

Alabama Supreme Court Docket No. SC-2025-0918

IN THE SUPREME COURT OF ALABAMA

EX PARTE STATE FARM FIRE AND CASUALTY COMPANY,

PETITIONER,

RE:

JAMES M. FOOR and
KRYSTINA FOOR,

Plaintiffs,

v.

STATE FARM FIRE AND
CASUALTY COMPANY,

Defendant.

From the Circuit Court of Bullock
County, Alabama

Case No. CV-2025-900001

Hon. Burt Smithart
Presiding

REPLY IN SUPPORT OF PETITION FOR WRIT OF MANDAMUS

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REPLY IN SUPPORT OF PETITION FOR WRIT OF MANDAMUS

Alabama law protects State Farm’s right to have its confidential/trade secret information protected to “the maximum extent practicable.” *Ex parte W.L. Halsey Grocery Co.*, 897 So. 2d 1028, 1035 (Ala. 2004); Ala. R. Civ. P. 26(c); Ala. R. Evid. 507; *see also* Amicus Brief of the Alabama Defense Lawyers Association, at 7-12 (discussing Alabama law and this Court’s protection of confidential materials to the maximum extent). This Court has twice granted mandamus where protective orders did not adequately safeguard trade secrets. *Ex parte Miltope Corp.*, 823 So. 2d 640, 645–46 (Ala. 2001); *Halsey*, 897 So. 2d at. And it has rejected efforts to authorize cross-case dissemination of confidential materials outside the confines of the litigation. *See Ex parte Mobile Infirmary Ass’n*, 279 So. 3d 1129 (Ala. 2018) (granting mandamus and striking a protective-order paragraph that allowed a plaintiff’s law firm to share and seek to use confidential information from one lawsuit in other suits against the same defendant).

Despite this settled authority, Plaintiffs neither directly address that authority nor cite any Alabama case approving the “sharing” made possible here. Instead, they focus on a red herring—whether the

documents themselves are confidential—even though they never disputed the confidential or trade-secret nature of the materials below and the trial court expressly recognized that State Farm “possesses certain information and documents that contain confidential, proprietary, or trade secret information.” *See* App’x D, Doc. 81; App’x H, Doc. 116. As such, the confidentiality of each of these documents is not at issue.

This Court should therefore grant State Farm’s petition and issue a writ of mandamus directing the Bullock County Circuit Court to vacate its October 30, 2025, Protective Order and to enter, in its place, a non-sharing protective order that protects State Farm’s trade secrets and confidential information to the maximum extent practicable.

I. The Protective Order authorizes cross-case sharing, notwithstanding Plaintiffs’ narrow framing.

Plaintiffs now contend that State Farm and its amici “attack an order and a problem that does not exist,” insisting the Protective Order “does not allow sharing” and characterizing it instead as a limited-use mechanism for this case and a list of eight Alabama “bad faith cases against State Farm relating to roof claims being prosecuted by Christy

Crow and Inge Johnstone.” Resp. Br. at 10, 13, 17. That narrow appellate framing does not align with the briefing that procured the Order.

In the trial court, Plaintiffs sought entry of a “Sharing Protective Order,” grounding that motion in authorities purportedly endorsing cross-case sharing with collateral litigants and counsel—not merely reuse by the same counsel in a fixed set of local matters. App’x D, Doc. 81, at 1, 8-9 (collecting cases). *But see* Amicus Brief of the Chamber of Commerce of the United States of America and the American Tort Reform Association, at 10-16 (discussing the “dizzying array” of courts that have rejected sharing provisions like the one entered here); *see also* Amicus Brief of the Alabama Free and Fair Enterprise Institute, at 14-16 (same). Yet none of those “across the country” sharing cases appear in the Response in this Court, underscoring that Plaintiffs’ attempt to limit the Order is a post hoc rewrite of the position they advanced below.

Plaintiffs’ framing aside, the Protective Order speaks for itself:

All such materials furnished shall be available to counsel for the requesting party to use in this case and in any cases in which counsel for the Fours also present parties that have made claims of bad faith against State Farm relative to a roof claim . . . Any such materials furnished shall be available to counsel for the requesting party to use in this case and in any cases in which counsel for the Fours also represent parties

that have made claims of bad faith against State Farm relative to a roof claim.

