

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

CHRISTIAN SAULNIER,  
Plaintiff,  
v.  
SPREADSHIRT, INC.; and DOES 1  
through 20, inclusive,  
Defendants.

Case No. 2:15-cv-08455-FMO-RAO

**PROTECTIVE ORDER**

Complaint Filed: August 31, 2015  
Trial Date: October 4, 2016  
District Judge: Hon. Fernando M. Olguin  
Magistrate Judge: Hon. Rozella A. Oliver

**1. A. PURPOSES AND LIMITATIONS**

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation maybe warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles.



1 and in the conduct of trial, to address their handling at the end of the litigation, and  
2 serve the ends of justice, a protective order for such information is justified in this  
3 matter. It is the intent of the parties that information will not be designated as  
4 confidential for tactical reasons and that nothing be so designated without a good  
5 faith belief that it has been maintained in a confidential, non-public manner, and  
6 there is good cause why it should not be part of the public record of this case.

7 **C. ACKNOWLEDGMENT OF PROCEDURE FOR FILING**  
8 **UNDER SEAL**

9 The parties further acknowledge, as set forth in Section 12.3, below, that this  
10 Stipulated Protective Order does not entitle them to file confidential information  
11 under seal; Local Civil Rule 79-5 sets forth the procedures that must be followed  
12 and the standards that will be applied when a party seeks permission from the court  
13 to file material under seal.

14 There is a strong presumption that the public has a right of access to judicial  
15 proceedings and records in civil cases. In connection with non-dispositive motions,  
16 good cause must be shown to support a filing under seal. *See Kamakana v. City*  
17 *and County of Honolulu*, 447 F.3d 1172, 1176 (9th Cir. 2006), *Phillips v. Gen.*  
18 *Motors Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002), *Makar-Welbon v. Sony*  
19 *Electrics, Inc.*, 187 F.R.D. 576, 577 (E.D. Wis. 1999) (even stipulated protective  
20 orders require good cause showing), and a specific showing of good cause or  
21 compelling reasons with proper evidentiary support and legal justification, must be  
22 made with respect to Protected Material that a party seeks to file under seal. The  
23 parties' mere designation of Disclosure or Discovery Material as  
24 CONFIDENTIAL does not— without the submission of competent evidence by  
25 declaration, establishing that the material sought to be filed under seal qualifies as  
26 confidential, privileged, or otherwise protectable—constitute good cause.

1 Further, if a party requests sealing related to a dispositive motion or trial,  
2 then compelling reasons, not only good cause, for the sealing must be shown, and  
3 the relief sought shall be narrowly tailored to serve the specific interest to be  
4 protected. *See Pintos v. Pacific Creditors Ass'n*, 605 F.3d 665, 677-79 (9th Cir.  
5 2010). For each item or type of information, document, or thing sought to be filed  
6 or introduced under seal in connection with a dispositive motion or trial, the party  
7 seeking protection must articulate compelling reasons, supported by specific facts  
8 and legal justification, for the requested sealing order. Again, competent evidence  
9 supporting the application to file documents under seal must be provided by  
10 declaration.

11 **2. DEFINITIONS**

12 2.1 Action: the instant pending federal lawsuit, entitled *Christian Saulnier*  
13 *v. Spreadshirt, Inc., et al.*, Case No. 2:15-cv-08455-FMO-RAO, currently pending  
14 in the United States District Court for the Central District of California.

15 2.2 Challenging Party: a Party or Non-Party that challenges the  
16 designation of information or items under this Order.

17 2.3 “CONFIDENTIAL” Information or Items: information (regardless of  
18 how it is generated, stored or maintained) or tangible things that qualify for  
19 protection under Federal Rule of Civil Procedure 26(c), and as specified above in  
20 the Good Cause Statement.

21 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as  
22 their support staff).

23 2.5 Designating Party: a Party or Non-Party that designates information or  
24 items that it produces in disclosures or in responses to discovery as  
25 “CONFIDENTIAL.”

