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 9 Thor Motor Coach, Inc.

RUSS, AUGUST & KABAT

11
 12 **UNITED STATES DISTRICT COURT**
 13 **CENTRAL DISTRICT OF CALIFORNIA**

14
 15 THOR TECH, INC., a Nevada
 corporation; THOR INDUSTRIES,
 16 INC., a Delaware corporation; and
 THOR MOTOR COACH, INC., a
 17 Delaware corporation,

18 Plaintiffs,

19 vs.

20 THOR TRUCKS, INC., a California
 corporation,

21 Defendant.

Case No. 2:18-cv-02958-CAS (MRWx)

[Assigned to Hon. Christina A. Snyder,
 Courtroom 8D]

**STIPULATED PROTECTIVE
 ORDER**

Original Complaint Filed:
 April 9, 2018

1 1. INTRODUCTION

2 1.1 PURPOSES AND LIMITATIONS

3 Discovery in this action is likely to involve production of confidential,
 4 proprietary, or private information for which special protection from public
 5 disclosure and from use for any purpose other than prosecuting this litigation may
 6 be warranted. Accordingly, the parties hereby stipulate to and petition the Court to
 7 enter the following Stipulated Protective Order (“Order”). The parties acknowledge
 8 that this Order does not confer blanket protections on all disclosures or responses to
 9 discovery and that the protection it affords from public disclosure and use extends
 10 only to the limited information or items that are entitled to confidential treatment
 11 under the applicable legal principles. The parties further acknowledge, as set forth
 12 in Section 12.3, below, that this Order does not entitle them to file confidential
 13 information under seal; Civil Local Rule 79-5 sets forth the procedures that must be
 14 followed and the standards that will be applied when a party seeks permission from
 15 the Court to file material under seal.

16 1.2 GOOD CAUSE STATEMENT

17 The parties to this Action may need to produce sensitive trade secrets and
 18 other valuable research, development, commercial, financial, technical and/or
 19 proprietary information for which special protection from public disclosure and from
 20 use for any purpose other than the prosecution, defense, or settlement of this Action
 21 is warranted. Such confidential and proprietary materials and information may
 22 consist of, among other things, confidential business or financial information, or
 23 other confidential research, development, or commercial information, information
 24 regarding confidential business practices, information otherwise generally
 25 unavailable to the public, or which may be privileged or otherwise protected from
 26 disclosure under state or federal statutes, court rules, case decisions, or common law,
 27 including specifically, customer lists, pricing lists, forward-looking
 28 marketing/strategic plans, sales information, financial information, and product

1 design documents. While such material may be relevant to this litigation, including
 2 to Plaintiffs’ claims of a likelihood of confusion between the parties’ marks, which
 3 requires an analysis of, *inter alia*, the proximity of the parties’ goods, the marketing
 4 channels used, the type of goods and purchaser care, and the likelihood of expansion
 5 of product lines, it may be damaging if competitors, licensees, or others have access
 6 to it. Accordingly, to expedite the flow of information, facilitate the prompt
 7 resolution of disputes over confidentiality of discovery materials, adequately protect
 8 information the parties are entitled to keep confidential, ensure that the parties are
 9 permitted reasonable necessary uses of such material in preparation for and in the
 10 conduct of trial, address their handling at the end of the litigation, and serve the ends
 11 of justice, a protective order for such information is justified in this matter. It is the
 12 intent of the parties that information will not be designated as confidential for tactical
 13 reasons and that nothing be so designated without a good faith belief that it has been
 14 maintained in a confidential, non-public manner, and there is good cause why it
 15 should not be part of the public record of this case.

16 2. DEFINITIONS

17 2.1 Action: this pending federal law suit.

18 2.2 Challenging Party: a Party or Non-Party that challenges the designation
 19 of information or items under this Order.

20 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
 21 how it is generated, stored or maintained) or tangible things that qualify for
 22 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
 23 the Good Cause Statement.

24 2.4 “CONFIDENTIAL-ATTORNEYS’ EYES ONLY” Information or
 25 Items: information (regardless of how it is generated, stored or maintained) or
 26 tangible things that the Producing Party believes in good faith to include private,
 27 proprietary, or personal information that has not been made generally available to
 28 the public, and is highly sensitive such that its disclosure would harm a Party’s

1 business, or give the other Party or a Non-Party an unfair advantage over that Party.

2 2.5 Counsel: Outside Counsel of Record and In-House Counsel (as well as
3 their respective support staff).

4 2.6 Designating Party: a Party or Non-Party that designates information or
5 items that it produces in disclosures or in responses to discovery as
6 “CONFIDENTIAL,” “CONFIDENTIAL-ATTORNEYS’ EYES ONLY,” or
7 “HIGHLY CONFIDENTIAL – TRADE SECRET.”