App'x H, Doc. 116, at 3-4. It is not limited to the eight cases listed in the Response Brief or to cases pending in Alabama. *See also* Amicus Brief of the Alabama Defense Lawyers Association, at 10-11 (noting that the Order here “[f]unctionally . . . allows Plaintiffs’ counsel to distribute State Farm’s confidential information to any attorney they choose—so long as the attorney first associates them”). The fact remains the Protective Order would allow for counsel to be added to any bad-faith roof case against State Farm nationwide—especially given counsel’s licensure in Washington and Texas and the ability to appear pro hac vice elsewhere—and then use that appearance as a basis to disseminate State Farm’s confidential information (including to unspecified governmental entities). This is precisely the type of circumstance this Court has warned against—where protective measures are inadequate because once confidential information is disseminated, “[t]he proverbial bell cannot be unrung.” *Miltope*, 823 So. 2d at 645.

II. Plaintiffs' identified "protections" do not offer adequate protection in light of the "sharing" provisions.

Plaintiffs contend the Protective Order is sufficiently protective because State Farm's information "cannot be supplied to competitors," requires written agreement from "non-law firm personnel," mandates secure storage, and requires return or destruction at the end of the case. Resp. Br. at 11, 13. But *Miltope* forecloses the notion that these kinds of generic safeguards cure an order that permits broad access and unmonitorable dissemination. In *Miltope*, this Court granted mandamus even though the protective order contained safeguards, including limits on competitive use and return obligations. *Miltope*, 823 So. 2d at 643-44. The Court held those measures were "clearly inadequate" because the "probable dispersion" of trade secrets was "practically unlimited," there was "no system of monitoring," and once disclosure occurs "the proverbial bell cannot be unrung." *Id.* at 642, 645. *Halsey* then reinforced that trade-secret materials warrant "protection in excess of that provided in the normal discovery process" and must be protected "to the maximum extent practicable." *Halsey*, 897 So. 2d at 1035.

Measured against *Miltope* and *Halsey*, the protections Plaintiffs invoke do not meaningfully safeguard State Farm's proprietary materials

because the Order itself creates the very “dispersion” problem those cases identify. It affirmatively authorizes use of State Farm’s confidential materials not only in this case, but “in any cases in which counsel for the Fours also represent” parties asserting bad-faith roof claims, which expands access beyond a single litigation team and invites dissemination across multiple proceedings and jurisdictions. It also allows disclosure to “any governmental agency” with “oversight authority to study issues pertinent to the insurance product at issue,” requiring only that State Farm receive notice so it can *ask* the agency to maintain confidentiality, with no requirement that the agency agree to be bound, no custody controls, and no meaningful enforcement mechanism once disclosure occurs. And the return-or-destroy provisions Plaintiffs cite operate only after “final determination of this action,” which does nothing to prevent copying, use, and downstream dissemination once the materials are routed into other cases or provided to third-party agencies. Under *Miltope*, that is the dispositive point: where the Order’s structure makes monitoring and containment unrealistic, post-hoc promises are not “adequate safeguards,” because once the information is released beyond meaningful control, the harm is irreparable. By not ensuring the

Protective Order offered adequate protection under Alabama law, the Trial Court exceeded its discretion.¹

III. The confidentiality and trade secret nature of State Farm’s documents is not at issue.

Plaintiffs argue that portions of State Farm’s Operation Guide are not confidential and should be produced. Resp. Br. at 7. That issue is not before the Court. The question is whether the many confidential/trade secret items sought in this case—including, but not limited to, State Farm’s Operation Guides, Standard Claim Processes, and Jurisdictional References—may be disseminated beyond this litigation.

Below, Plaintiffs did not contest the confidential/trade-secret nature of these documents, and the trial court did not make a finding that any documents at issue were not confidential and/or trade secret.

¹ Plaintiffs characterize this as a trial court’s discretion to permit “duplicative discovery to be used in multiple cases.” Resp. Br. at 15. But while trial courts have broad discretion over discovery, that discretion is not unlimited. *Home Ins. Co. v. Rice*, 585 So. 2d 859, 862 (Ala. 1991). When a court exceeds that discretion—particularly by failing to adequately protect trade secrets—mandamus is the proper remedy. *Ex parte Indus. Warehouse Servs., Inc.*, 262 So. 3d 1180, 1183-84, 1188 (Ala. 2018); *Ex parte Mobile Infirmary Ass’n*, 279 So. 3d 1129 (Ala. 2018) (granting mandamus and striking a protective order paragraph that allowed a plaintiff’s law firm to share and use confidential information from one lawsuit in others against the same defendant).

This argument has thus been waived, and Plaintiffs’ discussion of it here is nothing but a red herring. *Andrews v. Merritt Oil Co.*, 612 So. 2d 409, 410 (Ala. 1992) (“This Court cannot consider arguments raised for the first time on appeal . . .”).

