

1 PAUL H. DEESE (State Bar No. 301328)
2 SHANE T. MICHEIL (State Bar No. 312460)
3 Kushner Carlson
4 A Professional Law Corporation
5 85 Enterprise, Suite 310
6 Aliso Viejo, CA 92656
7 Telephone: (949) 421-3030
8 Telecopier: (949) 421-3031

9 Attorneys for Defendant ZDS Express Couriers

CONFIRMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

AUG 25 2020

Sherri R. Carter, Executive Officer/Clerk
By: Pedro Martinez, Deputy

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES - CENTRAL DISTRICT

SPRING STREET COURTHOUSE

BY FAX

GIOVANNI PINEDA, on behalf of himself and
those similarly situated,

Plaintiff,

v.

ZDS EXPRESS COURIERS, a California
corporation; and DOES 1 through 50, inclusive,

Defendants.

CASE NO.: BC696764

~~PROPOSED~~ STIPULATED
PROTECTIVE ORDER

IT IS HEREBY STIPULATED by and between Plaintiff Giovanni Pineda, on behalf of
himself and those similarly situated ("Plaintiff"), and Defendant ZDS Express Couriers ("ZDS")
(collectively referred to herein as the "Parties"), by and through their respective counsel of
record, that in order to facilitate the exchange of information and documents which may be
subject to confidentiality limitations on disclosure due to federal laws, state laws, and privacy
rights, the Parties stipulate as follows:

1 1. In this Stipulation and Protective Order, the words set forth below shall have the
2 following meanings:

3 a. “Proceeding” means the above-entitled proceeding, GIOVANNI
4 PINEDA, on behalf of himself and those similarly situated, v. ZDS EXPRESS
5 COURIERS, a California corporation, Case No. BC696764, currently pending in the
6 Superior Court of the State of California, County of Los Angeles, Spring Street
7 Courthouse.

8 b. “Court” means the Honorable Yvette M. Palazuelos, or any other judge to
9 which this Proceeding may be assigned, including Court staff participating in such
10 proceedings.

11 c. “Confidential” means any information which is in the possession of a
12 Designating Party who believes in good faith that such information is entitled to
13 confidential treatment under applicable law.

14 d. “Confidential Materials” means any Documents, Testimony, or
15 Information as defined below designated as “Confidential” pursuant to the provisions of
16 this Stipulation and Protective Order.

17 e. “Designating Party” means the Party that designates Materials as
18 “Confidential.”

19 f. “Disclose” or “Disclosed” or “Disclosure” means to reveal, divulge, give,
20 or make available Materials, or any part thereof, or any information contained therein.

21 g. “Documents” means (i) any “Writing,” “Original,” and “Duplicate” as
22 those terms are defined by California Evidence Code Sections 250, 255, and 260, which
23 have been produced in discovery in this Proceeding by any person, and (ii) any copies,
24 reproductions, or summaries of all or any part of the foregoing.

25 h. “Information” means the content of Documents or Testimony.

26 i. “Testimony” means all depositions, declarations or other testimony taken
27 or used in this Proceeding.
28

1 2. The Designating Party shall have the right to designate as “Confidential” any
2 Documents, Testimony, or Information that the Designating Party in good faith believes to
3 contain non-public information that is entitled to confidential treatment under applicable law.

4 3. The entry of this Stipulation and Protective Order does not alter, waive, modify,
5 or abridge any right, privilege or protection otherwise available to any Party with respect to the
6 discovery of matters, including but not limited to any Party’s right to assert the attorney-client
7 privilege, the attorney work product doctrine, or other privileges, or any Party’s right to contest
8 any such assertion.

9 4. Any Documents, Testimony, or Information to be designated as “Confidential”
10 must be clearly so designated before the Document, Testimony or Information is Disclosed or
11 produced. The parties may agree that the case name and number are to be part of the
12 “Confidential” designation. The “Confidential” designation should not obscure or interfere with
13 the legibility of the designated Information.

14 a. For Documents (apart from transcripts of depositions or other pretrial or
15 trial proceedings), the Designating Party must affix the legend “Confidential” on each
16 page of any Document containing such designated Confidential Material.

17 b. For Testimony given in depositions the Designating Party may either:

18 i. identify on the record, before the close of the deposition, all
19 “Confidential” Testimony, by specifying all portions of the Testimony that
20 qualify as “Confidential;” or

21 ii. designate the entirety of the Testimony at the deposition as
22 “Confidential” (before the deposition is concluded) with the right to identify
23 more specific portions of the Testimony as to which protection is sought within
24 30 days following receipt of the deposition transcript. In circumstances where
25 portions of the deposition Testimony are designated for protection, the transcript
26 pages containing “Confidential” Information may be separately bound by the
27 court reporter, who must affix to the top of each page the legend “Confidential,”
28 as instructed by the Designating Party.

