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Attorneys for Plaintiff, Atlantic-Pacific  
 Processing Systems, Inc.

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

ATLANTIC-PACIFIC PROCESSING SYSTEMS,  
 INC., a California corporation,

Plaintiff,

vs.

DERMAKTIVE, LLC, a Florida limited liability  
 company; JORDAN DUFNER, a Connecticut  
 resident; ADAM WELLINGTON, a Connecticut  
 resident; JOE HELEWA, a New York resident;  
 UPSURGE, LLC, a Delaware limited liability  
 company; UPSURGE MEDIA GROUP, LLC, a  
 Delaware limited liability company; WIDO, LLC,  
 a Delaware limited liability company; DENIS  
 BETSI, an Ontario, Canada resident; T1  
 PAYMENTS, LLC, a Nevada limited  
 liability company; and DONALD KASDON, a  
 Nevada resident,

Defendants

Case No. 2:16-CV-00739-JAD-(PAL)

Assigned to: Judge Jennifer A. Dorsey &  
 Magistrate Judge Peggy A. Leen

**STIPULATION AND [PROPOSED]  
 ORDER RE: EMERGENCY MOTION RE:  
 KASDON AND FAIRCHILD SUBPOENAS**

2:16-CV-00739-JAD-(PAL)

STIPULATION RE: EMERGENCY MOTION RE: KASDON/FAIRCHILD SUBPOENAS

1 DERMAKTIVE, LLC, a Florida limited liability  
2 company; and JORDAN DUFNER, a Connecticut  
resident,

3 Counter-Plaintiffs

4 vs.

5 ATLANTIC-PACIFIC PROCESSING SYSTEMS,  
6 INC., a California corporation,

7 Counter-Defendants

8  
9 Non-party AMBER FAIRCHILD and DONALD KASDON (collectively the  
10 “Deponents”), on the one hand, and Plaintiff ATLANTIC-PACIFIC PROCESSING  
11 SYSTEMS, INC. (“APPS”), on the other hand, by and through their respective counsel,  
12 hereby agree to the following recitals and submit the following Stipulation and Order in  
13 resolution of the Non-Party Amber Fairchild and Donald Kasdon’s Emergency Motion to  
14 Quash Deposition Subpoenas (Dkt. No. 106) (the “Emergency Motion”).

15 **RECITALS**

16 **WHEREAS**, on May 5, 2017, counsel for APPS issued Deposition Subpoenas for  
17 the Deponents to take place on June 27, 2017 and June 28, 2017 in Las Vegas, Nevada,  
18 where the deponents resided;

19 **WHEREAS**, on June 1, 2017, counsel for the Deponents, Michael Cristalli,  
20 contacted APPS’s counsel requesting that the deposition dates be continued;

21 **WHEREAS**, on July 7, 2017, Michael Cristalli expressly agreed in open court to  
22 accept service of the Deposition Subpoenas on behalf of the Deponents (Dkt. No. 78);

23 **WHEREAS**, Mr. Cristalli requested that the depositions of the Deponents take  
24 place in October 2017 in Las Vegas to accommodate the Deponents’ anticipated move to  
25 Florida in August;

26 **WHEREAS**, APPS agreed to postpone the depositions to October on the condition  
27 that the Deponents would agree to be deposed in Nevada;

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1           **WHEREAS**, pursuant to his agreement to accept service, and after the parties “met  
2 and conferred” on the dates and location of the depositions, on August 17, 2017, Mr.  
3 Cristalli was served with Deposition Subpoenas for the Deponents’ depositions to take  
4 place in Las Vegas on October 25<sup>th</sup> (Kasdon) and 26<sup>th</sup> (Fairchild), 2017;

5           **WHEREAS**, witness fees for the depositions were tendered on September 1, 2017;

6           **WHEREAS**, on October 10, 2017, Mr. Cristalli notified counsel for APPS of a  
7 family emergency necessitating the continuance of the October depositions;

8           **WHEREAS**, Mr. Cristalli agreed, on behalf of Mr. Kasdon, that all documents  
9 responsive to the document requests in his Subpoena would be produced in October 2017;

10           **WHEREAS**, Mr. Cristalli agreed to reimburse the costs associated with  
11 changing/cancelling airline flights related to the October depositions;

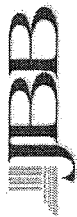
12           **WHEREAS**, when the parties could not immediately agree on the dates/locations  
13 of the continued Depositions, Mr. Cristalli filed the Emergency Motion;

14           **WHEREAS**, since the filing of the Emergency Motion, the parties have reached an  
15 agreement that the Deposition of Amber Fairchild will take place on January 10, 2018,  
16 beginning at 9:00 a.m., at First Choice Reporting – Miami, 44 West Flagler Street, Suite  
17 300, Miami, FL 33130;

