exhibits 14-16 as not confidential to prevent any argument about its use next week in key corporate representative depositions.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of September, 2026, a true, correct, and exact copy of the foregoing document was emailed and/or mailed to the following persons:

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Hannah Whitten

Hursh v. State Farm, et al; CJ-2025-2626

Plaintiffs' Notice of Supplemental Authority Regarding Plaintiffs' Motion to De-Designate

EXHIBIT 1

FILED UNDER SEAL

Hursh v. State Farm, et al; CJ-2025-2626

Plaintiffs' Notice of Supplemental Authority Regarding Plaintiffs' Motion to De-Designate

EXHIBIT 2

FILED UNDER SEAL

Hursh v. State Farm, et al; CJ-2025-2626

Plaintiffs' Notice of Supplemental Authority Regarding Plaintiffs' Motion to De-Designate

EXHIBIT 3

FILED UNDER SEAL

Hursh v. State Farm, et al; CJ-2025-2626

Plaintiffs' Notice of Supplemental Authority Regarding Plaintiffs' Motion to De-Designate

EXHIBIT 4

FILED UNDER SEAL

Hursh v. State Farm, et al; CJ-2025-2626

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EXHIBIT 5

FILED UNDER SEAL

Hursh v. State Farm, et al; CJ-2025-2626

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EXHIBIT 6

FILED UNDER SEAL

Hursh v. State Farm, et al; CJ-2025-2626

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EXHIBIT 7

FILED UNDER SEAL

Hursh v. State Farm, et al; CJ-2025-2626

Plaintiffs' Notice of Supplemental Authority Regarding Plaintiffs' Motion to De-Designate

EXHIBIT 8

FILED UNDER SEAL

Hursh v. State Farm, et al; CJ-2025-2626

Plaintiffs' Notice of Supplemental Authority Regarding Plaintiffs' Motion to De-Designate

EXHIBIT 9

FILED UNDER SEAL

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EXHIBIT 10

FILED UNDER SEAL

Hursh v. State Farm, et al; CJ-2025-2626

Plaintiffs' Notice of Supplemental Authority Regarding Plaintiffs' Motion to De-Designate

EXHIBIT 11

FILED UNDER SEAL

Hursh v. State Farm, et al; CJ-2025-2626

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EXHIBIT 12

FILED UNDER SEAL

Hursh v. State Farm, et al; CJ-2025-2626

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EXHIBIT 13

FILED UNDER SEAL

Hursh v. State Farm, et al; CJ-2025-2626

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EXHIBIT 14

FILED UNDER SEAL

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EXHIBIT 15

FILED UNDER SEAL

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EXHIBIT 17

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Hursh v. State Farm, et al; CJ-2025-2626

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EXHIBIT 18

FILED UNDER SEAL

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EXHIBIT 19

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Hursh v. State Farm, et al; CJ-2025-2626

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EXHIBIT 20

FILED UNDER SEAL

Hursh v. State Farm, et al; CJ-2025-2626

Plaintiffs' Notice of Supplemental Authority Regarding Plaintiffs' Motion to De-Designate

EXHIBIT 21

FILED UNDER SEAL

Hursh v. State Farm, et al; CJ-2025-2626

Plaintiffs' Notice of Supplemental Authority Regarding Plaintiffs' Motion to De-Designate

EXHIBIT 22

FILED UNDER SEAL

INDEX OF DOCUMENTS REMAINING OUTSTANDING TO BE DE-DESIGNATED

3 Exhibits from Plaintiffs' Supplement to Plaintiffs' Motion to De-Designate

14. HUR00158701-19
15. HUR00039527-34
16. HUR00156099

8 Exhibits Remaining from Motion to De-Designate

10. Fire Claims – 2023 May Meeting
11. Email 2022-08-02 RE: Fire Estimate Difference OVP Summary Report- May 2022 Results
12. Homeowners Paid Severity & Incurred Pure Premium (IPP) by State
13. Email 2025-01-23 RE: Fire Quality Pillar – December Scrimmage Prep (Draft)
14. Video - Haag Education Chapter 1 - Segment 2 - Impact Testing and Hail Definitions
15. 2021-06-24 Fire Model Enhancement – Water & Wind/Hail
17. P&C Claims Fire Claim Quality June 2021
19. Email 2022-01-12 changing “Reduce” to “Target”

