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Servicing LLC now known as Ditech
 15 *Financial LLC (erroneously named as*
 16 *Green Tree Services, LLC)*

17 UNITED STATES DISTRICT COURT
 18 DISTRICT OF NEVADA

20 Lee C. Kamimura, individually and all
 21 others similarly situated,
 22 Plaintiff,
 23 vs.
 24 Green Tree Services, LLC,
 25 Defendant.

Case No. 2:16-cv-00783-APG-CWH
**[PROPOSED] PROTECTIVE
 ORDER**

1 The parties have agreed to the terms of this Protective Order; accordingly, it
2 is ORDERED:

3 **1. Scope.** All documents produced in the course of discovery, including
4 initial disclosures, all responses to discovery requests, all responses to third-party
5 subpoenas, all deposition testimony and exhibits, other materials which may be
6 subject to restrictions on disclosure for good cause and information derived directly
7 therefrom (hereinafter collectively “document(s)”), shall be subject to this Order
8 concerning confidential information as set forth below. This Order is subject to the
9 Local Rules of this District and of the Federal Rules of Civil Procedure on matters
10 of procedure and calculation of time periods.

11 **2. Form and Timing of Designation.** A party may designate documents
12 as confidential and restricted in disclosure under this Order by placing or affixing
13 the words “CONFIDENTIAL” on the document in a manner that will not interfere
14 with the legibility of the document and that will permit complete removal of the
15 CONFIDENTIAL designation. Documents shall be designated CONFIDENTIAL
16 prior to or at the time of the production or disclosure of the documents. The
17 designation “CONFIDENTIAL” does not mean that the document has any status or
18 protection by statute or otherwise except to the extent and for the purposes of this
19 Order.

20 **3. Documents Which May be Designated CONFIDENTIAL.** Any
21 party may designate documents as CONFIDENTIAL but only after review of the
22 documents by an attorney who has in good faith determined that the documents
23 contain information protected from disclosure by statute or that should be protected
24 from disclosure as confidential personal information, trade secrets, personnel
25 records, or commercial information. The designation shall be made subject to the
26 standards of Rule 11 and the sanctions of Rule 37 of the Federal Rules of Civil
27 Procedure. Information or documents that are available in the public sector may not
28 be designated as CONFIDENTIAL.

1 **4. Depositions.** Deposition testimony will be deemed CONFIDENTIAL
2 only if designated as such either during the Deposition or within 30 days following
3 the receipt of the Deposition Transcript. Within thirty (30) days after delivery of the
4 transcript, a designating party may serve a Notice of Designation to all parties of
5 record as to specific portions of the transcript to be designated CONFIDENTIAL.
6 Such designation shall be specific as to the portions to be designated
7 CONFIDENTIAL. The entire deposition testimony shall be treated as
8 CONFIDENTIAL until the 30 days to designate specific portions of the transcript
9 has elapsed. Thereafter, those portions designated as CONFIDENTIAL by either
10 party shall be protected as CONFIDENTIAL pending objection under the terms of
11 this Order.

12 **5. Protection of Confidential Material.**

13 a. General Protections. Documents designated CONFIDENTIAL
14 under this Order shall not be used or disclosed by the parties, counsel for the parties
15 or any other persons identified in ¶ 5.b. for any purpose whatsoever other than to
16 prepare for and to conduct discovery, hearings and trial in this action, including any
17 appeal thereof.

18 b. Limited Third-Party Disclosures. The parties and counsel for the
19 parties shall not disclose or permit the disclosure of any CONFIDENTIAL
20 documents to any third person or entity except as set forth in subparagraphs 1-6.
21 Subject to these requirements, the following categories of persons may be allowed
22 to review documents that have been designated CONFIDENTIAL:

- 23 1. The Court and Court personnel;
- 24 2. Counsel. Counsel for the parties and employees of
25 counsel who have responsibility for the preparation and trial of the action;
- 26 3. Parties. Parties and employees of a party to this Order, but
27 only to the extent counsel determines that the specifically named individual party or
28

1 employee's assistance is reasonably necessary to the conduct of the litigation in
2 which the information is disclosed;

3 4. Court Reporters and Recorders. Court reporters and
4 recorders engaged for depositions;

5 5. Contractors. Those persons specifically engaged for the
6 limited purpose of making copies of documents or organizing or processing
7 documents but only after each such person has completed the certification contained
8 in Exhibit A, Acknowledgment of Understanding and Agreement to Be Bound.

