FILED IN DISTRICT COURT
OKLAHOMA COUNTY

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IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

NOV -2 2026
RICK WARREN
COURT CLERK
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BILLY & LACY HURSH, Plaintiffs, v. STATE FARM FIRE & CASUALTY COMPANY; MARK D. WELTY; and MARK D. WELTY INSURANCE AGENCY, INC., Defendants.	)	Case No. CJ-2025-2626

DEFENDANT STATE FARM FIRE AND CASUALTY COMPANY'S EMERGENCY MOTION TO STRIKE PLAINTIFFS' MOTION TO ENFORCE THIS COURT'S SEPTEMBER 1, 2026 MINUTE ORDER DENYING STATE FARM'S MOTION TO QUASH JON FARNEY'S DEPOSITION

Defendant State Farm Fire and Casualty Company ("State Farm"), pursuant to the Court's December 11, 2025 Protective Order, moves on an emergency basis to strike Plaintiffs' October 27, 2026 Motion to Enforce This Court's September 1, 2026 Minute Order Denying State Farm's Motion to Quash Jon Farney's Deposition (herein, "Motion to Enforce" or "Plaintiffs' Motion"). On October 27, Plaintiffs filed on the public docket—as Exhibit 3 to their Motion—an internal State Farm Senior Executive Offsite ("SEO") memorandum (herein, the "Confidential Document") that was unambiguously designated "**Confidential Produced Pursuant to Protective Order**." Further, Plaintiffs' Motion quotes from and describes the content of this protected document without redaction.

The Protective Order is unambiguous. A party ***may not*** publicly file a document designated as "Confidential" without permission of the producing party or the Court. Plaintiffs have permission from neither. Plaintiffs' Motion must thus be stricken and removed from the public docket to preserve the confidentiality of the Confidential Document.

BACKGROUND

The Confidential Document has been the subject of a month-long dispute regarding attorney-client work product and privilege. As described in State Farm's October 5, 2026 Brief in Support of Application of Attorney-Client Privilege and Work Product Protections to HUR00158701–19 (herein, the "Privilege Brief"), the Confidential Document, Bates-numbered HUR00158701–19, is a draft, internal State Farm memorandum containing legal advice from two State Farm in-house attorneys (in Microsoft Word comment bubbles, track changes, and in-line comments). (*See* Privilege Br. at 2 & Ex. 1.) State Farm, in the course of producing over 117,000 documents in this case (in addition to more than 600,000 documents that State Farm reproduced from prior settled cases), inadvertently produced two versions of that memorandum—one being the Confidential Document—with incomplete privilege redactions. (*See id.* at 3–4.)

State Farm learned it had inadvertently produced the Confidential Document in the context of another case, *West v. State Farm Fire & Cas. Co.*, No. 2025-135 (Comanche Cty.), when, during a September 17, 2026 deposition, Plaintiffs' counsel in that case (also Plaintiffs' counsel here) marked a copy of the memorandum containing the incomplete redactions as Exhibit 133 to that deposition. (*See id.* at 4.) State Farm's counsel promptly notified Plaintiffs' counsel that Exhibit 133 might contain inadvertently disclosed privileged communications and information and that State Farm was investigating further. On September 22, 2026, sent Plaintiffs' counsel a clawback letter asserting privilege over the Confidential Document and requesting that Plaintiffs' counsel destroy and return all copies of it.

On September 23, 2026, Plaintiffs' counsel filed the Confidential Document in this case (under seal) as Exhibit 14 to Plaintiffs' Notice of Supplemental Authority Regarding Plaintiffs' Motion to De-Designate (herein, "Notice"). In their Notice, Plaintiffs acknowledged that "despite

disagreeing that . . . 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." (9/23/2026 Pls.' Notice at 7.) Plaintiffs further asserted that because "this Court will be hearing Plaintiffs' Motion to De-Designate on Monday, September 28 . . . Plaintiffs explicitly request this Court [also] de-designate Exhibit 14." (*Id.* at 8; *see also id.* at 18 ("Plaintiffs respectfully request an Order de-designating Exhibits 14–16 as not confidential to prevent any argument about its use next week in key corporate representative depositions.").) Plaintiffs also argued that the Confidential Document is not protected by the attorney-client privilege. (*Id.* at 12.)

