

1 GREENSPOON MARDER.
2 BETH-ANN KRIMSKY (*admitted pro hac vice*)
3 beth-ann.krimsky@gmlaw.com
4 JESSICA B. ALHALEL (*admitted pro hac vice*)
5 jessica.alhalel@gmlaw.com
200 East Broward Blvd., Suite 1800
Fort Lauderdale, FL 33301
Telephone: (954) 527-2427
Facsimile: (954) 333-4027

6 NOSSAMAN LLP
7 JAMES H. VORHIS (SBN 245034)
8 jvorhis@nossaman.com
50 California Street, 34th Floor
San Francisco, CA 94111
Telephone: 415.398.3600
9 Facsimile: 415.398.2438

10 Attorneys for Defendant DEBT.COM LLC

11 UNITED STATES DISTRICT COURT

12 EASTERN DISTRICT OF CALIFORNIA

13 JEFF LINGLE, an individual and on behalf of
14 all others similarly situated,

15 Plaintiff,

16 vs.

17 DEBT.COM LLC, and DOES 1 through 10,
inclusive, and each of them,

18 Defendants.

FILED

OCT 16 2017

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BY
DEPUTY CLERK

Case No: 2:17-cv-00334-JAM-EFB

STIPULATED PROTECTIVE ORDER

Date Action Filed: February 15, 2017

Case No. 2:17-cv-00334-JAM-EFB

STIPULATED PROTECTIVE ORDER

56238653.V1

1. PURPOSES AND LIMITATIONS

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order does not entitle them to file confidential information under seal without a Court order; Civil Local Rule 141 sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal.

2. DEFINITIONS

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

2.2 "CONFIDENTIAL" Information or Items: information (regardless of how it is generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c).

2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as well as their support staff).

2.4 Designating Party: a Party or Non-Party that designates information or items that it produces in disclosures or in responses to discovery as "CONFIDENTIAL."

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

2.6 Expert: a person with specialized knowledge or experience in a matter pertinent

1 to the litigation who has been retained by a Party or its counsel to serve as an expert witness or as
2 a consultant in this action.

3 2.7 House Counsel: attorneys who are employees of a party to this action. House
4 Counsel does not include Outside Counsel of Record or any other outside counsel.

5 2.8 Non-Party: any natural person, partnership, corporation, association, or other
6 legal entity not named as a Party to this action.

7 2.9 Outside Counsel of Record: attorneys who are not employees of a party to this
8 action but are retained to represent or advise a party to this action and have appeared in this
9 action on behalf of that party, including attorneys and staff in a law firm that has appeared in this
10 action on behalf of a party.

11 2.10 Party: any party to this action, including all of its officers, directors, employees,
12 consultants, retained experts, and Outside Counsel of Record and Outside Counsel of Record's
13 administration.

14 2.11 Producing Party: a Party or Non-Party that produces Disclosure or Discovery
15 Material in this action.

16 2.12 Professional Vendors: persons or entities that provide litigation support services
17 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and
18 organizing, storing, or retrieving data in any form or medium) and their employees and
19 subcontractors for a party to this action.

20 2.13 Protected Material: any Disclosure or Discovery Material that is designated as
21 "CONFIDENTIAL."

22 2.14 Receiving Party: a Party that receives Disclosure or Discovery Material from a
23 Producing Party.

24 3. SCOPE

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

1 However, the protections conferred by this Stipulation and Order do not cover the following
2 information: (a) any information that is in the public domain at the time of disclosure to a
3 Receiving Party or becomes part of the public domain after its disclosure to a Receiving Party as
4 a result of publication not involving a violation of this Order, including becoming part of the
5 public record through trial or otherwise; and (b) any information known to the Receiving Party
6 prior to the disclosure or obtained by the Receiving Party after the disclosure from a source who
7 obtained the information lawfully and under no obligation of confidentiality to the Designating
8 Party. Any use of Protected Material at trial shall be governed by a separate agreement or order.

