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# APPENDIX

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**UNPUBLISHED**

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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**No. 25-2248**

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PAUL SHAO,

Plaintiff - Appellant,

v.

ALLSTATE INSURANCE COMPANY,

Defendant - Appellee.

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Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Rossie David Alston, Jr., District Judge. (1:23-cv-00809-RDA-WEF)

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Submitted: May 21, 2026 Decided: May 26, 2026

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Before AGEE and THACKER, Circuit Judges, and TRAXLER, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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Paul Shao, Appellant Pro Se. Katie M. Burnett, Meghan Golden, James Scott Humphrey, Samantha L. Marchand, BENESCH, FRIEDLANDER, COPLAN & ARNOFF, LLP, Chicago, Illinois, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Paul Shao appeals from the district court's judgment entered after the court granted Defendant summary judgment and denied Shao partial summary judgment on Shao's multiple civil claims. On appeal, we confine our review to the issues raised in the informal brief. *See* 4th Cir. R. 34(b); *see also Jackson v. Lightsey*, 775 F.3d 170, 177 (4th Cir. 2014) ("The informal brief is an important document; under Fourth Circuit rules, our review is limited to issues preserved in that brief.").

We have reviewed the record in conjunction with the issues Shao raises on appeal and find no reversible error. *See, e.g.*, Fed. R. Civ. P. 56(e)(2)-(3) ("If a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by Rule 56(c), the court may . . . consider the fact undisputed for purposes of the motion [or] . . . grant summary judgment if the motion and supporting materials—including the facts considered undisputed—show that the movant is entitled to it."); *Doe v. Pub. Citizen*, 749 F.3d 246, 269 (4th Cir. 2014) ("A corporation may possess a strong interest in preserving the confidentiality of its proprietary and trade-secret information, which in turn may justify partial sealing of court records.")

Accordingly, we affirm the district court's judgment. *Shao v. Allstate Ins. Co.*, No. 1:23-cv-00809-RDA-WEF (E.D. Va. Sep. 25, 2025). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

*AFFIRMED*

FILED: July 24, 2026

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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No. 25-2248
(1:23-cv-00809-RDA-WEF)

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PAUL SHAO

Plaintiff - Appellant

v.

ALLSTATE INSURANCE COMPANY

Defendant - Appellee

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ORDER

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The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 40 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge Agee, Judge Thacker, and Senior Judge Traxler.

For the Court

/s/ Nwamaka Anowi, Clerk

FILED: August 3, 2026

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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No. 25-2248
(1:23-cv-00809-RDA-WEF)

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PAUL SHAO

Plaintiff - Appellant

v.

ALLSTATE INSURANCE COMPANY

Defendant - Appellee

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MANDATE

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The judgment of this court, entered May 26, 2026, takes effect today.

This constitutes the formal mandate of this court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure.

*/s/Nwamaka Anowi, Clerk*

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

| | | |
|---|---|---|
| PAUL SHAO, | ) | |
| | ) | |
| Plaintiff, | ) | |
| | ) | |
| v. | ) | Civil Action No. 1:23-cv-809 (RDA/WEF) |
| | ) | |
| ALLSTATE INSURANCE CO., | ) | |
| | ) | |
| Defendant. | ) | |

**MEMORANDUM OPINION AND ORDER**

This matter comes before the Court on the parties' cross-motions for summary judgment ("Motions") and Defendant Allstate Insurance Company's Motion for Sanctions. Dkts. 158, 160, 203. These matters have been fully briefed and are now ripe for disposition. This Court has dispensed with oral argument as it would not aid in the decisional process. *See* Fed. R. Civ. P. 78(b); Local Civil Rule 7(J). Considering the Motions together with the Memoranda in Support (Dkts. 162, 165, 204, 210), the Oppositions (Dkts. 183, 185, 193, 207, 211), and the Replies (Dkts. 194, 195, 208), this Court DENIES Plaintiff's Motion for Partial Summary Judgment, GRANTS Defendant's Motion for Summary Judgment, and DENIES Defendant's Motion for Sanctions for the reasons that follow.

## I. PROCEDURAL BACKGROUND

On June 22, 2023, Defendant Allstate Insurance Company ("Defendant" or "Allstate") removed the complaint that *pro se* Plaintiff Paul Shao filed in Fairfax County Circuit Court. Dkt. 1. On June 29, 2023, Defendant filed its Answer. Dkt. 6. Plaintiff initially filed a Motion to Remand, which he subsequently withdrew. Dkts. 4, 22.

On August 29, 2023, Plaintiff filed an Amended Complaint. Dkt. 25. In the Amended Complaint, Plaintiff asserted claims for: (i) failing to pay a termination payment, referred to as "TPP" (Count 1); (ii) failing to pay for and/or excluding a portion of Plaintiff's "book" of insurance policies from his TPP (Count 2); (iii) failing to provide a transitional time for Plaintiff after Defendant

terminated its Trusted Advisor program (Count 3); (iv) conversion (Count 4); (v) "intent to deceive," or perhaps fraudulent inducement (Count 5); (vi) failing to provide consideration (Count 6); (vii) breach of contract based on Plaintiff being inappropriately categorized as an independent contractor (Count 7); (viii) lack of due process (Counts 8, 10); (ix) discrimination (Counts 9, 12); (x) fraud (Count 11); and (xi) failing to comply with COVID-19 orders (Count 13). Defendant again answered and a scheduling order was issued. Dkts. 28, 29. Thereafter, the parties engaged in discovery, which involved a number of disputes that were resolved by U.S. Magistrate Judge William E. Fitzpatrick. In the midst of this process, Plaintiff appealed two of Judge Fitzpatrick's decisions directly to the Fourth Circuit. Dkt. 116. On March 4, 2024, Plaintiff amended his notice of appeal. Dkt. 130. On October 22, 2024, the Fourth Circuit dismissed the appeal. Dkt. 151.

On October 24, 2024, this Court set new deadlines for any motions for summary judgment. Dkt. 153. At Plaintiff's request and in deference to his *pro se* status, those deadlines were subsequently extended by two weeks. Dkt. 156.

On November 26, 2025, Plaintiff filed his Motion for Partial Summary Judgment. Dkt. 158. On November 27, 2025, Defendant filed its Motion for Summary Judgment. Dkt. 160. On December 2, 2024, this Court issued a *Roseboro* notice. Dkt. 167. Both parties later sought and received extensions of time. Dkts. 171, 178. On December 27, 2024, Defendant filed its Opposition to Plaintiff's Motion. Dkts. 183, 185. On January 13, 2025, Plaintiff filed his Opposition to Defendant's Motion. Dkt. 193.[1] On January 21, 2024, Defendant filed its Reply and, on January 24, 2025, Plaintiff filed his Reply. Dkts. 194, 195.

On February 10, 2025, Defendant filed a Motion for Sanctions. Dkt. 203. On February 11, 2025, Plaintiff filed his Opposition. Dkt. 207. On February 17, 2025, Defendant filed its Reply.

[1] That same day, Plaintiff filed a "Notice of Discrimination." Dkt. 192. Plaintiff essentially asserted that, by seeking to place certain documents under seal, Defendant has "singled out" Plaintiff for "unique treatment" which is "an act of discrimination." *Id.*

After briefing on the various motions was completed, Plaintiff filed a series of letters with the Court regarding certain medical issues that Plaintiff is experiencing. Dkts. 212, 213, 214.

## II. UNDISPUTED STATEMENT OF FACTS

Before analyzing the Motions at issue here, the Court must first determine the undisputed summary judgment record, as summary judgment is only appropriate where there are no genuine disputes of material fact. The fact that the parties filed cross-motions for summary judgment does not generally relieve the Court of its obligation to determine whether there are disputes as to material facts which prevent the entry of judgment as a matter of law. *Webster v. ACB Receivables Mgmt., Inc.*, 15 F. Supp. 3d 619, 625 (D. Md. 2014).

Here, Defendant has complied with the requirements of Federal Rule of Civil Procedure 56, the Local Rules, and the Rule 16(B) Scheduling Order by setting forth, in enumerated paragraphs with citations to the record, its undisputed statement of facts and by responding to Plaintiff's asserted "Facts." Despite the instructions in the Rules, the Rule 16(B) Scheduling Order, and the Court's *Roseboro* Notice, Plaintiff has not complied with his obligations to either set forth affirmatively his statement of undisputed facts in his Motion or to respond in his Opposition brief in enumerated paragraphs with citations to the record. Dkts. 34, 167. On the whole, Plaintiff's assertions of "fact" are unsupported by record citations and frequently consist of argument or legal conclusions; thus they are not properly considered "facts" for purposes of summary judgment. The Court further notes that Plaintiff's filings are not made under penalty of perjury, nor do they contain an accompanying declaration whereby Plaintiff attempts to support the alleged "facts" that he asserts. Moreover, as the Rules clearly set forth, where a party fails to properly address the moving party's assertion of fact, the Court may "consider the fact undisputed for purposes of the motion" or "grant summary judgment."

Fed. R. Civ. P. 56(e)(2)-(3).[2] In deference to Plaintiff's *pro se* status, this Court has reviewed his filings and the record, in an attempt to determine which asserted undisputed facts may actually be in dispute; having done so, the Court determines that the following facts are undisputed:[3]

1. Allstate provides insurance, including property and casualty insurance, and other financial products and services to individuals and businesses in the state of Virginia.

2. In addition to providing these products and services directly to customers, Allstate appoints exclusive agents ("EAs"), through its Exclusive Agency program, to sell Allstate products.

3. Before purchasing his interest in an Allstate book of business from Brett Elliott, Plaintiff examined the (a) pricing; (b) policy retention; (c) life production statistics; (d) quality of the policies; and (e) loss ratio for the book of business. Plaintiff knew to examine these factors based on his experience in the insurance industry.

4. Plaintiff received a loan from Allstate Finance Company LLC in the amount of $342,172.15 – which equals $250,000 plus interest – to purchase an interest in Elliott's Allstate Exclusive Agency book of business.

5. Before EAs receive their appointments from Allstate, all EAs are required to first enter into an Allstate R3001 Exclusive Agency Agreement (the "EA Agreement") with Allstate, which sets forth the terms and conditions of the EA's relationship with Allstate.

6. The EA Agreement between Plaintiff and Allstate became effective on August 1, 2015. Dkt. 165-2.[4]

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[2] *See, e.g.*, *JDS Uniphase Corp. v. Jennings*, 473 F. Supp. 2d 705, 707 (E.D. Va. 2007) (movant's statement of undisputed facts is properly deemed admitted where brief in opposition fails to "identify with any specificity which facts, if any, were disputed" (citing Local Civ. R. 56(B))); *Hayes v. Sotera Defense Solutions, Inc.*, 2016 WL 2827515, at *2 (E.D. Va. May 12, 2016) ("Any facts listed in the moving party's listing of material facts which are not specifically controverted in the non-moving party's statement of facts in opposition to the motion will be deemed to be admitted for purposes of [a] motion for summary judgment." (citing Local Civ. R. 56(B))); *Ferguson v. Holder*, 2015 WL 11117148, at *1 (E.D. Va. Feb. 9, 2015) (movant's statement of undisputed facts is "appropriately deemed admitted and governs th[e] [summary judgment] record" where non-movant fails to comply with Scheduling Order's provision regarding statement of facts); *Bon Supermarket & Deli v. United States*, 87 F. Supp. 2d 593, 600 (E.D. Va. 2000) (failure to file a timely response may properly be deemed as an admission to movant's statement of facts).

[3] The Court resolves attempted disputes regarding asserted facts in the related footnotes.

[4] Plaintiff attempts to dispute the asserted fact by noting that the EA Agreement was not signed by Allstate until August 5, 2015. Dkt. 165-2 at 11. Nonetheless, the particular provisions of the EA Agreement specifically provide: "Effective August 1, 2015, the Company appoints you as its agent to

7. By signing the EA Agreement, Plaintiff agreed[5] to the following provision:

> The Supplement for the R3001 Agreement ("Supplement") and the Exclusive Agency Independent Contractor Manual ("EA Manual"), and the Allstate Agency Standards ("Agency Standards") as they may be amended from time to time, are expressly incorporated in their entirety as part of this Agreement. The Company reserves the right to amend the Supplement, EA Manual, and Agency Standards at any time without prior notice to you, except that notice regarding changes to commission amounts will be given as indicated in Section XV.

8. By signing the EA Agreement, Plaintiff "acknowledged that [he had] reviewed the Supplement, EA Manual, and Agency Standards and that [he had] an ongoing responsibility to review all changes . . . issued by the Company and agree[d] to be bound by them." Dkt. 165-2 at 11 ¶ XX(B).

9. Plaintiff had access to the Supplement, the EA Manual, and the Agency Standards on August 1, 2015, if not earlier.

10. Plaintiff understood that he had to adhere to Defendant's rules and regulations and that such conditions were "valid."

11. By signing the EA Agreement, Plaintiff also agreed that he is "an independent contractor for all purposes and not an employee" of Defendant. Dkt. 165-2 at 1 ¶ 1(D); Dkt. 165-6 at 13.

12. To this end, Plaintiff agreed that he would "have full control of [his] time and the right to exercise independent judgment as to the time, place, and manner of performing [his] duties, which are defined in this Agreement and the incorporated Supplement, EA Manual, and Agency Standards." Dkt. 165-2 at 1 ¶ 1(D).

