

FILED
DISTRICT COURT
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ROBERT MORALES, COURT CLERK
Case Number CJ-2025-135

NEIL and LACY WEST,)
)
 Plaintiffs,)
)
 v.) Case No. CJ-2025-135
)
 STATE FARM FIRE & CASUALTY)
 COMPANY and NANCY HOLCOMB INS.)
 AGENCY, INC.,)
)
 Defendants.)

**DEFENDANT STATE FARM FIRE AND CASUALTY
COMPANY'S MOTION FOR A PROTECTIVE ORDER
CONSOLIDATING THE DEPOSITIONS OF WENSLEY HERBERT,
THOMAS MOSS, KATHY RESS, AND SCOTT WELSH AND BRIEF IN SUPPORT**

Defendant State Farm Fire and Casualty Company (“State Farm”), pursuant to 12 O.S. §§ 3226(B)(2)(c), 3226(C), and 3226.1 and 12 O.S. § 2018(C), respectfully moves for entry of a protective order consolidating Plaintiffs’ noticed depositions of State Farm employees Wensley Herbert, Kathy Ress, and Scott Welsh, and retired employee Thomas Moss (collectively, the “State Farm Deponents”) with the pending depositions of those same individuals ordered in *Hursh v. State Farm*, Case No. CJ-2025-2626 (Okla. Cty.) (herein, “*Hursh*”).¹ Plaintiffs in both this case and *Hursh* (represented by the same counsel) have sought to take the depositions of the State Farm Deponents **not** because they have knowledge of the specifics of the insurance claim of these Plaintiffs or any other plaintiffs, but because they allegedly have knowledge of State Farm’s Fire Model Enhancement (“FME”) quality initiative. While State Farm objects to the relevance of the

¹ State Farm also understands that plaintiffs in *Wong-Faust v. State Farm*, Case No. CJ-2025-1675 (Okla. Cty.) intend to serve deposition notices for the same individuals. To the extent the *Wong-Faust* plaintiffs do so, State Farm intends to request consolidation of those depositions as well.

State Farm Deponents' testimony, to avoid repetitive, inefficient, and burdensome discovery—including undue burdens on Mr. Herbert, Mr. Moss, Ms. Ress, and Mr. Welsh—State Farm respectfully moves for a protective order consolidating their depositions with the depositions ordered in *Hursh*.

Consolidating the State Farm Deponents' pending depositions here and in *Hursh* is consistent with established law and several recent federal decisions in parallel cases against State Farm. In particular, federal courts overseeing nine cases with the same FME allegations have uniformly held that the deposition of Nicole Manduca, a Director in State Farm's Property & Casualty department, should be consolidated across each of those cases—reasoning that such consolidation is necessary to promote judicial economy and avoid the undue burden that would result from requiring Ms. Manduca to testify repeatedly regarding the same topics in multiple cases. The same reasoning applies here: State Farm requests that this Court follow the example of the federal courts in *Barlow*, *Cisneros*, *Cook*, *Dressel*, *Johnson*, *Newell*, *Porter*, *Stafford*, and *White*, and consolidate the State Farm Deponents' pending depositions here with their depositions in *Hursh*.

BACKGROUND

The central dispute in this case is whether State Farm owes Plaintiffs approximately \$50,000 under their insurance policy to replace a roof as a result of a weather event on June 15, 2023. Plaintiffs filed this lawsuit on February 28, 2025, asserting claims against State Farm for breach of contract and bad faith; claims against agent Nancy Holcomb Insurance Agency for negligent procurement; and claims against all Defendants for constructive fraud and negligent misrepresentation. (Pet. ¶¶ 40, 45–79.) Plaintiffs allege that this case involves a plan by State Farm to lower indemnity payments by, *inter alia*, misattributing roof damage from storms to non-covered “wear and tear” through the FME. (*See generally id.*)

Plaintiffs have noticed the depositions of high-ranking State Farm employees Mr. Herbert, Ms. Ress, and Mr. Welsh, and retired employee Mr. Moss, to which State Farm objected and moved to quash. In response, Plaintiffs urged that—though none of the State Farm Deponents had any connection to the insurance claim at issue—each of these individuals could provide relevant testimony regarding the FME initiative. (*See, e.g.*, June 26, 2026 *West* Pls.’ Resp. to State Farm’s Mot. to Quash.) Based on the arguments of counsel relating to FME, on July 23, 2026, the Court denied State Farm’s motion to quash the depositions of the State Farm Deponents.