The Court did ***not*** grant Plaintiffs request to de-designate the Confidential Document (Exhibit 14 to Plaintiffs' Notice) or remove in any way its protections under the Protective Order.[1] Rather, on September 28, the Court entered a Minute Order de-designating "11 documents" comprised of "Exhibits 10, 11, 12, 15, 17, and 19 [to Plaintiffs' original Motion to De-Designate]; Exhibits 4–6 and 12 to Plaintiffs' Reply ISO De-Designation; and Exhibit 16 to Plaintiffs' Supplemental Authority Regarding Plaintiffs' Motion to De-Designate." (*See* 9/28/2026 Minute Order, at 1.) At the September 28 hearing on Plaintiffs' Motion to De-Designate, the Court allowed State Farm one week (until October 5) to file a supplemental brief supporting its assertions of attorney-client and work product privilege regarding the document.

On October 5, 2026, in accordance with the Court's guidance at the September 28 and September 29 hearings, State Farm filed its Privilege Brief, describing the privileged nature of the Confidential Document. Plaintiffs responded on October 23, 2026. (*See* 10/23/2026 Pls.' Resp.

[1] Nor, in any event, was Plaintiffs' last-minute request, in a "Notice of Supplemental Authority" regarding the confidentiality of entirely different documents, procedurally proper under the Protective Order.

& Obj. (herein, "Privilege Objection").) In their Privilege Objection, Plaintiffs did not renew their earlier request that the Court deem the Confidential document non-confidential. Instead, and as set forth in detail in the final paragraph of Plaintiffs' Privilege Objection, Plaintiffs requested that the Court "sustain no redaction" to the Confidential Document, "order production of all business content, including all text that appears in the pre-review drafts [of the memorandum in question]," find that State Farm waived privilege, and "deny State Farm's requests to strike, compel destruction, and stay." (*See id.* at 20.)

On October 26, the Court held a hearing on the privilege question. At that hearing, the sole question before the Court was whether the Confidential Document was privileged—the Court did not rule on or even consider State Farm's designation of the document as Confidential pursuant to the Protective Order. The Court, over State Farm's objections, ruled that the Confidential Document "was not created in anticipation of litigation and is not protected work-product, nor attorney-client privileged." (*See* 10/26/2026 Minute Order at 1.) The Court further ruled that "State Farm is entitled to its appellate rights but the request for a stay pending appeal is denied." (*Id.*) The Court's Minute Order in no way addressed, directly or indirectly, State Farm's designation of the document as Confidential pursuant to the Protective Order.

The next day, State Farm filed an application for a writ with the Oklahoma Supreme Court. On the same day, Plaintiffs filed their Motion to Enforce. (*See* Pls.' Mot. at 2–3, Ex. 3.)

ARGUMENT AND AUTHORITY

I. PLAINTIFFS' FILING OF THE CONFIDENTIAL DOCUMENT ON THE PUBLIC RECORD VIOLATES THE PROTECTIVE ORDER.

Plaintiffs' Motion to Enforce violates the Court's December 11, 2025 Protective Order by publicly filing, quoting, and describing the Confidential Document. The Protective Order unambiguously provides that a document designated as "Confidential" ***may not*** be filed publicly

on the Court's docket or otherwise publicly disseminated. Pursuant to the Order, "[d]ocuments and/or deposition transcripts designated as 'Confidential' ***shall not be disseminated publicly***" and may be disclosed only to an enumerated list of persons "unless prior written consent to further disclosure has been obtained from counsel for the designating party or permission for such disclosure has been given by the Court." (Prot. Order ¶ 5 (emphasis added).) Further, when "any materials specifically designated as 'Confidential' under this Protective Order" are filed, they must "be submitted in a sealed envelope or other container, and shall be prominently labeled on the first page: 'Contains Confidential Information – Subject to Court Order.'" (*Id.* ¶ 6.)[2]