13. The only areas over which Allstate maintains sole discretion relates to insurance forms; insurance premiums, fees, and charges; the acceptance or rejection of applications; the termination or modification of contracts; the limitation, restriction, or discontinuance of the writing or selling of policies, coverages, lines, or kinds of insurance; Allstate's licenses; and the type and quality of customer service.

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represent the Company in the Exclusive Agency Program." *Id.* at 2 ¶ I.A. Moreover, Plaintiff's Complaint asserts that he began operating under the EA Agreement on August 1, 2015. Dkt. 25 ¶ 2. In any event, Plaintiff does not dispute that the EA Agreement contains this provision but merely asserts that it is a "Questionable Statement." Dkt. 193 at 10-11. Because Plaintiff's objection appears immaterial and because the EA Agreement contains the date referred to by Defendant, Plaintiff has not created a genuine issue of material fact in this regard.

[5] Plaintiff asserts that Defendant's use of the word "acknowledge" is "deceitful." Dkt. 193 at 10. Here, Defendant's asserted fact did refer to Plaintiff acknowledging the cited provision of the EA Agreement. Dkt. 165 at 2 ¶ 7. The EA Agreement itself refers to Plaintiff and Defendant "agree[ing]." Dkt. 165-2 at 2. Accordingly, in this particular instance, the Court has substituted "agreed" for "acknowledged."

14. By signing the EA Agreement, Plaintiff also agreed that:

> The sole compensation to which [he] will be entitled for services rendered pursuant to th[e] Agreement will be the commissions set forth in the Supplement, as may be amended from time to time. [Defendant] will pay [his] commissions at the time and in the manner set forth in the Supplement. However, due to the inherent uncertainty of business conditions, [Defendant] reserves the right to increase or decrease any commission amounts and to change the commission rules.

Dkt. 165-2 at 8 ¶ XV(A).

15. Plaintiff also understood that the above provision meant that Defendant reserved the right to increase or decrease any commission amounts and to change the commission rules.

16. By signing the EA Agreement, Plaintiff further agreed that:

> Th[e] Agreement may not be modified except by a written agreement between [Defendant] and [Plaintiff] which expressly states that it modifies this Agreement. No other written statements, representations, or agreements and no oral statements, representations, or agreements will be effective to modify this Agreement. No representative of [Defendant] will have the authority to modify this Agreement.

Dkt. 165-2 at 10 ¶ XX(A).

17. Plaintiff also agreed that the "authority granted to [him] under this Agreement is nonexclusive" and that the term "exclusive" is used to "refer[] to the obligations assumed by [him] under Section I.E." *Id.* at 11 ¶ XX(E). In other words, EAs exclusively sell Defendant's products; they cannot sell insurance products from insurance carriers other than Defendant, except in limited circumstances.

18. By signing the EA Agreement, Plaintiff "acknowledge[d] that [he had] read this Allstate R3001S Exclusive Agency Agreement, underst[ood] it, and agree[d] to be bound by its terms." Dkt. 165-2 at 11.[6]

19. Allstate EAs, like Plaintiff, must meet Allstate Business Objectives ("ABOs") in order to maintain their EA Agreement and status as an Exclusive Allstate Agent. The ABOs are referenced in the EA Manual, which is incorporated into the EA Agreement.[7]

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[6] Here again, Plaintiff objects to the use of the word "acknowledged." Dkt. 193 at 10. But that is the exact language used in the EA Agreement. Plaintiff otherwise merely raises legal arguments with respect to this paragraph, which are not appropriately considered when determining whether certain factual statements are undisputed. Accordingly, there is no genuine dispute of material fact.

[7] Plaintiff has asserted, without citation to record evidence, that "ABO[s] are not mentioned in the EA Agreement." Dkt. 158 at 10. In this regard Plaintiff is partially correct, the EA Agreement incorporates the EA Manual, which sets forth the ABO program. Dkt. 165-2 at ¶ II(B); Dkt. 165-6. Thus, although not specifically set forth in the EA Agreement, the ABO program is incorporated by

20. Plaintiff understood that Defendant's ABOs existed as early as 2015, but he did not look at them until approximately January 2018 when Allstate sent an email about them.[8]

21. If EAs do not meet the ABOs, which provide feedback on their business results, then their EA Agreement is subject to termination.[9]

22. Plaintiff failed to meet his ABOs at least eight times between April 2019 and December 2019.

23. In 2020, Defendant exercised its right under Section XVII.B of the EA Agreement and terminated Plaintiff's EA status effective May 30, 2020, due to Plaintiff's failure to meet Defendant's ABOs.[10] Plaintiff was informed of this termination on or around February 10, 2020.

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reference into that contract through its incorporation of the EA Manual. The asserted fact is modified to more accurately state how the EA Agreement and the ABO program relate to one another.

[8] Defendant's asserted fact is that Plaintiff knew the ABOs existed as early as 2012-2013 but did not look at them until January 2018. Dkt. 165 at 5 ¶ 20. Plaintiff responds: (i) that he incorrectly said 2018 instead of 2019 in his deposition testimony; and (ii) the "other two references are bogus." Dkt. 193 at 11. Plaintiff's unsworn assertion in his Opposition is insufficient to contradict his sworn deposition testimony. The Court agrees that Defendant's citations to other portions of the record are unhelpful in supporting the asserted fact. However, the Court examined Plaintiff's deposition testimony. The deposition testimony supports that: (i) Plaintiff had access to the ABOs on the Gateway platform on or hear the time that the EA Agreement was executed in August 2015; and (ii) Plaintiff did not look at the ABOs until January of 2018. Dkt. 165-3 at 45:9-48:3. Plaintiff is correct that his deposition testimony does not support that he knew of or had access to the ABOs in 2012 or 2013. Rather, the deposition testimony supports that, after the fact in 2018, Plaintiff would look for the "2012 supplement." *Id.* Accordingly, the asserted fact has been modified, but there is no genuine dispute of material fact.

[9] In his Motion, Plaintiff asserted, without citation, that: "Allstate employed the production quota . . . ABO . . . to terminate agents for failing to meet the ABO quota." Dkt. 158 at 9 ¶ 40(i). Defendant admits that, failure to meet ABOs could be a basis for termination, and asserted a similar fact, set forth above, in its own Statement of Undisputed Facts. Dkt. 185 at 2. Defendant denies, however, that there was a "production quota." *Id.* Accordingly, Plaintiff's asserted fact is partially disputed, as he cites no evidence in support of his assertion regarding production quotas.

[10] Plaintiff asserts that: "Allstate had never initialed a change or modification of the EA Agreement with a written agreement between Allstate and its agents on replacing the original Business Objectives (BO) with ABO. Therefore, the employment of ABO quota by Allstate to terminate agents is a breach of the contract." Dkt. 156 at 10 ¶ 40(iv). Plaintiff's assertion is unsupported by citation to the record and is pure legal argument. As discussed *supra*, it also does not accurately describe the interaction between the EA Agreement and the incorporated EA Manual. Accordingly, Plaintiff has failed to appropriately set forth an undisputed fact.

24. The EA Agreement provides that an EA has "an economic interest, as defined in this Agreement and the incorporated Supplement and EA Manual, in [his or her] Allstate customer accounts developed under this Agreement." Dkt. 165-2 at 8 ¶ XVI(B).

25. The EA Manual defines Plaintiff's economic interest in his book of business as a "specifically defined, limited interest. . . . which is comprised of only two elements:

> First, the economic interest includes the option, where applicable of receiving a termination payment according to the terms of your R3001 Agreement, this Manual, and the Supplement[; and]
>
> Second, the economic interest includes the ability to transfer your interest as provided in the R3001 Agreement this Manual, and the Supplement, subject to the Company's approval.

No other rights are included with the terms 'your economic interest' or 'economic interest in the book of business.' You do not have any ownership interest in any of the business written under the R3000 and R3001 Agreements or any previous agency agreement . . . ." Dkt. 165-6 at 33.[11]

26. Following termination of the EA Agreement, Plaintiff was provided with 90 days to sell his economic interest in his book of business to a purchaser approved by Defendant.

27. On May 15, 2020, Defendant granted Plaintiff an extension of the deadline to transfer his economic interest to a potential buyer, Catherine Lee, from May 31, 2020, to August 31, 2020.

28. On June 3, 2020, Plaintiff informed Defendant that he had "made an agreement with the landlord to vacate [his Allstate Agency location]" and confirmed that he had moved out of the location.

29. Ms. Lee was unable to purchase Plaintiff's book of business because she never cleared the Allstate Financial Services background check.

30. Although Plaintiff attempted to find a buyer for his agency or economic interest in his book of business, the potential buyers were either not approved by Defendant or ultimately were unable to purchase it.

31. If an EA, like Plaintiff, fails to or chooses not to sell his economic interest in his book of business within the 90-day period, the EA may elect to receive a termination payment or TPP from Defendant.

[11] Plaintiff's assertions regarding his economic interest in the book of business are unsupported by any citation to the record and are contrary to the EA Agreement, which incorporates the EA Manual. Accordingly, Plaintiff's purported factual assertions regarding his economic interest (Dkt. 158 at 13-14) are not properly considered on summary judgment.

32. The TPP is calculated and paid in accordance with the Supplement, which specifies which categories of business are included in the TPP and how to calculate the payment. Dkt. 165-1 at 94-97.

33. Specifically, the Supplement provides that the TPP for auto, property, commercial, and Allstate Financial renewals are calculated using a multiplier of 1.5. Dkt. 165-1 at 96.

34. The Supplement also provides that "[b]usiness underwritten under any prior Allstate employee agent agreement" is excluded from the TPP calculation.

35. The TPP may also "include a deduction for any indebtedness owed to [Defendant]."

36. The 2020 Supplement also states that "[t]he payment of the Termination Payment will be made in 24 monthly installments."

37. Plaintiff was paid a total of $129,973.21 as his TPP. His TPP was calculated and paid out between October 2020 and September 2022.[12]

38. Plaintiff has no written evidence that anyone at Defendant stated that they would modify or amend his EA Agreement and buy back his book of business outside of the TPP provisions or for an amount more than the TPP.[13]

39. Before filing his complaints in this action, Plaintiff did not file a complaint with Virginia's Fair Employment Practices Agency ("FEPA") or the Equal Employment Opportunity Commission ("EEOC"). Accordingly, those entities did not investigate Plaintiff's claims of discrimination.

## III. LEGAL STANDARD

Summary judgment is appropriate only if "the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a);

[12] Plaintiff asserts that this TPP excluded $392,736.52, "because this portion of the book was written by employee salespersons of Allstate." Dkt. 158 at 12. Plaintiff fails to cite any portion of the record to support any of the facts that he purports to put forth. Accordingly, these "facts" are not properly considered on summary judgment.

[13] Plaintiff asserts, without citation to the record, that Allstate "would use the phrase 'buyback with the multiple 1.5'" to potential agent-candidates and that such statements created a "false impression" regarding the TPP. Dkt. 158 at 11 ¶ 41. Plaintiff's asserted fact is unsupported by any citation to the record and disputed by Defendant; accordingly, it is not properly considered as a "fact" for purposes of summary judgment. Dkt. 185 at 5. In any event, such allegations appear immaterial where Plaintiff has not asserted that *he* was told such information and where such conversations occurred *before* an EA signed the EA Agreement, which incorporates the Supplement and sets forth the TPP calculation. Similarly, Plaintiff's assertions about what is customary in the "marketplace" may or not be accurate factual statements (unsupported by any citation to the record), but they are irrelevant to the extent that they contradict the EA Agreement signed by Plaintiff.

*see also Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-48 (1986). The party seeking summary judgment has the initial burden to show the absence of a material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 325 (1986). The facts shall be viewed, and all reasonable inferences drawn, in the light most favorable to the non-moving party. *Anderson*, 477 U.S. at 255. "(A) party opposing summary judgment may not simply rest on the allegations of his complaint but must instead come forward with specific evidence showing the existence of a genuine issue of fact." *Muhammad v. Giant Food*, 108 F. App'x 757, 764 (4th Cir. 2004) (citing *Williams v. Griffin*, 952 F.2d 820, 823 (4th Cir. 1991)).

The standard of review does not change when ruling on cross-motions for summary judgment. *E.I. DuPont De Nemours & Co. v. Ampthill Rayon Workers, Inc.*, 516 F. Supp. 2d 588, 593 (E.D. Va. 2007). When faced with cross-motions for summary judgment, a court must review each motion separately on its own merits to determine whether either of the parties deserves judgment as a matter of law." *Rossignol v. Voorhaar*, 316 F.3d 516, 523 (4th Cir. 2003) (quotations omitted).

## IV. ANALYSIS

Both parties have filed motions for summary judgment. Defendant seeks judgment in its favor as to the entirety of Plaintiff's Complaint, whereas Plaintiff seeks judgment in his favor as to only some of the counts in his Amended Complaint. The Court groups counts together and addresses each group in turn as appropriate.

### A. Breach of Contract Claims

Counts 1, 2, and 3 are essentially breach of contract claims. *See* Dkt. 25 at 39-40 (Count 1 asserting "Failure to Pay Full TPP Amount"); *id.* at 41-43 (Count 2 asserting "Failure to Pay the Portion of the Book, Written by Employee Salespersons"); *id.* at 43-44 (Count 3 asserting "Failure to Provide a Transitional Time"). As this Court has previously recognized, under Virginia law, a plaintiff must show: "(1) a legally enforceable obligation of a defendant to a plaintiff; (2) the defendant['s] violation or breach of that obligation; and (3) injury or damage to the plaintiff caused by the breach of the obligation." *Empower AI, Inc. v. Dillahay*, 2024 WL 4351437, at *5 (E.D. Va. Sept. 30, 2024).