The *Hursh* case involves damages the *Hursh* plaintiffs claim to have sustained to their house during weather events on October 4, 2023 and May 21, 2024. The *Hursh* plaintiffs contend State Farm should have paid approximately \$22,000 for alleged roof damage and assert claims against State Farm for breach of contract and bad faith, and against all Defendants for constructive fraud and negligent misrepresentation. (*See Hursh* Pet. ¶¶ 40, 45–79.) Just as here, the *Hursh* plaintiffs allege that their case involves a plan by State Farm to lower indemnity payments by, *inter alia*, misattributing damage to non-covered “wear and tear.” (*See generally id.*)

The *Hursh* plaintiffs—represented by Plaintiffs’ counsel—earlier noticed the depositions of several high-ranking State Farm employees, including the State Farm Deponents. State Farm moved to quash the depositions in *Hursh*, and Plaintiffs’ counsel opposed, contending (just as counsel did here) that while none of the State Farm Deponents was involved in the *Hursh*’s insurance claim, their depositions were relevant because each was one of the “architects” and “members” of the FME quality initiative. (*See, e.g.*, Nov. 14, 2025 *Hursh* Pls.’ Consol. Opp. to State Farm’s Mots. to Quash at 2, 12.) State Farm has been directed to produce these four deponents expeditiously and the depositions will commence at the end of August.

As previously described in State Farm’s Motions to Quash the Depositions of the State

Farm Deponents, each is (or, in the case of Mr. Moss, was) a high-ranking State Farm employee, and requiring them to prepare for and sit for a single deposition—let alone multiple depositions—will impose significant burdens on them as individuals and on State Farm as well. There is no reason to require the State Farm Deponents to appear for multiple, 6-hour depositions *regarding the same subject matter*—i.e., their purported involvement in the FME quality initiative. It is undisputed that none of the State Farm Deponents has specific knowledge regarding the insurance claims of Plaintiffs herein or the Hursh's. As such, any deposition—conducted by the same counsel in both cases—will be duplicative. The Court, consistent with recent federal court authority consolidating depositions in cases involving the same allegations, should enter a protective order consolidating the depositions of the State Farm Deponents with their depositions in *Hursh*.

ARGUMENT AND AUTHORITY

I. THE COURT HAS AUTHORITY TO CONSOLIDATE THE STATE FARM DEPONENTS' DEPOSITIONS WITH THOSE IN *HURSH*.

Pursuant to 12 O.S. § 3226(C), the Court “may enter any order which justice requires to protect a party or person from annoyance, harassment, embarrassment, oppression or undue delay, burden or expense.” 12 O.S. § 3226(C); *see also id.* at 3226(B)(2)(c) (providing that the Court “shall limit the frequency or extent of discovery otherwise allowed if it determines that . . . the proposed discovery is outside the scope permitted by subparagraph a of paragraph 1 of this subsection”); *Farmers Ins. Co. v. Peterson*, 2003 OK 99, ¶ 3, 81 P.3d 659, 660 (“Discovery may be limited or denied when discoverable material is sought in an excessively burdensome manner.”); *Capitol Records, Inc. v. Foster*, No. Civ. 04-1569-W, 2007 WL 9710830, at *1 (W.D. Okla. Apr. 10, 2007) (“It is well established that trial courts have broad discretion in issuing protective orders and