1 c. For Information produced in some form other than Documents, and for
2 any other tangible items, including, without limitation, compact discs or DVDs, the
3 Designating Party must affix in a prominent place on the exterior of the container or
4 containers in which the Information or item is stored the legend "Confidential." If only
5 portions of the Information or item warrant protection, the Designating Party, to the
6 extent practicable, shall identify the "Confidential" portions.

7 5. The inadvertent production by any of the undersigned Parties or non-Parties to
8 the Proceedings of any Document, Testimony or Information during discovery in this
9 Proceeding without a "Confidential" designation, shall be without prejudice to any claim that
10 such item is "Confidential" and such Party shall not be held to have waived any rights by such
11 inadvertent production. In the event that any Document, Testimony or Information that is
12 subject to a "Confidential" designation is inadvertently produced without such designation, the
13 Party that inadvertently produced the document shall give written notice of such inadvertent
14 production within twenty (20) days of discovery of the inadvertent production, together with a
15 further copy of the subject Document, Testimony or Information designated as "Confidential"
16 (the "Inadvertent Production Notice"). Upon receipt of such Inadvertent Production Notice, the
17 Party that received the inadvertently produced Document, Testimony or Information shall
18 promptly destroy the inadvertently produced Document, Testimony or Information and all
19 copies thereof, or, at the expense of the producing Party, return such together with all copies of
20 such Document, Testimony or Information to counsel for the producing Party and shall retain
21 only the "Confidential" designated Materials. Should the receiving Party choose to destroy such
22 inadvertently produced Document, Testimony or Information, the receiving Party shall notify
23 the producing Party in writing of such destruction within ten (10) days of receipt of written
24 notice of the inadvertent production. This provision is not intended to apply to any inadvertent
25 production of any Information protected by attorney-client or work product privileges. In the
26 event that this provision conflicts with any applicable law regarding waiver of confidentiality
27 through the inadvertent production of Documents, Testimony or Information, such law shall
28 govern.

1 6. In the event that counsel for a Party receiving Documents, Testimony or
2 Information in discovery designated as “Confidential” objects to such designation with respect
3 to any or all of such items, said counsel shall advise counsel for the Designating Party, in
4 writing, of such objections, the specific Documents, Testimony or Information to which each
5 objection pertains, and the specific reasons and support for such objections (the “Designation
6 Objections”). Counsel for the Designating Party shall have thirty (30) days from receipt of the
7 written Designation Objections to either (a) agree in writing to de-designate Documents,
8 Testimony or Information pursuant to any or all of the Designation Objections and/or (b) file a
9 motion with the Court seeking to uphold any or all designations on Documents, Testimony or
10 Information addressed by the Designation Objections (the “Designation Motion”). Pending a
11 resolution of the Designation Motion by the Court, any and all existing designations on the
12 Documents, Testimony or Information at issue in such Motion shall remain in place. The
13 Designating Party shall have the burden on any Designation Motion of establishing the
14 applicability of its “Confidential” designation. In the event that the Designation Objections are
15 neither timely agreed to nor timely addressed in the Designation Motion, then such Documents,
16 Testimony or Information shall be de-designated in accordance with the Designation Objection
17 applicable to such material.

18 7. Access to and/or Disclosure of Confidential Materials designated as
19 “Confidential” shall be permitted only to the following persons:

- 20 a. the Court;
- 21 b. (1) Attorneys of record in the Proceedings and their affiliated
22 attorneys, paralegals, clerical and secretarial staff employed by such attorneys who are
23 actively involved in the Proceedings and are not employees of any Party. (2) In-house
24 counsel to the undersigned Parties and the paralegal, clerical and secretarial staff
25 employed by such counsel. Provided, however, that each non-lawyer given access to
26 Confidential Materials shall be advised that such Materials are being Disclosed pursuant
27 to, and are subject to, the terms of this Stipulation and Protective Order and that they
28 may not be Disclosed other than pursuant to its terms;

1 c. those officers, directors, partners, members, employees and agents of all
2 non-designating Parties that counsel for such Parties deems necessary to aid counsel in
3 the prosecution and defense of this Proceeding; provided, however, that prior to the
4 Disclosure of Confidential Materials to any such officer, director, partner, member,
5 employee or agent, counsel for the Party making the Disclosure shall deliver a copy of
6 this Stipulation and Protective Order to such person, shall explain that such person is
7 bound to follow the terms of such Order, and shall secure the signature of such person
8 on a statement in the form attached hereto as Exhibit A;

