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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ALEX GALVEZ, an individual,
MARC GARVEY, an individual, and on
behalf of all other similarly situated,

Plaintiffs,

v.

FEDERAL EXPRESS INC., a Delaware
Corporation, and DOES
1-500, inclusive,

Defendants.

Case No. C 07-02505 TEH EDL

**STIPULATION REGARDING PROTECTION
AND USE OF CLASS LIST AND FACILITIES
LIST AND [PROPOSED] ORDER THEREON**

Trial Date: None Set

1 On September 2, 2010, the Magistrate ordered Defendant Federal Express Corporation
2 (“FedEx”) to produce the class list no later than September 16, 2010 subject to a protective order that the
3 parties shall negotiate, but that protects against potential misuse of the class information. *See* Dkt. 135.
4 The Court also ordered that FedEx produce the addresses of facilities where couriers work in California
5 by October 1, 2010. As a result of the Court’s order, and pursuant to Fed. R. Civ. P. 26(c), the parties
6 herein stipulate to the entry of a protective order prior to disclosure of the class and facilities list.
7 The parties have agreed that FedEx will produce the class list upon the Court’s entry of the Order on this
8 Stipulation and the facilities list not later than October 1, 2010.
9

10 1. The class list and facilities list (“Lists”) contain private or confidential information
11 that the Defendant would not otherwise disclose absent this litigation. The Lists shall be marked
12 “CONFIDENTIAL” and will be used solely for the purpose of this litigation, including trial and any
13 appeals therefrom, and shall not be used in any other civil actions or for any other purposes.
14

15 2. Access to the Lists shall be given to:

16 (a) The attorneys of record in this action, including any necessary clerical staff,
17 support staff, and other attorneys employed or retained by the foregoing law firms.

18 (b) Persons independent from any of the parties to this action who are consulted
19 or retained as experts under Fed. R. Civ. P. 26 in connection with this action (and secretarial and
20 clerical staff of such experts) or a third party administrator for the purpose of issuing Court-ordered
21 notice.
22

23 (c) Court personnel (including stenographic reporters) and any law clerk,
24 paralegal, secretarial, clerical, or other court personnel, providing the information is provided under
25 seal.

26 (d) An officer before whom a deposition is taken, including stenographic
27 reporters, videographers and any secretarial, clerical, or other lay personnel assisting such officer,
28

1 provided the information is marked and maintained as separate confidential excerpts and exhibits;
2 and

3 (e) outside copying and computer services necessary for document handling, and
4 other litigation support personnel (e.g., graphic designers and animators), who are contractually
5 bound not to disclose such documents and information by the parties retaining them.
6

7 3. Plaintiffs' counsel agrees to not utilize the Lists to initiate contact with class members
8 until either: a) November 15, 2010; or b) two weeks after providing Defendant written notice of
9 their intention to lift this prohibition, whichever occurs first. If, during the shorter of those periods,
10 Defendant moves the Court for a protective order or similar order that limits Plaintiffs' counsel
11 communications with the class, Plaintiffs' counsel agrees to refrain from any communication sought
12 to be limited until after the Court has had an opportunity to rule on Defendant's motion. The parties
13 agree that any such motion will be brought on shortened time, the Court's schedule permitting.
14

15 4. If an issue arises during the course of settlement discussions that warrants further
16 investigation to further those negotiations, Plaintiffs' counsel and Defendant agree to meet and
17 confer regarding the nature and extent of communications that might be helpful for resolving the
18 issue. If the parties agree upon the nature and extent of any such communication, such
19 communication will be deemed not to have violated any portion of this agreement.
20

21 5. Within sixty (60) days after final termination of this action (other than by settlement
22 and/or judgment in favor of Plaintiffs), and the expiration of all appeals therefrom, Plaintiffs agree to
23 return or destroy all copies of the Lists.

24 6. The terms of the Stipulation and Order shall survive the final termination of this civil
25 action to the extent that the Lists have not become known to the public.

26 7. The Stipulation and Order may be amended by the agreement of counsel for the
27 parties, subject to the approval of the Court, provided it is in the form of a stipulation that shall be
28

1 filed with the Clerk and made part of the record in this civil action.

2 8. This Stipulation and Order is without prejudice to the right of any party to seek
3 modification by the Court of any of the terms of this Stipulation and Order, or to present to the Court
4 any matter which is the subject of this Stipulation and Order, or to apply to the Court for such further
5 stipulation and order under the provision of the Federal Rules of Civil Procedure, the Local Rules, or
6 as justice may require.
7

8
9 Dated: September 16, 2010

Dated: September 16, 2010

10 FOR PLAINTIFFS:

FOR DEFENDANT:

11 By: /s/Michael Ng
12 Michael Ng

By: /s/Sandra C. Isom
Sandra C. Isom

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17
18
19 **ORDER ON STIPULATION**

20 PURSUANT TO STIPULATION, IT IS SO ORDERED.

21
22 SIGNED this 17 day of September, 2010.

23
24 
25 United States Magistrate Judge
HONORABLE ELIZABETH D. LAPORTE

26 Doc. No. 838647