Every page of the Confidential Document is clearly designated as "Confidential Produced Pursuant to the Protective Order." (*See* Pls.' Mot. at Ex. 3.) Plaintiffs are well aware of this designation. On September 23, 2026, Plaintiffs' counsel filed the Confidential Document under seal as Exhibit 14 to their Notice of Supplemental Authority regarding de-designation of other documents—conceding that pursuant to the Protective Order Plaintiffs were required to file the document under seal and redact their quotes from and description of the document in their filing. (*See* 9/23/2026 Pls.' Notice at 7–8.) Plaintiffs are also well aware that they were not entitled to file the document publicly absent a ruling from the Court giving them permission to do so. On September 23, Plaintiffs "explicitly requested" that the Court de-designate the Confidential Document. (*Id.* at 8 ("Plaintiffs explicitly request this Court de-designate Exhibit 14"); *id.* at 18 ("Plaintiffs respectfully request an Order de-designating Exhibits 14–16 as not confidential to prevent any argument about its use next week in key corporate representative depositions.").)

[2] The Protective Order further establishes a procedure to "challenge any other party's designation of a document or portion of a document as 'Confidential.'" (*Id.* ¶ 4.) Under Paragraph 4, the challenging party must first "provide to the producing party written notice of its disagreement with the designation." The producing party may then "respond, in writing, within twenty (20) days, by stating whether it agrees or disagrees that designation should be removed." The parties must "attempt to dispose of such dispute in good faith on an informal basis." Only after completing that process, "the producing party shall have thirty (30) days to submit a motion for relief from the Court." (*Id.*)

The Court ***did not grant*** Plaintiffs' demand to de-designate the Confidential Document. In response to Plaintiffs' "explicit request[ ]" that the Court strip the confidentiality protection from the Confidential Document, the Court entered a Minute Order denying the request (albeit granting Plaintiffs' requests as to ***other*** State Farm documents). (*See* 9/28/26 Minute Order at 1.) There is nothing ambiguous about the Court's September 28, 2026 Minute Order in that regard. Indeed, while the Court specifically granted Plaintiffs' request to de-designate Exhibit 16 to their Notice of Supplemental Authority, the Court did not do so for Exhibit 14. (*See id.*)

The Confidential Document was designated "Confidential" pursuant to the Protective Order. It was never de-designated, and Plaintiffs never obtained an order overruling State Farm's designation. As such, Plaintiffs' Motion to Enforce violates the Protective Order.

II. THE COURT MUST STRIKE PLAINTIFFS' MOTION TO ENFORCE AND IMMEDIATELY REMOVE IT FROM THE PUBLIC DOCKET.

The Court has the inherent authority to control its own docket and may therefore strike material from the record. *Chambers v. NASCO, Inc.*, 501 U.S. 32, 44–45 (1991); *United States v. Miljus*, No. CIV-06-1832-PK, 2009 WL 2095981, at *1 (D. Or. Feb. 19, 2009), *report and recommendation adopted*, No. CIV. 06-1832-PK, 2009 WL 1211307 (D. Or. May 1, 2009). Further, Courts have long recognized that protective orders preventing the public filing of confidential business information and trade secrets play an important role in litigation. Indeed, Oklahoma law expressly empowers courts to enter protective orders regarding the use of confidential information produced during discovery. Section 3226(C) of the Discovery Code—which mirrors its federal counterpart in Rule 26(c)[3]—permits the Court to enter "any order which

[3] "Section[] 3226 . . . [has its] conceptual origins in [its] counterpart[] found in the Federal Rules of Civil Procedure, Rule 26 . . . ." *State ex rel. Okla. State Bd. of Med. Licensure & Supervision v. Rivero*, 2021 OK 31, ¶ 79, 489 P.3d 36, 64.