9 d. court reporters in this Proceeding (whether at depositions, hearings, or
10 any other proceeding);

11 e. any deposition, trial or hearing witness in the Proceeding who previously
12 has had access to the Confidential Materials, or who is currently or was previously an
13 officer, director, partner, member, employee or agent of an entity that has had access to
14 the Confidential Materials;

15 f. any deposition or non-trial hearing witness in the Proceeding who
16 previously did not have access to the Confidential Materials; provided, however, that
17 each such witness given access to Confidential Materials shall be advised that such
18 Materials are being Disclosed pursuant to, and are subject to, the terms of this
19 Stipulation and Protective Order and that they may not be Disclosed other than pursuant
20 to its terms;

21 g. mock jury participants, provided, however, that prior to the Disclosure of
22 Confidential Materials to any such mock jury participant, counsel for the Party making
23 the Disclosure shall deliver a copy of this Stipulation and Protective Order to such
24 person, shall explain that such person is bound to follow the terms of such Order, and
25 shall secure the signature of such person on a statement in the form attached hereto as
26 Exhibit A.

27 h. outside experts or expert consultants consulted by the undersigned Parties
28 or their counsel in connection with the Proceeding, whether or not retained to testify at

1 any oral hearing; provided, however, that prior to the Disclosure of Confidential
2 Materials to any such expert or expert consultant, counsel for the Party making the
3 Disclosure shall deliver a copy of this Stipulation and Protective Order to such person,
4 shall explain its terms to such person, and shall secure the signature of such person on a
5 statement in the form attached hereto as Exhibit A. It shall be the obligation of counsel,
6 upon learning of any breach or threatened breach of this Stipulation and Protective
7 Order by any such expert or expert consultant, to promptly notify counsel for the
8 Designating Party of such breach or threatened breach; and

9 i. any other person that the Designating Party agrees to in writing.

10 8. Confidential Materials shall be used by the persons receiving them only for the
11 purposes of preparing for, conducting, participating in the conduct of, and/or prosecuting and/or
12 defending the Proceeding, and not for any business or other purpose whatsoever.

13 9. Any Party to the Proceeding (or other person subject to the terms of this
14 Stipulation and Protective Order) may ask the Court, after appropriate notice to the other
15 Parties to the Proceeding, to modify or grant relief from any provision of this Stipulation and
16 Protective Order.

17 10. Entering into, agreeing to, and/or complying with the terms of this Stipulation
18 and Protective Order shall not:

19 a. operate as an admission by any person that any particular Document,
20 Testimony or Information marked "Confidential" contains or reflects trade secrets,
21 proprietary, confidential or competitively sensitive business, commercial, financial or
22 personal information; or

23 b. prejudice in any way the right of any Party (or any other person subject to
24 the terms of this Stipulation and Protective Order):

25 i. to seek a determination by the Court of whether any particular
26 Confidential Material should be subject to protection as "Confidential" under the
27 terms of this Stipulation and Protective Order; or
28

1 ii. to seek relief from the Court on appropriate notice to all other
2 Parties to the Proceeding from any provision(s) of this Stipulation and Protective
3 Order, either generally or as to any particular Document, Material or
4 Information.

5 11. Any Party to the Proceeding who has not executed this Stipulation and Protective
6 Order as of the time it is presented to the Court for signature may thereafter become a Party to
7 this Stipulation and Protective Order by its counsel's signing and dating a copy thereof and
8 filing the same with the Court, and serving copies of such signed and dated copy upon the other
9 Parties to this Stipulation and Protective Order.

10 12. Any Information that may be produced by a non-Party witness in discovery in
11 the Proceeding pursuant to subpoena or otherwise may be designated by such non-Party as
12 "Confidential" under the terms of this Stipulation and Protective Order, and any such
13 designation by a non-Party shall have the same force and effect, and create the same duties and
14 obligations, as if made by one of the undersigned Parties hereto. Any such designation shall also
15 function as a consent by such producing Party to the authority of the Court in the Proceeding to
16 resolve and conclusively determine any motion or other application made by any person or
17 Party with respect to such designation, or any other matter otherwise arising under this
18 Stipulation and Protective Order.

