

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

GINA L. BRITTON, a single woman,
TAMI J. FRASE-PHILLIPS, a married
woman in her individual capacity, and
on behalf of others similarly situated,

NO. 2:18-CV-0041-TOR

**STIPULATED FED. R. EVID.
502(d) ORDER**

Plaintiffs,

vs.

SERVICELINK FIELD SERVICES,
LLC, formerly known as LPS FIELD
SERVICES, INC.

Defendant.

Before the Court is the parties' Stipulated Fed. R. Evid. 502(d) Order which
was heard without oral argument. Based on the parties' stipulation, the following
Stipulated Fed. R. Evid. 502(d) Order is HEREBY ENTERED:

//
//
//

1 **I. APPLICABILITY**

2 This Order shall be applicable to and govern all information produced by the
3 parties or made available for inspection (collectively “Information”).

4 **II. PRODUCTION OF DISCOVERY MATERIALS CONTAINING**
5 **POTENTIALLY PRIVILEGED INFORMATION**

6 1. The production of any Information in this proceeding shall not, for the
7 purposes of this proceeding or any other proceeding in any other court, be deemed
8 a waiver or impairment of any claim of privilege or protection, including, but not
9 limited to, the attorney-client privilege, the protection afforded to work-product
10 materials, or the subject matter thereof, or any other privilege or protection
11 recognized by law.

12 2. The producing party may notify the receiving party, in writing, upon
13 discovery that privileged and/or work-product material has been produced. Upon
14 receiving written notice from the producing party that privileged and/or work-
15 product material has been produced, the receiving party shall within five (5)
16 business days of receipt of such notice—unless it contests the claim of attorney-
17 client privilege or work product protection or other protection: (i) return all such
18 Information, and all copies thereof, to the producing party; (ii) attempt, in good
19 faith, to retrieve and return or destroy all copies of the documents in electronic
20 format; and (iii) provide a certification of counsel that all such Information has

1 been returned or destroyed. The receiving party shall not use such information for
2 any purpose.

3 3. If the receiving party contests the claim of attorney-client privilege or
4 work product protection or other protection, the receiving party shall give the
5 producing party written notice of the reason for said disagreement. However, the
6 receiving party may not challenge the privilege or immunity claim by arguing that
7 the disclosure itself is a waiver of any applicable privilege. If the parties are unable
8 to resolve the dispute through good faith efforts to meet and confer, then the
9 receiving party may, within fifteen (15) business days from the initial notice by the
10 producing party, seek an Order from the Court compelling the production of the
11 material. The parties may extend this deadline by agreement in writing. If the
12 receiving party seeks to file the Information with its motion, then the receiving
13 party must seek to file any Information under seal for *in camera* review by the
14 Court and may not disclose, rely on, or refer to any of the Information in any
15 public filing. Pending resolution of the motion, the receiving party must sequester
16 the Information and not use the Information or disclose it to any person other than
17 as required by law.

18 4. Any analyses, memoranda or notes which were internally generated
19 based upon such produced Information shall immediately be sequestered, and shall
20 be destroyed in the event that (a) the receiving party does not contest that the

1 Information is privileged, or (b) the Court rules that the Information is privileged.
2 Such analyses, memoranda or notes may only be utilized by the receiving party in
3 the event that (a) the producing party agrees in writing that the Information is not
4 privileged, or (b) the Court rules that the Information is not privileged.

5 5. Nothing in this Order shall relieve counsel for any receiving party of
6 any existing duty or obligation, whether established by case law, rule of court,
7 ethics rule, regulation or other source, to return, and not to review, any privileged
8 or work product materials without being requested by the producing party to do so.
9 Rather, in the event a receiving party becomes aware that it is in possession of
10 what appears to be privileged documents or materials, then counsel for the
11 receiving party shall immediately: (i) cease any further review or use of that
12 document or material and (ii) notify the producing party of the apparent production
13 of Information and inquire whether the documents or materials are protected
14 Information. In the event the producing party confirms the documents or material
15 are protected Information, then the receiving party shall comply with the terms of
16 this Order in all respects.

17 6. The parties retain the right to review documents for responsiveness,
18 privilege or other considerations before production.
19
20

1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

2 TERRELL MARSHALL LAW
3 GROUP PLLC

FREY BUCK, P.S.

4 By: /s/ Beth E. Terrell, WSBA #26759

By: /s/ Ted Buck, WSBA #22029

5 Beth E. Terrell, WSBA #26759
6 Blythe H. Chandler, WSBA #43387
7 Brittany J. Glass, WSBA #52095
8 Attorneys for Plaintiff
9 936 North 34th Street, Suite 300
10 Seattle, Washington 98103-8869
11 Telephone: (206) 816-6603
12 Facsimile: (206) 319-5450

Ted Buck, WSBA #22029
Attorneys for Defendants
1200 Fifth Avenue, Suite 1900
Seattle Washington 98101
Telephone: (206) 486-8000
Facsimile: (206) 902-9660
Email: tbuck@freybuck.com

8 Email: bterrell@terrellmarshall.com
9 Email: bchandler@terrellmarshall.com
10 Email: bglass@terrellmarshall.com

Steven A. Goldfarb, *Admitted Pro Hac Vice*
Erica L. Calderas, *Admitted Pro Hac Vice*
Attorneys for Defendants
HAHN LOESER & PARKS, LLP
200 Public Square, Suite 2800
Cleveland, Ohio 44114
Telephone: (216) 621-0150
Facsimile: (216) 241-2824
Email: sagoldfarb@hahnlaw.com
Email: elcalderas@hahnlaw.com

10 Clay M. Gatens, WSBA #34102
11 Devon A. Gray, WSBA #51485
12 Attorneys for Plaintiff
13 JEFFERS, DANIELSON, SONN
& AYLWARD, P.C.
2600 Chester Kimm Road
P.O. Box 1688
Wenatchee, Washington 98807-1688
Telephone: (509) 662-3685
Facsimile: (509) 662-2452
Email: clayg@jdsalaw.com
Email: devong@jdsalaw.com

16 Michael D. Daudt, WSBA #25690
17 Attorneys for Plaintiff
18 DAUDT LAW PLLC
2200 Sixth Avenue, Suite 1250
Seattle, Washington 98121-1280
Telephone: (206) 445-7733
Facsimile: (206) 445-7399
20 Email: mike@daudtlaw.com

STIPULATED FED. R. EVID. 502(d) ORDER

Page 5

JEFFERS, DANIELSON, SONN & AYLWARD, P.S.
Attorneys at Law
(509) 662-3685 / FAX (509) 662-2452
2600 Chester Kimm Road / P.O. Box 1688
Wenatchee, WA 98807-1688

1 PURSUANT TO STIPULATION, IT IS HEREBY ORDERED.

2 DATED September 20, 2018.



Thomas O. Rice

THOMAS O. RICE

Chief United States District Judge