26 2.6 Disclosure or Discovery Material: all items or information, regardless  
27

1 of the medium or manner in which it is generated, stored, or maintained (including,  
2 among other things, testimony, transcripts, and tangible things), that are produced  
3 or generated in disclosures or responses to discovery in this matter.

4       2.7 Expert: a person with specialized knowledge or experience in a matter  
5 pertinent to the litigation who has been retained by a Party or its counsel to serve  
6 as an expert witness or as a consultant in this Action.

7       2.8 House Counsel: attorneys who are employees of a party to this Action.  
8 House Counsel does not include Outside Counsel of Record or any other outside  
9 counsel.

10       2.9 Non-Party: any natural person, partnership, corporation, association,  
11 or other legal entity not named as a Party to this action.

12       2.10 Outside Counsel of Record: attorneys who are not employees of a  
13 party to this Action but are retained to represent or advise a party to this Action  
14 and have appeared in this Action on behalf of that party or are affiliated with a law  
15 firm which has appeared on behalf of that party, and includes support staff.

16       2.11 Party: any party to this Action, including all of its officers, directors,  
17 employees, consultants, retained experts, and Outside Counsel of Record (and their  
18 support staffs).

19       2.12 Producing Party: a Party or Non-Party that produces Disclosure or  
20 Discovery Material in this Action.

21       2.13 Professional Vendors: persons or entities that provide litigation  
22 support services (*e.g.*, photocopying, videotaping, translating, preparing exhibits or  
23 demonstrations, and organizing, storing, or retrieving data in any form or medium)  
24 and their employees and subcontractors.

25       2.14 Protected Material: any Disclosure or Discovery Material that is  
26 designated as “CONFIDENTIAL.”  
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1 protection only those parts of material, documents, items, or oral or written  
2 communications that qualify so that other portions of the material, documents,  
3 items, or communications for which protection is not warranted are not swept  
4 unjustifiably within the ambit of this Order.

5 Mass, indiscriminate, or routinized designations are prohibited. Designations  
6 that are shown to be clearly unjustified or that have been made for an improper  
7 purpose (*e.g.*, to unnecessarily encumber the case development process or to  
8 impose unnecessary expenses and burdens on other parties) may expose the  
9 Designating Party to sanctions.

10 If it comes to a Designating Party's attention that information or items that it  
11 designated for protection do not qualify for protection, that Designating Party must  
12 promptly notify all other Parties that it is withdrawing the inapplicable designation.

13 5.2 Manner and Timing of Designations. Except as otherwise provided in  
14 this Order (*see, e.g.*, second paragraph of section 5.2(a) below), or as otherwise  
15 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection  
16 under this Order must be clearly so designated before the material is disclosed or  
17 produced.

18 Designation in conformity with this Order requires:

19 (a) for information in documentary form (*e.g.*, paper or electronic  
20 documents, but excluding transcripts of depositions or other pretrial or trial  
21 proceedings), that the Producing Party affix at a minimum, the legend  
22 "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that  
23 contains protected material. If only a portion or portions of the material on a page  
24 qualifies for protection, the Producing Party also must clearly identify the  
25 protected portion(s) (*e.g.*, by making appropriate markings in the margins).

26 A Party or Non-Party that makes original documents available for inspection  
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1 need not designate them for protection until after the inspecting Party has indicated  
2 which documents it would like copied and produced. During the inspection and  
3 before the designation, all of the material made available for inspection shall be  
4 deemed “CONFIDENTIAL.” After the inspecting Party has identified the  
5 documents it wants copied and produced, the Producing Party must determine  
6 which documents, or portions thereof, qualify for protection under this Order.  
7 Then, before producing the specified documents, the Producing Party must affix  
8 the “CONFIDENTIAL legend” to each page that contains Protected Material. If  
9 only a portion or portions of the material on a page qualifies for protection, the  
10 Producing Party also must clearly identify the protected portion(s) (*e.g.*, by making  
11 appropriate markings in the margins).

12 (b) for testimony given in depositions that the Designating Party identify the  
13 Disclosure or Discovery Material on the record, before the close of the deposition  
14 all protected testimony.