determining what degree of protection is required.”).² Moreover, “[o]n motion or on its own, the court shall limit the frequency or extent of discovery otherwise allowed if it determines that . . . the discovery sought is unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome, or less expensive.” 12 O.S. § 3226(B)(2)(c)(1); *see also Ad Astra Recovery Servs., Inc. v. Heath*, No. 18-1145-JWB-ADM, 2019 WL 5864785, at *2 (D. Kan. Nov. 8, 2019) (“The court retains an independent ongoing obligation to assess proportionality.”) (citing Fed. R. Civ. P. 26(b)(2)(C)); Fed. R. Civ. P. 26, advisory committee’s note to 2015 amendment (stating that courts have a “responsibility to consider the proportionality of all discovery and consider it in resolving discovery disputes”). Courts also have an obligation to consider proportionality in connection with all discovery. *See, e.g., Dodd v. Indian Health Care Res. Ctr. of Tulsa, Inc.*, No. 24-CV-00327-SH, 2024 WL 4648150, at *2 (N.D. Okla. Nov. 1, 2024) (“The proper scope of discovery is that which is both relevant to the claims or defenses and proportional to the needs of the case, considering the various factors.”) (emphasis in original); *Ad Astra Recovery Servs., Inc. v. Heath*, No. 18-1145-JWB-ADM, 2019 WL 5864785, at *2 (D. Kan. Nov. 8, 2019) (“The court retains an independent ongoing obligation to assess proportionality.”) (citing Fed. R. Civ. P. 26(b)(2)(C)).

Further, and pursuant to 12 O.S. § 2018(C), “when actions involving a common question of law or fact are pending before the court, it . . . may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.”

² Because “[t]he Oklahoma Discovery Code mirrors the Federal rules,” *Meritor, Inc. v. State ex rel. Bd. of Regents of Univ. of Okla.*, 2019 OK CIV APP 64, ¶ 20 n.15, 451 P.3d 914, 922 n.15, Oklahoma courts often look to “discovery procedures in the federal rules when construing similar language in the Oklahoma Discovery Code.” *Crest Infiniti, II, LP v. Swinton*, 2007 OK 77, ¶ 2, 174 P.3d 996, 999. *See also A-Plus Janitorial & Carpet Cleaning v. Employers’ Workers’ Comp. Ass’n*, 1997 OK 37, ¶ 24 n.42, 936 P.2d 916, 928 n.42 (“The terms of 12 O.S.1991 § 2018(C) and (D) are identical to Federal Rule 42, Fed. R. Civ. P.”).

12 O.S. § 2018(C); *see also Hernandez-Blanco v. Grant*, No. CIV-26-278-R, 2026 WL 543769, at *1 (W.D. Okla. Feb. 26, 2026) (noting that trial courts have “broad discretion to decide whether consolidation under [the federal equivalent rule] would be desirable.”) (quoting 9A Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 2383 (3d ed. 2008)). Courts are granted “broad discretion” to consolidate for purposes of discovery. *Kent v. City of Oklahoma City*, 2020 OK CIV APP 21, ¶ 34, 467 P.3d 726, 734. “Consolidation is a procedural mechanism to enhance the efficiency of judicial process and its economy.” *Id.* If the court determines that “common questions of law or fact” exist and thus consolidation would “plainly foster judicial economy,” consolidation may be granted. *Phillips v. Nat’l Oilwell Varco, LP*, 2024 OK CIV APP 4, ¶¶ 26–27, 544 P.3d 980, 989. Pursuant to this authority, courts may order a single consolidated deposition of a witness across multiple cases. *See* Section II *infra*.

II. COURTS OVERSEEING NINE SIMILAR FEDERAL CASES, RECOGNIZING ANALOGOUS FEDERAL AUTHORITY, HAVE ORDERED CONSOLIDATION OF STATE FARM DEPOSITIONS.

