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ENTERED DEC 30 2008

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

RUTH A. GWIN, SANDRA H. TURNER,
and a class of similarly situated individuals,)

Plaintiffs,)

v.)

NATIONWIDE LIFE INSURANCE)
COMPANY, NATIONWIDE)
RETIREMENT SOLUTIONS, INC.,)
ALABAMA STATE EMPLOYEES)
ASSOCIATION, PEBCO, INC., and)
FICTICIOUS DEFENDANTS A to Z,)
whose names are now unknown and are to)
be added when their names are available,)

Defendants.)

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DEC 15 2008

ANNE-MARIE ADAMS
Clerk

Civil Action No.:

CV 2007 - 04052

PROTECTIVE ORDER

Plaintiffs and Defendants, as the "Parties" hereto, have jointly moved for a Protective Order containing the following protective provisions concerning certain documents or information that the Parties have produced or will produce in response to discovery in this action. Accordingly, it is hereby ORDERED, ADJUDGED and DECREED as follows:

1. All documents and information subject to the terms of this Protective Order shall be referred to as "Protected Materials." A Party's Protected Materials shall include:

a) All documents designated as protected by the producing Party by stamping the produced copy of the document as "Confidential" or "Protected Materials" or some other similar stamp, as well as any memoranda, work product, or notes which contain, incorporate, or reflect such documents, or

b) Any documents that counsel for the Parties agree, in writing or on the record at deposition, are to be kept confidential, or

c) All documents designated Confidential Information Counsel Only under paragraph 4 of this Order.

2. The Parties may designate the following categories of material as Protected Materials:

a) Personal information, including but not limited to information identifying or relating to individual deferred compensation plan participants;

b) Commercially sensitive or proprietary information the disclosure of which may have an adverse effect on the commercial, business, or financial interests of the producing Party, including but not limited to pricing, business strategy, business negotiations, and financial information; and

c) Any information, documents, or materials properly treated as the subject of a protective order under Alabama Rule of Civil Procedure 26(c).

3. The Parties shall permit only the following persons, who shall be referred to herein as "Authorized Representatives," to have access to the other Party's Protected Materials:

a) the Parties and their employees working on this action;

b) the Parties' attorneys in this action, these attorneys' staff, the Parties' experts, and a copy service these attorneys might use;

c) actual or potential deposition or trial witnesses, to the extent necessary to prepare or examine such witnesses;

d) non-employee consultants or experts employed, appointed or retained by the plaintiffs or defendants;

e) deposition and trial court reporters or persons operating video cameras at depositions;

f) putative members of the alleged Class, as defined in plaintiffs' Class Action Complaint (the "Class"); and

g) such other persons if this Court so orders or if the Parties agree in writing.

4. To protect against the unnecessary disclosure of sensitive information, any Party may designate in writing portions of Protected Materials as "Confidential Information Counsel Only". The producing Party shall identify such Confidential Information Counsel Only materials by stamping or otherwise designating such materials with the words "Counsel Only", or equivalent language. Such Confidential Information Counsel Only materials may not be disclosed to any Party or employee of a Party (other than any consultant or expert retained by counsel in this litigation, who has previously agreed in writing to be bound by the terms hereof), to any actual or potential deposition witness, or to any putative member of the alleged Class without obtaining the consent of the Party which produced such material.

5. Depositions or other testimony may be designated as Protected Materials by an oral declaration on the record. Alternatively, a Party will have thirty (30) days from the receipt of a deposition transcript in which to designate portions or all of that transcript as Protected Materials, during which thirty (30) day period the entire deposition will be treated as Confidential Information Counsel Only materials.

6. Any Party seeking to object to the designation of any materials as Protected Materials or as Confidential Information Counsel Only shall, prior to petitioning the Court to set aside such designation, advise the producing Party, in writing, of its objection and make a good faith effort to resolve by agreement or stipulation any dispute concerning such designation. If the dispute cannot be resolved between the Parties, the objecting Party may then petition the Court to set aside the disputed designation. A motion or application to set aside a disputed designation shall identify the moving Party's efforts to comply with this paragraph and shall state that the Parties were unable to resolve the dispute among themselves. A motion or application to strike a disputed designation made in violation of this paragraph shall be denied.

7. Before Protected Materials are shown to any Authorized Representative who is not a Party, a Party's employee, a Party's attorney, or the employee of a Party's attorney, the Parties shall ensure that any such Authorized Representative reads, agrees to and signs a copy of this Protective Order, and consents to the personal jurisdiction of this Court for the purpose of enforcement of this Order. The Parties shall keep the originals of each signed Protective Order and allow the attorney for the opposing Party to inspect the signed copies upon request.