Plaintiff does not cite any provision of the EA Agreement that Defendant has breached. And, indeed, he cannot, because the EA Agreement provides that his "economic interest [is] defined in this Agreement and the incorporated Supplement and EA Manual." Dkt. 165-2 at 8 ¶ XVI(B). The incorporated Supplements provide for the calculation of the TPP of which Plaintiff now complains. Dkt. 165-1 at 94-97 (2016 Supplement explaining the calculation of the TPP); Dkt. 165-11 at 21-30 (2020 Supplement explaining the calculation of the TPP). Rather than point to a specific contractual provision, Plaintiff makes arguments regarding a "standard buyout" and "customary practice." Dkt. 158. But it is the parties' EA Agreement and incorporated, related documents that governs this dispute. *See L. Foster Consulting, LLC v. XL Grp., Inc.*, 2012 WL 2785904, at *9 (E.D. Va. June 1, 2012) (recommending judgment on the pleadings where "[n]either of these first two alleged breaches finds any support within the four corners of the Agreement"). At this stage of the litigation, Plaintiff must do more to succeed on his own Motion or to defeat Defendant's Motion. Plaintiff's failure to identify any provision of the contract that Defendant is alleged to have breached would make his argument insufficient even at the motion to dismiss stage. *Georgian v. Bank of Am., N.A.*, 2025 WL 2388779, at *7 (W.D.N.C. Aug. 18, 2025) (collecting cases regarding federal pleading standards for a breach of contract claim) ("In pleading these elements, a plaintiff must identify what provisions of the contract were breached as a result of the acts at issue."). Thus, Plaintiff has failed to point to any record evidence that would create a genuine issue of material fact with respect to his claims in Counts 1, 2, and 3. Because Plaintiff cannot demonstrate that any reasonable juror could find that Defendant breached the EA Agreement, summary judgment is appropriate in favor Defendant on those Counts.

Seeking to avoid this conclusion, Plaintiff makes references to "adhesive" (which in context must be a reference to a contract of "adhesion") and "unconscionable" contracts. Dkt. 193 at ¶¶ 5-6, 9-11, 28, 82-87. As courts recognize, such arguments cannot be raised for the first time in opposition to a motion for summary judgment. *See Gallagher v. Holt*, 2012 WL 3205175, at *12 n.12 (E.D. Cal. Aug. 3, 2012) (holding that parties "may not raise new grounds for relief in a responsive brief" where

the reply "present[ed] a new ground for relief" and asking the court to "refuse to enforce [the] contract" where it is "unconscionable"); *E.I. du Pont de Nemours & Co. v. Kolon Indus., Inc.*, 847 F. Supp. 2d 843, 851 n.9 (E.D. Va. 2012) (recognizing the same principle more generally). Moreover, as even Plaintiff recognizes, the fact that he lacked bargaining power does not make the EA Agreement unenforceable. *See* Dkt. 193 at 4 (conceding that "[t]hese contracts are often enforceable"). In this regard, Plaintiff is correct, as "courts in the Eastern District of Virginia regularly enforce contracts of adhesion." *McLean v. Branch Banking & Trust Co.*, 2020 WL 4547818, at *2 (E.D. Va. Aug. 5, 2020) (collecting cases). And, in Virginia, a contract is not *per se* unconscionable merely because it is a standard form contract "between two parties of admittedly unequal bargaining power." *Saturn Distrib. Corp. v. Williams*, 905 F.3d 719, 725-26 (4th Cir. 1990). Here, Plaintiff presents no evidence from which a reasonable juror could determine that the EA Agreement was unconscionable. Thus, there is no genuine issue of material fact and summary judgment in favor of Defendant is appropriate.

Further, to the extent that Plaintiff argues that he did not review the EA Manual or Supplement until 2018, such argument is unavailing. Dkt. 193 at 12 (asserting that "the Supplement was intentionally or by design not made known to Shao at the signing of the contract"). But the EA Agreement that Plaintiff signed, specifically provides that Plaintiff "acknowledged that [he had] reviewed the Supplement, EA Manual, and Agency Standards." Dkt. 165-2 at 11 ¶ XX(B). As has been previously noted in this District, "Virginia courts are not sympathetic to parties who do not read contracts before signing them." *Johnson v. Opportunity Financial, LLC*, 2023 WL 2636712, at *10 (E.D. Va. Mar. 24, 2023). That is particularly true here, where Plaintiff sold insurance policies. *See Denver Global Prods., Inc. v. Leon*, 815 F. App'x 714, 718 (4th Cir. 2020) (noting that plaintiff was a "sophisticated businessman" who made an "improvident contract"). Additionally, Plaintiff's attempt to excuse his signing of the EA Agreement as the product of duress falls well short, because Plaintiff cannot establish that he was forced to sign the EA Agreement and, allegations of duress must be made promptly upon the removal of the duress. *See Shepherd v. Shepherd*, 69 Va. Cir. 403, at *4 (Va. Cir.

Ct. Dec. 28, 2005). As Virginia courts recognize, "[c]ourts cannot relieve one of the consequences of a contract merely because it was unwise." *Pelfrey v. Pelfrey*, 25 Va. App. 239, 245 (1997). Accordingly, this argument also fails and summary judgment in favor of Defendant is appropriate.[14]

B. Conversion and Fraud Claims

In Count 4, Plaintiff asserts a claim of conversion and Counts 5, 6, and 11 are essentially fraud claims.[15] In this regard, Plaintiff attempts to repackage his breach of contract claims relating to the TPP as conversion and fraud claims. These claims fare no better.

With respect to conversion, Plaintiff must show "the wrongful assumption or exercise of the right of ownership over goods or chattels." *McPike v. Zero-Gravity Holdings, Inc.*, 280 F. Supp. 3d 800, 808 n.10 (E.D. Va. 2017). But Defendant's actions were not wrongful where they were pursuant to the EA Agreement, EA Manual, and Supplements to which Plaintiff had agreed. Dkt. 165-2 at 11 ¶ XX(B); *cf. Heredia v. Intuitive Surgical, Inc.*, 2018 WL 2021914, at *4 (N.D. Cal. May 1, 2018) (finding no conversion where "DeLeC Uruguay received Dr. Heredia's payments pursuant to contract and not through any wrongful act"). Moreover, to support a conversion claim, a plaintiff's "right" to property must be a "clear, definite, undisputed, and obvious property right in a thing to which they are entitled to immediate possession." *United Leasing Corp. v. Thrift Ins. Corp.*, 247 Va. 299, 306 (1994). Plaintiff cannot meet that burden here, where his right was qualified and subject to the provisions of the EA Manual, which states that his economic interest is a "specifically defined, limited interest" that consists of only the ability to receive a TPP (as defined by the Supplement) or to transfer the interest

[14] Other federal courts have similarly granted summary judgment where EAs sought to allege breaches of the EA Agreement based on their economic interest in their book of business or the TPP. *See, e.g., Rudolph v. Allstate Ins. Co.*, 2020 WL 4530600, at *5 (S.D. Ohio Aug. 6, 2020) ("There is no opportunistic advantage where an express, bargained-for term affords one party the right to take specific action.").

[15] Although Plaintiff originally framed Count 6 as an adequacy of consideration (Dkt. 25 at 49), Plaintiff now frames Count 6 as "contract fraud." Dkt. 158 at 14.

to an approved buyer. Dkt. 165-6 at 33. Because Plaintiff has not demonstrated any facts from which a reasonable juror could find conversion, summary judgment in favor of Defendant on Count 4 is appropriate.

The contours of Plaintiff's various fraud claims in Counts 5, 6, and 11 are not entirely clear, but essentially Plaintiff asserts that the EA Agreement was unsupported by consideration and that the EA Agreement is deceptive because Defendant is not bound to exclusively use EAs to sell its products. Both of these claims are unsupported by the record. With respect to the consideration contained within the EA Agreement, Plaintiff appears to misunderstand the legal meaning of consideration. As Defendant correctly sets forth, consideration is "the price bargained for and paid for a promise. It may be in the form of a benefit to the party promising or a detriment to the party to whom the promise is made." *Smith v. Mountjoy*, 280 Va. 46, 53 (2010) (internal quotations omitted). Here, in exchange for his agreement to the terms of the EA Agreement, Plaintiff was authorized to sell Defendant's products using Defendant's name in return for certain commissions. Dkt. 165-2 at 2 ¶ I(A) (describing authority to sell products); *id.* at 8 ¶ XV(A) (describing compensation). To the extent that Plaintiff argues that the EA Agreement lacks consideration because the parties were not equally bound with respect to the exclusivity provisions, Plaintiff is incorrect. *See Bailey v. Turnbow*, 273 Va. 262, 267 (2007) ("A court of equity will not set aside a contract because it is 'rash, improvident, or [a] hard bargain.'"). To the extent Plaintiff argues that there was "intent to deceive" because the EA Agreement is not "exclusive" with respect to Defendant, Plaintiff's claim is defeated by the plain language of the contract which provides: "The authority granted to you under this Agreement is nonexclusive. The term 'Exclusive' as used in the title of this Agreement refers to the obligations *assumed by you*." Dkt. 165-2 ¶ XX(E) (emphasis added). Thus, there are no genuine disputes of material fact and no reasonable juror could find in favor of Plaintiff on his claims of fraud.

Plaintiff's filings make some reference to "Allstate recruiters" using the phrase "buyback with the multiple of 1.5" by creating a "false impression that Allstate would buyout an agent's economic

interest . . . by paying the multiple of 1.5 in the universal formula in evaluating the value of the book." Dkt. 158. To begin with, such assertions are unsupported by citation to any portion of the record. Moreover, Plaintiff fails to assert that *he* heard Defendant's agents explain the TPP in such terms. Additionally, it is unclear to the Court that such statements are misrepresentations where the TPP does use a 1.5 multiplier and where Plaintiff does not allege that such recruiters actually referred to any universal formula. Dkt. 165-1 at 96. Plaintiff's claim also fails to assert the necessary "who, what, where, when, and why" necessary to support a fraud claim. *U.S. ex rel. DeCesare v. Americare In Home Nursing*, 757 F. Supp. 2d 573, 582 (E.D. Va. 2010). Finally, to the extent Plaintiff attempts to ground his claims in the covenant of good faith and fair dealing, those claims are subsumed into his breach of contract claims and cannot be stated as standalone claims. *See Rogers v. Deane*, 992 F. Supp. 2d 621, 633 (E.D. Va.) ("Where there is a claim for breach of contract, the inclusion of a claim for breach of the implied warranty of good faith and fair dealing as a separate claim is duplicative of the breach of contract claim . . . ."), *aff'd*, 594 F. App'x 768 (4th Cir. 2014).

In sum, the Court will grant Defendant's Motion with respect to Counts 4, 5, 6, and 11.[16]

C. Claims Based on Protections for Employees

In Counts 7 and 12, Plaintiff claims to be an employee and seeks the protection such status provides. Plaintiff first seeks to be declared an employee of Defendant and then seeks to state claims under various state and federal antidiscrimination statutes. Dkt. 25 at 50, 55. The EA Agreement clearly provides that Plaintiff was an independent contractor and, thus, both of these claims fail.

The EA Agreement specifically states that Plaintiff is "an independent contractor for all purposes and not an employee." Dkt. 165-2 at 1 ¶ I(D). To that end, Plaintiff agreed that he would

[16] Plaintiff only moved for summary judgment with respect to Counts 1-6. Dkt. 158 at 9. Having now determined that Defendant is entitled to summary judgment with respect to each of those Counts and that Plaintiff has raised no genuine issues of material fact, Plaintiff's Motion for Partial Summary Judgment will be denied.

"have full control of [his] time and the right to exercise independent judgment as to the time, place, and manner of performing [his] duties, which are defined in this Agreement and the incorporated Supplement, EA Manual, and Agency Standards." *Id.* Plaintiff's briefs fail to address or to assert any facts regarding why he should be considered an employee rather than an independent contractor. Indeed, Plaintiff himself refers to how "Allstate converted its agents to an independent contractor of EA." Dkt. 193 at 23. Thus, Plaintiff has failed to raise any genuine disputes of material fact with respect to this alleged claim.

Moreover, applying the test established by the Fourth Circuit for determining whether an individual is an employee or independent, Plaintiff is clearly an independent contractor. *See Cilecek v. Inova Health Sys. Servs.*, 115 F.3d 256 (4th Cir. 1997) (identifying the following factors: the skill required, the source of the instrumentalities and tools, the location of the work, the duration of the relationship, whether the hiring party has the right to assign additional projects, the extent of the hired party's discretion, the hired party's role in hiring/paying assistants, whether the work is part of the regular business of the hiring party, the provision of employee benefits, and the tax treatment of the hired party). The Court first notes that there is some level of skill involved in selling insurance, because, in Virginia, such agency requires becoming licensed. *See* Virginia Code § 38.2-1822(A); *see Schweigher v. Farm Bureau Ins. Co.*, 207 F.3d 480, 485 (8th Cir. 2000) (factor weight in favor of independent contractor status, where licensed by state). The EA Agreement also provides that Plaintiff was responsible for the location of his work and the associated expenses. Dkt. 165-2 at 6 ¶ VIII ("You will be responsible for the payment of all expenses that you incur . . . including . . . expenses for your sales location, supplies not furnished by the Company, compensation of your employees . . . , telephone, postage, and advertising expenses incurred at your direction, and all other charges and expenses."). The EA Agreement further provided that Plaintiff could hire his own employees "entirely in [his] own discretion." *Id.* at 3 ¶ II(E). Thus, these factors each weigh in favor of Plaintiff's independent contractor status. Moreover, other federal courts have similarly held that EAs are

independent contractors. *See, e.g., Chai v. Allstate Ins. Co.*, 2005 WL 6778901, at * (S.D. Ohio Apr. 28, 2005) ("Examining these factors as a whole, the Court holds that the evidence that Chai is an independent contractor is so overwhelming that no reasonable jury could hold otherwise."). Accordingly, to the extent Count 7 attempts to assert a claim based on Plaintiff's status as an "employee," Defendant is entitled to summary judgment.

