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12 UNITED PARCEL SERVICE, INC.

13
14 UNITED STATES DISTRICT COURT
15 CENTRAL DISTRICT OF CALIFORNIA

16 LANCE CASEY,
17 Plaintiff,
18 v.
19 UNITED PARCEL SERVICE, INC.; and
20 DOES 1 through 20, inclusive,
21 Defendants.

22 Case No. 2:21-cv-04911-DSF(MAAx)

23 **STIPULATED PROTECTIVE
24 ORDER**

25 **DISCOVERY MATTER**

26 Complaint Filed: April 1, 2021

27 **1. PURPOSES AND LIMITATIONS**

28 Discovery in this action is likely to involve production of confidential,
1 Discovery in this action is likely to involve production of confidential,
2 proprietary, or private information for which special protection from public disclosure
3 and from use for any purpose other than prosecuting this litigation may be warranted.
4 Accordingly, the parties hereby stipulate to and petition the Court to enter the
5 following Stipulated Protective Order. The parties acknowledge that this Stipulated
6 Protective Order does not confer blanket protections on all disclosures or responses to
7 discovery and that the protection it affords from public disclosure and use extends
8 only to the limited information or items that are entitled to confidential treatment
9 under the applicable legal principles. The parties further acknowledge, as set forth in
10 Section 13.3 below, that this Stipulated Protective Order does not entitle them to file
11

1 confidential information under seal; Local Rule 79-5 sets forth the procedures that
2 must be followed and the standards that will be applied when a party seeks permission
3 from the Court to file material under seal.

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5 **2. GOOD CAUSE STATEMENT**

6 This action is likely to involve confidential and proprietary human resources or
7 business information; compensation of Defendant's current or former personnel;
8 policies, procedures, or training materials of Defendant; Defendant's organizational
9 structure; personnel, medical, or workers' compensation files; medical or health
10 information; social security, financial, and personally identifiable information,
11 medical and health information of Plaintiff; and trade secrets, customer and pricing
12 lists and other valuable research, development, commercial, financial, technical and/or
13 proprietary information for which special protection from public disclosure and from
14 use for any purpose other than prosecution of this action is warranted. Such
15 confidential and proprietary materials and information consist of, among other things,
16 confidential business or financial information, information regarding confidential
17 business practices, or other confidential research, development, or commercial
18 information (including information implicating privacy rights of third parties),
19 information otherwise generally unavailable to the public, or which may be privileged
20 or otherwise protected from disclosure under state or federal statutes, court rules, case
21 decisions, or common law. Accordingly, to expedite the flow of information, to
22 facilitate the prompt resolution of disputes over confidentiality of discovery materials,
23 to adequately protect information the parties are entitled to keep confidential, to
24 ensure that the parties are permitted reasonable necessary uses of such material in
25 preparation for and in the conduct of trial, to address their handling at the end of the
26 litigation, and to serve the ends of justice, a protective order for such information is
27 justified in this matter. It is the intent of the parties that information will not be
28 designated as confidential for tactical reasons and that nothing be so designated

1 without a good faith belief that it has been maintained in a confidential, non-public
2 manner, and there is good cause why it should not be part of the public record of this
3 case.

4

5 **3. DEFINITIONS**

6 3.1 Action: *Lance Casey v. United Parcel Service, Inc.*, Case No. 2:21-cv-
7 04911-DSF(MAAx).

8 3.2 Challenging Party: A Party or Nonparty that challenges the designation
9 of information or items under this Stipulated Protective Order.

10 3.3 “CONFIDENTIAL” Information or Items: Information (regardless of
11 how it is generated, stored or maintained) or tangible things that qualify
12 for protection under Federal Rule of Civil Procedure 26(c), and as
13 specified above in the Good Cause Statement.

14 3.4 Counsel: Outside Counsel of Record and In-House Counsel (as well as
15 their support staff).

16 3.5 Designating Party: A Party or Nonparty that designates information or
17 items that it produces in disclosures or in responses to discovery as
18 “CONFIDENTIAL.”

19 3.6 Disclosure or Discovery Material: All items or information, regardless of
20 the medium or manner in which it is generated, stored, or maintained
21 (including, among other things, testimony, transcripts, and tangible
22 things), that is produced or generated in disclosures or responses to
23 discovery in this matter.

24 3.7 Expert: A person with specialized knowledge or experience in a matter
25 pertinent to the litigation who has been retained by a Party or its counsel
26 to serve as an expert witness or as a consultant in this Action.