This Court is not the first to consider whether to consolidate a deposition of a State Farm corporate witness with the same witness’s deposition in other cases Plaintiffs’ counsel has brought alleging the same purported corporate misconduct. In *nine pending federal cases*, courts have granted State Farm’s motions for protective orders consolidating the depositions of Nicole Manduca, a Director in State Farm’s Property & Casualty department who was *not* involved in the individual plaintiffs’ insurance claims but whom plaintiffs alleged was a participant in the FME initiative and an “architect” of the same supposed scheme alleged in this action.³ *See Barlow v. State Farm Fire & Cas. Co.*, No. 5:25-cv-00044-R (W.D. Okla.) (Dkt. No. 97); *Cisneros v. State*

³ In particular, each of these nine orders consolidates the deposition of Ms. Manduca with her deposition in a tenth federal case with the same allegations, *Wiesman v. State Farm Fire & Cas. Co.*, No. 5:25-cv-00050-JD (W.D. Okla.).

Farm Fire & Cas. Co., No. 5:25-cv-00042-R (W.D. Okla.) (Dkt. No. 77); *Cook v. State Farm Fire & Cas. Co.*, No. 5:25-cv-01098-R (W.D. Okla.) (Dkt. No. 25); *Dressel v. State Farm Fire & Cas. Co.*, No. 5:25-cv-00860-HE (W.D. Okla.) (Dkt. No. 46); *Johnson v. State Farm Fire & Cas. Co.*, No. 5:25-cv-01000-HE (W.D. Okla.) (Dkt. No. 39); *Newell v. State Farm Fire & Cas. Co.*, No. 5:25-cv-005620-R (W.D. Okla.) (Dkt. No. 54); *Porter v. State Farm Fire & Cas. Co.*, No. 5:25-cv-00187-R, (W.D. Okla.) (Dkt. No. 81); *Stafford v. State Farm Fire & Cas. Co.*, No. 5:25-cv-00008-HE (W.D. Okla.) (Dkt. No. 89); *White v. State Farm Fire & Cas. Co.*, No. 5:25-cv-00561-HE (W.D. Okla.) (Dkt. No. 39).

In granting State Farm's motions to consolidate Ms. Manduca's deposition across these cases, the federal courts have recognized—over plaintiffs' objections—that Federal Rule of Civil Procedure 26(c)(1) (directly analogous to 12 O.S. § 3226(C)) allows a court to “issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense,” and that a court “may also, on its own, limit discovery that is unreasonably cumulative, can be obtained from some other source that is more convenient, less burdensome, or less expensive, or that [is] outside the scope of permissible discovery.” *See, e.g., Newell*, Dkt. No. 54 at 2 (attached as **Exhibit 1**). As those courts held, “Plaintiffs’ counsel is seeking to depose Ms. Manduca in several cases that contain similar—if not identical—allegations related to State Farm’s alleged company-wide scheme to reduce wind and hail payments,” and “[g]iven the common topics that are likely to be explored, the need to protect the witness from undue burden, and the need to avoid needless duplication, a consolidated deposition is warranted.” *See id.* at 3.

These federal decisions are consistent with an established body of caselaw, from courts across the country, confirming that trial courts have the authority to order consolidated depositions of common witnesses across multiple cases that involve common issues of law or fact—even

where the cases remain separate for all other aspects of discovery. *See, e.g., Rowe v. Heritage Auto. Grp., Inc.*, No. 5:17-cv-38, 2018 WL 3458356, at *1-2 (D. Vt. July 18, 2018) (granting request to consolidate deposition of common witnesses across cases because “[a]n order which results in one deposition rather than two in cases which share factual and legal elements is a sound exercise of the discretion and responsibility the civil rules extend to trial judges”); *Babjak v. Arcelormittal USA, LLC*, No. 2:15-CV-40-JVB-PRC, 2016 WL 4191050, at *2 (N.D. Ind. Aug. 9, 2016) (consolidating cases “for a limited purpose—to avoid parallel depositions of fact witnesses”); *Hicks v. Grove*, No. ELH-12-1422, 2014 WL 768685, at *2 (D. Md. Feb. 25, 2014) (“[T]o save the parties and the witnesses the time and expense of conducting separate depositions, and to avoid establishing the same background facts twice—such as a witness’s personal information, educational background, and employment history—I will require a single deposition of those witnesses with knowledge of facts pertinent to both cases,” but denying motion to consolidate cases in their entirety).⁴