Plaintiff's independent contractor status is also determinative of his claims in Count 12. In Count 12, Plaintiff seeks to assert claims under various antidiscrimination statutes. But those statutes only protect employees. *See Derthick Assocs., Inc. v. Bassett-Walker, Inc.*, 1997 WL 56908, at *2 (4th Cir. Feb. 12, 1997) ("An examination of the record confirms that the district court was correct in determining that Derthick and Robbins were independent contractors and that, therefore, they were not entitled to bring an ADEA claim."); *Green v. Centech Grp.*, 2016 WL 9211755, at *3 (E.D. Va. Aug. 25, 2016) ("Title VII protects only employees, and not independent contractors"). As this Court has previously noted, the Virginia Human Rights Act (the "VHRA") uses substantially the same language as Title VII and thus such statutes are typically analyzed together. *See, e.g., Cox v. Red Hat, Inc.*, 2025 WL 889888, at *12 n.14 (E.D. Va. Mar. 21, 2025). Accordingly, applying the same principles to the VHRA claim, Plaintiff's VHRA claim fails due to his independent contractor status.

Plaintiff's discrimination claims also fail for the separate reason that he has failed to assert any facts suggesting that he has exhausted his claims. Each of the statutes upon which he relies requires that a plaintiff exhaust before he initiates a claim in court. *See Hairston v. Nilit America, Inc.*, 2023 WL 8011089, at *3 (W.D. Va. Nov. 20, 2023) (noting that the VHRA and Title VII require administrative exhaustion); *Harris v. Am. Airlines*, 2017 WL 2880400, at *1 (W.D.N.C. July 6, 2017) (recognizing that Title VII and the ADEA require administrative exhaustion). Neither Plaintiff's briefs on summary judgment nor his Amended Complaint refer to any attempt to exhaust Plaintiff's claims before instituting this litigation. Accordingly, Plaintiff's discrimination claims also fail for this reason as well and Defendant is entitled to summary judgment on Counts 7 and 12.

D. Plaintiff's "Removed" Claims and Claims Lacking a Cause of Action

In his Motion, Plaintiff asserted that he was "removing" Counts 8 and 10.[17] The Court construes this as essentially a motion for voluntary dismissal. At this late stage of the litigation, voluntary dismissal is inappropriate. *See Steves & Sons, Inc. v. JELD-WEN, Inc.*, 323 F.R.D. 232, 235 (E.D. Va. 2017) (recognizing that "the Fourth Circuit has found 'on multiple occasions that a district court does not abuse its discretion in denying a motion for voluntary dismissal if the case has advanced to the summary judgment stage and the parties have incurred substantial costs in discovery'" (internal citations omitted)). In his Motion, Plaintiff concedes that Count 8 "deals with the denial of due process" and that he has now come "to realize that Allstate, as a private sector business entity, is not required to observe due process." Dkt. 158 at 4. Moreover, it is well-settled that due process protections only protect against state actors. *See, e.g., Fleming v. Workers' Compensation Comm'n of Com. of Va.*, 878 F. Supp. 852, 869 (E.D. Va. 1995) ("The requirements of the due process clause do not apply 'to acts of private persons or entities.'"). Similarly, Plaintiff recognizes that the same that could be said of Count 8 "can be said of the [tenth] cause of action . . . which describes Allstate as a police state." Dkt. 158 at 5.[18] Accordingly, because Defendant is not a state actor, there are no genuine disputes of material fact as to Counts 8 and 10 and summary judgment in favor of Defendant is appropriate and will be granted.

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[17] Plaintiff refers to the "seventh" cause of action, but describes it as asserting a "denial of due process in Allstate's administrative disciplinary operation." Dkt. 158 at 4. The count that refers to the "administrative disciplinary operation" is, however, Count 8 rather than Count 7. Dkt. 25 at 10. Thus, the Court assumes that this was an error. Similarly, Plaintiff refers to the "ninth" cause of action, but states that it "describes Allstate as a police state." Dkt. 158 at 5. Again, this appears to be an error as Count 10 is the count that refers to Defendant having the "trait of a police state." Dkt. 25 at 53. The Court will construe all references to Count 7 as referring to Count 8 and all references to Count 9 as referring to Count 10.

[18] Plaintiff also describes Count 10 as "merging into the eleventh cause of action on discrimination." Dkt. 158 at 5. To the extent Count 10 is intended to state a discrimination claim, summary judgment in favor of Defendant for the same reasons previously discussed with respect to Count 11.

Count 9 attempts to assert a similar claim to Counts 8 and 10 in that it asserts that Defendant has failed to apply the "rule of law . . . evenly or equitably in the realm of Allstate disciplining its members." Dkt. 25 at 51.[19] To the extent this again attempts to state any sort of claim based on Plaintiff's constitutional rights, the claim fails for lack of state action. Moreover, what particular relief Plaintiff seeks and the contours of this cause of action are unclear. For all of these reasons, Plaintiff has failed to demonstrate that there is a genuine dispute of material fact or that a reasonable juror could rule in his favor on this count. Accordingly, summary judgment will enter in favor of Defendant on Count 9.

Finally, in Count 13, Plaintiff asserts that "Allstate put Shao in harms' way by failing to comply" with COVID-19 stay-at-home orders, when it denied his request for a termination extension. Dkt. 25 at 56. Plaintiff fails to assert any facts or establish any genuine issue of material fact that *Defendant* forced Plaintiff to violate any stay-at-home orders. Indeed, Plaintiff asserts in his Amended Complaint that he was meeting with "his landlord, the cleaners, the technicians, and the movers." *Id.* Although those meetings might flow from Defendant's termination of his EA status, Plaintiff does not assert that they were required by Defendant. Moreover, Plaintiff fails to identify any authority that provides him with a private cause of action to enforce either the White House's declaration or former Virginia Governor Ralph Northam's Stay-at-Home Order. To the extent that Plaintiff seeks to enforce the White House's declaration, "private rights of action to enforce federal law must be created by Congress." *Alexander v. Sandoval*, 532 U.S. 276, 286-87 (2001). Moreover, federal courts have similarly recognized that a governor's order is not privately enforceable. *See, e.g., Bowes-Northern v. Patel*, 2025 WL 415756, at *4 (N.D. Ind. Feb. 6, 2025) (finding no private cause of action). Plaintiff points to no provision of Virginia law that would provide him with a private cause of action to sue to

[19] The Court also notes that the conduct alleged in the Amended Complaint related to this Count occurred in November 2015 and is likely beyond any relevant statute of limitations. However, because Defendant does not rely on a statute of limitations defense, the Court does not decide that issue here.

enforce the Stay-at-Home Order. Accordingly, summary judgment in favor of Defendant on Count 13 is appropriate.

* * *

In sum, Defendant is entitled to summary judgment on each of the counts of the Amended Complaint because no reasonable juror could find in Plaintiff's favor and because there are no genuine disputes of material fact. For the same reasons, Plaintiff's Motion for Partial Summary Judgment will be denied.

E. Motion for Sanctions

Defendant has also filed a Motion for Sanctions. Dkt. 203. Defendant has twice previously moved for sanctions and been denied by U.S. Magistrate Judge Fitzpatrick. Dkts. 124, 132. In so ruling, Judge Fitzpatrick cautioned Plaintiff, on March 1, 2024, that Plaintiff was "getting close" to sanctionable conduct. Dkt. 144 at 20:19-24. Defendant appears to hinge its new Motion on Plaintiff's filing of a "Notice of Discrimination" (Dkt. 192), to which Defendant does not appear to have filed any response. Dkt. 204 at 1 (arguing that the Notice of Discrimination is "yet another frivolous pleading").

As Defendant recognizes, "[f]ederal courts possess certain inherent powers, not conferred by rule or statute . . . . includ[ing] the ability to fashion an appropriate sanction for conduct which abuses the judicial process." *Goodyear Tire & Rubber Co. v. Haeger*, 581 U.S. 101, 107 (2017). The Court must consider the entire case when determining the appropriate sanction. *Grethen v. Clarke*, 2015 WL 13387681, at *4 (E.D. Va. Nov. 24, 2015), *aff'd*, 672 F. App'x 300 (4th Cir. 2017). Available sanctions include orders of dismissal and assessment of attorneys' fees. *Chambers v. NASCO, Inc.*, 501 U.S. 32, 45 (1991). To support an award of attorneys' fees, the Court must find that bad faith or abuse of judicial process exists. *Hensley v. Alcon Lab'ys, Inc.*, 277 F.3d 535, 543 (4th Cir. 2002). In evaluating whether a party has engaged in bad faith conduct, courts should consider a party's conduct in the

litigation. *KitBar Enterprises, LLC v. Liberty Ins. Underwriters, Inc.*, 297 F. Supp. 3d 614, 617 (E.D. Va. 2018) (quoting *Stradtman v. Republic Services, Inc.*, 121 F. Supp. 3d 578, 581 (E.D. Va. 2015)).

The Court notes that Defendant did not appeal Judge Fitzpatrick's determination that sanctions were not appropriate and, thus, the only new information to be considered by this Court on which Defendant relies is Plaintiff's Notice of Discrimination. The Notice of Discrimination essentially purports to address Defendant's choices with respect to sealing and redactions, in particular with respect to Exhibit 2 (the EA Agreement) and accuses Defendant of singling him out for "unique treatment." Dkt. 192. Although this is certainly not a filing contemplated by the Federal Rules of Civil Procedure, the Court notes that Judge Fitzpatrick agreed with Plaintiff that the EA Agreement should not be under seal. Dkt. 209 (ordering that "the complete, unredacted version of exhibits 2 . . . be unsealed"). Accordingly, the Court has difficulty describing this filing as entirely abusive.

Defendant's Motion also rests on the alleged frivolous nature of Plaintiff's claims. To begin with, the Court notes that those matters were already before Judge Fitzpatrick at the time he declined to sanction Plaintiff. But the Court further notes that Defendant elected not to file a motion to dismiss the Amended Complaint. Ordinarily, motions to dismiss are intended to screen out frivolous claims to ensure that parties do not spend time and money in discovery on claims that are ultimately meritless. Here, where Defendant declined to narrow the case in the most efficient way possible, the Court is disinclined to penalize a *pro se* Plaintiff for zealously pursuing such claims.

Ultimately, whether to award sanctions is a matter of discretion. Here, considering Plaintiff's *pro se* status, Defendant's choice to proceed to discovery without eliminating any frivolous claims, and Judge Fitzpatrick's prior decisions on Defendant's Motion for Sanctions, the Court will exercise its discretion to decline to award attorneys' fees as a sanction. Although Plaintiff has pursued some frivolous claims, it is not clear to the Court that Plaintiff acted in bad faith. Accordingly, the Motion for Sanctions will be denied.

## V. CONCLUSION

In sum, because there are no genuine disputes of material fact and because no reasonable juror could find in favor of Plaintiff, summary judgment in favor of Defendant is appropriate. Despite the nature of the claims at issue and the Court's decision on summary judgment, the Court declines to exercise its discretion to award sanctions to Defendant.

Accordingly, it is hereby ORDERED that Plaintiff's Motion for Partial Summary Judgment (Dkt. 158) is DENIED; and it is

FURTHER ORDERED that Defendant's Motion for Summary Judgment (Dkt. 160) is GRANTED; and it is

FURTHER ORDERED that Defendant's Motion for Sanctions (Dkt. 203) is DENIED; and it is

FURTHER ORDERED that the Clerk of the Court is DIRECTED to enter Rule 58 judgment on behalf of Defendant and against Plaintiff on all Counts of the Amended Complaint (Dkt. 25).

To appeal this Court's decision, Plaintiff must file a written notice of appeal with the Clerk of Court within 30 days of the date of entry of this Memorandum Opinion and Order. A notice of appeal is a short statement indicating a desire to appeal, including the date of the order that Plaintiff wants to appeal. Plaintiff need not explain the grounds for appeal until so directed by the court of appeals. Failure to file a timely notice of appeal waives Plaintiff's right to appeal this decision.

IT IS SO ORDERED.

Alexandria, Virginia
September 25, 2025

/s/
Rossie D. Alston, Jr.
United States District Judge

FILED: November 13, 2024

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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No. 24-1190 (L)
(1:23-cv-00809-RDA-WEF)

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PAUL SHAO

Plaintiff - Appellant

v.

ALLSTATE INSURANCE COMPANY

Defendant - Appellee

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No. 24-1204
(1:23-cv-00809-RDA-WEF)

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PAUL SHAO

Plaintiff - Appellant

v.