**13 Documents Incorporated into Plaintiffs' Reply in Support of its Motion to De-Designate
(also attached as the first 13 Exhibits to Plaintiffs' Supplement to Plaintiffs' Motion to De-Designate)**

1. HUR00063569-73
2. HUR00034836
3. HUR00044257
4. HUR00068381
5. HUR00069466
6. HUR00037462
7. HUR00125604
8. HUR00053719
9. HUR00008080
10. HUR00078333
11. HUR00027781
12. HUR00061156
13. HUR00125604



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September 22, 2026

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**Re: *West v. State Farm Fire and Casualty Company*, Case No. CJ-2025-135
(Comanche Cty.) – Notice of Inadvertent Production of Documents**

Counsel:

On behalf of State Farm Fire and Casualty Company ("State Farm") I write to inform you that, pursuant to 12 O.S. § 3226(B)(5)(b) and 12 O.S. § 2502(E), State Farm is clawing back the document Bates-numbered WEST00158702-09, which was marked as Exhibit 133 in the September 17, 2026 deposition of Wensley Herbert, and which you recently attached as an exhibit to your Reply in Support of Motion to Compel Compliance by Nancy Holcomb. State Farm is also clawing back another iteration of that document which is WEST00158712-19. These documents contain communications protected by the attorney-client privilege and/or the work product doctrine, which State Farm inadvertently failed to redact when it produced the documents; there are also previous redactions that State Farm is downgrading. Pursuant to 12 O.S. § 2502(E) and this notification letter, inadvertent disclosure of this document without the appropriate redactions does not operate as a waiver of the attorney-client privilege and/or work product doctrine as to these documents.

Pursuant to 12 O.S. § 3226(B)(5)(b), State Farm requests that you destroy all copies (both paper and electronic) of these documents (including the version marked as a deposition exhibit), delete them from any and all litigation support or other databases in your possession, and expunge them from any work product reflecting the contents of the documents. Please also destroy all analyses, emails, memoranda, outlines, notes, or any other materials you may have prepared based on these documents and direct any third parties to whom you disclosed the documents (including but not limited to consultants, investigators, experts, vendors and other similar service providers)

EXHIBIT

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to do the same.

State Farm will follow up with a production volume that provides an overlay for these documents with corrected redactions.

State Farm also asks that you voluntarily agree to strike: (1) Mr. Herbert's testimony regarding the privileged portions of WEST00158702-09 from his deposition transcript, (2) the exhibit to the deposition; and (3) the exhibit to Reply brief referenced above. Indeed, with regard to the attachment of the document to your Reply brief, you did so after State Farm had made known its belief that the document may contain privileged communications which State Farm was investigating and about which it planned to communicate with you further. The use of that document as an exhibit with knowledge of State Farm's privilege concerns is inconsistent with the law and the obligations of attorneys.

The production of WEST00158702-09 and WEST00158712-19 without all appropriate redactions was not a waiver of any protection from disclosure or confidential treatment accorded by law. State Farm in fact redacted that information from other versions of the document, thus demonstrating its intent to maintain its privilege claims. The production of versions without the redactions was unintentional and first became known to State Farm after investigation following Mr. Herbert's deposition. State Farm intends to and hereby does rely on and invoke all applicable privilege protections as well as the protections for inadvertent disclosure recognized by law for these documents and any others that may be discovered.

Please confirm in writing by the close of business on September 25, 2026 that you have complied with our request made pursuant to 12 O.S. § 3226(B)(5)(b) and 12 O.S. § 2502(E).

