

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

| | | |
|---------------------------|---|--|
| JENNIFER HOLT, et al, |) | No. 8:13CV41 DOC (JPRx) |
| |) | Hon. David O. Carter, J., presiding |
| |) | Hon. Jean P. Rosenbluth, M.J., on referral |
| |) | DEPT: 9D |
| Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | |
| GLOBALINX PET LLC, et al, |) | |
| |) | |
| Defendants. |) | PROTECTIVE ORDER |
| |) | (Fed.R.Civ.P. 26(c)) |

This Court, mindful of holdings relevant to the entry of protective orders regarding confidential information (see, *e.g.*, *In re Roman Catholic Archbishop of Portland in Oregon*, 661 F.3d 417, 424-425 (9th Cir. 2011)), and having found good cause under Fed.R.Civ.P. 26(c) to protect from disclosure (a) sensitive information relating to the sickness or death of pets, (b) sensitive personal financial information (such as, *e.g.*, account numbers and social security numbers), and (c) sensitive corporation information (such as, *e.g.*, trade secrets regarding the production of chicken jerky dog treats, financial records, and the content of contracts), now enters the following protective order, as follows:

- 1 1. This order is for the convenience of the parties and this Court.
2 Any member of the public, any party to this action, and any third-
3 party participant in discovery may move, at any time, for any
4 relief from this order, modification of this order, or the public
5 disclosure of any document in the record that is filed under seal.
6 This Court will, on good cause shown, provide such relief to the
7 public, or the parties, taking into due consideration the interests of
8 justice, of the public, and of the parties. This Court may also
9 enter such orders as it sees fit, on its own motion, relevant to the
10 production or publication of documents.
- 11 2. All materials produced or adduced in the course of discovery,
12 including initial disclosures, responses to discovery requests,
13 deposition testimony and exhibits, and information derived
14 directly therefrom (hereinafter collectively “documents”) – and
15 including any documents produced through third-party discovery
16 (by subpoena or otherwise) shall be subject to this order
17 concerning “Confidential Information, ” consistent with all
18 applicable rules of procedure.
- 19 3. “Confidential Information” means information designated as
20 “CONFIDENTIAL-SUBJECT TO PROTECTIVE ORDER” by
21 the producing party that falls within one or more of the following
22 categories:
- 23 (A) information prohibited from disclosure by statute;
 - 24 (B) information that reveals trade secrets;
 - 25 (C) research, technical, commercial or financial information
26 that the party has maintained as confidential;
 - 27 (D) medical information concerning any individual (including
28

1 animals);

2 (E) personal identity information;

3 (F) income tax returns (including attached schedules and
4 forms), W-2 forms and 1099 forms; or

5 (G) personnel or employment records of a person who is not a
6 party to the case.

7 4. Information or documents that are available to the public may not
8 be designated as Confidential Information.

9 5. A party may designate a document as Confidential Information for
10 protection under this Order by placing or affixing the words
11 “CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER” on
12 the document and on all copies in a manner that will not interfere
13 with the legibility of the document. As used in this Order,
14 “copies” includes electronic images, duplicates, extracts,
15 summaries or descriptions that contain the Confidential
16 Information. The marking “CONFIDENTIAL - SUBJECT TO
17 PROTECTIVE ORDER” shall be applied prior to, or at the time
18 of, the disclosure or production of the documents. Applying the
19 marking “CONFIDENTIAL - SUBJECT TO PROTECTIVE
20 ORDER” to a document does not mean that the document has any
21 status or protection by statute or otherwise except to the extent
22 and for the purposes of this Order. Any copies that are made of
23 any documents marked “CONFIDENTIAL - SUBJECT TO
24 PROTECTIVE ORDER” shall also be so marked, except that
25 indices, electronic databases or lists of documents that do not
26 contain substantial portions or images of the text of marked
27 documents and do not otherwise disclose the substance of the
28

1 Confidential Information are not required to be marked.

2 6. The designation of a document as Confidential Information is a
3 certification that the document contains Confidential Information
4 as defined in this order.

5 7. Unless all parties agree on the record at the time the deposition
6 testimony is taken, all deposition testimony taken in this case shall
7 be treated as Confidential Information until the fourteenth day
8 after the transcript is delivered to any party or the witness, and in
9 no event later than 60 days after the testimony was given. Within
10 this time period, a party may serve a Notice of Designation to all
11 parties of record as to specific portions of the testimony that are
12 designated Confidential Information, and thereafter only those
13 portions identified in the Notice of Designation shall be protected
14 by the terms of this Order. The failure to serve a timely Notice of
15 Designation shall waive any designation of testimony taken in that
16 deposition as Confidential Information, unless otherwise ordered
17 by the Court.