ALLSTATE INSURANCE COMPANY

Defendant – Appellee

# MANDATE

The judgment of this court, entered October 22, 2024, takes effect today.

This constitutes the formal mandate of this court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure.

*/s/Nwamaka Anowi, Clerk*

# APPENDIX

**B. Key Contractual and Discovery Documents**

**B-1 R3001S Exclusive Agency Agreement (signed)**

**B-2 Excerpt of Section XX.A**

**B-3 Allstate's Response to Request for Admission No. 1 (Dkt. 94-1)**

**B-4 Supplemental Declaration of Glenn T. Shapiro (Oct. 23, 2020, filed as Exhibit B to Dkt. 17 in Wasgatt v. Allstate, D. Mass. No. 4:20-cv-40118)**

**(Referenced in Dkt. 108 as Exhibit C to Dkt. 80 / "Ibid, Exhibit C," in support of the claim that counsel "flatly and falsely deny" Shapiro's March–August 2020 locations; Exhibit C is absent from the docket under Dkt. 80.)**

# ALLSTATE R3001S EXCLUSIVE AGENCY AGREEMENT

This Agreement is between ALLSTATE INSURANCE COMPANY and such affiliates and subsidiaries as are named in the Supplement for the R3001 Agreement (referred to in this Agreement as "the Company") and Paul Shao (referred to in this Agreement as "you").

The Company and you agree as follows:

I. **AUTHORITY:**

A. Effective August 1, 2015, the Company appoints you as its agent to represent the Company in the Exclusive Agency Program. You are authorized on behalf of the Company, during the term of this Agreement, to receive and accept, subject to such restrictions on binding authority as may be established by the Company, applications for insurance covering such classes of risks located in the state(s) of VA as the Company may from time to time authorize to be written. You are also authorized to sell products specified by the Company and through the companies specified in the Supplement for the R3001 Agreement (referred to in this Agreement as "Company Business"). The Company will own all business produced under the terms of this Agreement. You will not represent yourself as having any authority other than that specifically granted to you by the Company. You will not alter any contract or incur any expense or obligation for the Company without prior written approval from the Company.

B. This Agreement is the sole and entire agency agreement between the Company and you, and it supersedes and replaces any prior employment, agency, or other agreement between the Company and you. This Agreement also supersedes any prior oral statements and representations by the Company to you and any prior written statements and representations by the Company to you in letters, manuals, booklets, memoranda, or any other format.

C. The Supplement for the R3001 Agreement ("Supplement") and the Exclusive Agency Independent Contractor Manual ("EA Manual"), and the Allstate Agency Standards ("Agency Standards") as they may be amended from time to time, are expressly incorporated in their entirety as part of this Agreement. The Company reserves the right to amend the Supplement, EA Manual, and Agency Standards at any time without prior notice to you, except that notice regarding changes to commission amounts will be given as indicated in Section XV.

D. You are an independent contractor for all purposes and not an employee of the Company. You will have full control of your time and the right to exercise independent judgment as to the time, place, and manner of performing your duties, which are defined in this Agreement and the incorporated Supplement, EA Manual, and Agency Standards. You will not represent that you have authority to act on behalf of the Company or enter into any contract on behalf of the Company, except for contracts of insurance or other contracts as expressly authorized by this Agreement.

E. You will not, either directly or indirectly, solicit, sell, or service insurance of any kind for any other company, agent, or broker, or refer a prospect to another company, agent, or broker, without the prior written approval of the Company. You may, however, write applications for insurance under an assigned risk, cooperative industry, or government established residual market plan or facility in accordance with the Company's rules and procedures.

H. You agree that, as requested by the Company, you will demonstrate your knowledge of the Company products you are authorized to sell, as well as of federal, state, or local laws, rules, regulations and ordinances affecting your operation. If you are unable to demonstrate your knowledge of any product, the Company reserves the right to deny you the authority, or withdraw your existing authority, to sell that product until you demonstrate such knowledge.

## III. YOUR EMPLOYEES:

A. You have no authority to employ persons on behalf of the Company, and no employee of yours will be deemed to be an employee or agent of the Company, such employees at all times remaining your employees. You have sole and exclusive control over your labor and employee relations policies, and your policies relating to wages, hours, and working conditions of your employees. You have the sole and exclusive right to hire, transfer, suspend, lay off, recall, promote, assign, discipline, and discharge your employees.

B. You are solely responsible for all salaries and other compensation of all your employees and will make all necessary salary deductions and withholdings from your employees' salaries and other compensation. You are solely responsible for the payment of any and all contributions, taxes, and assessments, and all other requirements of the federal Social Security, federal and state unemployment compensation, and federal, state, and local withholding of income tax laws on all salary and other compensation of your employees.

C. You will comply with all other contracts, federal, state or local laws, ordinances, rules, or regulations regarding your employees, including federal or state laws or regulations regarding minimum compensation, overtime, and equal opportunities for employment. This includes, but is not limited to, your warranty and agreement to comply with the terms of the federal and state civil rights acts, Age Discrimination in Employment Act, Americans With Disabilities Act, Occupational Safety and Health Act, Immigration Reform and Control Act, and the Fair Labor Standards Act.

D. You agree and warrant that your employees, while working in connection with this Agreement, will comply with any and all applicable federal, state, or local laws, rules, regulations, and ordinances.

## IV. COMPANY PROPERTY, CONFIDENTIALITY:

A. The Company will furnish you such signs, forms, manuals, records, and other materials and supplies as the Company deems advisable to assist you. All such property and information furnished by the Company will remain the property of the Company. In addition, the Company will offer, at your expense, such additional materials and supplies as the Company feels may be helpful to you.

B. You agree that you will not at any time or in any manner, directly or indirectly, disclose to any third party or permit any third party to access any confidential information or any information containing trade secrets concerning any matters affecting or relating to the pursuits of the Company, except upon direct written authority of the Company. Furthermore, upon termination of this Agreement, you agree to treat as confidential and not to disclose, either directly or indirectly, to any third party any confidential information or trade secrets of the Company.

C. You agree that you will not disclose or grant access to any confidential information or trade secrets to any of your employees or other persons providing services for you in connection with this Agreement, unless such employee or other person has signed a copy of the Confidentiality and Non-Competition Agreement attached as Appendix A. Appendix A is a sample copy of the electronic version of the document that must be transmitted to the Company.

D. Confidential information includes, but is not limited to: business plans of the Company; information regarding the names, addresses, and ages of policyholders of the Company; types of policies; amounts of insurance; premium amounts; the description and location of insured property; the expiration or renewal dates of policies; policyholder listings and any policyholder information subject to any privacy law; claim information; certain information and material identified by the Company as confidential or information considered a trade secret as provided herein or by law; and any information concerning any matters affecting or relating to the pursuits of the Company that is not otherwise lawfully available to the public. All such confidential information is wholly owned by the Company. Such confidential information may be used by you only for the purposes of carrying out the provisions of this Agreement.

E. Any confidential information or trade secrets recorded on paper, electronic data file, or any other medium, whether provided by the Company or by you, is the exclusive property of the Company, as is any such medium and any copy of such medium.

F. You recognize that a breach of the foregoing provisions will cause irreparable damage to the Company's business and that such damage is difficult or impossible to measure. You agree that in the event of such breach, the Company, in addition to such other rights and remedies it may have, will be immediately entitled to an order granting injunctive relief from any court of competent jurisdiction against any act which would violate any such provision, without the necessity of posting a bond, and you waive any defense to an application for such order, except that the violation did not occur. You agree that the Company will be entitled to an award of reasonable attorneys' fees in the event that it is successful in an application for injunctive relief or in an action based upon breach of the foregoing provisions.

## V. SALES LOCATION:

A. You may select your sales location, within a geographical area specified by the Company, subject to Company approval. Initially, you have selected the location at Springfield, VA and such sales location has been approved by the Company. You agree that you will not establish any additional sales location without the prior written approval of the Company. You understand that you have no exclusive territorial rights in connection with your sales location.

B. You agree to keep your sales location open for business as appropriate in the market to provide a proper level of customer service. As a minimum, you agree to operate your sales location consistently with the Agency Standards.

C. You are authorized to sell insurance offered by the Company and Company Business only in the state containing your sales location and other states in which you are properly licensed and appointed as an agent by the Company.

## VI. ADVERTISING:

A. The Company will advertise its products and provide promotional material in accordance with its advertising policies. You may also advertise in your sole discretion, subject to the requirements in paragraph B. below.

B. You will submit all signs and advertising copy, including, but not limited to, sales brochures, display advertisements in telephone directories, newspaper advertisements, radio and television commercials, electronic media displays, all sales promotional plans and devices, and all other materials to the Company for approval, if they use or contain any reference to any service mark or trade name of the Company. You will not use any such advertising material or sales promotional plan or device without obtaining prior written approval from the Company. The Company has the right to disapprove any or all of the aforesaid advertising forms and other materials insofar as they, in the exclusive judgment of the Company, do not conform to Company policy regarding use of Company service marks or trade names; may subject the Company to liability or loss of goodwill; may damage the reputation of the Company or Company customer relations; may fail to adhere to the requirements of any federal, state, or local governmental rules, regulations, or laws; may fail to

conform to community or Company standards of good taste and honest dealing; or may be detrimental to the business interests of the Company.

VII. **SERVICE MARK AND TRADE NAME PROTECTION:**

A. You agree to cooperate fully in the quality control program conducted by the Company relating to the use of its service marks and trade names and the nature and quality of services rendered and goods distributed under its service marks and trade names. The Company will have the right to specify, delineate, or limit the services or goods in connection with which you may use any of its service marks or trade names. In the event that the nature or the quality of the services or goods in connection with which you use any of the service marks or trade names of the Company is not acceptable to the Company, then the Company will have the right to require you to institute appropriate procedures to correct any deficiencies noted by the Company.

B. You agree, at the request and expense of the Company, to assist the Company in protecting and enforcing the rights of the Company in and to any and all of its service marks and trade names which you may then be using.

C. You will not in any manner encumber, alienate, license, or transfer to any other entity any right whatsoever concerning the service marks or trade names the Company authorizes you to use in the performance of this Agreement, except as permitted in Section XVI.

D. You recognize that a breach of the foregoing provisions will cause irreparable damage to the Company's business and that such damage is difficult or impossible to measure. You agree that in the event of such breach, the Company, in addition to such other rights and remedies it may have, will be immediately entitled to an order granting injunctive relief from any court of competent jurisdiction against any act which would violate any such provision, without the necessity of posting a bond, and you waive any defense to an application for such order, except that the violation did not occur. You agree that the Company will be entitled to an award of reasonable attorneys' fees in the event that it is successful in an application for injunctive relief or in an action based upon breach of the foregoing provisions.

VIII. **EXPENSES:**

You will be responsible for the payment of all expenses that you incur in the performance of this Agreement including, but not limited to: expenses for your sales location, supplies not furnished by the Company, compensation of your employees or other assisting persons whom you engage, telephone, postage, and advertising expenses incurred at your direction, and all other charges and expenses.

IX. **TELEPHONE:**

All telephone numbers used in connection with business conducted pursuant to this Agreement are the property of the Company.

X. **INDEMNIFICATION:**

A. The Company will defend and indemnify you against liability, including the cost of defense and settlements, imposed on you by law for damages sustained by policyholders and caused by acts or omissions of the Company, provided that you have not caused or contributed to cause such liability by your acts or omissions. You agree, as a condition to such indemnification, to notify the Company promptly of any claim or suit against you and to allow the Company to make such investigation, settlement, or defense as the Company deems prudent. The Company reserves the right to select counsel to represent you in connection with any such claim or suit. You also agree to cooperate fully with the Company in any such investigation, settlement, or defense.

B. You will indemnify the Company against liability, including the cost of defense and settlements, imposed on the Company by law for damages sustained by any person and caused by your acts or omission, or those of any employee or other person working in connection with this Agreement, provided that the Company has not caused or contributed to cause such liability by its acts or omissions. The Company agrees, as a condition to such indemnification, to notify you promptly of any such claim or suit against the Company. The Company reserves the right to select counsel to represent it in connection with any such claim or suit and to make such investigation or settlement as the Company deems prudent.

## XI. INSURANCE:

A. You agree that you will, at your sole expense, obtain and maintain during the term of this Agreement policies of insurance as described in the EA Manual, as may be amended from time to time. Such policies must be obtained from companies satisfactory to the Company and must be adequate to protect against all expenses, claims, actions, liabilities, and losses related to the subjects covered by the required policies.

B. Where specified, each policy must name the Company as an additional insured and must contain a severability of interest/cross liability endorsement. Each policy must also expressly provide that it will not be subject to material change or cancellation without at least thirty (30) days prior written notice to the Company.

C. You must furnish the Company with proof of insurance upon request by the Company. If, in the Company's opinion, such policies do not afford adequate protection for the Company, the Company will so advise you, and if you do not furnish evidence of acceptable coverage within fifteen (15) days after being requested to do so by the Company, the Company will have the right to obtain additional insurance at your expense and deduct the cost of such insurance plus a processing fee from monies owed you by the Company.

## XII. FINANCIAL INFORMATION:

You shall maintain all books and records relating to the business under this Agreement including, but not limited to, all checkbooks, check registers, deposit receipts, and general ledgers for a period of not less than five years after the close of the fiscal year to which they relate. All of the foregoing records shall be open and available for inspection or audit at any time during normal agency hours without notice by the Company or its designated auditors and you shall have the duty to cooperate fully with the party(ies) making such inspection or audit.

