

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

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FLINT CPS INKS NORTH AMERICA, LLC,)	Case No.: 8:20-CV-00651-JLS (JDEx)
)	STIPULATED DISCOVERY
)	PROTECTIVE ORDER
Plaintiff,)	
)	
v.)	
)	
TREND OFFSET PRINTING SERVICES, INC., ANTHONY J. LIENAU, ROBERT LIENAU, MUNIR AHMED, ADAM LIENAU, TODD NELSON, and DOES 1 through 10, inclusive,)	
)	
Defendants.)	

Based on the parties' stipulation (Dkt. 83) and for good cause appearing therein, the Court finds and orders as follows.

Plaintiff Flint CPS Inks North American, LLC ("Plaintiff"), and defendants Trend Offset Printing Services, Inc., Anthony J. Lienau, Robert Lienau, Munir Ahmed, Adam Lienau, Todd Nelson ("Defendants," and together with Plaintiff, the "Parties") stipulate and jointly move the Court to issue the following protective order ("Stipulated Protective Order") to govern the disclosure of confidential documents and information in this lawsuit.

1 1. PURPOSES AND LIMITATIONS

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

11 2. GOOD CAUSE STATEMENT

12 This action is likely to involve confidential contract terms, product
13 pricing information, purchase orders and product usage information, payment
14 terms, volume rebate information, and other related financial and/or
15 proprietary information for which special protection from public disclosure
16 and from use for any purpose other than prosecution of this action is
17 warranted, and which is otherwise generally unavailable to the public, or
18 which may be privileged or otherwise protected from disclosure under state or
19 federal statutes, court rules, case decisions, or common law. Accordingly, to
20 expedite the flow of information, to facilitate the prompt resolution of disputes
21 over confidentiality of discovery materials, to adequately protect information
22 the Parties are entitled to keep confidential, to ensure that the Parties are
23 permitted reasonable necessary uses of such material in preparation for and in
24 the conduct of trial, to address their handling at the end of the litigation, and
25 serve the ends of justice, a protective order for such information is justified in
26 this matter. It is the intent of the Parties that information will not be designated
27 as confidential for tactical reasons and that nothing be so designated without a
28 good faith belief that it has been maintained in a confidential, non-public

1 manner, and there is good cause why it should not be part of the public record
2 of this case.

3 3. ACKNOWLEDGMENT OF UNDER SEAL FILING
4 PROCEDURE

5 The Parties further acknowledge, as set forth in Section 14.3, below, that
6 this Stipulated Protective Order does not entitle them to file confidential
7 information under seal; Local Civil Rule 79-5 sets forth the procedures that
8 must be followed and the standards that will be applied when a party seeks
9 permission from the court to file material under seal. There is a strong
10 presumption that the public has a right of access to judicial proceedings and
11 records in civil cases. In connection with non-dispositive motions, good cause
12 must be shown to support a filing under seal. See Kamakana v. City and
13 County of Honolulu, 447 F.3d 1172, 1176 (9th Cir. 2006), Phillips v. Gen.
14 Motors Corp., 307 F.3d 1206, 1210-11 (9th Cir. 2002), Makar-Welbon v. Sony
15 Electrics, Inc., 187 F.R.D. 576, 577 (E.D. Wis. 1999) (even stipulated
16 protective orders require good cause showing), and a specific showing of good
17 cause or compelling reasons with proper evidentiary support and legal
18 justification, must be made with respect to Protected Material (as defined
19 below) that a party seeks to file under seal. The Parties' mere designation of
20 Disclosure or Discovery Material as CONFIDENTIAL does not— without
21 the submission of competent evidence by declaration, establishing that the
22 material sought to be filed under seal qualifies as confidential, privileged, or
23 otherwise protectable—constitute good cause.

24 Further, if a party requests sealing related to a dispositive motion or trial,
25 then compelling reasons, not only good cause, for the sealing must be shown,
26 and the relief sought shall be narrowly tailored to serve the specific interest to
27 be protected. See Pintos v. Pacific Creditors Ass'n., 605 F.3d 665, 677-79 (9th
28 Cir. 2010). For each item or type of information, document, or thing sought to

1 be filed or introduced under seal, the party seeking protection must articulate
2 compelling reasons, supported by specific facts and legal justification, for the
3 requested sealing order. Again, competent evidence supporting the application
4 to file documents under seal must be provided by declaration.