9 6. Consultants and Experts. Consultants, investigators, or
10 experts (hereinafter referred to collectively as "experts") employed by the parties or
11 counsel for the parties to assist in the preparation and trial of this action but only
12 after such persons have completed the certification contained in Exhibit A,
13 Acknowledgment of Understanding and Agreement to Be Bound;

14 7. Others by Consent. Other persons only by written consent
15 of the producing party or upon order of the Court and on such conditions as may be
16 agreed or ordered. Such persons shall execute the certification contained in Exhibit
17 A, Acknowledgment of Understanding and Agreement to Be Bound.

18 c. Control of Documents. Counsel for the parties shall make
19 reasonable efforts to prevent unauthorized disclosure of documents designated as
20 CONFIDENTIAL pursuant to the terms of this Order. Counsel shall maintain the
21 originals of the forms signed by persons acknowledging their obligations under this
22 Order for a period of six (6) years from the date of signing.

23 d. Copies. Prior to production to another party, all copies, electronic
24 images, duplicates, extracts, summaries or descriptions (hereinafter referred to
25 collectively as "copies") of documents designated as CONFIDENTIAL under this
26 Order, or any individual portion of such a document, shall be affixed with the
27 designation "CONFIDENTIAL" if the word does not already appear on the copy.
28 All such copies shall thereafter be entitled to the protection of this Order. The term

1 “copies” shall not include indices, electronic databases or lists of documents
2 provided these indices, electronic databases or lists do not contain substantial
3 portions or images of the text of confidential documents or otherwise disclose the
4 substance of the confidential information contained in those documents.

5 **6. Filing CONFIDENTIAL Documents With the Court.**

6 A party seeking to file any CONFIDENTIAL document under seal must file a
7 motion to seal and must comply with *Kamakana v. City and County of Honolulu*,
8 447 F.3d 1172 (9th Cir. 2006) and Local Rule 10-5(b).

9 If a party wishes to file in Court any Information designated as “Confidential”
10 or under this Protective Order, such party must notify the Producing Party (or, in the
11 case of a deposition transcript containing “Confidential” Information, must notify
12 the party or non-party that designated such transcript as “Confidential”) at least
13 seven (7) days prior to filing the document. For materials designated Confidential
14 by Defendants, the notification must be sent via email to both dhc@severson.com
15 and ljacobsen@mcdonaldcarano.com. For materials designated Confidential by
16 Plaintiff, this notification must be sent via email to mkind@kazlg.com.

17 The designating party or non-party must then make a good faith determination
18 if the relevant standard for sealing is met. To the extent the designating party or
19 non-party does not believe the relevant standard for sealing can be met, it shall
20 indicate that the document may be filed publicly no later than four (4) days after
21 receiving notice of the intended filing. To the extent the designating party or non-
22 party believes the relevant standard for sealing can be met, it shall provide a
23 declaration or other evidence supporting that assertion no later than four (4) days
24 after receiving notice of the intended filing. If the designating party or non-party
25 provides a declaration or other evidence supporting the filing of the designated
26 material under seal, the filing party shall file the designated material under the seal
27 in a manner consistent with the rules of this Court. Specifically, the filing of
28 designated material under seal shall be accompanied by a motion to seal the

1 designated material and shall attach the declaration or other evidence provided by
2 the designating party or non-party to its filing addressing the applicable standard and
3 explaining why it has been met. If the designating party fails to provide any
4 declaration or other evidence in support of the motion to seal to the filing party, the
5 filing party shall so indicate in its motion to seal, and the Court may order the
6 document filed in the public record.

7 Upon the failure of the filing or lodging party to properly designate
8 information, any party or third party who in good faith believes that designation and
9 filing under seal is required may move the Court to file said information under seal
10 within fourteen days of the defective filing or lodging.

11 7. **No Greater Protection of Specific Documents.** No party may
12 withhold information from discovery on the ground that it requires protection
13 greater than that afforded by this Order unless the party moves for an order
14 providing such special protection.

15 8. **Challenges by a Party to Designation as Confidential.** Any
16 CONFIDENTIAL designation is subject to challenge by any party or non- party
17 (hereafter “party”). The following procedure shall apply to any such challenge.