8 2.7 Disclosure or Discovery Material: all items or information, regardless
9 of the medium or manner in which it is generated, stored, or maintained (including,
10 among other things, testimony, transcripts, and tangible things), that are produced or
11 generated in disclosures or responses to discovery in this matter.

12 2.8 Expert: a person with specialized knowledge or experience in a matter
13 pertinent to the litigation who has been retained by a Party or its Counsel to serve as
14 an expert witness or as a consultant in this Action. Prior to the disclosure of any
15 Protected Material to an Expert, the Party seeking to make such disclosure must
16 provide the Designating Party with a writing that (a) identifies the Expert, (b)
17 attaches a copy of the Expert’s current curriculum vitae, (c) lists the Expert’s current
18 business or consulting affiliations, (d) lists each person or entity from whom the
19 Expert has received compensation or funding for work in his or her areas of expertise
20 or to whom the expert has provided professional services, including in connection
21 with a litigation, at any time during the preceding five (5) years, and (e) identifies
22 (by name and number of the case, filing date, and location of court) any litigation in
23 connection with which the Expert has offered expert testimony, including through a
24 declaration, report, or testimony at a deposition or trial, during the preceding five (5)
25 years (“Identification”).

26 The Designating Party shall have five (5) business days from receipt of the
27 Identification to object to the disclosure of its Protected Material to the identified
28 Expert. The objection must be made for good cause and in writing, stating with

1 particularity the reasons for the objection. Failure to provide such a written objection
 2 within the five (5) business day period constitutes agreement as to disclosure.

3 A Party seeking to disclose Protected Material to an Expert that receives a
 4 timely written objection pursuant to this section shall meet and confer with the
 5 Designating Party (through direct voice to voice dialogue, whether carried out
 6 telephonically or in person) to try and resolve the matter by agreement within five
 7 (5) business days. If no agreement is reached, the Party seeking to disclose Protected
 8 Material to the Expert may move the Court to resolve the matter. Any such motion
 9 must describe the circumstances with specificity, set forth in detail the reasons why
 10 the disclosure to the Expert is reasonably necessary, assess the risk of harm that the
 11 disclosure would entail, and suggest any additional means that could be used to
 12 reduce the risk. In addition, any such motion must be accompanied by a competent
 13 declaration describing the parties’ efforts to resolve the matter by agreement (i.e.,
 14 the extent and the content of the meet and confer discussions) and setting forth the
 15 reasons advanced by the Designating Party for its refusal to approve the disclosure.
 16 In any such proceeding, the Party opposing disclosure to the Expert shall bear the
 17 burden of proving that the risk of harm that the disclosure would entail (under the
 18 safeguards proposed) outweighs the Receiving Party’s need to disclose the Protected
 19 Material to the Expert.

20 There shall be no disclosure of Protected Material to an Expert unless the
 21 Designating Party agrees to such disclosure (including by failing to timely object as
 22 set forth herein), or the Court has ordered such disclosure.

23 This section does not alter or affect the disclosure requirements governing the
 24 use of testifying experts as provided in the Federal Rules of Civil Procedure, and the
 25 Parties hereby affirm that they will fully comply with all such requirements.

26 2.9 “HIGHLY CONFIDENTIAL – TRADE SECRET” Information or
 27 Items: information (regardless of how it is generated, stored or maintained) or
 28 tangible things that the Producing Party believes in good faith to include information

1 that is a trade secret within the meaning of California Civil Code § 3426.1, in that it
 2 is information, including a formula, pattern, compilation, program, device, method,
 3 technique, or process, that: (1) Derives independent economic value, actual or
 4 potential, from not being generally known to the public or to other persons who can
 5 obtain economic value from its disclosure or use; and (2) Is the subject of efforts
 6 that are reasonable under the circumstances to maintain its secrecy.

7 2.10 In-House Counsel: attorneys who are employees of a party to this
 8 Action. In-House Counsel does not include Outside Counsel of Record or any other
 9 outside counsel.

10 2.11 Non-Party: any natural person, partnership, corporation, association, or
 11 other legal entity not named as a Party to this action.

12 2.12 Outside Counsel of Record: attorneys who are not employees of a Party
 13 to this Action but are retained to represent or advise a Party to this Action and have
 14 appeared in this Action on behalf of that Party or are affiliated with a law firm which
 15 has appeared on behalf of that Party, and includes support staff.

16 2.13 Party: any party to this Action, including all of its officers, directors,
 17 employees, consultants, retained experts, and Outside Counsel of Record (and their
 18 support staffs).