IV. The “haring” Protective Order hampers—not helps—judicial efficiency.

Plaintiffs argue that the standard, run-of-the-mill (i.e., non-sharing) protective order would somehow increase litigation costs. Resp. Br. at 16–17. That premise is not convincing in practice. State Farm routinely produces relevant confidential materials once a standard protective order is in place, and it has agreed to do so here.

Two federal courts have already recognized the inefficiency and rejected the same sharing proposal advanced by Plaintiffs’ counsel. In *Parker v. State Farm Fire and Casualty Co.*, Case No. 2:25-cv-00281-NAD (App’x E), Judge Danella declined to include a sharing provision in an ordinary, single-plaintiff case and entered State Farm’s standard non-sharing order. In *Robinson v. State Farm Fire and Casualty Co.*, Case No. 4:25-cv-1260-RDP, Judge Proctor likewise refused to authorize sharing, agreeing with Judge Danella and explaining that because the case is “not a collective action,” “not a class action,” and “not an MDL,”

there is “no reason to share this information with other cases,” and relevance and protection must be addressed case by case in the court supervising that litigation. Tr. at 14:21–15:1 (Jan. 21, 2026) (attached hereto as App’x O). Allowing Plaintiffs to use a state-court sharing mechanism to channel protected materials into those federal actions (and out-of-state cases) would undermine those courts’ discovery rulings and spark collateral admissibility fights—hindering, not advancing, efficiency.

The real cost driver is Plaintiffs’ insistence on converting a straightforward and appropriately case-specific confidentiality framework into a one-size-fits all, one-way access program designed to cover unrelated, unknown and unknowable cases across many jurisdictions, weakening long-established protections for the defense while effectively erasing practice rules regarding relevance and proportionality.² *See also* Amicus Brief of the Alabama Defense Lawyers Association, at 12-17 (highlighting how Plaintiffs’ efficiency argument

² To the extent Plaintiffs argue that sharing creates efficiency by saving *others* costs in litigating *other* cases, that argument is irrelevant to the handling of discovery and protective orders in *this* case. *See* Resp. Br. at 21-22.

runs afoul of confidentiality protections and how the “effective administration of justice does not require dissemination beyond that which is needed for litigation of the case”). Any attempt to import *Foor* materials into other proceedings will predictably trigger admissibility disputes, spawning the satellite litigation Rule 1 seeks to avoid in front of courts with no knowledge of other cases. *See* App’x O, *Robinson Tr.* at 9-10 (“Now, it seems to me the thing that we would do is just to say you get discovery in this case, you use it in this case. What other purpose do we have for discovery other than to discover facts and information about the case we’re in so that the parties can litigate their positions in the case they’re in? Why do we have to solve all the world’s problems here without me understanding what’s going on in those other cases?”). *See also* Amicus Brief of the Chamber of Commerce of the United States of America and the American Tort Reform Association, at 20-21 (explaining how this upfront sharing access also contravenes the proportionality requirements of Rule 26).

V. Seeking a standard protective order is not gamesmanship.

United Policyholders, Amicus in support of Plaintiffs’ position, argues that discovery of confidential or trade secret documents are

discoverable in a case like this one. Amicus Brief of United Policyholders, at 14-15. Discoverability of relevant and proportional confidential/trade secret documents is not the issue; adequate protection is.

State Farm sought entry of a typical protective order—one routinely used in other cases, including matters involving Plaintiffs’ counsel—before producing proprietary materials. App’x G, Doc. 102. Plaintiffs instead demanded a “sharing” order, which the trial court entered and which is now under review. App’x D, Doc. 81; App’x H, Doc. 116.

United Policyholders’ suggestion that State Farm has engaged in obfuscation or document destruction is unsupported and improper. *See* Amicus Brief of United Policyholders, at 15-16. There is no such allegation in this case. To the contrary, State Farm has made substantial efforts to comply with discovery and seeks only to ensure that its confidential and trade-secret materials receive the protection Alabama law requires.

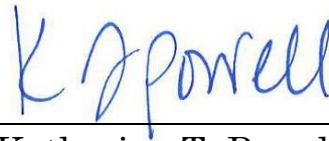
CONCLUSION

State Farm is entitled to have its proprietary information protected “to the maximum extent practicable.” The trial court’s “sharing”

Protective Order instead authorizes broad dissemination without the safeguards Alabama law requires, and Plaintiffs cite no authority supporting such a departure from settled precedent.

