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 23 JOHN CHRISTNER TRUCKING, INC.

24 UNITED STATES DISTRICT COURT
 25 FOR THE CENTRAL DISTRICT OF CALIFORNIA

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| <p>26 CARLOS MORENO, an individual; on 27 behalf of himself and all others similarly 28 situated, Plaintiff, v. JCT LOGISTICS, INC.; and DOES 1 through 10, inclusive, Defendant.</p> | <p>Case No. 5:17-cv-02489-JGB-KK</p> <p>STIPULATED PROTECTIVE ORDER</p> <p>Date: Time: Location: Riverside, Courtroom 1 Judge: Hon. Jesus G. Bernal</p> |
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1 **1. A. PURPOSES AND LIMITATIONS**

2 Discovery in this action is likely to involve production of confidential, proprietary,
3 or private information for which special protection from public disclosure and from use
4 for any purpose other than prosecuting this litigation may be warranted. Accordingly, the
5 parties hereby stipulate to and petition the Court to enter the following Stipulated
6 Protective Order. The parties acknowledge that this Order does not confer blanket
7 protections on all disclosures or responses to discovery and that the protection it affords
8 from public disclosure and use extends only to the limited information or items that are
9 entitled to confidential treatment under the applicable legal principles. The parties further
10 acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order
11 does not entitle them to file confidential information under seal; Civil Local Rule 79-5
12 sets forth the procedures that must be followed and the standards that will be applied
13 when a party seeks permission from the court to file material under seal.

14 **B. GOOD CAUSE STATEMENT**

15 This action is likely to involve customer and pricing lists and other valuable
16 research, development, commercial, financial, technical and proprietary information for
17 which special protection from public disclosure and from use for any purpose other than
18 prosecution of this action is warranted. Such confidential and proprietary materials and
19 information consist of, among other things, confidential business or financial
20 information, customer pricing data, information regarding confidential business
21 practices, and other confidential research, development, or commercial information
22 (including information implicating privacy rights of third parties), information otherwise
23 generally unavailable to the public, or which may be privileged or otherwise protected
24 from disclosure under state or federal statutes, court rules, case decisions, or common
25 law. In addition, this action may involve the disclosure of private tax information.

26 Accordingly, to expedite the flow of information, to facilitate the prompt resolution
27 of disputes over confidentiality of discovery materials, to adequately protect information
28 the parties are entitled to keep confidential, to ensure that the parties are permitted

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

8 **2. DEFINITIONS**

9 2.1 Action: This pending lawsuit, *Carlos Moreno, an individual; on behalf of*
10 *himself and all others similarly situated v. JCT Logistics, Inc.; and Does 1 through 10,*
11 *inclusive, 5:17-cv-02489 JGB-KKx (C.D. Cal.).*

12 2.2 Challenging Party: A Party or Non-Party that challenges the designation of
13 information or items under this Order.

14 2.3 “CONFIDENTIAL” Information or Items: Information (regardless of how
15 it is generated, stored or maintained) or tangible things that qualify for protection under
16 Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause
17 Statement.

18 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their
19 support staff).

20 2.5 Designating Party: A Party or Non-Party that designates information or
21 items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

22 2.6 Disclosure or Discovery Material: All items or information, regardless of
23 the medium or manner in which it is generated, stored, or maintained (including, among
24 other things, testimony, transcripts, and tangible things), that are produced or generated
25 in disclosures or responses to discovery in this matter.

26 2.7 Expert: A person with specialized knowledge or experience in a matter
27 pertinent to the litigation who has been retained by a Party or its counsel to serve as an
28 expert witness or as a consultant in this Action.

1 2.8 House Counsel: Attorneys who are employees of a party to this Action.
2 House Counsel does not include Outside Counsel of Record or any other outside counsel.

3 2.9 Non-Party: Any natural person, partnership, corporation, association, or
4 other legal entity not named as a Party to this action.

5 2.10 Outside Counsel of Record: Attorneys who are not employees of a party to
6 this Action but are retained to represent or advise a party to this Action and have appeared
7 in this Action on behalf of that party or are affiliated with a law firm which has appeared
8 on behalf of that party and includes support staff.

9 2.11 Party: Any party to this Action, including all of its officers, directors,
10 employees, consultants, retained experts, and Outside Counsel of Record (and their
11 support staffs).

12 2.12 Producing Party: A Party or Non-Party that produces Disclosure or
13 Discovery Material in this Action.