⁴ *See also Friends of Merrymeeting Bay v. Miller Hydro Group*, No. 2:11-cv-36-GZS, 2012 WL 458618, at *1 (D. Me. Feb. 9, 2012) (granting motion to allow plaintiffs to present common witness for consolidated deposition to minimize costs and maximize efficiency, “as compared to four completely separate depositions”); *cf. J4 Promotions, Inc. v. Splash Dogs, LLC*, Nos. 2:09-cv-136, 2:10-cv-432, 2010 WL 3063217, at *2 (S.D. Ohio Aug 3, 2010), *objections overruled*, No. 2:09-CV-0136, 2010 WL 4809101 (S.D. Ohio Nov. 18, 2010) (denying motion for consolidation but noting that potential for duplication of depositions of common witnesses with testimony relevant to multiple cases could be addressed through consolidated deposition); *Arnold v. City of Columbus*, No. 2:08-cv-0031, 2009 WL 10679012, at *2 (S.D. Ohio Mar. 23, 2009) (denying motion for consolidation but finding consolidated deposition might be appropriate for common witnesses, such as “if the same investigators have testimony that is relevant to all four cases”); *Franklin v. Highland Park Police Officer Hollis Smith*, No. 15-12995, 2016 WL 6652744, at *1 (E.D. Mich. July 7, 2016) (explaining that serial depositions of a single witness are disfavored because of the cost and burden, and because they “provide[] the deposing party with an unfair strategic advantage, offering it multiple bites at the apple, each time with better information than the last”); ANN. MANUAL COMPLEX LIT. § 11.45 (4th ed.) (“Depositions . . . tend to be the most costly and time-consuming activity in complex litigation.”). Thus, in related cases “pending before different judges, the judges should attempt to coordinate the depositions of common witnesses[.]” *Id.* at § 11.455. Federal courts also routinely prevent multiple depositions of the same witness on the

Oklahoma courts have recognized these same principles. For example, in *Phillips v. National Oilwell Varco, LP*, 2024 OK CIV APP 4, two plaintiffs filed actions against the same defendant—one in Oklahoma County and the other in Canadian County. *Id.* at ¶ 3. The trial court consolidated these actions in their entirety, and a plaintiff sought appellate review, arguing that the lower court erred in consolidating plaintiffs' claims. *Id.* at ¶ 1. The appellate court disagreed, reasoning that "[a] trial court has broad discretion to manage the orderly processing of litigation before it, and its decision whether or not to consolidate proceedings for trial will not be disturbed absent a clear abuse of discretion." *Id.* at ¶ 22. Moreover, the appellate court instructed that "[c]onsolidation is a procedural mechanism to enhance the efficiency of judicial process and its economy Section 2018 provides for consolidation of actions that deal with common questions of law or fact." *Id.* at ¶ 26.

The case of *McSharry v. UnumProvident Corp.* is also particularly illustrative of how a court dealing with facts similar to those in this case consolidated depositions to reduce the burden on a deponent facing numerous separate depositions on the same issues. In *McSharry*, plaintiff, a former UnumProvident employee suing for wrongful termination, alleged that UnumProvident had a practice of denying disability insurance claims. *See McSharry v. UnumProvident Corp.*, No. 00-00804 SOM/BMK, 2002 WL 32080544, at *1 (E.D. Tenn. Aug. 9, 2002). In addition to administering its own disability insurance benefit policies, UnumProvident also administered policies for other insurers. *Id.* Separate from McSharry's suit, certain insureds sued