19 2.14 Producing Party: a Party or Non-Party that produces Disclosure or
 20 Discovery Material in this Action.

21 2.15 Professional Vendors: persons or entities that provide litigation support
 22 services (e.g., photocopying, videotaping, translating, preparing exhibits or
 23 demonstrations, and organizing, storing, or retrieving data in any form or medium)
 24 and their employees and subcontractors.

25 2.16 Protected Material: any Disclosure or Discovery Material that is
 26 designated as “CONFIDENTIAL,” “CONFIDENTIAL-ATTORNEYS’ EYES
 27 ONLY,” or “HIGHLY CONFIDENTIAL – TRADE SECRET.”
 28

1 2.17 Receiving Party: a Party that receives Disclosure or Discovery Material
 2 from a Producing Party.

3 3. SCOPE

4 The protections conferred by this Stipulation and Order cover not only
 5 Protected Material (as defined above), but also (1) any information copied or
 6 extracted from Protected Material; (2) all copies, excerpts, summaries, or
 7 compilations of Protected Material; and (3) any testimony, conversations, or
 8 presentations by Parties or their Counsel that might reveal Protected Material.

9 Any use of Protected Material at trial will be governed by the orders of the
 10 trial judge. This Order does not govern the use of Protected Material at trial.

11 4. DURATION

12 Even after final disposition of this litigation, the confidentiality obligations
 13 imposed by this Order will remain in effect until a Designating Party agrees
 14 otherwise in writing or a court order otherwise directs. Final disposition will be
 15 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with
 16 or without prejudice; and (2) final judgment herein after the completion and
 17 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
 18 including the time limits for filing any motions or applications for extension of time
 19 pursuant to applicable law.

20 5. DESIGNATING PROTECTED MATERIAL

21 5.1 Exercise of Restraint and Care in Designating Material for Protection.

22 Each Party or Non-Party that designates information or items for protection under
 23 this Order must take care to limit any such designation to specific material that
 24 qualifies under the appropriate standards. The Designating Party must designate for
 25 protection only those parts of material, documents, items, or oral or written
 26 communications that qualify so that other portions of the material, documents, items,
 27 or communications for which protection is not warranted are not swept unjustifiably
 28 within the ambit of this Order.

1 Mass, indiscriminate, or routinized designations are prohibited. Designations
2 that are shown to be clearly unjustified or that have been made for an improper
3 purpose (e.g., to unnecessarily encumber the case development process or to impose
4 unnecessary expenses and burdens on other parties) may expose the Designating
5 Party to sanctions.

6 If it comes to a Designating Party's attention that information or items that it
7 designated for protection do not qualify for protection, that Designating Party must
8 promptly notify all other Parties that it is withdrawing the inapplicable designation.

9 5.2 Manner and Timing of Designations. Except as otherwise provided in
10 this Order (see, e.g., second paragraph of Section 5.2(a) below), or as otherwise
11 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
12 under this Order must be clearly so designated before the material is disclosed or
13 produced.

14 Designation in conformity with this Order requires:

15 (a) for information in documentary form (e.g., paper or electronic documents,
16 but excluding transcripts of depositions or other pretrial or trial proceedings), that
17 the Producing Party affix at a minimum, the legend "CONFIDENTIAL,"
18 "CONFIDENTIAL-ATTORNEYS' EYES ONLY" or "HIGHLY
19 CONFIDENTIAL – TRADE SECRET" as appropriate (hereinafter
20 "CONFIDENTIALITY Legend"), to each page that contains protected material. If
21 only a portion or portions of the material on a page qualifies for protection, the
22 Producing Party also must clearly identify the protected portion(s) (e.g., by making
23 appropriate markings in the margins).

24 A Party or Non-Party that makes original documents available for inspection
25 need not designate them for protection until after the inspecting Party has indicated
26 which documents it would like copied and produced. During the inspection and
27 before the designation, all of the material made available for inspection will be
28 deemed "CONFIDENTIAL-ATTORNEYS' EYES ONLY." After the inspecting

1 Party has identified the documents it wants copied and produced, the Producing
2 Party must determine which documents, or portions thereof, qualify for protection
3 under this Order. Then, before producing the specified documents, the Producing
4 Party must affix the appropriate CONFIDENTIALITY Legend to each page that
5 contains Protected Material. If only a portion or portions of the material on a page
6 qualifies for protection, the Producing Party also must clearly identify the protected
7 portion(s) (e.g., by making appropriate markings in the margins).