5 Any document that is not confidential, privileged, or otherwise
6 protectable in its entirety will not be filed under seal if the confidential portions
7 can be redacted. If documents can be redacted, then a redacted version for
8 public viewing, omitting only the confidential, privileged, or otherwise
9 protectable portions of the document, shall be filed. Any application that seeks
10 to file documents under seal in their entirety should include an explanation of
11 why redaction is not feasible.

12 4. DEFINITIONS

13 4.1 Action: this pending federal lawsuit.

14 4.2 Challenging Party: a Party or Non-Party that challenges the
15 designation of information or items under this Order.

16 4.3 “CONFIDENTIAL” Information or Items: information
17 (regardless of how it is generated, stored or maintained) or tangible things that
18 qualify for protection under Federal Rule of Civil Procedure 26(c), and as
19 specified above in the Good Cause Statement.

20 4.4 Counsel: Outside Counsel of Record and House Counsel (as well
21 as their support staff).

22 4.5 Designating Party: a Party or Non-Party that designates
23 information or items that it produces in disclosures or in responses to discovery
24 as “CONFIDENTIAL.”

25 4.6 Disclosure or Discovery Material: all items or information,
26 regardless of the medium or manner in which it is generated, stored, or
27 maintained (including, among other things, testimony, transcripts, and tangible
28 things), that are produced or generated in disclosures or responses to discovery.

1 4.7 Expert: a person with specialized knowledge or experience in a
2 matter pertinent to the litigation who has been retained by a Party or its
3 counsel to serve as an expert witness or as a consultant in this Action.

4 4.8 House Counsel: attorneys who are employees of a party to this
5 Action. House Counsel does not include Outside Counsel of Record or any
6 other outside counsel.

7 4.9 Non-Party: any natural person, partnership, corporation,
8 association or other legal entity not named as a Party to this action.

9 4.10 Outside Counsel of Record: attorneys who are not employees of a
10 party to this Action but are retained to represent a party to this Action and
11 have appeared in this Action on behalf of that party or are affiliated with a law
12 firm that has appeared on behalf of that party, and includes support staff.

13 4.11 Party: any party to this Action, including all of its officers,
14 directors, employees, consultants, retained experts, and Outside Counsel of
15 Record (and their support staffs).

16 4.12 Producing Party: a Party or Non-Party that produces Disclosure or
17 Discovery Material in this Action.

18 4.13 Professional Vendors: persons or entities that provide litigation
19 support services (e.g., photocopying, videotaping, translating, preparing
20 exhibits or demonstrations, and organizing, storing, or retrieving data in any
21 form or medium) and their employees and subcontractors.

22 4.14 Protected Material: any Disclosure or Discovery Material that is
23 designated as “CONFIDENTIAL.”

24 4.15 Receiving Party: a Party that receives Disclosure or Discovery
25 Material from a Producing Party.

1 5. SCOPE

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

7 Any use of Protected Material at trial shall be governed by the orders of
8 the trial judge and other applicable authorities. This Order does not govern the
9 use of Protected Material at trial.

10 6. DURATION

11 Once a case proceeds to trial, information that was designated as
12 CONFIDENTIAL or maintained pursuant to this Stipulated Protective Order
13 used or introduced as an exhibit at trial becomes public and will be
14 presumptively available to all members of the public, including the press,
15 unless compelling reasons supported by specific factual findings to proceed
16 otherwise are made to the trial judge in advance of the trial. See Kamakana,
17 447 F.3d at 1180-81 (distinguishing “good cause” showing for sealing
18 documents produced in discovery from “compelling reasons” standard when
19 merits-related documents are part of court record). Accordingly, the terms of
20 this protective order do not extend beyond the commencement of the trial.

21 7. DESIGNATING PROTECTED MATERIAL

22 7.1 Exercise of Restraint and Care in Designating Material for
23 Protection. Each Party or Non-Party that designates information
24 or items for protection under this Stipulated Protective Order must take care to
25 limit any such designation to specific material that qualifies under the
26 appropriate standards. The Designating Party must designate for protection
27 only those parts of material, documents, items or oral or written
28 communications that qualify so that other portions of the material, documents,

1 items or communications for which protection is not warranted are not swept
2 unjustifiably within the ambit of this Order.

3 Mass, indiscriminate or routinized designations are prohibited.

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

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

12 7.2 Manner and Timing of Designations. Except as otherwise
13 provided herein, or as otherwise stipulated or ordered, Disclosure of Discovery
14 Material that qualifies for protection under this Stipulated Protective Order
15 must be clearly so designated before the material is disclosed or produced.