State Farm respectfully requests that this Court issue a writ of mandamus vacating the October 30, 2025, Order and directing entry of a proper, non-sharing protective order.

Respectfully submitted this the 5th day of March, 2026.



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CERTIFICATE OF SERVICE

Pursuant to Alabama Appellate Rule 57(h)(5), I hereby certify that on this the 5th day of March, 2026, a copy of this Petition has been served on opposing counsel electronically via the email addresses listed below. Additionally, a hard copy of the Petition will be deposited in the mail, first class postage prepaid, to the presiding judge as follows:

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Circuit Court Judge

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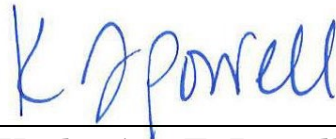
Katherine T. Powell

Counsel for Petitioner

CERTIFICATE OF COMPLIANCE

I hereby certify that this Petition complies with the word limitation set forth in Rule 21(d) of the Alabama Rules of Appellate Procedure. According to Microsoft Word's word-count function, the Petition contains 2,252 words, excluding the items not counted. I further certify that this Petition complies with the font requirements set forth in Rule 32(a)(7) of the Alabama Rules of Appellate Procedure, as it was prepared in Century Schoolbook font using 14-point type.

DATED: March 5, 2026



Katherine T. Powell
Counsel for Petitioners

APPENDIX

The following is an index of all items contained in the Appendix to this Reply, which is a continuation of the Appendix included with State Farm's Petition, per the requirements of Alabama Rule of Appellate Procedure 21(a)(1)(F).

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION

| | | |
|--|--|---------------------------|
| CODY D. ROBINSON, et al., | | CASE NO. 4:25-cv-1260-RDP |
| Plaintiffs, | | |
| v. | | |
| STATE FARM FIRE & CASUALTY COMPANY, et al., | | |
| Defendants. | | |

* * * * *

TRANSCRIPT OF TELEPHONE CONFERENCE

* * * * *

| | |
|---------------------|---|
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BEFORE THE HONORABLE R. DAVID PROCTOR, UNITED STATES
DISTRICT JUDGE, telephonically, on Wednesday, January 21, 2026,
commencing at 9:30 a.m.

Proceedings reported by stenographic court reporter, transcript
produced using computer-aided transcription.

Transcript prepared by:
Pamela G. Weyant, RDR, CRR, CCR
Official Court Reporter

1 (Proceedings commenced at 9:30 a.m. telephonically.)

2 THE COURT: We're here in -- sorry -- one second here
3 -- Robinson versus State Farm, 25-cv-1260. And there's a
4 dispute about what protective order the Court should enter
5 and, in particular, as it relates to, as I see it, sharing of
6 information either with other plaintiffs' counsels or current
7 plaintiffs' counsel in other cases. And there's some ominous
8 reference to governmental authorities or something like that.
9 Let's start -- let's reverse that course.

10 Governmental authorities, who do you want to share
11 this with governmentally?

12 MR. JOHNSTONE: Your Honor, I guess you're asking me.

13 THE COURT: Yeah.

14 MR. JOHNSTONE: I think what that is a reference to is
15 there was some language that if -- I don't think we have any
16 plans to share it with anybody governmentally. I think that
17 was language in there saying that it could be shared with
18 governmental authorities --

19 THE COURT: Well, who put that language in there and
20 why is it in there?

21 MR. JOHNSTONE: Well, for instance, departments of
22 insurance regulate insurance companies.

23 THE COURT: Yeah.

24 MR. JOHNSTONE: And if they requested information on
25 it. I think there's also federally a -- an insurance

1 oversight committee, but that frankly doesn't seem to do a
2 whole lot but they do exist. And sometimes state attorneys
3 general get involved in these matters as, for instance, the
4 attorney general for the State of Oklahoma has intervened in a
5 case against State Farm relating to roofing claims. So those
6 are the universe of governmental entities that we know of
7 that -- you know, the types of governmental entities that
8 might be involved.

9 The proposed order, in terms of those governmental
10 entities, would require notice to State Farm, though, and that
11 they be given an opportunity to, you know, weigh in. But, you
12 know, this is -- I know that every settlement agreement we
13 enter with State Farm, they ask permission to disclose it to
14 the state departments of insurance.

