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 9 BRADSHAW INTERNATIONAL, INC.;
 DOUGLAS J. BRADSHAW; and MICHAEL
 10 RODRIGUE

11 UNITED STATES DISTRICT COURT
 12 CENTRAL DISTRICT OF CALIFORNIA

14 B. ARONSON INC., dba A. ARONSON
 INC., a corporation; PB & J
 15 CONSULTING CORP., a corporation;
 BRUCE ARONSON, an individual; and
 16 PHEBE ARONSON, an individual,

17 Plaintiffs,

18 v.

19 BRADSHAW INTERNATIONAL,
 INC., a corporation; DOUGLAS J.
 20 BRADSHAW,¹ an individual;
 MICHAEL RODRIGUE, an individual;
 21 and DOES 1 to 25, inclusive,

22 Defendants.

CASE NO. CV11-00531 CAS (ssx)

*[Discovery Document: Referred to
 Magistrate Judge Suzanne H. Segal]*

**~~PROPOSED~~ STIPULATED
 PROTECTIVE ORDER**

Complaint Filed: January 18, 2011
 Trial Date: November 13, 2012

27 ¹ The Second Amended Complaint does not assert any cause of action as against Douglas J.
 28 Bradshaw.

1 BRADSHAW INTERNATIONAL,
2 INC., a corporation; DOUGLAS J.
3 BRADSHAW, an individual;
4 MICHAEL RODRIGUE, an individual,

Counterclaim Plaintiffs,
Third Party Plaintiffs

v.

6 B. ARONSON INC. dba A. ARONSON
7 INC., now PB&J CONSULTING
8 CORP., a corporation; BRUCE
9 ARONSON, an individual; PHEBE
10 ARONSON, an individual and
11 EVRIHOLDER PRODUCTS LLC, a
12 limited liability company,

Counterclaim Defendants
Third Party Defendants

1 Plaintiffs B. Aronson Inc., dba A. Aronson Inc., PB&J Consulting Corp.,
2 Bruce Aronson, and Phebe Aronson (collectively, “Plaintiffs”); Third Party
3 Defendant Evriholder Products LLC (“Third Party Defendant” or “Evriholder”);
4 Defendants Bradshaw International, Inc. (“Bradshaw”) and Michael Rodrigue
5 (“Rodrigue”) (collectively, “Defendants”); and Counterclaim and Third Party
6 Plaintiff Douglas J. Bradshaw (“DBradshaw”) hereby STIPULATE and AGREE
7 pursuant to Federal Rule of Civil Procedure 26(c), subject to approval of the Court,
8 to the following Protective Order:

9 1. Disclosure and discovery activity in this action are likely to involve
10 production of confidential, proprietary, or private information for which special
11 protection from public disclosure and from use for any purpose other than
12 prosecuting this litigation would be warranted. In addition, as the parties are
13 competitors, certain business confidential, highly proprietary, and/or private
14 information may be appropriate for protection from disclosure to the other party but
15 still subject to production on an attorneys eyes only basis. Accordingly, the parties
16 hereby stipulate to and petition the Court to enter the following Stipulated
17 Protective Order. Plaintiffs, Evriholder, Defendants, and DBradshaw (collectively,
18 the “Parties”) acknowledge that this Order does not confer blanket protections on
19 all disclosures or responses to discovery and that the protection it affords extends
20 only to the limited information or items that are entitled under the applicable legal
21 principles to treatment as confidential.

22 2. In connection with discovery and the trial of this action, the Parties
23 may designate certain documents and testimony, or other information derived
24 therefrom, as “Confidential” or “Highly Confidential – Attorneys’ Eyes Only”
25 under the terms of this Stipulation and Stipulated Protective Order (“Order”).

26 3. “Confidential” information is information which has not been made
27 public and which concerns or relates to the Parties’ business practices and falls
28 within Federal Rule of Civil Procedure 26(c)(1)(G), including within the following

1 categories: documents defined as “confidential” in agreements between the Parties,
2 lists and contact information for customers or affiliates; documents describing
3 concepts, ideas, proposals, designs, inventions, devices, methods of manufacturing,
4 techniques, development processes, marketing programs, and trade secrets;
5 information or data concerning the products or services provided; and the business
6 or financial condition of a Party or its affiliates, specifically financial data or plans,
7 budgets, financial statements, business plans, research and development plans,
8 strategic, marketing, or sales information concerning customers and suppliers,
9 pricing policies, or contracts.