8. All Protected Materials shall be made available to and be used by the opposing Party or Authorized Representatives solely for this action and for no other purpose, including after the conclusion of this action. The Parties and their Authorized Representatives shall treat the other Party's Protected Materials as secret and confidential. The Parties and their Authorized Representatives shall take all reasonable precautions to ensure that no persons other than the Parties and their Authorized

Representatives review or are given access to the other Party's Protected Materials, including after the conclusion of this action.

9. The provision of any material shall not be deemed to be an admission or waiver by the producing Party of the confidentiality or non-confidentiality of any such material, which thereafter may be designated as Protected Materials or Confidential Information Counsel Only materials, or of any attorney-client, work product, or other applicable privileges or immunities.

10. If any Party states in writing that certain privileged material was produced in error, no Party will assert that the fact of production of that material constitutes a waiver of any right, privilege, or other protection that a Party had or may have had as to that material. The receiving Party, upon request, shall return the material and all copies thereof and destroy that portion of any notes or memoranda that reflect the substance of the material. If a Party challenges a claim of inadvertent production as to any material, the producing Party shall file a motion with the Court within ten (10) business days of the challenge seeking a ruling that the material at issue was produced inadvertently. The receiving Party shall maintain the confidentiality of the material until the Court resolves the motion and, during its pendency, shall not use or disclose the material that is the subject of the motion.

11. In the event that any Party shall receive a written or oral request, subpoena, or court order seeking disclosure of another Party's Protected Materials, including materials designated Confidential Information Counsel Only, such Party shall (1) immediately notify the producing Party of the request, subpoena or court order and provide a copy of same, (2) object in writing to such request, subpoena or court order on

the basis of this Protective Order, and (3) not produce such Protected Materials unless its objection is overruled or denied by the body which issued the request, subpoena, or court order.

12. Nothing that occurs in this order or action shall be construed as waiving or diminishing a Party's or a third party's interests in and rights to the confidentiality of Protected Materials or as waiving or diminishing a Party's or a third party's attorney-client privilege or work product doctrine privilege.

13. If a Party files any written testimony, exhibit, brief or other submission that includes or incorporates all or parts of Protected Materials, all portions thereof referring to such materials shall be filed and served in sealed envelopes or other appropriate containers endorsed to the effect that they are sealed pursuant to this Protective Order. Such materials shall be marked "PROTECTED MATERIALS" and filed under seal with the Clerk, the seal shall be opened only by this Court, and a copy marked in the same manner as the original shall be served upon the opposing attorneys.

14. If a Party desires to use any Protected Materials in testimony or as exhibits during trial, the Party shall give the other Party's attorney specific notice of which Protected Materials when the Party identifies trial exhibits. This notice is required to allow the other Party to object, if the Party believes appropriate, by filing a motion in limine before the Protected Materials are used.

15. Within ninety (90) days of the termination of litigation, all Protected Materials, including copies or reproductions thereof, in the possession of anyone other than the Party that produced them shall be returned to counsel for the Party that produced them, or, in the alternative, counsel may destroy said Protected Materials

and affirm by affidavit that the materials have been destroyed. Memoranda, work product, or notes, including material prepared by authorized outside consultants or experts, which contain Protected Materials shall be treated as Protected Materials during the pendency of this lawsuit, and shall be disposed of in accordance with this paragraph.

16. In the event any information, documents, or materials are obtained from any person not a party to this litigation, such person shall have the same rights to designate any such matter as Protected Materials as a Party would have, PROVIDED that such non-party executes a copy of this Protective Order and agrees to be bound by the terms hereof. The term "Party" and "Parties" as used herein shall be deemed to include such non-parties to the extent necessary or appropriate to effectuate the terms of this paragraph.

17. The term "Party" and "Parties" as used herein shall be deemed to include the named plaintiffs in this action, but shall be deemed not to include any other putative members of the alleged Class, except as provided in paragraph 16 of this Order.

18. Nothing herein shall prevent a Party from using or disclosing its own documents or information which it is otherwise free to disclose.

19. Nothing in this Protective Order shall be construed as precluding a Party from objecting to the use of Protected Materials on grounds other than confidentiality or be construed as relevant to the issue of whether any document or information is or is not admissible into evidence in this action.

20. All filings, notices, discovery responses and correspondence shall be made in a manner that protects the confidentiality of Protected Materials as provided in this Protective Order.

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DONE and ORDERED this 13 day of December, 2008.

Howard F. Bryan
Howard F. Bryan
Circuit Judge