same topics under Federal Rule of Civil Procedure 26(c)(1), including where the successive depositions are sought by different plaintiffs. *See, e.g., In re Lincoln Nat'l COI Litig.*, No. 16-cv-6605-GJP, 2019 WL 7582770, at *3 (E.D. Pa. July 15, 2019) (consolidated cases); *Salt Lake City Corp. v. ERM-W, Inc.*, No. 2:11-cv-1174-TS-PMW, 2014 WL 6386802, at *4-6 (D. Utah Nov. 14, 2014) (multiparty case); *Hunter's Ridge Golf Co., Inc. v. Georgia-Pac. Corp.*, No. 3:02-cv-602-J-25MCR, 2006 WL 8439142, at *1 (M.D. Fla. Feb. 15, 2006) (different cases).

UnumProvident and some of the other insurers for which it administered disability policies for denial of disability benefits. *Id.* McSharry received deposition subpoenas from over twenty of those plaintiffs who sought to depose him about UnumProvident's corporate policies. *Id.* Those plaintiffs' depositions of McSharry were initially scheduled to occur over three non-consecutive days. *Id.* at *2.

Both McSharry and Defendants moved to quash the subpoenas. *Id.* at *1–2. In opposing the motions to quash, the plaintiff insureds conceded that McSharry had no knowledge of or involvement in their individual claims. Rather, they sought to depose him only about his knowledge of UnumProvident's corporate policies regarding the review of disability claims. The court found that it would be “untenable” for McSharry to be “subjected to numerous depositions concerning the same subject, *i.e.*, the alleged policies and practices of UnumProvident in reviewing disability claims.” *Id.* at *2. Accordingly, the court ordered a consolidated deposition of McSharry. *Id.* at *3.

III. THE COURT, CONSISTENT WITH THIS ESTABLISHED AUTHORITY, SHOULD CONSOLIDATE THE STATE FARM DEPONENTS' DEPOSITIONS WITH THEIR DEPOSITIONS IN *HURSH*.

Just as in *Barlow*, *Cisneros*, *Cook*, *Dressel*, *Johnson*, *Newell*, *Porter*, *Stafford*, and *White*, Plaintiffs' counsel has sought the depositions of high-ranking State Farm employees in multiple cases alleging the very same purported scheme. Plaintiffs do not—and cannot—allege any facts showing that the State Farm Deponents have unique information regarding the insurance claims at issue. To the contrary, as Plaintiffs here and in *Hursh* have both argued (repeatedly), Mr. Herbert's, Mr. Moss's, Ms. Ress's, and Mr. Welsh's testimony, to the extent it is relevant at all, is related solely to their roles in the FME.

As the federal court reasoned in *Cook* when granting State Farm's request to consolidate Ms. Manduca's deposition in that case with her deposition in *Wiesman*, “courts are generally

encouraged to exercise their discretion to limit the cost and duration of discovery and avoid duplicative discovery.” (**Exhibit 2**, *Cook*, Dkt. No. 25 at 3 (quoting *Rowe*, 2018 WL 3458356, at *1).) The *Cook* court also highlighted its “authority to consolidate proceedings, including for the limited purpose of conducting a deposition of a witness, when those proceedings share common questions of law or fact.” (*Id.*, *Cook*, Dkt. No. 25 at 3-4 (citing authorities).) Because plaintiffs’ counsel in *Cook*, who is also Plaintiffs’ counsel in this case, sought “to depose Ms. Manduca in several cases that contain similar, if not identical, allegations related to the [FME]” and could not “genuinely dispute that Ms. Manduca’s deposition would cover the same factual topics or that a consolidated deposition would be more efficient,” the court found consolidation was warranted to protect Ms. Manduca from undue burden and avoid cumulative discovery. (*Id.* at 4.) In subsequently ordering consolidation of Ms. Manduca’s deposition in *Wiesman* with her depositions in *Barlow*, *Porter*, and *Cisneros*, that court applied the same logic. See *Barlow*, Dkt. 97; *Porter*, Dkt. 81; *Cisneros*, Dkt. 77. This reasoning applies with equal force here—where the same counsel represents the plaintiffs here and in *Hursh*, makes the same broad “scheme” allegations here and in *Hursh* and seeks depositions of the State Farm Deponents for the same reasons here as in *Hursh*.