9 4. DURATION

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

17 5. DESIGNATING PROTECTED MATERIAL

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

25 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
26 shown to be clearly unjustified or that have been made for an improper purpose (e.g., to
27 unnecessarily encumber or retard the case development process or to impose unnecessary
28 expenses and burdens on other parties) expose the Designating Party to sanctions. If it comes to

1 a Designating Party's attention that information or items that it designated for protection do not
2 qualify for protection, that Designating Party must promptly notify all other Parties that it is
3 withdrawing the mistaken designation.

4 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order
5 (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered,
6 Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so
7 designated before the material is disclosed or produced.

8 Designation in conformity with this Order requires:

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

25 (b) for testimony given in deposition or in other pretrial or trial proceedings, that
26 the Designating Party identify on the record all protected testimony either before the close of the
27 deposition, hearing, or other proceeding or in writing on or before the earlier of (i) thirty days
28 after the final transcript is received or (ii) the date by which any review by the witness and

1 corrections to the transcript are to be completed under Fed. R. Civ. P. 30(e). Only those portions
2 of the testimony that are designated for protection in accordance with the preceding sentence
3 shall be covered by the provisions of this Stipulated Protective Order. Prior to the expiration of
4 the latest time set forth in this section 5.2(b), any testimony shall be deemed confidential to
5 provide the parties time to designate the testimony confidential so as to protect disclosure prior
6 to that time.

7 (c) for information produced in some form other than documentary and for any
8 other tangible items, that the Producing Party affix in a prominent place on the exterior of the
9 container or containers in which the information or item is stored the legend
10 "CONFIDENTIAL." If only a portion or portions of the information or item warrant protection,
11 the Producing Party, to the extent practicable, shall identify the protected portion(s).

12 5.3 Inadvertent Failures to Designate. If timely corrected from the time of the
13 discovery of the inadvertent failure to designate, an inadvertent failure to designate qualified
14 information or items does not, standing alone, waive the Designating Party's right to secure
15 protection under this Order for such material. Upon timely correction of a designation, the
16 Receiving Party must make reasonable efforts to assure that the material is treated in accordance
17 with the provisions of this Order.

18 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

19 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of
20 confidentiality at any time. Unless a prompt challenge to a Designating Party's confidentiality
21 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic
22 burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to
23 challenge a confidentiality designation by electing not to mount a challenge promptly after the
24 original designation is disclosed.

25 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution
26 process by providing written notice of each designation it is challenging and describing the basis
27 for each challenge. To avoid ambiguity as to whether a challenge has been made, the written
28 notice must recite that the challenge to confidentiality is being made in accordance with this

1 specific paragraph of the Protective Order. The parties shall attempt to resolve each challenge in
2 good faith and must begin the process by conferring directly (in voice to voice dialogue; other
3 forms of communication are not sufficient) within 14 days of the date of service of notice. In
4 conferring, the Challenging Party must explain the basis for its belief that the confidentiality
5 designation was not proper and must give the Designating Party an opportunity to review the
6 designated material, to reconsider the circumstances, and, if no change in designation is offered,
7 to explain the basis for the chosen designation. A Challenging Party may proceed to the next
8 stage of the challenge process only if it has engaged in this meet and confer process first or
9 establishes that the Designating Party is unwilling to participate in the meet and confer process in
10 a timely manner.

11 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court
12 intervention, the Challenging Party may file a motion challenging a confidentiality designation
13 upon the earlier of 28 days after the initial notice of challenge or 14 days after the parties
14 agreeing that the meet and confer process will not resolve their dispute, whichever is earlier if
15 there is good cause for doing so, including a challenge to the designation of a deposition
16 transcript or any portions thereof. Any motion brought pursuant to this provision must be
17 accompanied by a competent declaration affirming that the movant has complied with the meet
18 and confer requirements imposed by the preceding paragraph. The designated documents that
19 are the subject of the Motion shall retain confidentiality. Such documents shall be kept under
20 seal pursuant to Civil Local Rule 141(b) unless the Court orders those documents and/or
21 information to be undesignated.