19 13. If any person subject to this Stipulation and Protective Order who has custody of
20 any Confidential Materials receives a subpoena or other process ("Subpoena") from any
21 government or other person or entity demanding production of Confidential Materials, the
22 recipient of the Subpoena shall promptly give notice of the same by electronic mail
23 transmission, followed by either express mail or overnight delivery to counsel of record for the
24 Designating Party, and shall furnish such counsel with a copy of the Subpoena. Upon receipt of
25 this notice, the Designating Party may, in its sole discretion and at its own cost, move to quash
26 or limit the Subpoena, otherwise oppose production of the Confidential Materials, and/or seek
27 to obtain confidential treatment of such Confidential Materials from the subpoenaing person or
28 entity to the fullest extent available under law. The recipient of the Subpoena may not produce

1 any Documents, Testimony or Information pursuant to the Subpoena prior to the date specified
2 for production on the Subpoena.

3 14. Nothing in this Stipulation and Protective Order shall be construed to preclude
4 either Party from asserting in good faith that certain Confidential Materials require additional
5 protection. The Parties shall meet and confer to agree upon the terms of such additional
6 protection.

7 15. If, after execution of this Stipulation and Protective Order, any Confidential
8 Materials submitted by a Designating Party under the terms of this Stipulation and Protective
9 Order is Disclosed by a non-Designating Party to any person other than in the manner
10 authorized by this Stipulation and Protective Order, the non-Designating Party responsible for
11 the Disclosure shall bring all pertinent facts relating to the Disclosure of such Confidential
12 Materials to the immediate attention of the Designating Party.

13 16. This Stipulation and Protective Order is entered into without prejudice to the
14 right of any Party to knowingly waive the applicability of this Stipulation and Protective Order
15 to any Confidential Materials designated by that Party. If the Designating Party uses
16 Confidential Materials in a non-Confidential manner, then the Designating Party shall advise
17 that the designation no longer applies.

18 17. Where any Confidential Materials, or Information derived from Confidential
19 Materials, is included in any motion or other proceeding governed by California Rules of Court,
20 Rules 2.550 and 2.551, the party shall follow those rules. With respect to discovery motions or
21 other proceedings not governed by California Rules of Court, Rules 2.550 and 2.551, the
22 following shall apply: If Confidential Materials or Information derived from Confidential
23 Materials are submitted to or otherwise disclosed to the Court in connection with discovery
24 motions and proceedings, the same shall be separately filed under seal with the clerk of the
25 Court in an envelope marked: "CONFIDENTIAL – FILED UNDER SEAL PURSUANT TO
26 PROTECTIVE ORDER AND WITHOUT ANY FURTHER SEALING ORDER REQUIRED."

27 18. The Parties shall meet and confer regarding the procedures for use of
28 Confidential Materials at trial and shall move the Court for entry of an appropriate order.

1 19. Nothing in this Stipulation and Protective Order shall affect the admissibility into
2 evidence of Confidential Materials, or abridge the rights of any person to seek judicial review or
3 to pursue other appropriate judicial action with respect to any ruling made by the Court
4 concerning the issue of the status of Protected Material.

5 20. This Stipulation and Protective Order shall continue to be binding after the
6 conclusion of this Proceeding and all subsequent proceedings arising from this Proceeding,
7 except that a Party may seek the written permission of the Designating Party or may move the
8 Court for relief from the provisions of this Stipulation and Protective Order. To the extent
9 permitted by law, the Court shall retain jurisdiction to enforce, modify, or reconsider this
10 Stipulation and Protective Order, even after the Proceeding is terminated.

11 21. Upon written request made within thirty (30) days after the settlement or other
12 termination of the Proceeding, the undersigned Parties shall have thirty (30) days to either (a)
13 promptly return to counsel for each Designating Party all Confidential Materials and all copies
14 thereof (except that counsel for each Party may maintain in its files, in continuing compliance
15 with the terms of this Stipulation and Protective Order, all work product, and one copy of each
16 pleading filed with the Court and one copy of each deposition together with the exhibits marked
17 at the deposition), (b) agree with counsel for the Designating Party upon appropriate methods
18 and certification of destruction or other disposition of such Confidential Materials, or (c) as to
19 any Documents, Testimony or other Information not addressed by sub-paragraphs (a) and (b),
20 file a motion seeking a Court order regarding proper preservation of such Materials. To the
21 extent permitted by law the Court shall retain continuing jurisdiction to review and rule upon
22 the motion referred to in sub-paragraph (c) herein.

23 22. After this Stipulation and Protective Order has been signed by counsel for all
24 Parties, it shall be presented to the Court for entry. Counsel agree to be bound by the terms set
25 forth herein with regard to any Confidential Materials that have been produced before the Court
26 signs this Stipulation and Protective Order.