27 3.8 In-House Counsel: Attorneys who are employees of a party to this
28 Action. In-House Counsel does not include Outside Counsel of Record or

any other outside counsel.

3.9 Nonparty: Any natural person, partnership, corporation, association, or other legal entity not named as a Party to this action.

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

3.11 Party: Any party to this Action, including all of its officers, directors, employees, consultants, retained experts, In-House Counsel, and Outside Counsel of Record (and their support staffs).

3.12 Producing Party: A Party or Nonparty that produces Disclosure or Discovery Material in this Action.

3.13 Professional Vendors: Persons or entities that provide litigation support services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.

3.14 Protected Material: Any Disclosure or Discovery Material that is designated as “CONFIDENTIAL.”

3.15 Receiving Party: A Party that receives Disclosure or Discovery Material from a Producing Party.

4. SCOPE

The protections conferred by this Stipulated Protective Order cover not only Protected Material, but also (1) any information copied or extracted from Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony, conversations, or presentations by Parties or their Counsel that might reveal Protected Material.

1 Any use of Protected Material at trial shall be governed by the orders of the trial
2 judge. This Stipulated Protective Order does not govern the use of Protected Material
3 at trial.

4

5. **DURATION**

6 Even after final disposition of this litigation, the confidentiality obligations
7 imposed by this Stipulated Protective Order shall remain in effect until a Designating
8 Party agrees otherwise in writing or a court order otherwise directs. Final disposition
9 shall be deemed to be the later of (1) dismissal of all claims and defenses in this
10 Action, with or without prejudice; and (2) final judgment herein after the completion
11 and exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
12 including the time limits for filing any motions or applications for extension of time
13 pursuant to applicable law.

14

15. **DESIGNATING PROTECTED MATERIAL**

16 6.1. Exercise of Restraint and Care in Designating Material for Protection.

17 Each Party or Nonparty that designates information or items for
18 protection under this Stipulated Protective Order must take care to limit
19 any such designation to specific material that qualifies under the
20 appropriate standards. The Designating Party must designate for
21 protection only those parts of material, documents, items, or oral or
22 written communications that qualify so that other portions of the
23 material, documents, items, or communications for which protection is
24 not warranted are not swept unjustifiably within the ambit of this
25 Stipulated Protective Order.

26 Mass, indiscriminate, or routinized designations are prohibited.
27 Designations that are shown to be clearly unjustified or that have been
28 made for an improper purpose (e.g., to unnecessarily encumber the case

1 development process or to impose unnecessary expenses and burdens on
2 other parties) may expose the Designating Party to sanctions.

3 **6.2. Manner and Timing of Designations.**

4 Except as otherwise provided in this Stipulated Protective Order
5 (*see, e.g.*, Section 6.2(a)), or as otherwise stipulated or ordered,
6 Disclosure or Discovery Material that qualifies for protection under this
7 Stipulated Protective Order must be clearly so designated before the
8 material is disclosed or produced.

9 Designation in conformity with this Stipulated Protective Order
10 requires the following:

- 11 (a) For information in documentary form (*e.g.*, paper or electronic
12 documents, but excluding transcripts of depositions or other
13 pretrial or trial proceedings), that the Producing Party affix at a
14 minimum, the legend “CONFIDENTIAL” to each page that
15 contains protected material. If only a portion or portions of the
16 material on a page qualifies for protection, the Producing Party
17 also must clearly identify the protected portion(s) (*e.g.*, by making
18 appropriate markings in the margins).
- 19 (b) For testimony given in depositions, that the Designating Party
20 identify the Disclosure or Discovery Material on the record, before
21 the close of the deposition, all protected testimony.
- 22 (c) For information produced in nondocumentary form, and for any
23 other tangible items, that the Producing Party affix in a prominent
24 place on the exterior of the container or containers in which the
25 information is stored the legend “CONFIDENTIAL.” If only a
26 portion or portions of the information warrants protection, the
27 Producing Party, to the extent practicable, shall identify the
28 protected portion(s).

1 6.3. Inadvertent Failure to Designate.

2 If timely corrected, an inadvertent failure to designate qualified
3 information or items does not, standing alone, waive the Designating
4 Party's right to secure protection under this Stipulated Protective Order
5 for such material. Upon timely correction of a designation, the Receiving
6 Party must make reasonable efforts to assure that the material is treated in
7 accordance with the provisions of this Stipulated Protective Order.