18           **WHEREAS**, since the filing of the Emergency Motion, the parties have reached an  
19 agreement that the Deposition of Donald Kasdon will take place on January 9, 2018,  
20 beginning at 9:00 a.m., at First Choice Reporting – Miami, 44 West Flagler Street, Suite  
21 300, Miami, FL 33130; and

22           **WHEREAS**, since the filing of the Emergency Motion, Kory Kaplan has left the  
23 firm of Gentile, Cristalli, Miller, Armeni, Savarrese but continues to represent the  
24 Deponents through his new law firm of Larson, Zirzow & Kaplan and is authorized to  
25 accept service of the amended Deposition Subpoenas on behalf of the Deponents;

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JULANDER | BROWN | BOLLARD  
ATTORNEYS AT LAW

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STIPULATION

**IT IS THEREFORE STIPULATED AND AGREED** by and between the parties hereto as follows:

1. The undersigned counsel for the Deponents, Kory Kaplan, has authority to, and will, accept service of amended Deposition Subpoenas on behalf of the Deponents;

2. The Deposition of Amber Fairchild will take place on January 10, 2018, beginning at 9:00 a.m., at First Choice Reporting – Miami, 44 West Flagler Street, Suite 300, Miami, FL 33130;

3. The Deposition of Donald Kasdon will take place on January 9, 2018, beginning at 9:00 a.m., at First Choice Reporting – Miami, 44 West Flagler Street, Suite 300, Miami, FL 33130;

4. The witness fees previously tendered to the Deponents on September 1, 2017 will satisfy the requirements of Fed. R. Civ. P. 45(b)(1);

5. Deponent Donald Kasdon will produce all documents responsive to his Deposition Subpoena which have not already been produced within 10 days; and

6. The deponents will reimburse APPS and its counsel for the costs incurred in connection with changing/cancelling the flights for the previously-scheduled October depositions in the amount of \$203.02.

**IT IS SO STIPULATED.**

DATED this 8<sup>th</sup> day of November, 2017

JULANDER, BROWN & BOLLARD

By 

DIRK O. JULANDER  
*Pro Hac Vice*  
9110 Irvine Center Drive  
Irvine, California 92618  
Tel. (949) 477-2100

*Attorneys for Plaintiff and Cross-Defendant  
Atlantic-Pacific Processing Systems, Inc*



JULANDER I BROWN I BOLLARD  
ATTORNEYS AT LAW

1 DATED this 8<sup>th</sup> day of November, 2017

2 LARSON, ZIRZOW & KAPLAN

3  
4 By 

5 KORY KAPLAN  
6 850 E. Bonneville Ave.  
7 Las Vegas, NV 89101  
8 Tel. (702) 382-1170

9 *Attorneys for Defendants T1 Payments, LLC and  
10 Donald Kasdon and Non-Party Amber Fairchild*

11 **ORDER**

12 Based on the foregoing Stipulation and good cause appearing, it is hereby

13 ORDERED as follows:

14 1. Kory Kaplan shall accept service of amended Deposition Subpoenas on  
15 behalf of Deponents Donald Kasdon and Amber Fairchild;

16 2. The Deposition of Amber Fairchild shall take place on January 10, 2018,  
17 beginning at 9:00 a.m., at First Choice Reporting – Miami, 44 West Flagler Street, Suite  
18 300, Miami, FL 33130;

19 3. The Deposition of Donald Kasdon shall take place on January 9, 2018,  
20 beginning at 9:00 a.m., at First Choice Reporting – Miami, 44 West Flagler Street, Suite  
21 300, Miami, FL 33130;

22 4. The witness fees previously tendered to the Deponents on September 1, 2017  
23 shall satisfy the requirements of Fed. R. Civ. P. 45(b)(1);

24 5. Deponent Donald Kasdon shall immediately produce all documents  
25 responsive to his Deposition Subpoena which have not been previously produced by him  
26 within 10 days; and

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JULANDER | BROWN | BOLLARD  
ATTORNEYS AT LAW

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6. The Deponents shall reimburse APPS and its counsel for the costs incurred in connection with changing/cancelling the flights for the previously-scheduled October depositions in the amount of \$203.02, payable within 10 days to the Julander, Brown & Bollard Client Trust Account.

**IT IS SO ORDERED.**

**IT IS FURTHER ORDERED** that the Emergency Motion to Quash Subpoenas (ECF No. 106) is **DENIED as moot** and the hearing on that motion, currently set for November 16, 2017 is **VACATED**.

Peggy A. Leen  
United States Magistrate Judge

Dated: November 14, 2017

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 8<sup>th</sup> day of November, 2017, a true and correct copy of **STIPULATION AND [PROPOSED] ORDER RE: EMERGENCY MOTION RE: KASDON AND FAIRCHILD SUBPOENAS** was served via the United States District Court CM/ECF system on all parties or persons requiring notice.

By Stephanie Hernandez  
Stephanie Hernandez, an Employee of  
JULANDER, BROWN & BOLLARD,