

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  
NORTHERN DISTRICT OF CALIFORNIA**

SAN JOSE OPTIONS, INC.  
A California Corporation

Plaintiff(s),

vs.

HO CHUNG YEH,  
An individual  
a/k/a SEBASTIAN,  
a/k/a MIKE,  
d/b/a PAINTBARFACTORY,  
d/b/a PAINTBARFACTORY.COM,  
d/b/a PERSPICACATY  
INTERNATIONAL CORP, a sole  
proprietorship, and DOES 1 —10,  
inclusive,

Defendant(s).

CASE NO. C 14-00500 KAW  
[MODEL] STIPULATED ORDER  
RE: DISCOVERY OF  
ELECTRONICALLY STORED  
INFORMATION FOR STANDARD  
LITIGATION

**1. PURPOSE**

This Order will govern discovery of electronically stored information (“ESI”) in this case as a supplement to the Federal Rules of Civil Procedure, this Court’s Guidelines for the Discovery of Electronically Stored Information, and any other applicable orders and rules.

**2. COOPERATION**

The parties are aware of the importance the Court places on cooperation and commit to cooperate in good faith throughout the matter consistent with this Court’s Guidelines for the Discovery of ESI.

1           **3. LIAISON**

2           The parties have identified liaisons to each other who are and will be  
3 knowledgeable about and responsible for discussing their respective ESI. Each  
4 e-discovery liaison will be, or have access to those who are, knowledgeable about  
5 the technical aspects of e-discovery, including the location, nature, accessibility,  
6 format, collection, search methodologies, and production of ESI in this matter.  
7 The parties will rely on the liaisons, as needed, to confer about ESI and to help  
8 resolve disputes without court intervention.

9           **4. PRESERVATION**

10          The parties have discussed their preservation obligations and needs and  
11 agree that preservation of potentially relevant ESI will be reasonable and  
12 proportionate. To reduce the costs and burdens of preservation and to ensure  
13 proper ESI is preserved, the parties agree that:

- 14          a) Only ESI created or received between **1/1/2009** and **12/31/2014** will be  
15 preserved, to the extent the ESI remains in the custody, control or  
16 possession of the parties;
- 17          c) The parties will agree on the number of custodians per party for whom  
18 ESI will be preserved;
- 19          d) These data sources are not reasonably accessible because of undue  
20 burden or cost pursuant to Fed. R. Civ. P. 26(b)(2)(B) and ESI from  
21 these sources will be preserved (to the extent they still exist) but not  
22 searched, reviewed, or produced: systems or computers that are no  
23 longer in use that cannot be accessed;
- 24          e) Among the sources of data the parties agree are not reasonably  
25 accessible, the parties agree not to preserve the following: backup  
26 media created before **1/1/2009**, digital voicemail, instant messaging,  
27 automatically saved versions of documents];
- 28          f) In addition to the agreements above, the parties agree data from these  
sources (a) could contain relevant information but (b) under the  
proportionality factors, should not be preserved: **n.a., with caveat that  
party responding to discovery request reserves all rights to assert any  
objection per Fed. R. Civ. P. 26(b)(2) et seq.**

1           **5. SEARCH**

2           The parties agree that in responding to an initial Fed. R. Civ. P. 34 request,  
3 or earlier if appropriate, they will meet and confer about methods to search ESI in  
4 order to identify ESI that is subject to production in discovery and filter out ESI  
5 that is not subject to discovery.

6           **6. PRODUCTION FORMATS**

7           The parties agree to produce documents in  PDF,  TIFF,  native and/or  
8  paper or a combination thereof (check all that apply)] file formats. If particular  
9 documents warrant a different format, the parties will cooperate to arrange for the  
10 mutually acceptable production of such documents. The parties agree not to  
11 degrade the searchability of documents as part of the document production  
12 process.

13           **7. PHASING**

14           When a party propounds discovery requests pursuant to Fed. R. Civ. P. 34,  
15 the parties agree to phase the production of ESI and the initial production will be  
16 from the following sources and custodians: *phased discovery unnecessary.*  
17 Following the initial production, the parties will continue to prioritize the order of  
18 subsequent productions.

19           **8. DOCUMENTS PROTECTED FROM DISCOVERY**

- 20           a) Pursuant to Fed. R. Evid. 502(d), the production of a privileged or  
21 work-product-protected document, whether inadvertent or otherwise, is  
22 not a waiver of privilege or protection from discovery in this case or in  
23 any other federal or state proceeding. For example, the mere production  
24 of privileged or work-product-protected documents in this case as part  
25 of a mass production is not itself a waiver in this case or in any other  
26 federal or state proceeding.
- 27           b) The parties have agreed upon a “quick peek” process pursuant to Fed.  
28 R. Civ. P. 26(b)(5) and reserve rights to assert privilege as follows:  
*parties may choose to “opt out” of “quick peek” process for certain  
documents that responding party identifies via a privilege log.*
- c) Communications involving trial counsel that post-date the filing of the

1 complaint need not be placed on a privilege log. Communications may  
2 be identified on a privilege log by category, rather than individually, if  
3 appropriate.

4 **9. MODIFICATION**

5 This Stipulated Order may be modified by a Stipulated Order of the parties  
6 or by the Court for good cause shown.

7 **IT IS SO STIPULATED**, through Counsel of Record.

8  
9 Date: February 12, 2016

BELVEDERE LEGAL PC

10  
11 By:           /s/                                  
12 MATTHEW D. METZGER

13 MATTHEW D. METZGER (#240437)  
14 *Attorneys for Plaintiff San Jose Options, Inc.*

15 Date: February 17, 2016


QUINTANA LAW GROUP, APC

16  
17 By:           /s/                                

18 ANDRES F. QUINANA (#190525)  
19 *Attorneys for Defendant Ho Chung Yeh*

20 **IT IS ORDERED** that the forgoing Agreement is approved.

21 Dated: 2/18/16

22   
23 \_\_\_\_\_  
24 UNITED STATES ~~DISTRICT~~/MAGISTRATE  
25 JUDGE  
26  
27  
28