## XIII. POLICIES IN YOUR ACCOUNT:

Policies which are credited to your account are described in the Supplement. While this Agreement is in effect, the Company will leave in your account all policies credited to your account so long as the policyholder resides within a state in which you are licensed and appointed by the Company, except that the Company may remove any policy from your account at the request of a policyholder.

## XIV. MONEY COLLECTED BY YOU:

All payments collected or received by you in the performance of this Agreement are the property of the Company, will be treated as trust funds, and will be promptly transmitted to the Company without deduction for any purpose in the manner specified by the Company. You must maintain accurate records and current remittance reports which may be inspected by the Company at any time without notice and which shall be submitted to the Company in accordance with its rules and procedures.

## XV. COMPENSATION:

A. The sole compensation to which you will be entitled for services rendered pursuant to this Agreement will be the commissions set forth in the Supplement, as may be amended from time to time. The Company will pay you your commissions at the time and in the manner set forth in the Supplement. However, due to the inherent uncertainty of business conditions, the Company reserves the right to increase or decrease any commission amounts and to change the commission rules. If the Company changes commission amounts, it will provide you with written notice of the changes at least ninety (90) days prior to the date on which they are to become effective.

B. The Company may provide you with such bonuses, awards, prizes, and other remuneration based on performance, if any, as it may prescribe in its sole discretion.

C. If any application for insurance is rejected, or any policy is surrendered or canceled, in whole or in part, for any reason, before the expiration of the policy period, or if any premium is reduced or any overpayment made to you, or if any premium paid is not earned by the Company, the commissions paid to you on the amount returned or credited to the policyholder, or the amount overpaid to you, will constitute an indebtedness of yours to the Company and will be charged to you or recovered from you by reducing any future commissions, awards, or bonuses due you.

## XVI. TRANSFER OF INTEREST:

A. This Agreement is personal to you and is being entered into in reliance upon and in consideration of your skills, qualifications, and representations. Accordingly, you may not execute a transfer of your interest in this Agreement or any interest in the business under this Agreement including, but not limited to, any sale, assignment, conveyance or the granting of any lien, security interest, pledge, or mortgage thereof, without the prior written approval of the Company. A transfer of interest in this Agreement is described in the Supplement and EA Manual and includes, but is not limited to, any sale, merger, or assignment, in whole or in part, directly, indirectly, or contingently, of this Agreement or any rights or obligations under it. You have the obligation to notify the Company of a proposed transfer and to request Company approval.

B. You have an economic interest, as defined in this Agreement and the incorporated Supplement and EA Manual, in your Allstate customer accounts developed under this Agreement. Subject to the terms and conditions set forth in this Agreement and the incorporated Supplement and EA Manual, you may transfer your entire economic interest in the business written under this Agreement upon termination of this Agreement by selling the economic interest in the business to an approved buyer. The Company retains the right in its exclusive judgment to approve or disapprove such a transfer. Any failure to disclose and obtain the prior written approval of the Company for any transfer of your interest in this Agreement or any interest in the business under this Agreement shall constitute a breach of this Agreement and cause for termination of this Agreement.

C. Approval of a proposed transfer of your entire interest in this Agreement will be conditioned upon the termination of this Agreement and the execution of a then current agency agreement by the proposed transferee.

D. Policies in your account (Section XIII. above) will be transferred to an approved transferee.

## XVII. TERMINATION OF AGREEMENT:

A. This Agreement will be terminated automatically:

1. On the effective date of any transfer of your entire interest in this Agreement, whether approved or not, as described in Section XVI. above;

2. Upon your death or permanent incapacity;

3. Upon your loss of any required agent license; or

4. Upon the surrender of, or the election not to renew, the Company's license to sell insurance in all lines in the state in which your sales location is located or the discontinuation of the sale of insurance in the state.

B. This Agreement may be terminated:

1. At any time by mutual agreement of the parties in writing;

2. By either party, with or without cause, upon providing ninety (90) days prior written notice to the other, or such greater number of days as is required by law. Once written notice of termination has been given by either party, you will, immediately upon request of the Company, cease to act or to represent yourself in any way as an agent or representative of the Company, but you will receive compensation pursuant to Section XV. from the Company for the period up to and including the specified termination date; or

3. Alternatively, by the Company, with cause, immediately upon providing written notice to you. Cause may include, but is not limited to, breach of this Agreement, fraud, forgery, misrepresentation or conviction of a crime. The list of examples of cause just stated shall not be construed to exclude any other possible ground as cause for termination.

## XVIII. OBLIGATIONS UPON TERMINATION OF AGREEMENT:

Except as otherwise provided in a subsequent agreement between you and the Company, upon termination of this Agreement, you agree that:

A. You will not act or represent yourself in any way as an agent or representative of the Company.

B. You will immediately return all property belonging to the Company, or dispose of it in such manner as the Company specifies.

C. You will immediately cease to use such telephone numbers referenced in Section IX. above and execute an Order of Transfer of Responsibility for such numbers in your name to the Company or to any party the Company designates, and you will immediately notify the telephone company of any such transfer. You will be responsible for all charges incurred up to the date of execution of the transfer.

D. For a period of one year following termination, you will not solicit the purchase of products or services in competition with those sold by the Company:

1. With respect to any person, company, or organization to whom you or anyone acting on your behalf sold insurance or other products or services on behalf of the Company and who is a customer of the Company at the time of termination of the Agreement;

2. With respect to any person, company, or organization who is a customer of the Company at the time of termination of this Agreement and whose identity was discovered by you as a result of your status as a Company agent or as a result of your access to confidential information of the Company; or

3. From any office or business site located within one mile of the agency sales location maintained pursuant to Section V. of this Agreement at the time this Agreement is terminated.

In the event that such one year period or one mile distance exceeds the time or distance permitted by any applicable law, such period or distance will be automatically adjusted to the maximum period or distance permitted by such law. If any other provision in this paragraph D. conflicts with any existing law, it will be applied to the extent permitted by such law.

E. You will immediately cease and desist from any and all use of Company service marks and trade names. You will immediately return to the Company all property in your possession or under your control bearing any Company service mark or trade name, or dispose of it in such manner as the Company specifies.

F. You recognize that a breach of any of the foregoing provisions will cause irreparable damage to the Company's business and that such damage will be difficult or impossible to measure. You agree that in the event of any such breach, the Company, in addition to such other rights and remedies as it may have, will be immediately entitled to an order granting injunctive relief from any court of competent jurisdiction against any act which would violate any such provision, without the necessity of posting a bond, and you waive any defense to an application for such order, except that the violation did not occur. You agree that the Company will be entitled to an award of reasonable attorneys' fees in the event that it is successful in an application for injunctive relief or in an action based upon breach of the foregoing provisions.

G. You recognize and acknowledge that each of the foregoing provisions of this Section XVIII. is reasonable and necessary to protect and preserve the legitimate business interests of the Company, its present and potential business activities, and the economic benefits derived therefrom. You recognize and acknowledge that the foregoing provisions will not prevent you from earning a livelihood and are not an undue restraint on you.

**XIX. NOTICE:**

All notices will be deemed to have been given if personally delivered, sent by facsimile transmission, or mailed as follows:

If to the Company: Allstate Insurance Company
15000 Conference Center Drive Suite 400
Chantilly, VA 20151
Attention: Human Resources

If to you: Paul Shao
6207 Old Keene Mill Court Suite 100
Springfield, VA 22152

or to such other person or address as any party may furnish or designate to the other in writing.

**XX. GENERAL PROVISIONS:**

A. This Agreement may not be modified except by a written agreement between the Company and you which expressly states that it modifies this Agreement. No other written statements, representations, or agreements and no oral statements, representations, or agreements will be effective to modify this Agreement. No representative of the Company will have authority to modify this Agreement, except as provided in this Section XX. Nothing in this Section will affect the Company's right to amend the Supplement, EA Manual, and Agency Standards, as provided in Section I.C.

B. You acknowledge that you have reviewed the Supplement, EA Manual, and Agency Standards and that you have an ongoing responsibility to review all changes to the Supplement, EA Manual and Agency Standards issued by the Company and agree to be bound by them.

C. References in this Agreement to the Supplement, EA Manual, and Agency Standards are references to the Supplement, EA Manual, and Agency Standards, including any changes which may be made from time to time and distributed to you by the Company.

D. You acknowledge that you have read this Allstate R3001S Exclusive Agency Agreement, understand it, and agree to be bound by its terms.

E. The authority granted to you under this Agreement is nonexclusive. The term "Exclusive" as used in the title of this Agreement refers to the obligations assumed by you under Section I.E.

F. The descriptive headings of this Agreement are intended for reference only and will not affect the construction or interpretation of this Agreement.

G. If any provision or part of this Agreement is held invalid for any reason, such invalidity will not affect any other provision or part of this Agreement not held invalid, and such remaining provisions and parts will remain in full force and effect.

H. The failure of either party to insist upon the performance of any of the terms of this Agreement in any one or more instances will not be construed as a waiver or relinquishment of the future performance of any such term. The obligation of the parties with respect to any such future performance will continue in full force and effect.

I. Nothing in this Agreement shall be construed to confer upon any person or entity other than the Company and you any rights under this Agreement.

J. This Agreement, and the obligations or rights hereunder, shall not be assignable by you, except as provided by Section XVI. The rights and obligations of the parties to this Agreement shall be binding upon and inure to the benefit of the Company and its successors and assigns.

K. This Agreement may be executed in counterparts, each of which will be deemed an original.

IN WITNESS WHEREOF, the Company and Agency have caused this Agreement to be executed by their authorized representatives and the parties hereby accept the terms of this Agreement.

ALLSTATE INSURANCE COMPANY

(authorized representative)

8/5/15
(date)

YOU

(name)

6/3/2015
(date)

R30018
APPENDIX A

[redacted]

This Confidentiality and Non-Competition Agreement ("Agreement") is entered into this _____ day of _____, _____, by and between _____ (referred to in this Agreement as "Service Provider"), and _____ (referred to in this Agreement as "Agent"), and Allstate Insurance Company as a direct third party beneficiary of this Agreement (referred to in this Agreement as "the Company").

WHEREAS, the Company has entered into an agency agreement appointing Agent to act as its agent for the purpose of receiving and accepting applications for insurance and for selling certain specified products of the Company's subsidiaries and affiliates; and

WHEREAS, under the terms of the agency agreement, Agent has agreed to maintain the confidentiality of the Company's confidential information; and

WHEREAS, Agent has employed Service Provider to assist Agent in performing services under the agency agreement; and

WHEREAS, Service Provider will have access to certain confidential information of the Company;

NOW, THEREFORE, for and in consideration of the agreements, covenants, and conditions herein contained, the adequacy and sufficiency of which is expressly acknowledged by each of the parties hereto, the parties agree as follows:

1. The terms "employed" or "employment" as used in this Agreement apply to any service provided by the Service Provider as an employee, independent contractor, or in any other capacity.

2. Service Provider acknowledges that while assisting Agent in performing services under the agency agreement, Service Provider will have access to or will have disclosed to him/her confidential information concerning the Company, the disclosure of which could be harmful to the Company.

3. Confidential information includes, but is not limited to, business plans of the Company; information regarding the names, addresses, and ages of policyholders or prospective policyholders of the Company; types of policies; amounts of insurance; premium amounts; the description and location of insured property; the expiration or renewal dates of policies; policyholder listings and any policyholder information subject to any privacy law; claim information; certain financial information and material identified by the Company as confidential or information considered a trade secret as provided herein or by law; and any information concerning any matters affecting or relating to the pursuits of the Company that is not otherwise lawfully available to the public. Confidential information may be oral or recorded on paper, electronic data file, or any other medium.

4. Service Provider agrees that he/she will not at any time or in any manner, directly or indirectly, disclose to any third party or permit any third party to access any confidential information, except upon the written consent of the Company, nor will Service Provider use any confidential information for his/her own benefit, except for the purposes of assisting Agent in performing services under the agency agreement.

5. Any and all confidential information and all Company forms, manuals, records, and other materials and supplies furnished to Service Provider by the Agent will at all times remain the property of the Company and will be returned to the Company at any time upon the demand of the Company or upon the termination of Service Provider's employment by Agent.

6. Upon the termination of Service Provider's employment by Agent, Service Provider agrees to treat as confidential and not disclose, either directly or indirectly, to any third party any confidential information of the Company.

SAMPLE

7. For a period of one year following the termination of Service Provider's employment by Agent, Service Provider agrees not to solicit the purchase of products or services in competition with those sold by the Company:

   1. With respect to any person, company, or organization to whom Agent, or any person employed by Agent, including Service Provider, sold insurance or other products or services on behalf of the Company, and who is a customer of the Company at the time of the termination; or

   2. With respect to any person, company, or organization who is a customer of the Company at the time of the termination and whose identity was discovered as a result of access to confidential information of the Company; or

   3. From any office or business site located within one mile of any locations from which the Agent solicited or sold Company insurance or other products or services during the year immediately preceding the termination.

   In the event that such one year period or one mile distance exceeds the time or distance permitted by any applicable law, such period or distance will be automatically adjusted to the maximum period or distance permitted by such law. If any other provision in this paragraph 7 conflicts with any existing law, it will be applied to the extent permitted by such law.