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9 7. **CHALLENGING CONFIDENTIALITY DESIGNATIONS**

10 7.1. Timing of Challenges.

11 Any Party or Nonparty may challenge a designation of
12 confidentiality at any time that is consistent with the Court's Scheduling
13 Order.

14 7.2. Meet and Confer.

15 The Challenging Party shall initiate the dispute resolution process,
16 which shall comply with Local Rule 37.1 et seq., and with Section 4 of
17 Judge Audero's Procedures ("Mandatory Telephonic Conference for
18 Discovery Disputes").¹

19 7.3. Burden of Persuasion.

20 The burden of persuasion in any such challenge proceeding shall
21 be on the Designating Party. Frivolous challenges, and those made for an
22 improper purpose (e.g., to harass or impose unnecessary expenses and
23 burdens on other parties) may expose the Challenging Party to sanctions.
24 Unless the Designating Party has waived or withdrawn the confidentiality
25 designation, all parties shall continue to afford the material in question
26 the level of protection to which it is entitled under the Producing Party's

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¹ Judge Audero's Procedures are available at
<https://www.cacd.uscourts.gov/honorable-maria-audero>.

1 designation until the Court rules on the challenge.
2
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4 **8. ACCESS TO AND USE OF PROTECTED MATERIALS**

5 **8.1. Basic Principles.**

6 A Receiving Party may use Protected Material that is disclosed or
7 produced by another Party or by a Nonparty in connection with this
8 Action only for prosecuting, defending, or attempting to settle this
9 Action. Such Protected Material may be disclosed only to the categories
10 of persons and under the conditions described in this Stipulated
11 Protective Order. When the Action reaches a final disposition, a
12 Receiving Party must comply with the provisions of Section 14 below.

13 Protected Material must be stored and maintained by a Receiving
14 Party at a location and in a secure manner that ensures that access is
15 limited to the persons authorized under this Stipulated Protective Order.
16 A computer and/or cloud server that is password protected shall comply.

17 **8.2. Disclosure of “CONFIDENTIAL” Information or Items.**

18 Unless otherwise ordered by the Court or permitted in writing by
19 the Designating Party, a Receiving Party may disclose any information or
20 item designated “CONFIDENTIAL” only to:

- 21 (a) The Receiving Party’s Outside Counsel of Record, as well as
22 employees of said Outside Counsel of Record to whom it is
23 reasonably necessary to disclose the information for this Action;
- 24 (b) The officers, directors, support personnel, and employees
25 (including In-House Counsel) of the Receiving Party to whom
26 disclosure is reasonably necessary for this Action;
- 27 (c) Experts of the Receiving Party to whom disclosure is reasonably
28 necessary for this Action and who have signed the

- “Acknowledgment and Agreement to Be Bound” (Exhibit A);
- (d) The Court and its personnel;
- (e) Court reporters and their staff;
- (f) Professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary or this Action and who have signed the “Acknowledgment and Agreement to be Bound” (Exhibit A);
- (g) The author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information;
- (h) During their depositions, witnesses, and attorneys for witnesses, in the Action to whom disclosure is reasonably necessary provided: (i) the deposing party requests that the witness sign the “Acknowledgment and Agreement to Be Bound” (Exhibit A); and (ii) the witness will not be permitted to keep any confidential information unless they sign the “Acknowledgment and Agreement to Be Bound,” unless otherwise agreed by the Designating Party or ordered by the Court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material may be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order; and
- (i) Any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions.

**9. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
IN OTHER LITIGATION**

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

- 4 (a) Promptly notify in writing the Designating Party. Such notification
5 shall include a copy of the subpoena or court order;
- 6 (b) Promptly notify in writing the party who caused the subpoena or order
7 to issue in the other litigation that some or all of the material covered
8 by the subpoena or order is subject to this Stipulated Protective Order.
9 Such notification shall include a copy of this Stipulated Protective
10 Order; and
- 11 (c) Cooperate with respect to all reasonable procedures sought to be
12 pursued by the Designating Party whose Protected Material may be
13 affected.

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

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23 **10. A NONPARTY’S PROTECTED MATERIAL SOUGHT TO BE**
24 **PRODUCED IN THIS LITIGATION**

25 10.1. Application.