27 23. The Parties and all signatories to the Certification attached hereto as Exhibit A
28 agree to be bound by this Stipulation and Protective Order pending its approval and entry by the

1 Court. In the event that the Court modifies this Stipulation and Protective Order, or in the event
2 that the Court enters a different Protective Order, the Parties agree to be bound by this
3 Stipulation and Protective Order until such time as the Court may enter such a different Order.
4 It is the Parties' intent to be bound by the terms of this Stipulation and Protective Order pending
5 its entry so as to allow for immediate production of Confidential Materials under the terms
6 herein.

7 This Stipulation and Protective Order may be executed in counterparts.

8 DATED: August 17, 2020

KUSHNER CARLSON

9
10 By: _____




Paul H. Deese
Attorneys for Defendant
ZDS Express Couriers

11
12
13 DATED: August 12, 2020

MAHONEY LAW GROUP, APC

14
15 By: _____



Kevin Mahoney, Esq.
Michael A. Swift, Esq.
Attorneys for Plaintiff GIOVANNI
PINEDA on behalf of himself, and those
similarly situated employees

ORDER

GOOD CAUSE APPEARING, the Court hereby approves this Stipulation and Protective Order.

IT IS SO ORDERED.

DATED: AUG 25 2020, 2020

YVETTE M. PALAZUELOS

The Honorable Yvette M. Palazuelos

Δ to give notice.

EXHIBIT A

CERTIFICATION RE CONFIDENTIAL DISCOVERY MATERIALS

I hereby acknowledge that I, _____ [NAME],

_____ [POSITION AND EMPLOYER], am

about to receive Confidential Materials supplied in connection with the Proceeding, (**INSERT CASE NO.**). I certify that I understand that the Confidential Materials are provided to me subject to the terms and restrictions of the Stipulation and Protective Order filed in this Proceeding. I have been given a copy of the Stipulation and Protective Order; I have read it, and I agree to be bound by its terms.

I understand that Confidential Materials, as defined in the Stipulation and Protective Order, including any notes or other records that may be made regarding any such materials, shall not be Disclosed to anyone except as expressly permitted by the Stipulation and Protective Order. I will not copy or use, except solely for the purposes of this Proceeding, any Confidential Materials obtained pursuant to this Protective Order, except as provided therein or otherwise ordered by the Court in the Proceeding.

I further understand that I am to retain all copies of all Confidential Materials provided to me in the Proceeding in a secure manner, and that all copies of such Materials are to remain in my personal custody until termination of my participation in this Proceeding, whereupon the copies of such Materials will be returned to counsel who provided me with such Materials.

///

///

///

1 I declare under penalty of perjury, under the laws of the State of California, that the
2 foregoing is true and correct. Executed this _____ day of _____,
3 20____, at _____.

4
5 DATED: _____

6 BY: _____
7 Signature

8 _____
9 Title

10 _____
11 Address

12 _____
13 City, State, Zip

14 _____
15 Telephone Number

16
17
18
19
20
21
22
23
24
25
26
27
28

1

PROOF OF SERVICE

2 STATE OF CALIFORNIA)
3) ss.
4 COUNTY OF ORANGE)

5 I am employed in the County of Orange, State of California. I am over the age of 18 and
6 not a party to the within action. My business address is 85 Enterprise, Suite 310, Aliso
7 Viejo, CA 92656.

8 On August 17, 2020, I served the following document(s) described as follows:

9 **[PROPOSED] STIPULATED PROTECTIVE ORDER**

10 On the following interested parties in this action:

11 Kevin Mahoney
12 Treana L. Allen
13 MAHONEY LAW GROUP, APC
14 249 E. Ocean Blvd., Ste 814
15 Long Beach, CA 90802
16 Tel: (562) 590-5550
17 Fax: (562) 590-8400
18 Email: kmahoney@mahoney-law.net;
19 tallen@mahoney-law.net
20 *Attorneys for Plaintiffs*

Gregory H.D. Alumit
HOWARD LAW, PC
1819 N. Broadway
Santa Ana, CA 92706
Tel: (800) 872-5925
Fax: (888) 533-7310
Email: galumit@howardlawpc.com

21
22 **VIA MAIL -- CCP §1013(a)**. I caused a true copy of said document(s) to be placed in a
23 sealed envelope, addressed as above and placed for collection and processing under the
24 firm's ordinary course of business. I am readily familiar with Kushner Carlson's practice
25 of collecting, processing and depositing correspondence for mailing. Under this practice,
26 envelopes would be deposited with the United States Postal Service at Aliso Viejo,
27 California the same day with postage thereon fully prepaid.
28

I declare under penalty of perjury, under the laws of the State of California that the foregoing is true and correct.

Executed on August 17, 2020, at Aliso Viejo, California.


Joshua Croomes