22 The burden of persuasion in any such challenge proceeding shall be on the Designating
23 Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose
24 unnecessary expenses and burdens on other parties) may expose the Challenging Party to
25 sanctions. Unless the Designating Party specifically waives the confidentiality designation in
26 writing, all parties shall continue to afford the material in question the level of protection to
27 which it is entitled under the Producing Party's designation until the court rules on the challenge.
28

1 7. ACCESS TO AND USE OF PROTECTED MATERIAL

2 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed
3 or produced by another Party or by a Non-Party in connection with this case only for
4 prosecuting, defending, or attempting to settle this litigation. Such Protected Material may be
5 disclosed only to the categories of persons and under the conditions described in this Order.
6 When the litigation has been terminated, a Receiving Party must comply with the provisions of
7 section 13 below (FINAL DISPOSITION).

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

11 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise
12 ordered by the court or permitted in writing by the Designating Party, a Receiving Party may
13 disclose any information or item designated "CONFIDENTIAL" only to:

14 (a) the Receiving Party's Outside Counsel of Record in this action, as well as
15 employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the
16 information for this litigation;

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

19 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure
20 is reasonably necessary for this litigation and who have signed the "Acknowledgment and
21 Agreement to Be Bound" (Exhibit A);

22 (d) the court and its personnel;

23 (e) court reporters and their staff, professional jury or trial consultants, mock
24 jurors, and Professional Vendors retained by Outside Counsel of Record or House Counsel to
25 whom disclosure is reasonably necessary for this litigation;

26 (f) the author or recipient of a document containing the information or a
27 custodian or other person who otherwise possessed or knew the information.
28

1 (g) in the event Confidential Information is to be shown to a deponent in the
2 Action who is not authorized as set forth in this 7.2, the non-designating party seeking to use the
3 Confidential Information at deposition must inform the Designating Party in advance of the
4 deposition so as to afford the opportunity to object to and request the witness to be bound by this
5 Order to keep the information confidential and/or to afford the Designating Party with an
6 opportunity to seek protection from the Court. Pages of transcribed deposition testimony or
7 exhibits to depositions that reveal Protected Material must be separately bound by the court
8 reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective
9 Order.

10 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
11 LITIGATION

12 If a Party is served with a subpoena or a court order issued in other litigation that compels
13 disclosure of any information or items designated in this action as "CONFIDENTIAL," that
14 Party must:

15 (a) notify in writing the Designating Party within three (3) days of receipt of the
16 subpoena. Such notification shall include a copy of the subpoena or court order;

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

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

23 9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS
24 LITIGATION

25 (a) The terms of this Order are applicable to information produced by a Non-
26 Party in this action and designated as "CONFIDENTIAL." Such information produced by Non-
27 Parties in connection with this litigation is protected by the remedies and relief provided by this
28

1 Order. Nothing in these provisions should be construed as prohibiting a Non-Party from seeking
2 additional protections.

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

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

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

12 (3) make the information requested available for inspection by the Non-
13 Party.

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

21 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

22 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected
23 Material to any person or in any circumstance not authorized under this Stipulated Protective
24 Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the
25 unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the
26 Protected Material, (c) inform the person or persons to whom unauthorized disclosures were
27 made of all the terms of this Order, and (d) request such person or persons to execute the
28 "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A.

1 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
2 MATERIAL

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

12 12. MISCELLANEOUS

13 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to
14 seek its modification by the court in the future.

15 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective
16 Order no Party waives any right it otherwise would have to object to disclosing or producing any
17 information or item on any ground not addressed in this Stipulated Protective Order. Similarly,
18 no Party waives any right to object on any ground to use in evidence of any of the material
19 covered by this Protective Order.