16 Designation in conformity with this Order requires:

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

24 A Party or Non-Party that makes original documents available for
25 inspection need not designate them for protection until after the inspecting
26 Party has indicated which documents it would like copied and produced.
27 During the inspection and before the designation, all of the material made
28 available for inspection shall be deemed "CONFIDENTIAL." After the

1 inspecting Party has identified the documents it wants copied and produced,
2 the Producing Party must determine which documents, or portions thereof,
3 qualify for protection under this Order. Then, before producing the specified
4 documents, the Producing Party must affix the “CONFIDENTIAL legend” to
5 each page that contains Protected Material. If only a portion of the material on
6 a page qualifies for protection, the Producing Party also must clearly identify
7 the protected portion(s) (e.g., by making appropriate markings in the margins).

8 (b) for testimony given in depositions that the Designating Party
9 identifies the Disclosure or Discovery Material on the record, before the close
10 of the deposition all protected testimony.

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

17 7.3 Inadvertent Failures to Designate. If timely corrected, an
18 inadvertent failure to designate qualified information or items does not,
19 standing alone, waive the Designating Party’s right to secure protection under
20 this Order for such material. Upon timely correction of a designation, the
21 Receiving Party must make reasonable efforts to assure that the material is
22 treated in accordance with the provisions of this Order.

23 8. CHALLENGING CONFIDENTIALITY DESIGNATIONS

24 8.1. Timing of Challenges. Any Party or Non-Party may challenge a
25 designation of confidentiality at any time that is consistent with the Court’s
26 Scheduling Order.

27 8.2 Meet and Confer. The Challenging Party shall initiate the dispute
28 resolution process under Local Rule 37-1 et seq.

1 8.3 Joint Stipulation. Any challenge submitted to the Court shall be
2 via a joint stipulation pursuant to Local Rule 37-2.

3 8.4 The burden of persuasion in any such challenge proceeding shall
4 be on the Designating Party. Frivolous challenges, and those made for an
5 improper purpose (e.g., to harass or impose unnecessary expenses and burdens
6 on other parties) may expose the Challenging Party to sanctions. Unless the
7 Designating Party has waived or withdrawn the confidentiality designation, all
8 Parties shall continue to afford the material in question the level of protection
9 to which it is entitled under the Producing Party’s designation until the Court
10 rules on the challenge.

11 9. ACCESS TO AND USE OF PROTECTED MATERIAL

12 9.1 Basic Principles. A Receiving Party may use Protected Material
13 that is disclosed or produced by another Party or by a Non-Party in connection
14 with this Action only for prosecuting, defending or attempting to settle this
15 Action. Such Protected Material may be disclosed only to the categories of
16 persons and under the conditions described in this Order. When the Action has
17 been terminated, a Receiving Party must comply with the provisions of section
18 15 below (FINAL DISPOSITION).

19 Protected Material must be stored and maintained by a Receiving Party
20 at a location and in a secure manner that ensures that access is limited to the
21 persons authorized under this Order.

22 9.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
23 otherwise ordered by the court or permitted in writing by the Designating
24 Party, a Receiving Party may disclose any information or item designated
25 “CONFIDENTIAL” only to:

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

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

4 (c) Experts (as defined in this Stipulated Protective Order) of the
5 Receiving Party to whom disclosure is reasonably necessary for this Action
6 and who have signed the “Acknowledgment and Agreement to Be Bound”
7 (Exhibit A);

8 (d) the court and its personnel;

9 (e) court reporters and their staff;

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

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

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

27 (i) any mediators or settlement officers and their supporting
28

1 personnel, mutually agreed upon by any of the parties engaged in settlement
2 discussions.

3 10. PROTECTED MATERIAL SUBPOENAED OR ORDERED
4 PRODUCED IN OTHER LITIGATION

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

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

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

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

24 11. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO
25 BE PRODUCED IN THIS LITIGATION

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

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

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

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

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

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

25 12. UNAUTHORIZED DISCLOSURE OF PROTECTED
26 MATERIAL

27 If a Receiving Party learns that, by inadvertence or otherwise, it has
28 disclosed Protected Material to any person or in any circumstance not

1 authorized under this Stipulated Protective Order, the Receiving Party must
2 immediately (a) notify in writing the Designating Party of the unauthorized
3 disclosures, (b) use its best efforts to retrieve all unauthorized copies of the
4 Protected Material, (c) inform the person or persons to whom unauthorized
5 disclosures were made of all the terms of this Stipulated Protective Order, and
6 (d) request such person or persons to execute the “Acknowledgment and
7 Agreement to Be Bound” attached hereto as Exhibit A.