Thank you, and please let us know if you have any questions or would like to confer.

Sincerely,

A handwritten signature in black ink, appearing to read "Timila Rother". The signature is fluid and cursive, with the first name "Timila" written in a larger, more prominent script than the last name "Rother".

Timila S. Rother

cc: Brad Burgess,
Colby Stephenson
Ryan Deligans

**IN THE DISTRICT COURT OF COMANCHE COUNTY
STATE OF OKLAHOMA**

NEIL & LACY WEST,
Plaintiffs.

v.

STATE FARM FIRE & CASUALTY,
& NANCY HOLCOMB INSURANCE
AGENCY, INC
Defendants.

Case No. CJ-2025-135

STATE OF OKLAHOMA
Comanche County
FILED in the
Office of the Court Clerk

AUG 20 2026

By Km
Deputy

COURT ORDER ON PLAINTIFFS' VARIOUS MOTIONS FILED ON JULY 7th, 2026

NOW on this 20th day of August, 2026 the Court, after hearing argument from counsel and reviewing all of the relevant pleadings **GRANTS IN PART** the Plaintiffs' Motion to Strike State Farm's blanket Confidentiality Assertion; **GRANTS IN PART** Plaintiffs' Motion to De-Designate Documents Produced and **DENIES** the Motion to Lift the Protective Order, subject to the conditions set forth below.

FINDINGS OF FACT

1. On May 21, 2026, the Court entered the Protective Order governing the treatment of confidential material produced in discovery in this action.
2. The Protective Order permits a party to designate material "Confidential" only "after a bona fide determination made in good faith that the material is in fact trade secret or other confidential information as defined in paragraph 3."
3. Paragraph 3 of the Protective Order limits "Confidential" information to three enumerated categories: (a) "trade secret," which "shall have the same meaning as in 78 O.S. §86(4)"; (b) "confidential research, development or commercial information," meaning "information that is maintained in secrecy from third parties and which a party in good faith believes would result in substantial competitive harm if publicly disclosed"; and (c)

“personal confidential information,” meaning “a person’s social security number, medical records, bank records, personnel records and tax information.”

4. Paragraph 3(a)(ii) of the Protective Order expressly provides that “trade secret’ shall explicitly not include any aspects of the handling of Plaintiffs’ claim as first-party insureds, including but not limited to attempts to lower indemnity payments on Plaintiffs’ claim, including the total roof replacement requested, and anything regarding denying or partially denying Plaintiffs’ claim.”
5. Paragraph 4 of the Protective Order establishes the procedure for challenging a designation and allocates the burden of proof. It provides that a designation shall not “create a presumption the document is, in fact, confidential or a trade secret entitled to protection,” and that “[t]he burden of establishing that a document or testimony contains trade secret or personal confidential information and is entitled to the protection of this Protective Order shall remain on the party making the designation.”
6. In response to the Court’s order granting Plaintiffs’ motion to compel, State Farm produced a large volume of documents. Plaintiffs represent that the production exceeds 800,000 pages and that State Farm designated every page “Confidential.” State Farm represents that it produced “nearly 800,000 documents (millions of pages),” that it “has not designated all documents confidential,” and that over 600,000 of the produced documents were reproduced from other litigation in which they are subject to confidentiality provisions of settlement agreements and/or protective orders entered by other courts. State Farm contends that not all documents turned over in discovery were labeled “confidential”.

7. Plaintiffs objected to State Farm's designations, and State Farm declined to withdraw them. The parties disagree as to whether or not the "challenge" procedure outlined in paragraph 4 of the Protective Order has been complied with. Regardless, the parties have failed to resolve the dispute informally.
8. The documents Plaintiffs specifically identify as improperly designated concern State Farm's internal "FME" and "Wind/Hail" initiatives, tracking of roof replacements and indemnity savings, and managerial-approval requirements for full roof replacements.