15 (c) for information produced in some form other than documentary and for  
16 any other tangible items, that the Producing Party affix in a prominent place on the  
17 exterior of the container or containers in which the information is stored the legend  
18 “CONFIDENTIAL.” If only a portion or portions of the information warrants  
19 protection, the Producing Party, to the extent practicable, shall identify the  
20 protected portion(s).

21 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent  
22 failure to designate qualified information or items does not, standing alone, waive  
23 the Designating Party’s right to secure protection under this Order for such  
24 material.

25 Upon timely correction of a designation, the Receiving Party must make  
26 reasonable efforts to assure that the material is treated in accordance with the  
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1 provisions of this Order.

2 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

3 6.1 Timing of Challenges. Any Party or Non-Party may challenge a  
4 designation of confidentiality at any time that is consistent with the Court's  
5 Scheduling Order.

6 6.2 Meet and Confer. The Challenging Party shall initiate the dispute  
7 resolution process under Local Rule 37.1 *et seq.*

8 6.3 The burden of persuasion in any such challenge proceeding shall be  
9 on the Designating Party. Frivolous challenges, and those made for an improper  
10 purpose (*e.g.*, to harass or impose unnecessary expenses and burdens on other  
11 parties) may expose the Challenging Party to sanctions. Unless the Designating  
12 Party has waived or withdrawn the confidentiality designation, all parties shall  
13 continue to afford the material in question the level of protection to which it is  
14 entitled under the Producing Party's designation until the Court rules on the  
15 challenge.

16 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

17 7.1 Basic Principles. A Receiving Party may use Protected Material that is  
18 disclosed or produced by another Party or by a Non-Party in connection with this  
19 Action only for prosecuting, defending, or attempting to settle this Action. Such  
20 Protected Material may be disclosed only to the categories of persons and under  
21 the conditions described in this Order. When the Action has been terminated, a  
22 Receiving Party must comply with the provisions of section 13 below (FINAL  
23 DISPOSITION). Protected Material must be stored and maintained by a Receiving  
24 Party at a location and in a secure manner that ensures that access is limited to the  
25 persons authorized under this Order.

26 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless  
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1 otherwise ordered by the Court or permitted in writing by the Designating Party, a  
2 Receiving Party may disclose any information or item designated

3 “CONFIDENTIAL” only to:

4 (a) the Receiving Party’s Outside Counsel of Record in this Action, as well  
5 as employees of said Outside Counsel of Record to whom it is reasonably  
6 necessary to disclose the information for this Action;

7 (b) the officers, directors, and employees (including House Counsel) of the  
8 Receiving Party to whom disclosure is reasonably necessary for this Action;

9 (c) Experts (as defined in this Order) of the Receiving Party to whom  
10 disclosure is reasonably necessary for this Action and who have signed the  
11 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

12 (d) the Court and its personnel;

13 (e) Court reporters and their staff;

14 (f) professional jury or trial consultants, mock jurors, and Professional  
15 Vendors to whom disclosure is reasonably necessary for this Action and who have  
16 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

17 (g) the author or recipient of a document containing the information or a  
18 custodian or other person who otherwise possessed or knew the information;

19 (h) during their depositions, witnesses, and attorneys for witnesses, in the  
20 Action to whom disclosure is reasonably necessary provided: (1) the deposing  
21 party requests that the witness sign the form attached as Exhibit 1 hereto; and (2)  
22 they will not be permitted to keep any confidential information unless they sign the  
23 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise  
24 agreed by the Designating Party or ordered by the court. Pages of transcribed  
25 deposition testimony or exhibits to depositions that reveal Protected Material may  
26 be separately bound by the court reporter and may not be disclosed to anyone  
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1 except as permitted under this Stipulated Protective Order; and

2 (i) any mediator or settlement officer, and their supporting personnel  
3 mutually agreed upon by any of the parties engaged in settlement discussions.