15 THE COURT: Okay. All right.

16 MR. JOHNSTONE: And so it's kind of -- in my mind,
17 kind of appropriate and standard, but we don't have any plans
18 to share it. We're not --

19 THE COURT: All right. I think you've answered -- I
20 think you've answered my question. Thank you.

21 MR. JOHNSTONE: Okay. Thank you, Your Honor.

22 THE COURT: All right. So what we're dealing with
23 here -- let's define what we're dealing with here in terms of
24 what this protective order is really designed to protect. One
25 question I have is, should we have our standard protective

1 order and a specific protective order with respect to
2 proprietary information, or do you think it's fine to have a
3 standard protective order and it applies to everything
4 including proprietary information?

5 MS. RAWLS: Your Honor, this is Sarah Rawls. From
6 State Farm's perspective, the protective order is designed to
7 protect confidential proprietary trade secret information,
8 period, whatever, you know, State Farm designates with that
9 confidentiality label or with that trade secret label. And
10 I'll note that the protective order is really just designed to
11 designate which documents could be confidential. The
12 challenge of whether those documents are confidential would
13 come at a later date, as set forth in the protective order.

14 THE COURT: All right. So your position is let's have
15 a protective order and then we can fight about application of
16 the protective order to the extent we need to.

17 MS. RAWLS: Correct, Your Honor.

18 THE COURT: Okay. Inge, what do you say?

19 MR. JOHNSTONE: Well, Your Honor, I think the -- one,
20 I do think State Farm has the burden of showing that they're
21 actually producing documents that should be protected.

22 THE COURT: Well, there's little question -- I mean, I
23 get that, but there's little question that their proprietary
24 system for assessing claims is protected, right? In other
25 words --

1 MR. JOHNSTONE: I disagree totally, Your Honor,
2 absolutely. I disagree vehemently with that, and here's why.
3 I'm not just -- because, as I mentioned in our motion, the --
4 it's been standard up until recently for State Farm to produce
5 at least large portions of the operation guide outside of a
6 protective order without any stamping of confidentiality at
7 all, and it's only in this group of cases, in my experience,
8 that State Farm has started doing this. And so -- and if you
9 look -- you know, we can -- I can show Your Honor examples so
10 that --

11 THE COURT: All right. Well, hold on. Before you
12 vehemently disagree, let's make sure you know what you're
13 vehemently disagreeing with.

14 MR. JOHNSTONE: Absolutely. That --

15 THE COURT: Inge, calm down.

16 MR. JOHNSTONE: Go ahead.

17 THE COURT: I'm trying to ask you a question.

18 MR. JOHNSTONE: Yes, sir.

19 THE COURT: All right. I walk into a State Farm
20 office and I say, Hey, I'd like to see your manual. They tell
21 me to go pound sand. I'm a member of the press. I'm doing a
22 story about State Farm claims handling. I'd like to get a
23 copy of your proprietary manual. No, we're not giving that to
24 you. I am a policyholder. I've got a question about how one
25 of my claims is being handled. I'd like to see the

1 proprietary claims handling procedures. Sorry, we don't
2 provide that to you. These are things that they hold out as
3 protected.

4 Now, in litigation, if, under the force of compulsion,
5 under the federal rules, the Alabama rules, or some other
6 discovery rules, they might have to give that to you depending
7 upon -- one, they might think they have an obligation based
8 upon the dispute that's being litigated. Second, they might
9 think the judge is going to make them give it to them -- give
10 it to the other side anyway. Or third, they might get an
11 actual order that you have to give it up. But they're -- if
12 Progressive or Allstate calls and says, Hey, we'd like to
13 compare our manual with your manual, could we get it, they'd
14 say no.

15 Any disagreement about anything I've said so far?

16 MR. JOHNSTONE: I don't believe so, Your Honor. I
17 think if the public were to ask, they probably would say no,
18 whether --

19 THE COURT: Well, and that's what I said. These
20 are --

21 MR. JOHNSTONE: But that's probably true.

22 THE COURT: These are confidential, protected sources
23 of information that you're pursuing in this case, and you say,
24 I vehemently disagree with that. So that's what threw me off.
25 I don't understand --

1 MR. JOHNSTONE: Well, yeah. Well, let me explain a
2 little bit, Your Honor. You know, the fact that they hold --
3 that they undertake measures to keep them confidential is not
4 the only requirement they would be required to show. They
5 would still need to show that they're the type of thing that
6 is a -- should be protected and that it had some independent
7 economic value to them. I guess my point is that looking --
8 when -- if you see them, you'll see that they're not, in fact
9 -- you know, they're not like the formula for Coke or
10 something. It's not something that one would see, oh, this
11 has great value, other than making sure that they're doing --
12 hopefully doing a good job of adjusting claims.