CONCLUSIONS OF LAW

A. Governing standard and allocation of the burden

9. A protective order in Oklahoma issues under 12 O.S. §3226(C)(1), which authorizes the Court, "for good cause shown," to enter an order protecting a party "from annoyance, harassment, embarrassment, oppression or undue delay, burden or expense," including an order "that a trade secret or other confidential research, development or commercial information not be disclosed or be disclosed only in a designated way." (**Okla. Stat. Ann. tit. 12, § 3226**)
10. The Oklahoma Supreme Court has held that §3226(C) shifts the burden of showing 'good cause' to the party who opposes discovery. (**YWCA of Oklahoma City v. Melson, 1997 OK 81, 944 P.2d 304**) The burden of showing good cause "is statutorily placed on the party objecting to discovery and is part of that party's motion for a protective order." (**Crest Infiniti, II, LP v. Swinton, 2007 OK 77, 174 P.3d 996**) The Protective Order codifies this same allocation: designation creates no presumption of confidentiality, and

the burden of establishing that material is entitled to protection “shall remain on the party making the designation.”

11. A party does not carry that burden with conclusory or blanket assertions. In (Crest Infiniti, II, LP v. Swinton, 2007 OK 77, 174 P.3d 996), the Oklahoma Supreme Court held that “blanket statements” were insufficient and that the party seeking protection “must show more than these blanket statements to satisfy their burden for a protective order.” (Crest Infiniti, II, LP v. Swinton, 2007 OK 77, 174 P.3d 996)

B. Blanket designations.

12. Plaintiffs have raised the issue as to State Farm’s blanket confidentiality designations.

Under both Oklahoma law and Paragraph 4 of the Protective Order, the burden now rests on State Farm to justify, on a document or category basis, the confidentiality of the material it has designated. A designation applied uniformly to every page of the production, without regard to content, does not satisfy that burden.

C. Trade secret and confidential commercial information

13. The Protective Order adopts the statutory definition of “trade secret” in 78 O.S. §86(4):
information that “derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use,” and “is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.” (Okla. Stat. Ann. tit. 78, § 86)
14. Under Oklahoma law, protectable trade secrets and confidential information “must be the particular secrets of the [proprietor] as distinguished from the general secrets of the

trade,” must possess “a substantial element of secrecy,” and must “contain elements which are unique and, not generally known or used in the trade.” (**Cent. Plastics Co. v. Goodson, 1975 OK 71, 537 P.2d 330**) “Matters of public knowledge in an industry cannot be appropriated by one as [its] secret.” (**Cent. Plastics Co. v. Goodson, 1975 OK 71, 537 P.2d 330**) Applying §86(4), the Tenth Circuit has confirmed that the proponent must show the information is not readily ascertainable and provide evidence that it “conferred some type of competitive advantage or economic value”; generalized and conclusory evidence will not suffice. (**Double Eagle Alloys, Inc. v. Hooper, 134 F.4th 1078 (10th Cir. 2025)**)

15. To restrict disclosure of trade secret or “other confidential research, development, or commercial information,” the proponent “must ‘first establish that the information sought is a trade secret [or other confidential research, development, or commercial information]’ and then ‘demonstrate that its disclosure might be harmful,’ by “a particular and specific demonstration of fact, as distinguished from stereotyped and conclusory statements.” (**Video Gaming Techs., Inc. v. Castle Hill Studios LLC, No. 17-CV-454-GKF-JFJ, 2019 WL 2514705 (N.D. Okla. June 18, 2019)**)
16. An insurer’s internal claims-handling policies, procedures, and business strategies are not automatically protectable. Internal corporate documents do not automatically merit protective orders, and a protective order does not exist to prevent “negative publicity” or reputational injury; such material qualifies as confidential commercial information only when the proponent couples it with a particularized showing of competitive harm. (**Video Gaming Techs., Inc. v. Castle Hill Studios LLC, No. 17-CV-454-GKF-JFJ, 2019 WL 2514705 (N.D. Okla. June 18, 2019)**)