18 8. Confidential Information shall not be publicly disclosed, or used
19 for any purpose whatsoever other than in this litigation, including
20 any appeal thereof. Notwithstanding this, the following persons
21 are entitled to see Confidential Information, and are bound by the
22 Order's requirements:

23 (A) Counsel for the parties, and employees of counsel who
24 have responsibility for the action;

25 (B) Individual parties, and employees of a party, but only to the
26 extent counsel determines in good faith that the employee's
27 assistance is reasonably necessary to the conduct of the
28

1 litigation in which the information is disclosed;

2 (C) The Court and its personnel;

3 (D) Court reporters and recorders engaged for depositions;

4 (E) Persons specifically engaged for the limited purpose of
5 making copies of documents or organizing or processing
6 documents, including outside vendors hired to process
7 electronically stored documents;

8 (F) Consultants, investigators, or experts employed by the
9 parties or counsel for the parties to assist in the preparation
10 and trial of this action (but only after such persons have
11 completed the certification contained in Attachment A,
12 entitled "Acknowledgment of Understanding and
13 Agreement to Be Bound");

14 (G) Witnesses in this action to whom disclosure is reasonably
15 necessary (who shall not retain a copy of such Confidential
16 Information);

17 (H) The author or recipient of the document (not including a
18 person who received the document in the course of
19 litigation); and

20 (I) Any other persons only by written consent of the producing
21 party or upon order of the Court, and on such conditions as
22 may be agreed or ordered.

23 9. Counsel for the parties shall make reasonable efforts to prevent
24 unauthorized or inadvertent disclosure of Confidential
25 Information. Counsel shall maintain the originals of the forms
26 signed by persons acknowledging their obligations under this
27 Order for a period of three years after the termination of the case.
28

- 1 10. An inadvertent failure to designate a document as Confidential
2 Information does not, standing alone, waive the right to so
3 designate the document – *provided, however*, that a failure to
4 serve a timely Notice of Designation of deposition testimony as
5 required by this Order, even if inadvertent, waives any protection
6 for deposition testimony. If a party designates a document as
7 Confidential Information after it was initially produced, the
8 receiving party, on notification of the designation, must make a
9 reasonable effort to assure that the document is treated in
10 accordance with the provisions of this Order. No party shall be
11 found to have violated this Order for failing to maintain the
12 confidentiality of material during a time when that material has
13 not been designated Confidential Information, even where the
14 failure to so designate was inadvertent and where the material is
15 subsequently designated Confidential Information.
- 16 11. This Order does not, by itself, authorize the filing of any
17 document under seal. Parties must comply with Local Rule 79-5
18 when seeking to file any document under seal.
- 19 12. Except on privilege grounds not addressed by this Order, no party
20 may withhold information from discovery on the ground that it
21 requires protection greater than that afforded by this Order unless
22 the party moves for an order providing such special protection.
- 23 13. The designation of any material or document as Confidential
24 Information is subject to challenge by any party. Local Rules 37-
25 1, 37-2 and 79-5 apply to any such challenges and must be
26 complied with before seeking relief from the Court; this includes,
27
28

1 specifically, (a) the requirement that the parties prepare the joint
2 stipulation required by Local Rule 37-2, and (b) the requirement
3 that parties must seek leave to submit documents under seal, or for
4 *in camera* review, pursuant to Local Rule 79-5. In resolving such
5 challenges, the burden of persuasion in any such challenge
6 proceeding shall be on the designating party. Until the Court rules
7 on the challenge, all parties shall continue to treat the materials as
8 Confidential Information under the terms of this Order.

9 14. Applications to the Court for an order relating to materials or
10 documents designated Confidential Information shall be by
11 motion. Nothing in this Order or any action or agreement of a
12 party under this Order limits the Court's power to make orders
13 concerning the disclosure of documents produced in discovery or
14 at trial.

15 15. Nothing in this Order shall be construed to affect the use of any
16 document, material, or information at any trial or hearing. A party
17 that intends to present or that anticipates that another party may
18 present Confidential Information at a hearing or trial shall bring
19 that issue to the Court's and parties' attention by motion or in a
20 pretrial memorandum without disclosing the Confidential
21 Information. The Court may thereafter make such orders as are
22 necessary to govern the use of such documents or information at
23 trial.