8. Upon the termination of Service Provider's employment with Agent, Service Provider will immediately cease and desist from any and all use of Company service marks or trade names. Service Provider will immediately return to the Agent or the Company all property bearing any Company service marks or trade names, or dispose of such materials in the manner specified by the Company. If requested by the Company, Service Provider will execute an Order to Transfer Responsibility for any telephone numbers in the Service Provider's name, which were used in connection with the conduct of business on behalf of the Company.

9. While employed by Agent, Service Provider agrees that he/she will not, either directly or indirectly, solicit, sell or service insurance of any kind for any other company, agent or broker, or refer a prospect to another company, agent or broker without the prior written consent of the Company.

10. Service Provider recognizes that any breach of the foregoing provisions will cause irreparable damage to the Company's business and that such damage will be difficult or impossible to measure. Service Provider agrees that in the event of any such breach, the Company, in addition to such other rights and remedies as it may have, will be entitled to an order granting injunctive relief from any court of competent jurisdiction against any act which would violate any such provision, without the necessity of posting a bond, and Service Provider waives any objection to an application for such order, except that the violation did not occur. Service Provider agrees that the Company will be entitled to an award of reasonable attorney's fees in the event that it is successful in an application for injunctive relief or in an action based upon breach of the foregoing provisions.

11. This Agreement supersedes and replaces any prior confidentiality and non-competition agreement between the parties hereto. The parties agree that the use of electronic signatures for the execution of this Agreement shall be legal and binding and shall have the same full force and effect as if originally signed.

IN WITNESS WHEREOF, the parties hereby accept the terms of this Agreement.

Accepted by:

| SERVICE PROVIDER | AGENT | ALLSTATE INSURANCE COMPANY |
|---|---|---|
| (name) | (name) | (authorized representative) |
| (date) | (date) | (date) |

SAMPLE

**Excerpt of XX.A:** "This Agreement may not be modified except by a written agreement between the Company and you which expressly states that it modifies this Agreement. No other written statements, representations, or agreements and no oral statements, representations, or agreements will be effective to modify this Agreement. No representative of the Company will have authority to modify this Agreement, except as provided in this Section XX. Nothing in this Section will affect the Company's right to amend the Supplement, EA Manual, and Agency Standards, as provided in Section I.C."

E. Defendant objects to each Request to the extent that it is overly broad, unduly burdensome, harassing, and/or oppressive.

F. Defendant objects to each Request to the extent that it seeks information that is neither relevant to the lawsuit nor reasonably calculated to lead to the discovery of admissible evidence.

G. Defendant objects to each Request to the extent that it assumes facts which are incorrect or do not exist.

H. Defendant objects to each Request to the extent it purports to require any duty or action beyond that which is required under the Federal Rules of Civil Procedure. Defendant will respond to these Requests in accordance with the requirements of Rules 26 and 36 of the Federal Rules of Civil Procedure.

I. Defendant objects to each Request to the extent that such Request is premature. Allstate's investigation is ongoing, and Allstate reserves the right to supplement its responses in accordance with Rule 26(e) of the Federal Rules of Civil Procedure.

All rights and evidentiary objections are reserved notwithstanding the responses set forth herein. Subject to and without waiving these general objections, Defendant responds to the requests as follows:

**REQUESTS**

**REQUEST FOR ADMISSIONS NO. 1.** Admit that Mr. Glenn Shapiro, President of Allstate Personal Insurance, Esurance, Encompass, and Answer Financial, was in his vacation home at Fort Lauderdale from 03-12-20 to late April 2020 and then stayed in his Longmeadow Residence of Massachusetts from late April to late August 2020 without going to his Northbrook office at Illinois to work.

**RESPONSE:** Denied.

**REQUEST FOR ADMISSIONS NO. 2.** Admit that Paragraph XVIII "Obligations Upon Termination of Agreement" of the main contract and the exhibit to the main EA Agreement, called "Appendix A: Confidentiality and Non-Competition Agreement," would prohibit Shao from using his former Allstate office, within one year after termination, for insurance business.

**RESPONSE:** Denied as pled but Allstate admits that Pargaraph XVIII(d)(3) states (quote the exact language of the EA Agreement - the one mile restriction only prevents him from selling competitive products out of his former locations).

**REQUEST FOR ADMISSIONS NO. 3.** Admit that, after TPP'ed, Shao still had the responsibility to pay the rent, the telephone bills, the Wi-Fi supplier, the electricity, etc., of his former office.

**RESPONSE:** Allstate lacks knowledge or information sufficient to enable Allstate to admit or deny this Request, and this Request is therefore denied.

**REQUEST FOR ADMISSIONS NO. 4.** Admit that, after TPP'ed, Shao had to deal in-person with his landlord and other personnel such as technicians, cleaners, and movers to disconnect all services in association to operate as an insurance office.

**RESPONSE:** Allstate lacks knowledge or information sufficient to enable Allstate to admit or deny this Request, and this Request is therefore denied.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

PAUL WASGATT,
Plaintiff,

v.

ALLSTATE INSURANCE COMPANY, GLENN T. SHAPIRO, SCOTT BLUME, and EDWARD NORCIA,

Defendants.

Civil Action No. 4:20-cv-40188

**SUPPLEMENTAL DECLARATION OF GLENN T. SHAPIRO**

I, Glenn T. Shapiro, hereby declare as follows:

1. I am over the age of 18 and have personal knowledge of the facts stated herein.

2. I am a Defendant in the above-captioned matter.

3. Since January 2020, I have held the position of President, Personal Lines Insurance, Esurance, Encompass, and Answer Financial. From January 2018 through January 2020, I held the position of President, Allstate Personal Lines. From April 2016 through December 2017, I served as Executive Vice President, Claims, with Allstate.

4. Prior to 2016, I was employed by Liberty Mutual in Boston, Massachusetts. My primary residence at the time was 375 Green Hill Road, Longmeadow, Massachusetts. I would work in Boston during the week, staying in a condominium, and go to the Longmeadow home over the weekends. My wife and I purchased our home in Longmeadow in 2004 and recorded a homestead declaration in 2012.

5. When I began to work for Allstate Insurance Company in April 2016, my wife and I relocated to Illinois and purchased a townhome at 2460 Violet Street, Glenview, Illinois. The Glenview residence was our primary residence and domicile from April 2016 through August 2019.

6. At the time we sold our Glenview residence, we discovered that we had not filed for or received the General Homestead Exemption to which we were entitled under Illinois property law. We corrected the error and received the exemption, retroactively, beginning in 2017.

7. Since August 2019, my primary residence and domicile has been 2655 Woodland Drive, Northbrook, Illinois 60062. I treat my home in Northbrook, Illinois as my primary residence for purposes of the General Homestead Exemption under Illinois property law.

8. In July 2018, I purchased a home in Fort Lauderdale, Florida. Since that time, but prior to the COVID-19 pandemic, I spent the majority of the year at my Northbrook, Illinois residence, followed by my Fort Lauderdale home. Of my three homes, until the pandemic struck, I spent the least amount of time at my home in Longmeadow, Massachusetts.

9. I continue to hold a Massachusetts' driver's license. Due to my work schedule, I found it easiest to renew my Massachusetts driver's license by mail when the opportunity arose. My wife, however, holds an Illinois driver's license.

10. I own two automobiles, both of which are registered in Illinois.

11. On March 12, 2020 I flew to my Fort Lauderdale home with a return flight to Illinois scheduled for March 15, 2020, intending to only stay for the weekend. During that time, Allstate closed its offices to in-person operations, and I never took the return flight. Instead, my wife and I sheltered in place in Fort Lauderdale for the next several weeks.

12. In late April, we relocated to our Longmeadow home, where we had not been since Christmas of 2019. My children and grandchildren live in New England, and due to the uncertainty

and extenuating circumstances of the COVID-19 pandemic and some serious health issues of two family members, we decided to stay in Longmeadow through the summer in order to be closer to them. We remained in Longmeadow until September. At that time, we returned to our Northbrook home for five weeks. My wife and I are currently back in Longmeadow, albeit temporarily.

13. While in Longmeadow this summer, I used my local Massachusetts address on a property transfer, when purchasing a home for my mother. I used this address since the transaction took place in Massachusetts, not because I consider Massachusetts to be my primary residence.

14. I am registered to vote in Illinois, and since 2018, have voted in Illinois. I have requested an absentee ballot from Cook County, Illinois to vote in the 2020 election. I will not vote in Massachusetts.

15. Since 2016, I have filed state income tax returns in Illinois. I also listed my Illinois address as my home address on my federal income tax returns.

16. My employer, Allstate, lists my Northbrook, Illinois address as my address of record.

17. Since 2017, I have been a member of the Board for SitStayRead, a non-profit based in Chicago, Illinois. In 2020, my wife and I founded KodiakCare, a non-profit organization based in Simsbury, Connecticut that helps people whose pets need veterinary care but who lack the means to pay for it. We have developed partnerships with veterinary care providers and shelters in both Illinois and in Boston. We selected those two cities as the focus of KodiakCare's work because I know many people in Boston from my time at Liberty Mutual and now in Chicago from my time with Allstate, and I concluded that targeting those cities for KodiakCare's mission would facilitate fundraising. A number of board members for KodiakCare are from the Chicago area. I am not a member of any civic, community, or religious organizations in Massachusetts.

18. I listed my Northbrook home for sale this fall. The home is larger than I need for just my wife and me. Should the home sell, I intend secure another residence in Northbrook, Illinois or the surrounding area.

19. Since 2016, my wife and I have intended that Illinois be our home. It was always our intention to return there when we were away in Florida or Massachusetts. Even with the disruption caused by COVID in 2020 that has resulted in our lengthier stays outside Illinois, it was and is still our intention to return there when Allstate offices reopen, if not sooner. I do not know when that will be at this point.

20. I understand that Plaintiff has stated that I am a member of Twin Hills Country Club in Longmeadow, Massachusetts. I was previously a member of this country club, but I have not been a member, nor paid any dues, since approximately 2010. I have not been to Twin Hills Country Club, nor have I golfed on the Twin Hills Country Club course in over ten years, that I can recall. I am not a member of any other country club.

//

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 23rd day of October, 2020

Glenn T. Shapiro

# APPENDIX

**C. Selected District Court Filings**

C-1 Plaintiff's Motion for Partial Summary Judgment (Dkt. 158) – Relevant Excerpts

C-1a Page 9

C-1b Page 10 (Section XX.A quotation and no-modification argument)

C-1c Page 14 (Exclusive Agency = no production quota)

C-1d Page 29 (reiteration of Section XX.A)

C-2 Order on Depositions (Dkt. 82)

C-3 Order Rescinding Subpoenas (Dkt. 104)

C-4 Notice of Discrimination regarding Sealing (Dkt. 192)

| | | |
|---|---|---|
| | Agreement – The EA Agreement is a Bad Faith Agreement | |
| Fifth Clause | Allstate Violates the Principle of Consideration in the Contract Law by Abandoning the Principle of Reciprocity in its Exclusive Agent (EA) Relationship | Sixth Clause |
| NIL | Failure to Provide a Transitional Time for Shao to exit Allstate to Minimize His Loss due to Allstate's Sudden Abandonment the Trusted Advisor Program under Which Shao Was Recruited | Third Clause |

## CLAIMS

34. **Claim 1: The breach of contract of the EA Agreement.**

35. **Claim 2: Failure to Pay Full Termination Payment (TPP) Amount.**

36. **Claim 3: Failure to Pay the Portion of the Book, Written by Employee Salespersons.**

37. **Claim 4: Failure to Provide a Transitional Time for Shao to exit Allstate to Minimize His Loss due to Allstate's Sudden Abandonment of the Trusted Advisor Program under Which Shao Was Recruited.**

38. **Claim 5: Conversion against Allstate.**

39. **Claim 6: Contract fraud against Allstate in the design and execution of the EA Agreement.**

## FACTS

40. **Facts Related to the Breach of Contract of the EA Agreement (Claim 1):**

I) Allstate employed the production quota Allstate Production Objectives (ABO) to terminate agents for failing to meet the ABO quota.

ii) ABO is not mentioned in the EA Agreement[2].

iii) Under the EA Agreement, there is the stipulation which states, "This Agreement may not be modified except by a written agreement between the Company and you which expressly states that it modifies this Agreement." (Exhibit B.1, section XX.A.)

iv) Allstate had never initialed a change or modification of the EA Agreement with a written agreement between Allstate and its agents on replacing the original Business Objectives (BO) with ABO. Therefore, the employment of ABO quota by Allstate to terminate agents is a breach of the contract.

v) The Manual, 47 pages, had been revised 38 times at the time of 4/1/2021 (Dkt. 25, ¶5 and ¶8.b&c), and it is in the category of rules and regulations of Allstate, which is much lower in the hierarchy of importance to Shao's main EA Agreement with Allstate.

vi) ABO is a production quota, which contradicted the very concept of "exclusive agent," which in the one hundred years of insurance agency history means no production quota for exclusive agents. This is evidenced in the fact that no exclusive agent existed before the year 2000 in Allstate agency system and all

[2] The EA Agreement is constant like the North Star in the sense that it has never been altered or changed since its inception in the year 2000. It should be the bedrock or foundation upon which the terms of agreement between Shao and Allstate rest.

based on a multiplier of 1.5 to 2.5 in the industrial standard formula in calculating the value of an agency as IAs do.

ii) A genuine "buyout" by paying the full market value on the "9% cut" of premium of the entire book will lawfully nullify Shao's ownership.

iii) Allstate appropriated agent's book through TPP.

iv) TPP is not a genuine buyout.

v) Allstate did not pay lump sum purchase price when taking over the ownership of the "cut."

vi) Allstate did not pay interest in installment payments.

vii) Allstate only paid for a selected portion of the book.

viii) TPP violates the Virginia common law of conversion.