17. Independent of these authorities, Paragraph 3(a)(ii) of the Protective Order removes from the “trade secret” category any aspects of the handling of Plaintiffs’ claim as first-party insureds, including attempts to lower indemnity payments on Plaintiffs’ claim, the total roof replacement requested, and anything regarding denying or partially denying Plaintiffs’ claim. Documents falling within Paragraph 3(a)(ii) are, by the terms the parties agreed to, not trade secrets and may not be designated Confidential on that basis.

D. Confidentiality of discovery is distinct from sealing of court records.

18. The Court agrees with State Farm that the standard governing confidentiality designations of discovery material differs from the standard governing the sealing of records filed with the Court. Under Oklahoma law, “discovery documents produced in private litigation are not public records and would not, under the Open Records Act, otherwise be available for public inspection and copying, unless the documents are filed of record or admitted into evidence.” (**Good v. Farmers Ins. Co., 2023 OK CIV APP 28, 536 P.3d 961**)
19. When material is filed with the Court, however, it becomes subject to the presumption of public access, and sealing is governed by the Oklahoma Open Records Act. (**Mitchell v. Mitchell, 2021 OK CIV APP 17, 491 P.3d 759**) Court records are public unless a statute requires confidentiality, and the Court “may seal a record or portion of a record only if a compelling privacy interest exists which outweighs the public’s interest in the record.” A sealing order must be public and must (1) make findings of fact, (2) state conclusions of law specific enough to reveal the legal basis for sealing, (3) use “the least restrictive means for achieving confidentiality,” and (4) be “narrowly tailored so that only the portions of the record subject to confidentiality are sealed and the remainder of the record

is kept open.” (Okla. Stat. Ann. tit. 51, § 24A.30) Any order removing material from the public record must also contain a statement that removal “is necessary in the interests of justice” and a “specific identification of the material” withheld. (Okla. Stat. Ann. tit. 51, § 24A.29) Strict compliance with these requirements “is mandatory in all cases.” (Good v. Farmers Ins. Co., 2023 OK CIV APP 28, 536 P.3d 961) The “interests of justice” finding is “a very high standard for good reason and is required in every case,” and speculative harm will not support closure. (Good v. Farmers Ins. Co., 2023 OK CIV APP 28, 536 P.3d 961; Nichols v. Jackson, 2001 OK CR 35, 38 P.3d 228)

20. This distinction cuts both ways. It defeats Plaintiffs’ contention that the presumption of public access to court records, standing alone, requires the wholesale de-designation of unfiled discovery. It equally defeats State Farm’s suggestion that the good-faith designation standard excuses it from justifying challenged designations: the challenge procedure in Paragraph 4 and 12 O.S. §3226(C), not the sealing statutes, supply the standard, and under that standard the burden of justification remains on State Farm. (YWCA of Oklahoma City v. Melson, 1997 OK 81, 944 P.2d 304)

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that State Farm’s blanket designation of its entire production as “Confidential” is STRICKEN. A uniform, undifferentiated designation applied to every page of the production does not reflect the “bona fide determination made in good faith” that Paragraph 1 of the Protective Order requires, and it does not satisfy State Farm’s burden under 12 O.S. §3226(C) and Paragraph 4 of the Protective Order. (YWCA of Oklahoma City v. Melson, 1997 OK 81, 944 P.2d 304; State ex rel. Oklahoma State Bd. of Med. Licensure & Supervision v. Rivero, 2021 OK 31, 489 P.3d 36).

Further, the Court finds that Exhibit numbers: 2-7, 9, 11, 12, 14-16, 24, 26-38, 40-42 and 44-45 identified in Plaintiff's Reply, filed on August 6th, 2026 shall be de-designated and removed from the protective order as the exhibits identified above do not contain any protected information as outlined in the protective order. Further, the exhibits listed above shall be treated like normal documents exchanged in the course of discovery.