4 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**  
5 **PRODUCED IN OTHER LITIGATION**

6 If a Party is served with a subpoena or a court order issued in other litigation  
7 that compels disclosure of any information or items designated in this Action as  
8 “CONFIDENTIAL,” that Party must:

9 (a) promptly notify in writing the Designating Party. Such notification shall  
10 include a copy of the subpoena or court order;

11 (b) promptly notify in writing the party who caused the subpoena or order to  
12 issue in the other litigation that some or all of the material covered by the subpoena  
13 or order is subject to this Protective Order. Such notification shall include a copy  
14 of this Stipulated Protective Order; and

15 (c) cooperate with respect to all reasonable procedures sought to be pursued  
16 by the Designating Party whose Protected Material may be affected.

17 If the Designating Party timely seeks a protective order, the Party served  
18 with the subpoena or court order shall not produce any information designated in  
19 this action as “CONFIDENTIAL” before a determination by the court from which  
20 the subpoena or order issued, unless the Party has obtained the Designating Party’s  
21 permission. The Designating Party shall bear the burden and expense of seeking  
22 protection in that court of its confidential material and nothing in these provisions  
23 should be construed as authorizing or encouraging a Receiving Party in this Action  
24 to disobey a lawful directive from another court.

25 **9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**  
26 **PRODUCED IN THIS LITIGATION**

1 (a) The terms of this Order are applicable to information produced by a Non-  
2 Party in this Action and designated as “CONFIDENTIAL.” Such information  
3 produced by Non-Parties in connection with this litigation is protected by the  
4 remedies and relief provided by this Order. Nothing in these provisions should be  
5 construed as prohibiting a Non-Party from seeking additional protections.

6 (b) In the event that a Party is required, by a valid discovery request, to  
7 produce a Non-Party’s confidential information in its possession, and the Party is  
8 subject to an agreement with the Non-Party not to produce the Non-Party’s  
9 confidential information, then the Party shall:

10 (1) promptly notify in writing the Requesting Party and the Non-Party  
11 that some or all of the information requested is subject to a confidentiality  
12 agreement with a Non-Party;

13 (2) promptly provide the Non-Party with a copy of the Stipulated  
14 Protective Order in this Action, the relevant discovery request(s), and a reasonably  
15 specific description of the information requested; and

16 (3) make the information requested available for inspection by the  
17 Non-Party, if requested.

18 (c) If the Non-Party fails to seek a protective order from this Court within  
19 fourteen (14) days of receiving the notice and accompanying information, the  
20 Receiving Party may produce the Non-Party’s confidential information responsive  
21 to the discovery request. If the Non-Party timely seeks a protective order, the  
22 Receiving Party shall not produce any information in its possession or control that  
23 is subject to the confidentiality agreement with the Non-Party before a  
24 determination by the court. Absent a court order to the contrary, the Non-Party  
25 shall bear the burden and expense of seeking protection in this court of its  
26 Protected Material.  
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1 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

2 If a Receiving Party learns that, by inadvertence or otherwise, it has  
3 disclosed Protected Material to any person or in any circumstance not authorized  
4 under this Stipulated Protective Order, the Receiving Party must immediately (a)  
5 notify in writing the Designating Party of the unauthorized disclosures, (b) use its  
6 best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform  
7 the person or persons to whom unauthorized disclosures were made of all the terms  
8 of this Order, and (d) request such person or persons to execute the  
9 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit  
10 A.

11 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR**  
12 **OTHERWISE PROTECTED MATERIAL**

13 When a Producing Party gives notice to Receiving Parties that certain  
14 inadvertently produced material is subject to a claim of privilege or other  
15 protection, the obligations of the Receiving Parties are those set forth in Federal  
16 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify  
17 whatever procedure may be established in an e-discovery order that provides for  
18 production without prior privilege review. Pursuant to Federal Rule of Evidence  
19 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure  
20 of a communication or information covered by the attorney-client privilege or  
21 work product protection, the parties may incorporate their agreement in the  
22 stipulated protective order submitted to the court.

23 **12. MISCELLANEOUS**

24 12.1 Right to Further Relief. Nothing in this Order abridges the right of any  
25 person to seek its modification by the Court in the future.

