

1 Ari N. Rothman (*pro hac vice*)
 2 Shahin Rothermel (*pro hac vice*)
 3 VENABLE LLP
 4 575 7th Street, NW
 5 Washington, DC 20004
 Telephone: 202-344-4000
 Facsimile: 202-344-8300
 anrothman@venable.com
 sorothermel@venable.com

6 Marc J. Randazza (NV Bar No. 12265)
 7 Ronald D. Green (NV Bar No. 7360)
 8 RANDAZZA LEGAL GROUP, PLLC
 9 4035 S. El Capitan Way
 Las Vegas, NV 89147
 Telephone: 702-420-2001
 Facsimile: 305-437-7662
 ecf@randazza.com

10 *Attorneys for Defendants*
 11 *Dermaktive, LLC and Jordan Dufner*

12 **UNITED STATES DISTRICT COURT**
 13 **DISTRICT OF NEVADA**

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

16 Plaintiffs,

17 vs.

18 DERMAKTIVE, LLC, a Florida limited liability
 19 company, and JORDAN DUFNER, a
 20 Connecticut resident; DOE INDIVIDUALS I
 through X; and ROE ENTITIES I through X,

21 Defendants.

Case No.: 2:16-cv-00739

**STIPULATION AND (PROPOSED)
 ORDER ALLOWING DERMAKTIVE
 AND DUFNER TO FILE
 COUNTERCLAIM AND THIRD-
 PARTY COMPLAINT**

22
 23 Plaintiff Atlantic-Pacific Processing Systems, and Defendants Dermaktive and Jordan
 24 Dufner, stipulate that Dermaktive and Dufner may file in this action the counterclaim and third-
 25 party complaint attached hereto as Exhibit A, and ask the Court to enter an order reflecting same.
 26 Good cause exists to grant and enter this stipulation for the reasons set forth below.
 27

1 1. On April 4, 2016, Atlantic-Pacific Processing Systems filed a Complaint in this
2 Court against Dermaktive and Dufner, alleging breach of contract, breach of guaranty, and
3 declaratory relief. (ECF No. 1.)

4 2. On May 26, 2016, Dermaktive and Dufner filed a complaint alleging fraud and
5 other claims against Atlantic-Pacific Processing Systems, Inc., T1 Payments LLC,
6 7 Processing, LLC, Donald Kasdon, Amber Fairchild, and Debra King in the Eighth Judicial Court
7 of Clark County, Nevada, Case Number A-16-737420-B. Many of the claims in the state court
8 complaint overlap with and involve the same facts and circumstances as those in the operative
9 complaint in this case.

10 3. Having amended its complaint and defendants having answered it, Atlantic-Pacific
11 Processing Systems filed a motion to dismiss the state court action on the ground of improper
12 venue. During the hearing on that motion on August 15, 2016, the state court determined it would
13 stay the state court action pending resolution of venue by this Court.

14 4. Thereafter, the parties in this case, and the to-be added third-party defendants,
15 stipulated to venue in this Court conditioned on: (a) allowing Dermaktive and Dufner to pursue
16 their state court claims in this case given the substantial overlap of issues, claims and parties; and
17 (b) all parties reserving all of their claims, defenses, and other rights.

18 5. Allowing Dermaktive and Dufner to pursue their claims in this Court will not divest
19 the Court of subject matter jurisdiction over the claims or personal jurisdiction over the parties
20 presently before the Court, and will not prejudice any of the parties. No discovery has occurred,
21 and no hearing or other case-dispositive deadlines are approaching.

22 6. The parties do not enter this stipulation to delay the proceedings or for any other
23 improper purpose.

24 ///

25 ///

26 ///

1 WHEREFORE, the parties stipulate and request that the Court enter an order allowing
2 DermAktive and Dufner to file the counterclaim and third-party complaint attached hereto as
3 Exhibit A while allowing all parties to pursue any claims, defenses, and other rights they have with
4 respect to the causes of action alleged therein.

5 DATED this 14th day of September, 2016.

6 HUTCHISON & STEFFEN, LLC

RANDAZZA LEGAL GROUP, PLLC

7 /s/Todd W. Prall

/s/ Ronald D. Green

8 Joseph S. Kistler (3458)
9 Todd W. Prall (9154)
10 Peccole Professional Park
11 10080 West Alta Drive, Suite 200
12 Las Vegas, Nevada 89145
13 Tel: (702) 385-2500
14 Fax: (702) 385-2086
15 Email: jkislter@hutchlegal.com
16 tprall@hutchlegal.com

Ronald D. Green (7360)
4035 S. El Capitan Way
Las Vegas, Nevada 89147
Tel. (702) 420-2001
Fax: (305) 437-7662
Email: ecf@randazza.com

17 JULANDER, BROWN & BOLLARD

VENABLE LLP

18 /s/ Dirk O. Julander

/s/ Ari N. Rothman

19 Dirk O. Julander, Cal. Bar No. 132313
20 (Pro Hac Vice)
21 9110 Irvine Center Drive
22 Irvine, California 92618
23 Telephone: (949) 477-2100
24 Facsimile: (949) 477-6355
25 Email: doj@jbblaw.com

Ari N. Rothman (Admitted Pro Hac Vice)
Shahin Roethermel (Admitted Pro Hac Vice)
575 7th Street, NW
Washington, DC 20004
Tel: (202) 344-4000
Fax: (202) 344-8300
Email: anrothman@venable.com
sorothermel@venable.com

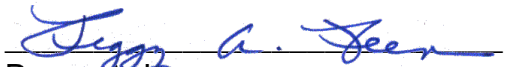
Attorneys for Plaintiff

Attorneys for Defendants

26 **IT IS SO ORDERED.**

27 **IT IS FURTHER ORDERED** that DermAktive and Dufner shall *forthwith* separately file their counterclaim and third-party complaint which was attached as Exhibit A.

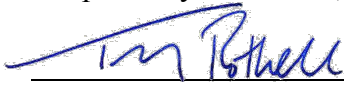
Dated this 19th day of September, 2016.


Peggy A. Leen
United States Magistrate Judge

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 14, 2016, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I further certify that a true and correct copy of the foregoing document being served via transmission of Notices of Electronic Filing generated by CM/ECF.

Respectfully Submitted,


Employee,
Randazza Legal Group, PLLC