13 And the second point is, Your Honor, that in
14 litigation they typically have produced large portions of
15 these without a protective order and without stamping them
16 confidential. And that's taken place over a number of years,
17 and this appears to be a recent change. And so in that sense,
18 the fact that they have prior -- they had been producing
19 without a protective order seems to indicate at least for the
20 purpose of litigation and whether it's protected, they hadn't
21 considered it to be that way in the past.

22 THE COURT: This sounds a little like, you know, my
23 neighbor never really locked the front door for years and all
24 of a sudden they've started locking the front door, and we
25 don't -- you know, they shouldn't be allowed to lock their

1 front door. I mean, it doesn't matter what they did in other
2 cases. We've got to deal with what's going on in this case.
3 And they've asserted an objection that they're willing to
4 provide this to you but they don't want you sharing it with
5 others. That's pretty standard. That's pretty standard in
6 litigation. Let's start there.

7 MR. JOHNSTONE: It is. It is standard, Your Honor. I
8 typically -- I mean, I think these orders have kind of
9 proliferated. I generally don't fight them unless there is a
10 reason to in terms of --

11 THE COURT: Okay. So that's a great segue. What's
12 your reason to in this case?

13 MR. JOHNSTONE: Absolutely, Your Honor. So -- and
14 that's the most important thing, because our main difference
15 is whether Christy Crow and I can use information gained in
16 this case that we know is relevant to another case against
17 State Farm in that State Farm case but subject to the same
18 protections. In other words, we shouldn't have to reinvent
19 the wheel in every single case, because ultimately the
20 discovery is -- what we're trying to do is search for the
21 truth. And State Farm's interests can be adequately
22 protected. We'll be bound and we won't reveal it to -- you
23 know, outside the litigation or use it outside the litigation.

24 It just doesn't -- when we have a protective order, it
25 has to be narrowly drawn. It has to be as precisely drawn as

1 possible. And State Farm wants to limit it only to this case
2 knowing that we have similar allegations against eight other
3 plaintiffs in eight other cases, but --

4 THE COURT: Well, on behalf of eight other plaintiffs
5 in eight other cases, why can't you just ask for the same
6 information in those cases and let -- and then that way you're
7 actually determining what's proportional, what's relevant,
8 what's necessary, and whether any other additional protection
9 should be put in place as to those cases. Why do we have to
10 solve all the world's problems here without me understanding
11 what's going on in those other cases?

12 MR. JOHNSTONE: Well, we don't, Your Honor. But I
13 think we do need to view this in the lens that confidentiality
14 is kind of the exception and not the rule in litigation and
15 that if we're going to have confidentiality, we need to have
16 it as narrowly drawn as possible. And so --

17 THE COURT: Well, what's narrowly drawn? I mean,
18 we've already established that this is something they don't
19 give away to anyone at any time, so it's confidential. Now,
20 you might, as a plaintiff's lawyer who's not a principal at
21 State Farm, second-guess how guarded they are about their
22 confidentiality, but these are confidential materials. They
23 don't give them to other people, okay?

24 Now, it seems to me the thing that we would do is just
25 to say you get discovery in this case, you use it in this

1 case. What other purpose do we have for discovery other than
2 to discover facts and information about the case we're in so
3 that the parties can litigate their positions in the case
4 they're in?

5 MR. JOHNSTONE: Well, I guess the concern we have,
6 Your Honor, is it is -- it doesn't come up so much -- I think
7 we can enter these orders, and there's no doubt that State
8 Farm will produce some portions of the -- of the operation
9 guide and the other materials they talk about.

10 THE COURT: Yeah.

11 MR. JOHNSTONE: But what -- where the rubber really
12 meets the road is with regards to pattern and practice
13 discovery that State Farm has been challenging in which some
14 of that stuff no doubt would be subject to a confidentiality
15 order, but also it's the sort of thing that they are
16 challenging in each and every case. And so, basically, we're
17 having to refight the same battles in every case and --

18 THE COURT: Well, the only battle we're fighting here
19 is whether you -- they're not taking the position you can't
20 get it in this case. They're taking the position if you get
21 it in this case, you can't share it with other cases. That's
22 the only battle we're -- that I'm aware of that we're fighting
23 right now.

24 MR. JOHNSTONE: That's right. That's their position,
25 Your Honor.

1 THE COURT: Yeah. But I think you're building a
2 little bit of a straw man here that is not related to what our
3 issues are today, and that is it sounds like you're saying,
4 well, they may not be willing to give this up in other cases.
5 They're willing to give it up in this case. This is the only
6 case I've got where I'm supervising lawyers.