26 12.2 Right to Assert Other Objections. By stipulating to the entry of this  
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1 Protective Order no Party waives any right it otherwise would have to object to  
2 disclosing or producing any information or item on any ground not addressed in  
3 this Stipulated Protective Order. Similarly, no Party waives any right to object on  
4 any ground to use in evidence of any of the material covered by this Protective  
5 Order.

6 12.3 Filing Protected Material. A Party that seeks to file under seal any  
7 Protected Material must comply with Civil Local Rule 79-5. Protected Material  
8 may only be filed under seal pursuant to a court order authorizing the sealing of the  
9 specific Protected Material at issue. If a Party's request to file Protected Material  
10 under seal is denied by the court, then the Receiving Party may file the information  
11 in the public record unless otherwise instructed by the court.

12 **13. FINAL DISPOSITION**

13 After the final disposition of this Action, as defined in paragraph 4, within  
14 sixty (60) days of a written request by the Designating Party, each Receiving Party  
15 must return all Protected Material to the Producing Party or destroy such material.  
16 As used in this subdivision, “all Protected Material” includes all copies, abstracts,  
17 compilations, summaries, and any other format reproducing or capturing any of the  
18 Protected Material. Whether the Protected Material is returned or destroyed, the  
19 Receiving Party must submit a written certification to the Producing Party (and, if  
20 not the same person or entity, to the Designating Party) by the 60 day deadline that  
21 (1) identifies (by category, where appropriate) all the Protected Material that was  
22 returned or destroyed and (2) affirms that the Receiving Party has not retained any  
23 copies, abstracts, compilations, summaries or any other format reproducing or  
24 capturing any of the Protected Material. Notwithstanding this provision, Counsel  
25 are entitled to retain an archival copy of all pleadings, motion papers, trial,  
26 deposition, and hearing transcripts, legal memoranda, correspondence, deposition  
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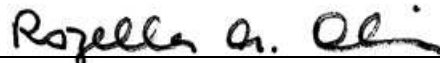
1 and trial exhibits, expert reports, attorney work product, and consultant and expert  
2 work product, even if such materials contain Protected Material. Any such archival  
3 copies that contain or constitute Protected Material remain subject to this  
4 Protective Order as set forth in Section 4 (DURATION).

5 **14. VIOLATION**

6 Any intentional violation of this Order may be punished by any and all  
7 appropriate measures including, without limitation, contempt proceedings and/or  
8 monetary sanctions.  
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10 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.  
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12  
13 DATED: February 1, 2016



14 Hon. Rozella A. Oliver  
15 United States Magistrate Judge  
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1 **EXHIBIT A**

2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

3 I, \_\_\_\_\_ [print or type full name], of  
4 \_\_\_\_\_ [print or type full address], declare under penalty of perjury  
5 that I have read in its entirety and understand the Stipulated Protective Order that  
6 was issued by the United States District Court for the Central District of California  
7 on [date] in the case of *Christian Saulnier v. Spreadshirt, Inc., et al.*, Case No.  
8 2:15-cv-08455-FMO-RAO. I agree to comply with and to be bound by all the  
9 terms of this Stipulated Protective Order and I understand and acknowledge that  
10 failure to so comply could expose me to sanctions and punishment in the nature of  
11 contempt. I solemnly promise that I will not disclose in any manner any  
12 information or item that is subject to this Stipulated Protective Order to any person  
13 or entity except in strict compliance with the provisions of this Order.

14 I further agree to submit to the jurisdiction of the United States District  
15 Court for the Central District of California for the purpose of enforcing the terms  
16 of this Stipulated Protective Order, even if such enforcement proceedings occur  
17 after termination of this action. I hereby appoint \_\_\_\_\_  
18 [print or type full name] of \_\_\_\_\_ [print  
19 or type full address and telephone number] as my California agent for service of  
20 process in connection with this action or any proceedings related to enforcement of  
21 this Stipulated Protective Order.

22 Date: \_\_\_\_\_

23 City and State where sworn and signed: \_\_\_\_\_

24 Printed name: \_\_\_\_\_

25  
26 Signature: \_\_\_\_\_  
27