24 16. If a receiving party is served with a subpoena or an order issued in
25 other litigation that would compel disclosure of any material or
26 document designated in this action as Confidential Information,
27
28

1 the receiving party must so notify the designating party, in
2 writing, immediately and in no event more than three court days
3 after receiving the subpoena or order. Such notification must
4 include a copy of the subpoena or court order. The receiving party
5 also must immediately inform in writing the party who caused the
6 subpoena or order to issue in the other litigation that some or all
7 of the material covered by the subpoena or order is the subject of
8 this Order. In addition, the receiving party must deliver a copy of
9 this Order promptly to the party in the other action that caused the
10 subpoena to issue. The purpose of imposing these duties is to alert
11 the interested persons to the existence of this Order and to afford
12 the designating party in this case an opportunity to try to protect
13 its Confidential Information in the court from which the subpoena
14 or order issued. The designating party shall bear the burden and
15 the expense of seeking protection in that court of its Confidential
16 Information, and nothing in these provisions should be construed
17 as authorizing or encouraging a receiving party in this action to
18 disobey a lawful directive from another court. The obligations set
19 forth in this paragraph remain in effect while the party has in its
20 possession, custody or control Confidential Information by the
21 other party to this case.

- 22 17. A party or interested member of the public has a right to challenge
23 the sealing of particular documents that have been filed under
24 seal, and the party asserting confidentiality will have the burden
25 of demonstrating the propriety of filing under seal.
26 18. Unless otherwise agreed or ordered, this Order shall remain in
27
28

1 force after dismissal or entry of final judgment not subject to
2 further appeal.

3 19. Within sixty-three days after dismissal or entry of final judgment
4 not subject to further appeal, all Confidential Information and
5 documents marked “CONFIDENTIAL - SUBJECT TO
6 PROTECTIVE ORDER” under this Order, including copies as
7 defined in ¶5, shall be returned to the producing party unless:

- 8 (A) the document has been offered into evidence or filed
9 without restriction as to disclosure;
10 (B) the parties agree to destruction to the extent practicable in
11 lieu of return; or
12 (C) as to documents bearing the notations, summations, or other
13 mental impressions of the receiving party, that party elects
14 to destroy the documents and certifies to the producing
15 party that it has done so.

16 20. Notwithstanding the above requirements to return or destroy
17 documents, counsel may retain:

- 18 (A) attorney work product, including an index that refers or
19 relates to designated Confidential Information so long as
20 that work product does not duplicate verbatim substantial
21 portions of Confidential Information; and
22 (B) one complete set of all documents filed with the Court
23 including those filed under seal.

24 Any retained Confidential Information shall continue to be
25 protected under this Order. An attorney may use his or her work
26 product in subsequent litigation, provided that its use does not
27
28

disclose or use Confidential Information.

21. This Order is entered based on the representations and agreements of the parties and for the purpose of facilitating discovery.

Nothing herein shall be construed or presented as a judicial determination that any document or material designated Confidential Information by counsel or the parties is entitled to protection under Fed.R.Civ.P. 26(c) or otherwise, until such time as the Court may rule on a specific document or issue.

22. This Order shall take effect when entered and shall be binding upon all counsel of record and their law firms, the parties, and persons made subject to this Order by its terms.

SO STIPULATED on May 10, 2013:

/s/ Thomas E. Soule
Thomas E. Soule
Edelman Combs Lattuner & Goodwin LLC
120 S. LaSalle Street, Suite 1800
Chicago, Illinois 60603
(312) 739-4200
(312) 419-0379 (fax)
tsoule@edcombs.com

Attorneys for plaintiff

/s/ Robert L. Green
Robert L. Green
Green & Hall APC
1851 East First Street, 10th Floor
Santa Ana, California 92705
(714) 918-7000
(714) 918-6996 (fax)
rlgreen@greenhall.com

Attorneys for defendants

AND SO ORDERED on May 17, 2013:


_____,
JEAN P. ROSENBLUTH
UNITED STATES MAGISTRATE JUDGE

1
2 **IN THE UNITED STATES DISTRICT COURT**
3 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

4 JENNIFER HOLT, et al,)
5) No. 8:13CV41 DOC (JPRx)
6 Plaintiff,) Hon. David O. Carter, J., presiding
7) Hon. Jean P. Rosenbluth, M.J., on referral
8) DEPT: 9D
9) **ACKNOWLEDGEMENT AND**
10) **AGREEMENT TO BE BOUND**
11) *(Attachment A to Protective Order)*
12)
13)
14)
15)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)
26)
27)
28)

The undersigned hereby acknowledges receipt of the Protective Order entered on _____ in the above-captioned action, which is attached.

The undersigned understands the Protective Order’s terms, and agrees to be bound by it.

The undersigned submits to the jurisdiction of the U.S. District Court for the Central District of California in matters relating to the Protective Order, will use “Confidential Information” solely for the purposes of the litigation named above, agrees to not disclose any such Confidential Information to any other person or entity, and understands that violation of the Protective Order may carry with it penalties for contempt of court.

SIGNATURE: _____
NAME: _____
ADDRESS: _____