justice requires to protect a party from . . . annoyance, harassment, embarrassment, oppression or undue delay, burden or expense including . . . *that a trade secret or other confidential research, development or commercial information not be disclosed or be disclosed only in a designated way.*" 12 O.S. § 3226(C)(1)(g) (emphasis added).[4] Thus, courts across jurisdictions, including in cases involving State Farm, have extended protections to exactly the type of information at issue here—recognizing that disclosure of such information outside the instant litigation may result in competitive injury. *See, e.g., Ortez v. United Parcel Serv., Inc.*, No. 17-CV-01202, 2018 WL 11237901, at *2–3 (D. Colo. Oct. 29, 2018) (finding that internal manuals were entitled to protection because defendant "would lose its competitive advantage if these manuals were publicly available—its competitors could replicate UPS's methods and procedures, which it expended significant time and financial resources to develop."); *Jones v. Nationwide Ins. Co.*, No. 3:98-CV-2108, 2000 WL 1231402 (M.D. Pa. July 20, 2000) (ordering that "all [produced] documentation, including all company policies and all claims manuals, are to be kept confidential, for the eyes of plaintiff's counsel only"); *Toy v. State Farm Fire & Cas. Co.*, No. CV 23-4095, 2025 WL 1179459, at *4 (E.D. La. Apr. 23, 2025) (finding that "State Farm ha[d] established good cause for issuance of [a] protective order treating its claims handling policies, procedures and methodologies as confidential and limiting the[ir] use and disclosure . . . to purposes of this litigation").

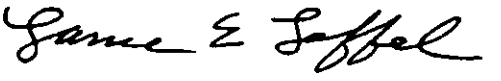
[4] *See also Farrimond v. State ex rel. Fisher*, 2000 OK 52, ¶ 21, 8 P.3d 872, 876–77 ("Section 3226(C) of the Discovery Code vests the court with discretion to enter appropriate protective orders to protect the confidentiality of discovered information in appropriate circumstances"); *YWCA of Oklahoma City v. Melson*, 1997 OK 81, ¶ 25 n.41, 944 P.2d 304, 310, 311 n.41; *Barnes v. United* States, No. 12-CV-282, 2013 WL 4507596, at *1 (N.D. Okla. Aug. 22, 2013) (indicating that protection under Fed. R. Civ. P. 26(c) "may include protection of trade secret, or other confidential research, development, or commercial information"); *Integrated Dentistry, P.A. v. Integrative Dental Specialists, PLLC*, No. 5:19-CV-05090, 2020 WL 488286, at *1 (W.D. Ark. Jan. 30, 2020) ("Confidential commercial information falls squarely within the ambit" of Rule 26).

Plaintiffs' Motion to Enforce was filed in violation of the Protective Order. Further, Plaintiffs' Motion violates the Court's September 28, 2026 Minute Order, which did ***not*** grant Plaintiffs' "explicit request" to de-designate the Confidential Document. As such, it should be stricken immediately. *See Lin v. CGIT Sys., Inc.*, No. CV 20-11051-JGD, 2023 WL 12023448, at *3 (D. Mass. Sept. 29, 2023) (where a party improperly filed a privileged document, "[the producing party] is entitled to have the email stricken from the record."); *Radiance Aluminum Fence, Inc. v. Marquis Metal Material, Inc.*, 335 F.R.D. 371, 377 (E.D. Mich. 2020).

CONCLUSION

For the reasons set forth above, the Court should strike Plaintiffs' Motion to Enforce and its Exhibit 3 as in violation of the Protective Order.

Respectfully submitted,



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CERTIFICATE OF MAILING

I do hereby certify that on November 2, 2026, a true, correct and exact copy of the above and foregoing document was served by placing same in the United States mail, with proper postage thereon duly prepaid, to those parties as listed below:

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