

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA,
EX REL. BRANCH CONSULTANTS, L.L.C.,

Plaintiff

VERSUS

ALLSTATE INSURANCE COMPANY, et. al.,

Defendants

CIVIL ACTION NO.: 06-4091

SECTION: "R" (1)

JUDGE: VANCE

MAGISTRATE: SHUSHAN

**LIBERTY MUTUAL FIRE INSURANCE COMPANY'S
EX PARTE MOTION TO SEAL PLEADING**

NOW INTO COURT, through undersigned counsel, comes Liberty Mutual Fire Insurance Company ("Liberty Mutual"), who, for the reasons expressed in the attached memorandum in support, respectfully requests that this Court enter an order directing the Clerk of Court to designate Record Document Nos. 387-2 and 395 as "Confidential", and seal said pleadings.

Respectfully submitted,

BARRASSO, USDIN, KUPPERMAN
FREEMAN & SARVER, LLC

/s/ Keith L. Magness

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Attorneys for defendant,

Liberty Mutual Fire Insurance Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing pleading has this date been served upon all parties to this suit through counsel by filing into the Court's electronic filing system and, for non-participants, via electronic mail, this 23rd day of February, 2010.

/s/ Keith L. Magness

KEITH L. MAGNESS

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**LIBERTY MUTUAL FIRE INSURANCE COMPANY'S
MEMORANDUM IN SUPPORT OF *EX PARTE* MOTION TO SEAL PLEADING**

On Friday, February 19, 2010, Branch Consultants, LLC ("Branch") filed a Motion for Leave to File Excess Pages regarding its Reply in Support of its Motion to Compel ("Motion"). *See* R. Doc. No. 387. Attached to its Motion was Branch's proposed Reply. *See* R. Doc. No. 387-2. On February 22, 2010, this Court granted Branch's Motion for Leave to File Excess Pages, and the Clerk of Court filed Branch's Reply Memorandum at R. Doc. No. 395.

Contained within Branch's Reply is a direct quote from Exhibit 1 to Liberty Mutual Fire Insurance Company's ("Liberty Mutual") Opposition to Branch's Motion to Compel. *See* R. Doc. Nos. 387-2 and 395 at p. 11. Exhibit 1 to Liberty Mutual's Opposition to Branch's Motion to Compel was ordered sealed by this Court on February 11, 2010. *See* R. Doc. No. 371. Further, on February 15, 2010, Liberty Mutual designated the entirety of its current document production, including those documents contained within Exhibit 1 to Liberty Mutual's

Opposition to Branch's Motion to Compel, as "HIGHLY CONFIDENTIAL" pursuant to this Court's Order for Production and Exchange of Confidential Information (R. Doc. No. 358).

On February 22, 2010, undersigned counsel contacted counsel for Branch expressing concern regarding Branch's direct quote to "HIGHLY CONFIDENTIAL" material previously ordered sealed. Counsel for Branch assured undersigned counsel that by including such quote, Branch was not trying to circumvent the confidential nature of Liberty Mutual's documents. Further, counsel for Branch stated that in including such quote, Branch was relying on Liberty Mutual's previous designation of such documents as "Confidential."¹ Lastly, counsel for Branch stated that he would not oppose any efforts by Liberty Mutual to protect the confidential nature of its documents, including filing of the instant motion. Accordingly, Liberty Mutual moves this Court to enter an order directing the Clerk of Court to designate Record Document Nos. 387-2 and 395 as "Confidential", and seal said pleadings.

¹ Liberty Mutual produced its documents to Branch labeled "Confidential" on October 21, 2009, nearly four months before this Court entered its February 10, 2010 Order. Upon review of this Court's Order, and given Liberty Mutual's documents contain both proprietary information and sensitive information regarding third-parties who are not part of this case, counsel for Liberty Mutual immediately wrote all counsel on February 15, 2010 designating Liberty Mutual's documents as "HIGHLY CONFIDENTIAL", and stated that any future production would include designations consistent with this Court's February 10, 2010 Order. Liberty Mutual is in the process of re-bates labeling its production, and will provide all parties with a new set of documents labeled "HIGHTLY CONFIDENTIAL."

Respectfully submitted,

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FREEMAN & SARVER, LLC

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/s/ Keith L. Magness

KEITH L. MAGNESS

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ORDER

Considering the foregoing *Ex Parte* Motion to Seal Pleading ("Motion") filed by Defendant Liberty Mutual Fire Insurance Company ("Liberty Mutual"),

IT IS HEREBY ORDERED that Liberty Mutual's Motion be and is hereby **GRANTED**. The Clerk of Court shall designate Record Document Nos. 387-2 and 395 as "Confidential", and seal said pleadings.

New Orleans, Louisiana this _____ day of February, 2010.

UNITED STATES MAGISTRATE JUDGE