Just as in *Barlow*, *Cisneros*, *Cook*, *Dressel*, *Johnson*, *Newell*, *Porter*, *Stafford*, and *White*, questions Plaintiffs pose to the State Farm Deponents will be duplicative of those asked of the deponents in their depositions in *Hursh*. Just like Ms. Manduca, Mr. Herbert, Ms. Ress, and Mr. Welsh are full-time employees with numerous management-level job duties—and requiring each of them to take time away from their regular assignments to prepare for and sit through multiple depositions will unnecessarily impede their ability to carry out their responsibilities. Moreover, allowing Plaintiffs’ counsel—also counsel to plaintiffs in *Hursh*—to depose Mr. Herbert, Mr. Moss, Ms. Ress, and Mr. Welsh multiple times will result in cumulative and duplicative discovery

that is unnecessary and serves no constructive purpose. Accordingly, the Court, consistent with the decisions in *Barlow*, *Cisneros*, *Cook*, *Dressel*, *Johnson*, *Newell*, *Porter*, *Stafford*, and *White*, and established authority both in Oklahoma and across the nation, should enter a protective order consolidating the State Farm Deponents' depositions in this case with their depositions in *Hursh*.

There is no risk that single consolidated depositions of the State Farm Deponents would create delay, confusion, or prejudice to Plaintiffs or the *Hursh* plaintiffs. On the contrary, instead of having to schedule multiple depositions and related travel, plaintiffs in both cases could obtain all the information they seek from Mr. Herbert, Mr. Moss, Ms. Ress, and Mr. Welsh more efficiently in a single deposition. Moreover, there is little risk of confusion because: (1) the same counsel represents plaintiffs in both this case and in *Hursh*; (2) Plaintiffs here and in *Hursh* have alleged nearly identical facts and claims; and (3) Plaintiffs here and in *Hursh* all seek identical information from Mr. Herbert, Mr. Moss, Ms. Ress, and Mr. Welsh regarding the FME.

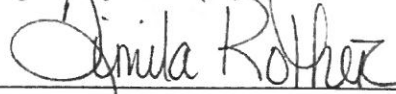
Indeed, Plaintiffs' counsel cannot genuinely dispute that the State Farm Deponents' depositions would cover the same factual topics across both cases, or that consolidated depositions would be more efficient. To the contrary, Plaintiffs' counsel—following the federal courts uniform rulings overruling plaintiffs' objections to consolidation—have now agreed to consolidate depositions of Ms. Manduca in other pending federal cases and have expressed interest in consolidating “notices and subpoenas with respect to Ress, Herbert, Mazza, Moss, and others” in federal court. (See Exhibit 3, July 19, 2026 Email from B. Sonne.) There is no rationale for Plaintiffs' counsel's refusal to extend this same agreement to cases involving identical allegations now pending in state court. Just as in *McSharry*, requiring the State Farm Deponents to be “subjected to numerous depositions concerning the same subject, *i.e.*, the alleged policies and practices of” the FME—is, frankly, “untenable.” See *McSharry*, 2002 WL 32080544, at *2. The

Court should rule in accordance with the federal courts (and Plaintiffs' counsel's own expressed agreement to consolidate depositions in federal court) and consolidate the State Farm Deponents' depositions here with their depositions in *Hursh*.

CONCLUSION

WHEREFORE, State Farm respectfully requests that the Court enter a protective order consolidating any depositions of Mr. Herbert, Mr. Moss, Ms. Ressa, and Mr. Welsh in this case with their ordered deposition in *Hursh* in light of the common issues of fact and to mitigate the burden on these deponents and State Farm and grant such other relief as the Court deems appropriate.

Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that on the 10th day of August, 2026, the undersigned caused a true and correct copy of the above and foregoing to be mailed to:

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