7 By the way, I need to disclose one thing to you-all.
8 I don't think this makes a difference, but you can confer with
9 your separate sides and come back to me before I make a ruling
10 on this. About -- before COVID -- I'm a State Farm insured.
11 Before COVID, I had a cousin who was working for a roofing
12 company who called me and said, Let us come inspect your roof;
13 there was a hailstorm that went through and your roof might
14 have been damaged. My suspicion antennas went up. I said,
15 Sure, you can come over and take a look at my roof. But I
16 called my agent, Thomas Waters, here in town and told him,
17 Hey, somebody's going to come out and look at the roof. I
18 don't know if this is on the level or not. If it is, I'll
19 make a claim. If it's not, I'm not going to make a claim, but
20 I just want you to know what's going on. He said, Yeah, have
21 them come out, but, you know, just let -- call me when you get
22 finished.

23 So we got finished. He said the best thing to do is
24 just let one of our folks come out and they'll tell you
25 whether it's wear and tear or roof damage. It wasn't a

1 question of whether they were going to pay. It was a question
2 of whether it was a covered claim. The guy came out. I went
3 up on the roof with him. We looked. He showed me why it was
4 wear and tear. I agreed with him. Never became an issue.
5 But I felt like I ought to disclose that just in case anybody
6 thinks, oh, State Farm insured, he's had a roof claim, wish
7 I'd known that before. And it didn't occur to me until I was
8 getting ready for this hearing that, oh, yeah, I forgot about
9 that.

10 So, anybody want to suspend this and go talk and think
11 about it?

12 MR. JOHNSTONE: Thanks for the disclosure, Your Honor.
13 I'll speak with my client about it, but I don't think we need
14 to suspend the hearing.

15 THE COURT: Okay.

16 MR. JOHNSTONE: I think we can move forward. But I'll
17 check with them.

18 THE COURT: Yeah. So --

19 MR. JOHNSTONE: But this case is a little bit
20 different than that anyway.

21 THE COURT: Yeah, this is totally different. But I
22 felt like, well, it's got some similar ingredients: State
23 Farm insured, roof. All that to say --

24 MR. JOHNSTONE: Yes, Your Honor.

25 THE COURT: All that to say, didn't Judge Danella talk

1 to you-all about this pattern and practice issue about you've
2 got to build the bridge to -- from this case to the pattern
3 and practice, not go get the alleged pattern and practice and
4 reverse engineer it back to your case?

5 MS. RAWLS: Yes, Your Honor. That conversation was
6 specifically -- that focused on discovery request disputes.
7 Judge Danella did also take up the protective order issue, and
8 his only commentary about the protective order issue is what
9 we cited in the brief, which I think will resonate with
10 Your Honor in that it's not needed in this case. It's not an
11 MDL. It's not a class action. So that was his commentary on
12 the protective order only.

13 THE COURT: Yeah. So he said we're not going to do
14 the sharing provision in the protective order and entered a
15 protective order that did not include a sharing provision?

16 MS. RAWLS: Correct.

17 MR. JOHNSTONE: He did, Your Honor. And that was his
18 decision, that's right.

19 THE COURT: Yeah. So why was that error?

20 MR. JOHNSTONE: Well, I guess for the reasons that
21 we've talked about. I don't -- you know, I don't believe that
22 State Farm can show that the operations guides are
23 confidential for the reasons we've talked about. I know that
24 they're not available to the general public. They have been
25 disclosed in litigation. But the other thing is that the

1 affidavits supported they admit that portions of them are not
2 confidential and subject to a protective order; other portions
3 are. They don't say which ones aren't and are, and they
4 haven't produced any of them. So --

5 THE COURT: Well, isn't that an issue of -- right now
6 we're trying to determine whether the protective order should
7 you have a provision saying you can share the information, the
8 proprietary, confidential information.

9 MR. JOHNSTONE: Okay. So, yeah, so --

10 THE COURT: So that's all we're talking about now.

11 MR. JOHNSTONE: I'm sorry.

12 THE COURT: We're not -- I can't really -- I can't
13 really police or let you-all litigate in front of me right now
14 what falls within that. I think right now all we're trying to
15 do is say what should the protective order in this case say
16 and look like. Then we go to the next step of if you think
17 something's really not confidential and proprietary, you meet
18 and confer with Sarah about that. You-all work it out if you
19 can. If not, you boil it down to a more straightforward
20 question for me and then you bring it to me. That's fine.