18 a. **Objection to Confidentiality.** Within thirty (30) days of the
19 receipt of any document designated CONFIDENTIAL or of the refusal to produce a
20 document on the ground of such designation, a party may serve upon the designating
21 party an objection to the designation. The objection shall specify the documents to
22 which the objection is directed and shall set forth the reasons for the objection as to
23 each document or category of documents. CONFIDENTIAL documents to which
24 an objection has been made shall remain CONFIDENTIAL until designated
25 otherwise by waiver, agreement or order of the Court.

26 b. **Obligation to Meet and Confer.** The objecting party and the party
27 who designated the documents to which objection has been made shall have fifteen
28 (15) days from service of the objection to meet and confer in a good faith effort to

1 resolve the objection by agreement. If agreement is reached confirming or waiving
2 the CONFIDENTIAL designation as to any documents subject to the objection, the
3 designating party shall serve on all parties a notice specifying the documents and the
4 nature of the agreement.

5 c. Obligation to File Motion. If the parties cannot reach agreement
6 as to any documents designated CONFIDENTIAL, for the purpose of discovery, the
7 party challenging the designation shall file with the court within thirty (30) days of
8 the service of the objection a motion to retain the CONFIDENTIAL designation.

9 **9. Court Not Bound By Parties' Designation.** Nothing in this Order or
10 any action or agreement of a party under this Order limits the court's power to make
11 orders concerning the disclosure of documents produced in discovery, filed with the
12 court, or used during any hearing or at trial.

13 **10. Use of Confidential Documents or Information at Hearing or Trial.**
14 A party who intends to present or anticipates that another party may present at any
15 hearing or at trial CONFIDENTIAL documents or information derived therefrom
16 shall identify the issue, not the information, in a pre-hearing or pretrial
17 memorandum. The court may thereafter make such orders as are necessary to
18 govern the use of such documents or information at a hearing or trial.

19 **11. Obligations on Conclusion of Litigation.**

20 a. Order Remains in Effect. Unless otherwise agreed or ordered, the
21 terms of this Order shall remain in force as an agreement between the parties after
22 dismissal or entry of final judgment not subject to further appeal. Actions to enforce
23 the terms of the Order after dismissal or entry of final judgment shall be by separate
24 legal action and not by motion for contempt or other relief filed in this action.

25 b. Return of CONFIDENTIAL Documents. Within thirty (30) days
26 after dismissal or entry of final judgment not subject to further appeal, the receiving
27 party shall return to the producing party all documents treated as CONFIDENTIAL
28 under this Order, including copies as defined in ¶ 5.d., unless: (1) the document has

1 been offered into evidence or filed without restriction as to disclosure; (2) the parties
2 agree to destruction in lieu of return; or (3) as to documents bearing the notations,
3 summations, or other mental impressions of the receiving party, that party elects to
4 destroy the documents and certifies to the producing party that it has done so.

5 Notwithstanding the above requirements to return or destroy documents,
6 counsel may retain attorney work product, including an index which refers or relates
7 to information designated CONFIDENTIAL, so long as that work product does not
8 duplicate verbatim substantial portions of the text or images of confidential
9 documents. This work product shall continue to be CONFIDENTIAL under this
10 Order.

11 **12. Inadvertent Production of Confidential Information.** If a party
12 inadvertently fails to designate information as “Confidential” in accordance with
13 this Order prior to or at the time of disclosure, it may notify the Parties that it
14 intends to designate such materials as “Confidential” after disclosure but before
15 trial, the Parties receiving such material shall ensure that all inadvertently disclosed
16 information is subsequently treated as “Confidential” pursuant to the terms of this
17 Order.