8 13. INADVERTENT PRODUCTION OF PRIVILEGED OR
9 OTHERWISE PROTECTED MATERIAL

10 When a Producing Party gives notice to Receiving Parties that certain
11 inadvertently produced material is subject to a claim of privilege or other
12 protection, the obligations of the Receiving Parties are those set forth in
13 Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to
14 modify whatever procedure may be established in an e-discovery order that
15 provides for production without prior privilege review. Pursuant to Fed. R.
16 Evid. 502(d), the production of any documents in this proceeding shall not, for
17 the purposes of this proceeding or any other federal or state proceeding,
18 constitute a waiver by the producing party of any privilege applicable to those
19 documents, including the attorney-client privilege, attorney work-product
20 protection, or any other privilege or protection recognized by law. Information
21 produced in discovery that is protected as privileged or work product shall be
22 immediately returned to the producing party, and its production shall not
23 constitute a waiver of such protection.

24 14. MISCELLANEOUS

25 14.1 Right to Further Relief. Nothing in this Stipulated Protective
26 Order abridges the right of any person to seek its modification by the Court in
27 the future.

28 14.2 Right to Assert Other Objections. By stipulating to the entry of this

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

6 14.3 Filing Protected Material. A Party that seeks to file under seal any
7 Protected Material must comply with Local Civil Rule 79-5. Protected
8 Material may only be filed under seal pursuant to a court order authorizing the
9 sealing of the specific Protected Material. If a Party's request to file Protected
10 Material under seal is denied by the court, then the Receiving Party may file
11 the information in the public record unless otherwise instructed by the court.

12 15. FINAL DISPOSITION

13 After the final disposition of this Action, as defined in paragraph 6,
14 within 60 days of a written request by the Designating Party, each Receiving
15 Party must return all Protected Material to the Producing Party or destroy such
16 material. As used in this subdivision, "all Protected Material" includes all
17 copies, abstracts, compilations, summaries, and any other format reproducing
18 or capturing any of the Protected Material. Whether the Protected Material is
19 returned or destroyed, the Receiving Party must submit a written certification
20 to the Producing Party (and, if not the same person or entity, to the
21 Designating Party) by the 60-day deadline that (1) identifies (by category,
22 where appropriate) all the Protected Material that was returned or destroyed
23 and (2) affirms that the Receiving Party has not retained any copies, abstracts,
24 compilations, summaries or any other format reproducing or capturing any of
25 the Protected Material. Notwithstanding this provision, Counsel are entitled to
26 retain an archival copy of all pleadings, motion papers, trial, deposition, and
27 hearing transcripts, legal memoranda, correspondence, deposition and trial
28 exhibits, expert reports, attorney work product, and consultant and expert

1 work product, even if such materials contain Protected Material. Any such
2 archival copies that contain or constitute Protected Material remain subject to
3 this Protective Order as set forth in Section 6 (DURATION).

4 16. VIOLATION

5 Any violation of this Stipulated Protective Order may be punished by
6 appropriate measures including, without limitation, contempt proceedings
7 and/or monetary sanctions.

8
9 **FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

10
11 DATED: September 14, 2020

12 
13 _____
14 JOHN D. EARLY
15 United States Magistrate Judge
16
17
18
19
20
21
22
23
24
25
26
27
28

1 EXHIBIT A to STIPULATED PROTECTIVE ORDER
2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3
4 I, _____ [print or type full name],
5 of _____
6 [print or type full address], declare under penalty of perjury that I have read in
7 its entirety and understand the Stipulated Protective Order that was issued by
8 the United States District Court for the Central District of California on the
9 date listed above in the case of *Flint CPS Inks North America, LLC v. Trend Offset*
10 *Printing Services, Inc., Anthony J. Lienau, Robert Lineau, Munir Ahmed, Adam*
11 *Lienau, Todd Nelson, and Does 1 through 10, inclusive*, Case No. 8:20-cv-00651-
12 JLS (JDEx). I agree to comply with and to be bound by all the terms of this
13 Stipulated Protective Order and I understand and acknowledge that failure to
14 so comply could expose me to sanctions and punishment in the nature of
15 contempt. I solemnly promise that I will not disclose in any manner any
16 information or item that is subject to this Stipulated Protective Order to any
17 person or entity except in strict compliance with the provisions of this
18 Stipulated Protective Order.

19 I further agree to submit to the jurisdiction of the United States District
20 Court for the Central District of California for the purpose of enforcing the
21 terms of this Stipulated Protective Order, even if such enforcement proceedings
22 occur after termination of the Action.

23
24 Date: _____

25
26 Signature: _____
27
28