14 2.13 Professional Vendors: Persons or entities that provide litigation support
15 services (e.g., photocopying, videotaping, translating, preparing exhibits or
16 demonstrations, and organizing, storing, or retrieving data in any form or medium) and
17 their employees and subcontractors.

18 2.14 Protected Material: Any Disclosure or Discovery Material that is designated
19 as “CONFIDENTIAL.”

20 2.15 Receiving Party: A Party that receives Disclosure or Discovery Material
21 from a Producing Party.

22 **3. SCOPE**

23 The protections conferred by this Stipulation and Order cover not only Protected
24 Material (as defined above), but also (1) any information copied or extracted from
25 Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected
26 Material; and (3) any testimony, conversations, or presentations by Parties or their
27 Counsel that might reveal Protected Material.

28 Any use of Protected Material at trial shall be governed by the orders of the trial

1 judge. This Order does not govern the use of Protected Material at trial.

2 **4. DURATION**

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

10 **5. DESIGNATING PROTECTED MATERIAL**

11 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each
12 Party or Non-Party that designates information or items for protection under this Order
13 must take care to limit any such designation to specific material that qualifies under the
14 appropriate standards. The Designating Party must designate for protection only those
15 parts of material, documents, items, or oral or written communications that qualify so that
16 other portions of the material, documents, items, or oral or written communications that
17 qualify so that other portions of the material, documents, items, or communications for
18 which protection is not warranted are not swept unjustifiably within the ambit of this
19 Order.

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

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

27 5.2 Manner and Timing of Designations. Except as otherwise provided in this
28 Order (see, *e.g.*, second paragraph of section 5.2(a) below), or as otherwise stipulated or

1 ordered, Disclosure or Discovery Material that qualifies for protection under this Order
2 must be clearly so designated before the material is disclosed or produced.

3 Designation in conformity with this Order requires:

4 (a) for information in documentary form (e.g., paper or electronic documents,
5 but excluding transcripts of depositions or other pretrial or trial proceedings), that the
6 Producing Party affix at a minimum, the legend “CONFIDENTIAL” (hereinafter
7 “CONFIDENTIAL legend”), to each page that contains protected material. If only a
8 portion or portions of the material on a page qualifies for protection, the Producing Party
9 also must clearly identify the protected portion(s) (e.g., by making appropriate markings
10 in the margins).

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

22 (b) for testimony given in depositions that the Designating Party identifies as
23 protected testimony. The Designating Party may identify the Disclosure or Discovery
24 Material as protected testimony either by stating so on the record, before the close of the
25 deposition or by notifying the other party in writing that the material is protected within
26 30 days of receiving the transcript of the deposition.

27 (c) for information produced in some form other than documentary and for any
28 other tangible items, that the Producing Party affix in a prominent place on the exterior

1 of the container or containers in which the information is stored the legend
2 “CONFIDENTIAL.” If only a portion or portions of the information warrants protection,
3 the Producing Party, to the extent practicable, shall identify the protected portion(s).

4 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure
5 to designate qualified information or items does not, standing alone, waive the
6 Designating Party’s right to secure protection under this Order for such material. Upon
7 timely correction of a designation, the Receiving Party must make reasonable efforts to
8 assure that the material is treated in accordance with the provisions of this Order.

9 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

10 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation
11 of confidentiality at any time that is consistent with the Court’s Scheduling Order.

12 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution
13 process under Local Rule 37.1 *et seq.*

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

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

22 7.1 Basic Principles. A Receiving Party may use Protected Material that is
23 disclosed or produced by another Party or by a Non-Party in connection with this Action
24 only for prosecuting, defending, or attempting to settle this Action. Such Protected
25 Material may be disclosed only to the categories of persons and under the conditions
26 described in this Order. When the Action has been terminated, a Receiving Party must
27 comply with the provisions of section 13 below (FINAL DISPOSITION).

28 Protected Material must be stored and maintained by a Receiving Party at a

1 location and in a secure manner that ensures that access is limited to the persons
2 authorized under this Order.