10 4. Information or materials designated as “Highly Confidential –
11 Attorneys’ Eyes Only” shall be documents and things that include highly sensitive
12 business information under Federal Rule of Civil Procedure 26(c)(1)(G), including
13 currently competitive trade secrets, confidential technical information, methods, or
14 other know-how, minutes of Board meetings, pricing data, financial data, sales
15 information, customer-confidential information, agreements or relationships with
16 non-parties designated as confidential between the parties to such agreements,
17 market projections or forecasts, strategic business plans, selling or marketing
18 strategies or new product development, testing, manufacturing costs or information
19 about employees, and therefore protected from disclosure to a competitor.

20 5. **GOOD CAUSE STATEMENT.**

21 Bradshaw and Evriholder are direct competitors, and Evriholder currently
22 employs or formerly employed Bruce Aronson and Phebe Aronson, all Parties to
23 this suit, and this suit cannot be used to gain a competitive advantage through open
24 discovery and public disclosure of sensitive commercial information. Bradshaw and
25 Evriholder believe that the designation of certain documents as “Highly
26 Confidential – Attorneys’ Eyes Only” is necessary because the Parties currently
27 compete in the same markets, and thus, there is significant risk in disclosing certain
28 highly sensitive information beyond their counsel. The Parties could be irreparably

1 harmed if information designated as “Confidential” or “Highly Confidential –
2 Attorneys’ Eyes Only” is divulged or somehow wrongly misused by the Parties or
3 non-parties. The unfettered disclosure of the above-listed information, including
4 but not limited to the filing of the documents in the public record, could be harmful
5 to the commercial interests of one or more of the Parties in this action. There is
6 good cause to enter this Protective Order to ensure adequate protection against the
7 wrongful use or disclosure of Protected Material, and to protect the value associated
8 with the Protected Material. Any violation of the confidentiality obligations set
9 forth in this Protective Order could be detrimental and prejudicial to one or more
10 Parties. The Aronsons believe that Bradshaw’s and Evriholder’s concerns set forth
11 in this paragraph are asserted in good faith.

12 6. A party receiving (“Receiving Party”) material protected under this
13 agreement (“Protected Material”) may use Protected Material disclosed or produced
14 by another Party or by a non-party in connection with this case only for
15 prosecuting, defending, or attempting to settle this litigation.

16 7. By designating a document, testimony or other information derived
17 therefrom as Protected Material labeled either “Confidential” or “Highly
18 Confidential – Attorneys’ Eyes Only” under the terms of this Stipulation and
19 Protective Order, the Parties are certifying that there is a good faith basis both in
20 law and in fact for the designation. Such “Confidential” and “Highly Confidential
21 – Attorneys’ Eyes Only” materials shall be used solely in connection with this
22 lawsuit, and not for any business, competitive, or governmental purpose or
23 function, and such information shall not be disclosed to anyone except as provided
24 herein.

25 8. Except as otherwise provided in this Order, or as otherwise stipulated
26 or ordered, material that qualifies for protection under this Order should be clearly
27 so designated before the material is disclosed or produced. Designation in
28 conformity with this Order requires:

1 (a) for information in documentary form (apart from transcripts of
2 depositions or other pretrial or trial proceedings), that the party producing Protected
3 material (“Producing Party”) affix the legend **“Confidential” or “Highly**
4 **Confidential – Attorneys’ Eyes Only”** on each page that contains protected
5 material, or prominently on each electronic media that contains protected material.

6 (b) for testimony given in deposition or in other pretrial
7 proceedings, testimony taken at a deposition may be designated as “Confidential”
8 or “Highly Confidential – Attorneys’ Eyes Only” by making a statement to that
9 effect on the record at the deposition or other proceeding. Following the
10 deposition, the party wishing to designate certain testimony as Protected Material
11 (“Designating Party”) shall have 30 days, after the transcript becomes available, to
12 identify the specific portions of the testimony as to which protection is sought.
13 Only those portions of the testimony that are appropriately designated for protection
14 within the 30 days shall be covered by the provisions of this Stipulated Protective
15 Order.

16 (c) for information produced in any other form, including any
17 tangible items, that the Producing Party affix in a prominent place on the exterior of
18 the container or containers in which the information or item is stored the legend
19 **“Confidential” or “Highly Confidential – Attorneys’ Eyes Only.”** If only
20 portions of the information or item warrant protection, the Producing Party, to the
21 extent practicable, shall identify the protected portions.