20 12.3 Filing Protected Material. Without written permission from the Designating Party
21 or a court order secured after appropriate notice to all interested persons, a Party may not file in
22 the public record in this action any Protected Material. A Party that seeks to file under seal any
23 Protected Material must comply with Civil Local Rule 141(b). Protected Material may only be
24 filed under seal pursuant to a court order authorizing the sealing of the specific Protected
25 Material at issue. Pursuant to Civil Local Rule 141(d), a sealing order will issue only upon a
26 request establishing that the Protected Material at issue is privileged, protectable as a trade
27 secret, or otherwise entitled to protection under the law. If a Receiving Party's request to file
28 Protected Material under seal pursuant to Civil Local Rule 141(b) is denied by the court, then the

1 Receiving Party may instead file the information in the public record unless otherwise instructed
2 by the court.

3 13. FINAL DISPOSITION

4 Within 45 days after the final disposition of this action, as defined in paragraph 4, each
5 Receiving Party must return all Protected Material to the Producing Party or destroy such
6 material. The Protected Material must remain confidential even after final disposition of the
7 matter. As used in this subdivision, "all Protected Material" includes all copies, abstracts,
8 compilations, summaries, and any other format reproducing or capturing any of the Protected
9 Material. Whether the Protected Material is returned or destroyed, the Receiving Party must
10 submit a written certification to the Producing Party (and, if not the same person or entity, to the
11 Designating Party) by the 45 day deadline that (1) identifies (by category, where appropriate) all
12 the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has
13 not retained any copies, abstracts, compilations, summaries or any other format reproducing or
14 capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to
15 retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts,
16 legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work
17 product, and consultant and expert work product, even if such materials contain Protected
18 Material. Any such archival copies that contain or constitute Protected Material remain subject to
19 this Protective Order as set forth in Section 4 (DURATION).

20 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

21
22 Date: October __, 2017

GREENSPOON MARDER, P.A.

23
24 By: /s/ Beth-Ann Krinsky

Beth-Ann Krinsky

25 *Pro Hac Vice* Attorneys For Defendant
26 Debt.com LLC
27
28

1 LAW OFFICES OF TODD FRIEDMAN, P.C.

2 By: /s/ Todd Friedman

3 Todd Friedman

4 Attorneys for Plaintiff Jeff Lingle

5
6 PURSUANT TO STIPULATION, IT IS SO ORDERED.

7 *IF THIS CASE PROCEEDS TO TRIAL, THIS PROTECTIVE ORDER SHALL*
8 *NOT BE ENFORCEABLE, I.E. ALL PROTECTED DOCUMENTS INTRODUCED*
9 *AS EXHIBITS AT TRIAL WILL BE PART OF THE PUBLIC RECORD.* *JAM*

10 DATED: 10-16-2017

11 *John A. Mendez*
12 JOHN A. MENDEZ
13 United States District Judge

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [print or type full name], of _____ [print or
4 type full address], declare under penalty of perjury that I have read in its entirety and understand
5 the Stipulated Protective Order that was issued by the United States District Court for the Eastern
6 District of California on [date] in the case of _____ *Jeff Lingle v. Debt.com, LLC*, Case
7 No: 2:17-cv-00334-JAM-EFB. I agree to comply with and to be bound by all the terms of this
8 Stipulated Protective Order and I understand and acknowledge that failure to so comply could
9 expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will
10 not disclose in any manner any information or item that is subject to this Stipulated Protective
11 Order to any person or entity except in strict compliance with the provisions of this Order.

12 I further agree to submit to the jurisdiction of the United States District Court for the Eastern
13 District of California for the purpose of enforcing the terms of this Stipulated Protective Order,
14 even if such enforcement proceedings occur after termination of this action.

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

19
20 Date: _____

21 City and State where sworn and signed: _____

22
23 Printed name: _____

24
25 Signature: _____