3 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise
4 ordered by the court or permitted in writing by the Designating Party, a Receiving Party
5 may disclose any information or item designated “CONFIDENTIAL” only to:

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

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

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

14 (d) the court and its personnel;

15 (e) court reporters and their staff;

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

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

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

1 Order; and

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

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

6 If a Party is served with a subpoena or a court order issued in other litigation that
7 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 or
13 order is subject to this Protective Order. Such notification shall include a copy of this
14 Stipulated Protective Order; and

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

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

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

27 (a) The terms of this Order are applicable to information produced by a Non-
28 Party in this Action and designated as “CONFIDENTIAL.” Such information produced

1 by Non-Parties in connection with this litigation is protected by the remedies and relief
2 provided by this Order. Nothing in these provisions should be construed as prohibiting a
3 Non-Party from seeking additional protections.

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

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

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

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

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

24 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

25 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
26 Protected Material to any person or in any circumstance not authorized under this
27 Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing
28 the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve

1 all unauthorized copies of the Protected Material, (c) inform the person or persons to
2 whom unauthorized disclosures were made of all the terms of this Order, and (d) request
3 such person or persons to execute the “Acknowledgment and Agreement to Be Bound”
4 that is attached hereto as Exhibit A.

5 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
6 **PROTECTED MATERIAL**

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

16 **12. MISCELLANEOUS**

17 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
18 person to seek its modification by the Court in the future.

19 12.2 Right to Assert Other Objections. By stipulating to the entry of this
20 Protective Order no Party waives any right it otherwise would have to object to disclosing
21 or producing any information or item on any ground not addressed in this Stipulated
22 Protective Order. Similarly, no Party waives any right to object on any ground to use in
23 evidence of any of the material covered by this Protective Order.

24 12.3 Filing Protected Material. A Party that seeks to file under seal any Protected
25 Material must comply with Civil Local Rule 79-5. Protected Material may only be filed
26 under seal pursuant to a court order authorizing the sealing of the specific Protected
27 Material at issue. If a Party’s request to file Protected Material under seal is denied by the
28 court, then the Receiving Party may file the information in the public record unless

1 otherwise instructed by the court.

2 **13. FINAL DISPOSITION**

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

20 14. Any violation of this Order may be punished by any and all appropriate measures
21 including, without limitation, contempt proceedings and/or monetary sanctions.

1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

2
3 Dated: January 21, 2020

HAFFNER LAW PC

4
5 /s/ Graham Lambert

6 Joshua H. Haffner,
7 Graham Lambert
Attorneys for Plaintiff and
all others similarly situated

8 Dated: January 21, 2020

SCOPELITIS, GARVIN, LIGHT, HANSON &
FEARY, P.C.

9
10 /s/ Angela S. Cash

11 Angela S. Cash
12 Attorney for Defendant
JOHN CHRISTNER TRUCKING, LLC
JOHN CHRISTNER TRUCKING, INC.

13 In accordance with Local Rule 5-4.3.4(a)(2)(i), I, Angela S. Cash, hereby attest
14 that Plaintiff's counsel, Joshua H. Haffner and Graham Lambert, concur in the filing of
15 this Stipulation and have authorized the filing of this Stipulation.

16
17 /s/ Angela S. Cash

18 Angela S. Cash

19 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED

20
21 DATED: January 21, 2020

22 
23 Honorable Kenly Kiyato
24 United States Magistrate Judge
25
26
27
28

1 EXHIBIT A

2 AGREEMENT TO BE BOUND

3
4 I, _____ [print or type full name], of _____
5 _____ [print or type full address], declare under penalty of perjury
6 that I have read in its entirety and understand the Protective Order that was issued by the
7 United States District Court for the Central District of California on _____
8 [date] in the case of *Carlos Moreno, an individual; on behalf of himself and all others*
9 *similarly situated v. JCT Logistics, Inc.; and Does 1 through 10, inclusive, 5:17-cv-02489*
10 *JGB-KK*. I agree to comply with and to be bound by all the terms of this Protective Order,
11 and I understand and acknowledge that failure to so comply could expose me to sanctions
12 and punishment for contempt. I solemnly promise that I will not disclose in any manner
13 any information or item that is subject to this Stipulated Protective Order to any person
14 or entity except in strict compliance with this Order.

15 I further agree to submit to the jurisdiction of the United States District Court for
16 the Central District of California for the purpose of enforcing this Stipulated Protective
17 Order, even if such enforcement proceedings occur after termination of this action.

18 I hereby appoint _____ [print or type full name], of
19 _____ [print or type full address and telephone number],
20 as my California agent for service of process in connection with this action or any
21 proceedings related to enforcement of this Stipulated Protective Order.

22 Date: _____

23 City and State where sworn and signed: _____

24 Printed name: _____
25 [printed name]

26 Signature: _____
27 [signature]