22 9. Information or material produced which is designated as
23 “Confidential” may be disclosed or made available only to the Court, to counsel for
24 a party (including the paralegal, clerical, and secretarial staff employed by such
25 counsel), and to the “qualified persons” designated below:

- 26 a. in-house counsel of a party, or an officer, director, or employee of a party
27 deemed necessary by counsel to aid in the prosecution, defense, or
28 settlement of this action;

- 1 b. experts or consultants (together with their clerical staff) retained to assist
2 in the prosecution, defense, or settlement of this action who sign an
3 undertaking confirming that they have reviewed and agree to be bound by
4 the terms of the protective order;
- 5 c. court reporter(s) employed in this action;
- 6 d. a witness at any proceeding in this action; and,
- 7 e. any other person as to whom the Disclosing Party agrees in writing.

8 10. Information or material designated as “Highly Confidential –
9 Attorneys’ Eyes Only” or copies or extracts there from and compilations and
10 summaries thereof, may be disclosed, summarized, described, characterized, or
11 otherwise communicated or made available in whole or in part only to the following
12 persons:

- 13 a. Parties’ outside counsel of record in this action and employees of such
14 counsel to whom it is necessary that the information or material be shown
15 for the purpose of this lawsuit;
- 16 b. witnesses of the party producing the information in this lawsuit;
- 17 c. experts or consultants (together with their clerical staff) retained to assist
18 in the prosecution, defense, or settlement of this action who sign an
19 undertaking confirming that they have reviewed and agree to be bound by
20 the terms of the protective order;
- 21 d. the Court;
- 22 e. court reporter(s) employed in this action; and
- 23 f. any other person as to whom the Disclosing Party agrees in writing.

24 11. Nothing herein shall impose any restrictions on the use or disclosure
25 by a party of material obtained by such party independent of discovery in this
26 action, whether or not such material is also obtained through discovery in this
27 action, or from disclosing its own Protected Material as it deems appropriate.

28 12. In the event that any Protected Material is used in any proceeding in

1 this action, it shall not lose its confidential status through such use, and the party
2 using such shall take all reasonable steps to maintain its confidentiality during such
3 use; however, this Paragraph does not apply where the Protected Material appears
4 in the public record.

5 13. Without written permission from the Designating Party or a court
6 order secured after appropriate notice to all interested persons, a Party may not file
7 in the public record in this action any Protected Material. A Party that seeks to file
8 under seal any Protected Material must comply with Local Rule 79-5 and this
9 Court's published procedures requiring an application to the Court for an order to
10 seal documents.

11 14. This Stipulation is entered solely for the purpose of facilitating the
12 exchange of documents and information between the Parties to this action without
13 involving the Court unnecessarily in the process. Nothing in this Stipulation nor
14 the production of any information or document under the terms of this Stipulation
15 nor any proceedings pursuant to this Stipulation shall be deemed to have the effect
16 of an admission or waiver by any party or of altering the confidentiality or non-
17 confidentiality of any such document or information or altering any existing
18 obligation of any party or the absence thereof. Neither the stipulation nor its
19 contents, nor designation of a document as "Confidential" or "Highly Confidential
20 – Attorney's Eyes Only", nor any party's objection or failure to object to such a
21 designation is admissible as evidence for the purpose of proving or disproving any
22 matter at issue in the litigation. Further, the Parties agree that the "Confidential" or
23 "Highly Confidential – Attorney's Eyes Only" designations provided on documents
24 for purposes of production under this Protective Order are not admissible for any
25 purpose. In addition, the parties agree that the "Confidential" and "Highly
26 Confidential" designations added pursuant to this Protective Order shall not appear
27 on any trial exhibit or any other document shown to the jury.

28 15. Inadvertent production of privileged material, or the inadvertent failure

1 to designation material as “Confidential” or “Highly Confidential – Attorneys’ Eyes
2 Only,” does not waive the privileged or confidential status of the document or
3 information.

4 16. If timely corrected, an inadvertent failure to designate qualified
5 information or items as “Confidential” or “Highly Confidential – Attorneys’ Eyes
6 Only” does not, standing alone, waive the Designating Party’s right to secure
7 protection under this Order for such material. If material is appropriately
8 designated as “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” after
9 the material was initially produced, the Receiving Party, on timely notification of
10 the designation, must make reasonable efforts to assure that the material is treated
11 in accordance with the provisions of this Order, and must immediately (a) notify in
12 writing the Designating Party of any disclosures of such Protected Material, (b) use
13 its best efforts to retrieve all copies of the Protected Material, and (c) inform the
14 person or persons to whom disclosures were made of all the terms of this Order. If
15 the undesignated documents have already been filed with the Court without the
16 confidential designation, the Designating Party may move the court for filing of the
17 document under seal.