Re-designation on a particularized basis. Within thirty (30) days of the date of this Order, State Farm shall review its production and re-designate as "Confidential" only those documents, or portions of documents, that it has determined in good faith fall within one of the three categories defined in Paragraph 3 of the Protective Order. For each document or reasonably defined category of documents it re-designates, State Farm shall identify the applicable Paragraph 3 category. Any document not re-designated within that period shall no longer be subject to the Protective Order and is DE-DESIGNATED, consistent with Paragraph 4 of the Protective Order.

First-party claim-handling materials. Consistent with Paragraph 3(a)(ii) of the Protective Order, any document concerning the handling of Plaintiffs' own claim as first-party insureds — including attempts to lower indemnity payments on Plaintiffs' claim, the total roof replacement requested, and the denial or partial denial of Plaintiffs' claim — may not be designated "Confidential" as a "trade secret" and is DE-DESIGNATED to the extent so designated on that basis.

Burden on any maintained designation. For any designation State Farm maintains and Plaintiffs continue to challenge, State Farm bears the burden of establishing, by a particular and specific demonstration of fact, that the material falls within a Paragraph 3 category and that its disclosure would cause a cognizable competitive or other legally protectable harm.

Documents subject to other courts' orders. In its re-designation, State Farm shall separately identify any documents it contends remain confidential solely by reason of a protective order or settlement agreement entered in other litigation. The de-designation directed by this Order does not, of its own force, disturb a confidentiality obligation independently imposed by another court; any dispute regarding such documents shall be addressed under the Paragraph 4 procedure with reference to the terms and jurisdiction of the order said to govern them.

Meet and confer/further challenges. The parties ***SHALL MEET AND CONFER IN PERSON AND IN GOOD FAITH*** regarding any designations that remain in dispute following State Farm's re-designation, in accordance with Paragraph 4 of the Protective Order. Any designation the parties cannot resolve shall be submitted to the Court for determination, at which time the burden of justifying the designation shall rest on State Farm. The Court further admonishes the parties that future discovery disputes could result in attorney fees, sanctions or the appointment of a discovery master.

The Protective Order remains in effect. Plaintiffs' request to lift or dissolve the Protective Order in its entirety is DENIED. The Protective Order was entered on the parties' agreement and provides an orderly mechanism, in Paragraph 4, for resolving the very dispute presented here; the appropriate remedy for over-designation is application of that mechanism and the de-designation directed above, not wholesale dissolution. Except as modified by this Order, the Protective Order remains in full force and effect.

Sealing of court records. Plaintiffs' request for a prospective order prohibiting all future under-seal filings absent a particularized showing of harm is DENIED. Nothing in this Order relieves any party of the obligation to satisfy 51 O.S. §§24A.29 and 24A.30 before any material is filed under seal or removed from the public record. Any request to seal a filed record shall be

made by motion, shall be evaluated on a case-by-case basis under the compelling-privacy-interest standard, and shall be granted only upon the findings of fact, conclusions of law, least-restrictive-means, and narrow-tailoring requirements those statutes impose. (Good v. Farmers Ins. Co., 2023 OK CIV APP 28, 536 P.3d 961)

IT IS SO ORDERED this 20th day of August, 2026.


JUDGE OF THE DISTRICT COURT

CLERK TO MAIL A COPY OF THIS ORDER TO ALL PARTIES AND FILE A CERTIFICATE OF MAILING

I, ROBERT MORALES, District Court Clerk in and for Comanche County, Oklahoma, hereby certify that the foregoing is a true, correct, and complete copy of the instrument herewith set out as appears of record in the Court Clerk's Office of Comanche County, Oklahoma. This 20 day of August 2026

ROBERT MORALES, District Court Clerk

By  Deputy