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14 **UNITED STATES DISTRICT COURT**  
15 **CENTRAL DISTRICT OF CALIFORNIA**  
16 **SOUTHERN DIVISION**

17 JOYCE WALKER, KIM BRUCE  
HOWLETT, and MURIEL SPOONER, on  
18 behalf of themselves and all others  
similarly situated,

19 Plaintiffs,

20 vs.

21 LIFE INSURANCE COMPANY OF THE  
SOUTHWEST, a Texas corporation, and  
22 DOES 1-50

23 Defendant.  
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**CLASS ACTION**

CASE NO.: CV 10-9198 JVS (RNBx)

Formerly Case No.: 3:10-cv -04852 JSW  
from Northern District of California

**ORDER RE:  
JOINT CONFIDENTIALITY  
STIPULATION AND PROTECTIVE  
ORDER**

Judge: Hon. James V. Selna  
Courtroom: 10C

1 Plaintiffs Joyce Walker, Kim Bruce Howlett, and Muriel Spooner  
2 (“Plaintiffs”) and Defendant Life Insurance Company of the Southwest  
3 (“Defendant” or “LSW” and, together with Plaintiffs, the “Parties”) submit the  
4 following stipulation to govern certain matters relating to the production by LSW  
5 of certain policyholder files pertaining to class members.  
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8 WHEREAS, on November 9, 2012, the Court entered an Order certifying a  
9 class comprising “all Provider and Paragon Policies who purchased their Policies  
10 on or after September 24, 2006.” Dkt. 353 at 27;  
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12 WHEREAS, Plaintiffs’ Request for Production No. 173 demands the  
13 production of certain documents contained in the policyholder files for each class  
14 member;  
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16 WHEREAS, pursuant to an agreement with Plaintiffs, LSW intends to make  
17 an interim production of 1400 policy files on an expedited basis, plus a production  
18 of the remaining files as soon as practicable thereafter (collectively, the  
19 “Production”);  
20

21 WHEREAS, LSW expects that the Production may be very voluminous  
22 because each policy file potentially contains hundreds of pages;  
23

24 WHEREAS, the files may include sensitive medical information, as well as  
25 information protected by the work product, attorney-client or other privileges;  
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27 WHEREAS, on September 27, 2011 the parties agreed to a Second  
28 Amended Protective Order which provided, *inter alia*, for protection of

1 inadvertently disclosed documents, which continues in full force and effect, but the  
2 parties wish to provide further protection for the Production;

3  
4 WHEREAS, the parties wish to enter into a stipulation that will permit LSW  
5 to make the Production quickly with little or no human review, but without any  
6 possibility of waiver of any protection or privilege that would have permitted LSW  
7 to withhold any document.  
8

9 Thus, IT IS HEREBY STIPULATED by and among all Parties, through  
10 their respective attorneys of record, as follows:

- 11
- 12 1. “Protected Information” shall be defined as any information contained  
13 in the Production that could have been withheld, for any reason,  
14 including: the attorney-client privilege, work-product protection,  
15 privileges pertaining to medical information, spousal privilege, or any  
16 other applicable privilege or ground for withholding or redacting  
17 (“Ground For Protection”).  
18
  - 19 2. Non-Waiver: Plaintiffs understand and agree that LSW shall  
20 make the Production after undertaking either no human review, or an  
21 extremely limited human review, at the sole option of LSW. Plaintiffs  
22 expressly agree that doing so shall not constitute a waiver of any  
23 Ground For Protection. Thus, Plaintiffs shall never, under any  
24 circumstances, argue: (i) that the Production or any part thereof  
25 constitutes a waiver of, or calls into question, the applicability of any  
26 Ground For Production; and (ii) that LSW failed to take reasonable  
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1 efforts to assert or preserve any Ground For Protection by making the  
2 Production. Pursuant to Federal Rule of Evidence 502(d), the  
3 privilege or protection is not waived by the Production.  
4

5 3. Non-Use: Plaintiffs shall make no use whatsoever of any  
6 information that they reasonably believe to be Protected Information.  
7 The use of documents containing confidential medical information  
8 shall be governed by the terms of the parties' September 27, 2011  
9 Second Amended Protective Order. In regards to all other types of  
10 Protected Information, with the exception of confidential medical  
11 information, Plaintiffs shall promptly notify LSW upon identifying  
12 such information. Plaintiffs shall either (i) destroy the documents  
13 containing such Protected Information, or (ii) take reasonable efforts  
14 to segregate and protect the confidentiality of the information pending  
15 any Return Request, or clarification from LSW regarding whether the  
16 information is Protected Information (which clarification Plaintiffs  
17 shall be entitled to request from LSW).  
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22 4. Return Requests: LSW may, at any time, tender to Plaintiffs'  
23 counsel a written request specifying the Bates numbers of the pages  
24 on which Protected Information appears for the redaction of such  
25 information or return of any document(s) containing such information  
26 from the Production. If such a request is made:  
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- a. Plaintiffs shall promptly redact the Protected Information and keep no copies of the redacted information or return to LSW or destroy all copies of the non-redacted document(s). Plaintiffs shall not seek or demand any prior showings, explanations, conditions, negotiations, or conferrals. The purpose of the preceding sentence is to provide for prompt, no-questions-asked, redaction or return of any Protected Information upon request;
- b. At the same time LSW requests that Protected Information be returned, it shall tender a privilege log pertaining to the redacted information or returned document(s);
- c. Plaintiffs may thereafter initiate motion practice to challenge whether any information or document was Protected Information, consistent with Paragraph 2 above. Thus, in such a challenge, the only issue for adjudication shall be whether the document could properly have been withheld had it not been part of the Production.
- d. LSW is under no obligation to request the redaction or return of documents, and the failure to do so shall not prejudice LSW's rights in any way;

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e. Plaintiffs are under no obligation to challenge the designation of Protected Information, and the failing to do so shall not prejudice their rights in any way; and

f. Attorneys fees and costs shall be awarded to the prevailing party in any motion practice challenging the designation of Protected Information.

5. By making the Production, neither party waives any objection regarding admissibility, relevancy, or any other evidentiary ground, all of which are specifically reserved.

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6. The provisions of this Stipulation are intended to be in addition to those provided for by the parties' September 27, 2011 Second Amended Protective Order, which remains in full force and effect for the Production and any other document productions.

Dated: January 9, 2013 KASOWITZ, BENSON, TORRES & FRIEDMAN LLP

By: /s/ Charles N. Freiberg  
Charles N. Freiberg (70890)  
Attorneys for Plaintiffs

Dated: January 9, 2013 WILMER CUTLER PICKERING HALE AND DORR LLP

By: /s/ Jonathan A. Shapiro  
Jonathan A. Shapiro  
Attorneys for Defendant Life Insurance Company of the Southwest

**PURSUANT TO STIPULATION, IT IS SO ORDERED**



Dated: January 10, 2013

Honorable Robert N. Block  
United States Magistrate Judge