18 17. Any party may challenge the confidentiality designation of the other
19 party, but shall be required to maintain the confidentiality of the information unless
20 and until a ruling issues designating that the information ought not be deemed
21 “Confidential” or “Highly Confidential – Attorneys’ Eyes Only,” or the
22 Designating Party fails to seek a ruling on the confidentiality of the designated
23 material, as set forth in detail in Paragraph 20.

24 18. A party that elects to initiate a challenge to a Designating Party’s
25 confidentiality designation must begin the process by conferring directly with
26 counsel for the Designating Party, pursuant to the Local Rules. In conferring, the
27 challenging Party must explain the basis for its belief that the confidentiality
28 designation was not proper and must give the Designating Party an opportunity to

1 review the designated material, to reconsider the circumstances, and, if no change
2 in designation is offered, to explain the basis for the chosen designation.

3 19. If the parties are unable to resolve their dispute regarding the
4 confidentiality of the designated material following the meet and confer process set
5 forth in Paragraph 18, the Designating Party must, pursuant to Federal Rule of Civil
6 Procedure 26, and the rules of this Court, file and serve a motion for a protective
7 order that identifies the material designated as confidential and affirms that the
8 movant has complied with the meet and confer requirements imposed in the
9 preceding paragraph. The Designating Party bears the burden of persuading the
10 Court that the information is Confidential within the definition of that term set forth
11 above.

12 20. In the case of a dispute, the material designated as confidential will be
13 deemed confidential until thirty (30) days following the start of the meet and confer
14 process set forth in Paragraph 18. If the Designating Party files a motion for a
15 protective order, as set forth in Paragraph 19, the designated material maintains its
16 confidentiality designation until the court orders otherwise. If the Designating
17 Party fails to file a motion for a protective order following the meet and confer
18 process, after thirty days from the start of the meet and confer process, the material
19 is no longer considered confidential.

20 21. Upon written request, at the conclusion of this matter, the Parties
21 hereby agree to promptly return all copies of all Protected Material received; or, in
22 the alternative, such parties may shred all copies of all such Protected Material and
23 promptly send written confirmation from the other Party that it has complied with
24 the terms of this Stipulation. Notwithstanding, Counsel shall be able to retain a
25 copy of confidential information that has been submitted in a pleading or marked as
26 an exhibit in a deposition.

27 22. Even after the termination of this litigation, the confidentiality
28 obligations imposed by this Order shall remain in effect until a Designating Party

1 agrees otherwise in writing or a court order otherwise directs. This Court retains
2 and shall have jurisdiction over the Parties, their attorneys and all recipients of
3 discovery designated “Confidential” or “Highly Confidential – Attorneys’ Eyes
4 Only” for the enforcement of the provisions of this Order following termination of
5 this case, and/or to terminate all or some of the provisions of this Order on
6 application by any party.

7 23. This Order shall not preclude a party from exercising any rights or
8 raising any objections otherwise available to them under the rules of discovery and
9 evidence.

10 24. This Order shall be binding upon the Parties to this action, the
11 attorneys for each party and upon any recipient of discovery designated as
12 “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” and upon any
13 successor, executor, personal representative, administrator, heir, legal
14 representative, assignee, subsidiaries, division, employee, agent, independent
15 contractor, or other person or legal entity over which any party or attorney or
16 recipient of documents covered by this Order may have control.

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19 IT IS SO STIPULATED by counsel of record:

20 Dated: December 22, 2011

DLA PIPER LLP (US)

21
22 By /s/ Matthew D. Caplan

23 JEFFREY A. ROSENFELD

24 DAVID B. ABEL

MATTHEW D. CAPLAN

25 NICOLE C. KING

Attorneys for Defendants

26 BRADSHAW INTERNATIONAL, INC.;

DOUGLAS J. BRADSHAW; and

27 MICHAEL RODRIGUE

1 DATED: December 21, 2011

LAW OFFICES OF WORTHE HANSON &
WORTHE

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By /s/ Siobhan M. Bishop

4

JOHN R. HANSON
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CONSULTING CORP., BRUCE
ARONSON, AND PHEBE ARONSON

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8

9 DATED: December 22, 2011

ELKINS KALT WEINTRAUB REUBEN
GARTSIDE LLP

10

By /s/ Eric J. Lorenzini

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JEFF RIFFER
ERIC J. LORENZINI
Attorneys for Third Party Claim
Defendant EVRIHOLDER PRODUCTS
LLC

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IT IS SO ORDERED

/S/ Suzanne H. Segal
U.S. Magistrate Judge

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