21 But for right now, I think what we're -- where we are
22 is I'm kind of with Judge Danella. This is not a collective
23 action; it's not a class action; it's not a multiparty action;
24 it's not an MDL. I think there's no reason to share this
25 information with other cases because, first, it may not be

1 relevant to those cases. Second, those cases may call for a
2 different ruling than this one in terms of what's going to
3 happen going forward in terms of what's proprietary, what's at
4 issue, what -- and so to me, the best course would be for
5 proportionality reasons, for Rule 1 reasons in terms of the
6 just, speedy, and efficient handling of this matter, we just
7 don't need to get into what should happen in other matters.
8 And those other matters, if they're in front of me, you can
9 bring them to me. If they're in front of one of my
10 colleagues, bring them to one of my colleagues. If they're in
11 front of a state court judge, bring it to the state court
12 judge.

13 But, you know, Inge, you've got to also consider this:
14 The Alabama Supreme Court stayed on mandamus -- on the
15 mandamus petition the state court's order saying willy-nilly,
16 share it with whoever you want. Judge Danella's already
17 tackled this, very capable jurist. I'm lining up with the
18 Alabama Supreme Court and Judge Danella right now that unless
19 there's something you can bring to me that shows there's
20 something unique about this case, we ought to just be
21 litigating this case. Pattern and practice does make me think
22 about it for a second, but again, I think the key there is get
23 the information in this case, do the discovery you need in
24 this case, and see -- you can still -- nothing about not
25 having a sharing provision keeps you from doing discovery

1 about whether this is a pattern or practice.

2 MR. JOHNSTONE: Yes, Your Honor.

3 THE COURT: All right.

4 MR. JOHNSTONE: We'll -- we hear you loud and clear.
5 We'll go forward under that premise. And, you know, thank you
6 for hearing me out on this. I know that I can be pretty
7 passionate about my views, but I certainly respect yours.

8 THE COURT: Well, hey, you've been a worthy advocate
9 in my courtroom for years and years. You know I always
10 appreciate you coming in and still appreciate you coming in.
11 You do a great job for your clients.

12 MR. JOHNSTONE: Well, thank you, Your Honor. It's --
13 thank you, Your Honor.

14 Your Honor, there is another matter that -- I think
15 Sarah is aware of it. Katie Powell and I spoke about it or
16 exchanged emails about it. We would like to request a
17 one-month extension of the deadline to disclose experts, which
18 currently is this Thursday --

19 THE COURT: Yeah. Granted. Granted.

20 MR. JOHNSTONE: -- currently does not have any
21 opposition. Okay.

22 THE COURT: Granted.

23 MR. JOHNSTONE: Thanks, Your Honor.

24 THE COURT: And do you need one month or do you need
25 45 days? Because it always takes longer than you think.

1 MR. JOHNSTONE: We believe that one month is
2 appropriate, Your Honor.

3 THE COURT: Okay. We'll just bump it back a month.

4 MR. JOHNSTONE: And I think Katie's only stipulation
5 was that all deadlines be extended a month, which we're
6 certainly fine with. That seems fair to me.

7 THE COURT: Well, why don't we do this. Why don't
8 you-all just submit -- you can email it or you can file it
9 formally, whatever you-all think is best -- just submit a very
10 quick joint motion to extend deadlines, and that'll make our
11 job a little easier to make sure we know exactly what
12 deadlines you're wanting to get extended.

13 MR. JOHNSTONE: Absolutely.

14 THE COURT: And I realize even though I'm not going to
15 let you share it with other cases, this is not your only case.
16 So I've always been pretty easy about extending deadlines.
17 Life happens.

18 MR. JOHNSTONE: Thank you, Your Honor.

19 THE COURT: Okay.

20 MR. JOHNSTONE: It does.

21 THE COURT: Thank you-all for being so promptly
22 available to us today.

23 MS. RAWLS: Judge, I'm a little bummed that I didn't
24 get to talk with you more, but no objection to anything that
25 was said today. Appreciate your time.

1 THE COURT: Okay. Thank you. Well, I figured you're
2 on board if Katie had already agreed to it, so --

3 MS. RAWLS: Yes, absolutely. I'm on those emails as
4 well.

5 THE COURT: All right. Sounds good. You-all take
6 care.

7 MR. JOHNSTONE: Thank you all. Have a wonderful day.

8 THE COURT: All right. You too. Bye-bye.

9 MS. RAWLS: Thanks, everyone.

10 (Adjourned accordingly at 9:54 a.m.)
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C E R T I F I C A T E

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Dated: February 2, 2026

Pamela G. Weyant
Pamela G. Weyant, RDR, CRR, CCR
Official Court Reporter