26 The terms of this Stipulated Protective Order are applicable to
27 information produced by a Nonparty in this Action and designated as
28 “CONFIDENTIAL.” Such information produced by Nonparties in

1 connection with this litigation is protected by the remedies and relief
2 provided by this Stipulated Protective Order. Nothing in these provisions
3 should be construed as prohibiting a Nonparty from seeking additional
4 protections.

5 **10.2. Notification.**

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

- 10 (a) Promptly notify in writing the Requesting Party and the Nonparty
11 that some or all of the information requested is subject to a
12 confidentiality agreement with a Nonparty;
- 13 (b) Promptly provide the Nonparty with a copy of the Stipulated
14 Protective Order in this Action, the relevant discovery request(s),
15 and a reasonably specific description of the information requested;
16 and
- 17 (c) Make the information requested available for inspection by the
18 Nonparty, if requested.

19 **10.3. Conditions of Production.**

20 If the Nonparty fails to seek a protective order from this Court
21 within fourteen (14) days after receiving the notice and accompanying
22 information, the Receiving Party may produce the Nonparty's
23 confidential information responsive to the discovery request. If the
24 Nonparty timely seeks a protective order, the Receiving Party shall not
25 produce any information in its possession or control that is subject to the
26 confidentiality agreement with the Nonparty before a determination by
27 the Court. Absent a court order to the contrary, the Nonparty shall bear
28 the burden and expense of seeking protection in this Court of its

Protected Material.

11. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party immediately must (1) notify in writing the Designating Party of the unauthorized disclosures, (2) use its best efforts to retrieve all unauthorized copies of the Protected Material, (3) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Stipulated Protective Order, and (4) request such person or persons to execute the “Acknowledgment and Agreement to be Bound” (Exhibit A).

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

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

13. MISCELLANEOUS

13.1. Right to Further Relief.

Nothing in this Stipulated Protective Order abridges the right of any person to seek its modification by the Court in the future.

13.2. Right to Assert Other Objections.

By stipulating to the entry of this Stipulated Protective Order, no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Stipulated Protective Order.

13.3. Filing Protected Material. A Party that seeks to file under seal any

Protected Material must comply with Local Rule 79-5. Protected Material may only be filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material at issue. If a Party's request to file Protected Material under seal is denied by the Court, then the Receiving Party may file the information in the public record unless otherwise instructed by the Court.

14. FINAL DISPOSITION

After the final disposition of this Action, within sixty (60) days of a written request by the Designating Party, each Receiving Party must return all Protected Material to the Producing Party or destroy such material. As used in this subdivision, “all Protected Material” includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60-day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations,

1 summaries or any other format reproducing or capturing any of the Protected Material.
2 Notwithstanding this provision, Counsel is entitled to retain an archival copy of all
3 pleadings; motion papers; trial, deposition, and hearing transcripts; legal memoranda;
4 correspondence; deposition and trial exhibits; expert reports; attorney work product;
5 and consultant and expert work product, even if such materials contain Protected
6 Material. Any such archival copies that contain or constitute Protected Material
7 remain subject to this Stipulated Protective Order as set forth in Section 5.

8

9 **15. VIOLATION**

10 Any violation of this Stipulated Order may be punished by any and all
11 appropriate measures including, without limitation, contempt proceedings and/or
12 monetary sanctions.

13

14 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

15

16 Dated: November 12, 2021

/s/Lawrence W. Freiman

Lawrence W. Freiman, Esq.

FREIMAN LEGAL, P.C.

Attorney for Plaintiff Lance Casey

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20 Dated: November 12, 2021

/s/Charles Cannizzaro

Charles Cannizzaro, Esq.

LITTLER MENDELSON, P.C.

Attorneys for Defendant, United Parcel Service,
Inc.

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22 **FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

23

24 Dated: November 17, 2021



Maria A. Audero

United States Magistrate Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [full name], of _____
[address], declare under penalty of perjury that I have read in its
entity and understand the Stipulated Protective Order that was issued by the United
States District Court for the Central District of California on _____
] in the case of *Lance Casey v. United Parcel Service, Inc.*, Case No. 2:21-cv-
1-DSF(MAAx). I agree to comply with and to be bound by all the terms of this
stipulated Protective Order, and I understand and acknowledge that failure to so
comply could expose me to sanctions and punishment in the nature of contempt. I
solemnly promise that I will not disclose in any manner any information or item that is
subject to this Stipulated Protective Order to any person or entity except in strict
compliance with the provisions of this Stipulated Protective Order.

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

Signature:

Printed Name: _____

Date: _____

City and State Where Sworn and Signed:

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