45. Contract fraud against Allstate in the design and execution of the EA Agreement (Claim 6):

i) The agreement is entitled, "Allstate R30018 Exclusive Agency Agreement." The Exclusive Agency (EA) has 70 years plus history and tradition, before Allstate converted all its employee salespersons in 1998. EA means no production quota and the captor/employing company is exclusive in the sense that it would not open a mega agency to sell its brand of insurance to compete with its agent force or distribute its insurance products through independent agency channels as exemplified by State Farm in exchange for the exclusiveness of the agent who can sell only the brand of the captor company.

regulations of Allstate, which is much lower in the hierarchy of importance to Shao's main EA Agreement with Allstate.

66. Under the EA Agreement, there is the stipulation which states, "This Agreement may not be modified except by a written agreement between the Company and you which expressly states that it modifies this Agreement." (XX.A, p. 9 of DKT. 1-1, p.57.) Allstate had never initiated a change or modification of the EA Agreement with a written agreement between Allstate and its agents on replacing the original BO with ABO which was introduced in 2013 into the Manual and was not executed until 2019. ABO is a production quota, which contradicted the very concept of "exclusive agent," which in the one hundred years of insurance agency history means no production quota for EA agents. This is evidenced in the fact that no exclusive agent existed before the year 2000 in Allstate agency system and all Allstate agents then were employee-agents. By imposing production quota on Shao, he immediately became a de facto employee-agents.

67. Furthermore, Shao met the BO requirements (which are: "profitability, growth, retention, customer satisfaction and customer service") in the EA Agreement, when he was terminated in May 2020. This is evidence in the Nov-2018 Business Metrics (Dkt. 1-1, p. 77, Exhibit B.2; Reproduced for convenient here as Exhibit E) for retention (under Tenure Retention), which is 88.41% for 2+ years. The retention was a bit off the industrial standard of 90% but not significantly. Shao's growth shall augment the retention as shown below in paragraph 80.

**UNITED STATES DISTRICT COURT**
**FOR THE EASTERN DISTRICT OF VIRGINIA**
**Alexandria Division**

| | | |
|---|---|---|
| PAUL SHAO<br><br>Plaintiff,<br><br>v.<br><br>ALLSTATE INSURANCE COMPANY,<br><br>Defendant. | ) | Civil Action No. 1:23cv809 (RDA/WEF) |

**ORDER**

This matter is before the Court on *Pro Se* Plaintiff Paul Shao's Motion to Take Depositions (the "Motion"). (Dkt. 73).[1] On January 19, 2024, Plaintiff filed the Motion seeking to take the depositions of ten (10) individuals pursuant to Rules 26 and 30.[2] *Id.* Defendant Allstate Insurance Company ("Allstate") filed its opposition to the Motion on January 25, 2024. (Dkt. 78). Per the Court's January 26, 2023 Order, Plaintiff was given until January 31, 2024 to file his reply to Defendant's opposition. (Dkt. 79). On January 29, 2024, Plaintiff filed his reply.

A party may obtain discovery regarding any non-privileged matter that is relevant to its claim and proportional to the needs of the case. Fed. R. Civ. P. 26(b)(1). The rule requires parties to consider, among other things, "the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit." *Davis v.*

[1] It appears that Plaintiff is asking the Court to allow him to "take the depositions" of these individuals, but it is unclear whether Plaintiff seeks permission from the Court to notice the depositions or compel the depositions. Nevertheless, the undersigned will analyze the Motion under Federal Rule of Civil Procedure 26.

[2] Plaintiff requests to take the depositions of Maggie Wang, Bryan Reid, Amy Ho, Tim Beckner, Hilarie Sweeney, Robert Hopkins, Rick Bosworth, Tom Wilson, Glenn Shapiro, and Ann Smith.

*Comcast Corp., Inc.*, No. 1:13-CV-1513-GBL-IDD, 2016 WL 8261737, at *3 (E.D. Va. Dec. 2, 2016) (citing Fed. R. Civ. P. 26(b)(1)). The Court, on motion or on its own, must limit discovery when the discovery sought is unreasonably cumulative or can be obtained from some other source that is more convenient, less burdensome, or less expensive. Fed. R. Civ. P. 26(b)(2)(C). The depositions of non-parties are commanded by subpoena with notice to the parties before service. Fed. R. Civ. P. 45. Further, per the Court's Scheduling Order, a party may not exceed five (5) non-party, non-expert witness depositions without leave of court. (Dkt. 29).

Allstate objects to the depositions of Tom Wilson, Allstate's Chief Executive Officer, Glenn Shapiro, a former Allstate President, Robert Hopkins, Allstate's former Regional Financial Leader, Rick Bosworth, Allstate's Chief Underwriter of Life Underwriting, and Hilarie Sweeny, a senior leader at Allstate, and contends that the Court deny Plaintiff's Motion as to these individuals. (Dkt. 78 at 4). Allstate argues that, as to Allstate's high-level executives, these individuals cannot be deposed under the "Apex Doctrine" unless "(1) the executive has unique or special knowledge of the facts at issue and (2) other less burdensome avenues for obtaining the information have been exhausted." *See JTH Tax, Inc. v. Aime*, 2016 WL 9223926, at *5 (E.D. Va. Dec. 13, 2016). Further, Allstate argues that these individuals do not have "unique or special knowledge", or personal knowledge of Plaintiff's claims at all, and importantly, there are less burdensome avenues for obtaining the information Plaintiff seeks. For the reasons set forth in Allstate's opposition, the Court finds that the depositions of these individuals are neither relevant nor proportional to the needs of this case pursuant to Fed. R. Civ. P. 26.

Allstate does not object to the depositions of Tim Beckner, Ann Smith, Maggie Wang, Bryan Reid, and Amy Ho, but request that the Plaintiff follow the appropriate procedures for noticing the depositions under the Federal Rules of Civil Procedure. Allstate further requests that

the Court order Plaintiff to meet and confer with the parties to schedule Plaintiff's deposition and the deposition of Tim Beckner. (Dkt. 78 at 5-6).

Accordingly, it is hereby

**ORDERED** that Plaintiff's Motion (Dkt. 73) is **GRANTED-IN-PART** and **DENIED-IN-PART**; it is further

**ORDERED** that Plaintiff's Motion seeking to depose Tom Wilson, Glenn Shapiro, Robert Hopkins, Rick Bosworth, and Hilarie Sweeney is **DENIED**; it is further

**ORDERED** that Plaintiff's Motion seeking to depose Tim Beckner, Ann Smith, Maggie Wang, Bryan Reid, and Amy Ho is **GRANTED** conditioned upon Plaintiff complying with Rules 26, 30, and/or 45, and properly issuing deposition notices; it is further

**ORDERED** that Plaintiff shall promptly meet and confer with Allstate to schedule his deposition and Tim Beckner's deposition. The Court's Rule 16(b) Scheduling Order specifically states that notices of depositions shall not be filed except on order of the court, or for use in a motion or at trial. (Dkt. 34 ¶ 14).

**ENTERED** this 5th of February, 2024.

The Clerk of the Court is directed to mail a copy of this Order to Plaintiff at his address on file.

William E. Fitzpatrick

WILLIAM E. FITZPATRICK
UNITED STATES MAGISTRATE JUDGE

Alexandria, Virginia

**UNITED STATES DISTRICT COURT**
**FOR THE EASTERN DISTRICT OF VIRGINIA**
**Alexandria Division**

| | | |
|---|---|---|
| PAUL SHAO<br><br>Plaintiff,<br><br>v.<br><br>ALLSTATE INSURANCE COMPANY,<br><br>Defendant. | ) | Civil Action No. 1:23cv809 (RDA/WEF) |

**ORDER**

This matter is before the Court on its own initiative to clarify the Court's February 9, 2024 Order (Dkt. 97) regarding Plaintiff's Subpoena Issued to Testify at Deposition as to Bryan E. Reid (Dkt. 101) and the Subpoena Issued to Testify at Deposition as to Ann Marie Smith (Dkt. 102). The subpoenas (Dkts. 101, 102) were issued by the Clerk on February 13, 2024.

On February 9, 2024, the Court granted Plaintiff's Motion for Leave to File Subpoenas as to Bryan E. Reid and Ann Marie Smith (Dkt. 89). However, the subpoenas incorrectly listed "U.S. District Court Eastern District, [l]ocated at 401 Courthouse Square, Alexandria, VA 22314" as the place of the deposition, and that the deposition will be recorded by "Certified Court Reporter." Plaintiff has not been granted permission by the Court to take the depositions of Bryan E. Reid and Ann Marie Smith at this courthouse nor has Plaintiff been authorized to use court staff, or a court reporter, for these depositions. Plaintiff is further reminded of his obligation to comply with Fed. R. Civ. P. 45, Fed. R. Civ. P. 30, and Local Civil Rule 45.[1]

[1] Local Rules EDVA Jan 18 2023.pdf (uscourts.gov)

Accordingly, it is hereby

**ORDERED** that the section of the Court's February 9, 2024 Order (Dkt. 97) regarding Plaintiff's Motion for Leave to Issue Subpoenas of Ann M. Smith and Bryan E. Reid is **RESCINDED**; it is further

**ORDERED** that the subpoenas issued on February 13, 2024 to Bryan E. Reid and Ann Marie Smith (Dkts. 101, 102) are **RESCINDED**. Plaintiff Shao is directed to file a renewed Motion for Leave to File Subpoenas as to Bryan E. Reid and Ann Marie Smith with an appropriate location and time for the depositions to take place and in compliance with the Federal Rules of Civil Procedure and Local Civil Rule 45.

**ENTERED** this 16th day of February, 2024.

The Clerk of the Court is directed to mail a copy of this Order to Plaintiff at his address on file.

William E. Fitzpatrick
WILLIAM E. FITZPATRICK
UNITED STATES MAGISTRATE JUDGE

Alexandria, Virginia

**United States District Court**
**Eastern District of Virginia**
**Alexandria Division**

FILED

2025 JAN 13 P 2:29

PAUL SHAO,
Plaintiff,
v.
ALLSTATE INSURANCE COMPANY,
Defendant.

Civil Action No. 1:23-cv-00809
Jury Trial Demanded

## NOTICE OF DISCRIMINATION

The Court is hereby NOTIFIED that the principal, Allstate Insurance Company ("Allstate"), as Defendant and the law firm, Beneach, Friedlander, Coplan & Aronofff LLP ("Beneach"), as defendant attorney had committed discrimination in the pleading, Defendant Allstate Insurance Company's Motion to Seal (Dkt.163), which included Exhibit 2, which is Allstate R3001S Exclusive Agency Agreement ("Agreement"); and in the pleading, Defendant Allstate Insurance Company's Memorandum in Support of its Motion for Summary Judgment (Dkt. 162), where citations from and statements on the Agreement have been redacted.

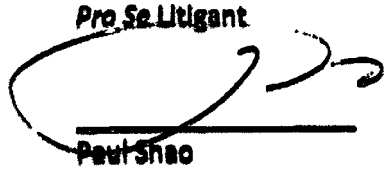
The said Agreement is the first exhibit in any litigation between Allstate and its agents. Allstate had never had its attorney seal the Agreement and had never redacted in any pleadings the citations from the Agreement.

Allstate and its law firm has singled out Paul Shao ("Shao"), the plaintiff, for such a unique treatment. This certainly is an act of discrimination.

Allstate and Benesch are advised that Shao shall take legal action soon for the discriminatory offences towards him.

DATED: January 13, 2025

PAUL SHAO,
*Pro Se* Litigant

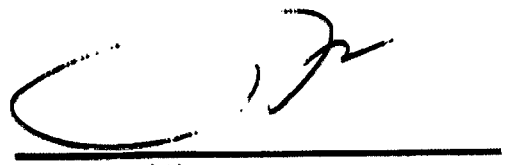


Paul Shao
9233 Lee Masey Drive,
Lorton, Virginia 22079
(202) 390-6300 Telephone
paulvshao@gmail.com

## CERTIFICATE OF SERVICE

I certified that on January 13, 2025, a copy of the foregoing Declaration of Paul Shao was filed with the clerk's office of the Court, emailed, and mailed to Defendant at the following address:

J. Scott Humphrey
Katie M. Burnett
Laura Seferian
Meghan Golden
**Benesch, Friedlander, Coplan & Aronoff LLP**
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Paul Shao

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE EASTERN DISTRICT OF VIRGINIA**
**ALEXANDRIA DIVISION**

PAUL SHAO,
Plaintiff,
v.
ALLSTATE INSURANCE COMPANY,
Defendant.

Civil Action No. 1:23-cv-00809

## LOCAL RULE 83.1 (M) CERTIFICATION

I declare under penalty of perjury that:

No attorney has prepared or assisted in the preparation of Notice of Discrimination (Title of Document).

Paul Shao
Name of *Pro Se* Party

Signature of *Pro Se* Party
Executed on: 1/13/25 (Date)

The following attorney(s) prepared or assisted me in preparation of _____ (Title of Document)

_____
(Name of Attorney) (Address and Telephone Number of Attorney)

_____
Name of *Pro Se* Party

_____
Signature of *Pro Se* Party
Executed on: _____ (Date)