18 **13. Inadvertent Production of Privileged Material.** Consistent with
19 Federal Rule of Civil Procedure 26(b)(5)(B), and Federal Rules of Evidence 502(b)
20 and 502(d), if a party inadvertently produces or provides discovery that it believes is
21 subject to a claim of privilege or of protection as trial-preparation material, the
22 inadvertent production is not and will not be construed or deemed to be a general or
23 specific waiver or forfeiture of any such privilege, immunity or work product
24 protection that the Producing Party would otherwise be entitled to assert with
25 respect to the inadvertently disclosed information and its subject matter. The
26 Producing Party making the claim may notify the Receiving Party or parties in
27 writing of the claim and the basis for it (and should identify the document by Bates
28 number). Within seven (7) business days of receiving such notice, the Receiving

1 Party or parties must return, sequester, or destroy the specified information and any
2 copies it has; must not use or disclose the information until the claim is resolved;
3 and must take reasonable steps to retrieve the information if the party disclosed it
4 before being notified. Within ten (10) business days after giving such notice of
5 inadvertent production, the Producing Party will produce a privilege log specific to
6 such documents to the Receiving Party. The Receiving Party may move the Court
7 for an order that the material in question is not protected from discovery by the
8 asserted privilege or immunity, and if the Receiving Party so moves the Court, the
9 Producing Party shall provide the Court with one copy of the allegedly privileged
10 material for in-camera review in connection with such motion.

11 **14. Order Subject to Modification.** This Order shall be subject to
12 modification by the Court on its own or on motion of a party or any other person
13 with standing concerning the subject matter. Motions to modify this Order shall be
14 served and filed in accordance with the Federal Rules of Civil Procedure and the
15 Local Rules.

16 **15. No Prior Judicial Determination.** This Order is entered based on the
17 representations and agreements of the parties and for the purpose of facilitating
18 discovery. Nothing herein shall be construed or presented as a judicial determination
19 that any documents or information designated CONFIDENTIAL by counsel or the
20 parties is subject to protection under Rule 26(c) of the Federal Rules of Civil
21 Procedure or otherwise until such time as the court may rule on a specific document
22 or issue.

23 **16. Third Parties.** A subpoenaed third party who so elects may avail itself
24 of, and agree to be bound by, the terms and conditions of this Order and thereby
25 become a producing party for purposes of this Order. The parties, in conducting
26 discovery from third parties, shall attach to such discovery requests a copy of this
27 Order so as to apprise such third parties of their rights herein. A third party who
28 elects to become a producing party for purposes of this Order shall provide written

1 notice thereof to the party requesting discovery (the “requesting party”). Upon
2 receiving such notice, the requesting party shall notify all other parties to the
3 proceeding that the discovery received from the third party is subject to the terms
4 and conditions of this Order.

5 **17. Persons Bound.** This Order shall take effect when entered and shall be
6 binding upon all counsel and their law firms, the parties, and persons made subject
7 to this Order by its terms.

8 DATED this 30th day of January, 2017.

9 KAZEROUNI LAW GROUP, APC

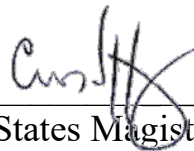
McDONALD CARANO WILSON LLP

11 /s/ Michael Kind
12 Michael Kind
13 *Attorneys for Plaintiff*

11 /s Laura R. Jacobsen
12 Laura R. Jacobsen
13 *Attorneys for Defendant Green Tree*
14 *Servicing LLC, now known as Ditech*
15 *Financial LLC*

16 **IT IS SO ORDERED.**

17 DATED this _ January 31 _____, 2017



United States Magistrate Judge

1 **EXHIBIT A**

2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5
6 Lee C. Kamimura, individually and all
7 others similarly situated,

8 Plaintiff,

9 vs.

10 Green Tree Services, LLC,

11 Defendant.

Case No. 2:16-cv-00783-APG-CWH

**ACKNOWLEDGMENT OF
UNDERSTANDING AND
AGREEMENT TO BE BOUND**

12
13 The undersigned hereby acknowledges that he/she has read the
14 Confidentiality Order dated _____ in the above-captioned
15 case and attached hereto, understands the terms thereof, and agrees to be bound by
16 its terms. The undersigned submits to the jurisdiction of the United States District
17 Court for the District of Nevada in matters relating to the Confidentiality Order and
18 understands that the terms of the Confidentiality Order obligate him/her to use
19 documents designated CONFIDENTIAL in accordance with the Order solely for the
20 purposes of the above-captioned case, and not to disclose any such documents or
21 information derived directly therefrom to any other person, firm or concern. The
22 undersigned acknowledges that violation of the Confidentiality Order may result in
23 penalties for contempt of court or for other relief under the protective order
24 agreement.

25 DATED this _____ day of _____, 2017.

26
27 By: _____
28