8 (b) for testimony given in depositions that the Designating Party identify all
9 protected testimony and Protected Material on the record, before the close of the
10 deposition. If the Designating Party states on the record during a deposition that
11 certain testimony concerns “CONFIDENTIAL-ATTORNEYS’ EYES ONLY” or
12 “HIGHLY CONFIDENTIAL – TRADE SECRET” information, all persons present
13 who are not authorized to have access to such information under this Order shall be
14 excluded from the deposition and shall not re-enter until the Designating Party
15 agrees that the testimony is no longer of a “CONFIDENTIAL-ATTORNEYS’
16 EYES ONLY” or “HIGHLY CONFIDENTIAL – TRADE SECRET” nature.

17 (c) for information produced in some form other than documentary and for
18 any other tangible items, that the Producing Party affix in a prominent place on the
19 exterior of the container or containers in which the information is stored the
20 appropriate CONFIDENTIALITY Legend. If only a portion or portions of the
21 information warrants protection, the Producing Party, to the extent practicable, will
22 identify the protected portion(s).

23 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
24 failure to designate qualified information or items does not, standing alone, waive
25 the Designating Party’s right to secure protection under this Order for such material.
26 Upon timely correction of a designation, the Receiving Party must make reasonable
27 efforts to assure that the material is treated in accordance with the provisions of this
28 Order.

1 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

2 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
 3 designation of confidentiality at any time that is consistent with the Court’s
 4 Scheduling Order.

5 6.2 Meet and Confer. The Challenging Party will initiate the dispute
 6 resolution process (and, if necessary, file a discovery motion) under Civil Local Rule
 7 37-1 et seq.

8 6.3 Burden of Persuasion. The burden of persuasion in any such challenge
 9 proceeding will be on the Designating Party. Frivolous challenges, and those made
 10 for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens
 11 on other parties) may expose the Challenging Party to sanctions. Unless the
 12 Designating Party has waived or withdrawn the confidentiality designation, all
 13 parties will continue to afford the material in question the level of protection to
 14 which it is entitled under the Producing Party’s designation until the Court rules on
 15 the challenge.

16 7. ACCESS TO AND USE OF PROTECTED MATERIAL

17 7.1 Basic Principles. A Receiving Party may use Protected Material that is
 18 disclosed or produced by another Party or by a Non-Party in connection with this
 19 Action only for prosecuting, defending, or attempting to settle this Action. Such
 20 Protected Material may be disclosed only to the categories of persons and under the
 21 conditions described in this Order. When the Action has been terminated, a
 22 Receiving Party must comply with the provisions of Section 13 below (FINAL
 23 DISPOSITION).

24 Protected Material must be stored and maintained by a Receiving Party at a
 25 location and in a secure manner that ensures that access is limited to the persons
 26 authorized under this Order.

27 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
 28 otherwise ordered by the Court or permitted in writing by the Designating Party, a

1 Receiving Party may disclose any information or item designated
 2 “CONFIDENTIAL” only to:

3 (a) the Receiving Party’s Outside Counsel of Record in this Action, as well as
 4 employees of said Outside Counsel of Record to whom it is reasonably necessary to
 5 disclose the information for this Action;

6 (b) the officers, directors, and employees (including In-House Counsel) of the
 7 Receiving Party to whom disclosure is reasonably necessary for this Action;

8 (c) Experts (as defined in this Order) of the Receiving Party to whom
 9 disclosure is reasonably necessary for this Action and who have signed the
 10 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

11 (d) the Court and its personnel;

12 (e) court reporters and their staff;

13 (f) professional jury or trial consultants, mock jurors, and Professional
 14 Vendors to whom disclosure is reasonably necessary for this Action and who have
 15 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

16 (g) the author or recipient of a document containing the information or a
 17 custodian or other person who otherwise possessed or knew the information;

18 (h) during their depositions, witnesses, and attorneys for witnesses, in the
 19 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
 20 requests that the witness sign the form attached as Exhibit A hereto; and (2) they
 21 will not be permitted to keep any confidential information unless they sign the
 22 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
 23 agreed by the Designating Party or ordered by the Court. Pages of transcribed
 24 deposition testimony or exhibits to depositions that reveal Protected Material may
 25 be separately bound by the court reporter and may not be disclosed to anyone except
 26 as permitted under this Order; and

27 (i) any mediator or settlement officer, and their supporting personnel,
 28 mutually agreed upon by any of the parties engaged in settlement discussions.

1 7.3 Disclosure of “CONFIDENTIAL-ATTORNEYS’ EYES ONLY” or
 2 “HIGHLY CONFIDENTIAL – TRADE SECRET” Information or Items. Unless
 3 otherwise ordered by the Court or permitted in writing by the Designating Party, a
 4 Receiving Party may disclose any information or item designated
 5 “CONFIDENTIAL-ATTORNEYS’ EYES ONLY” or “HIGHLY
 6 CONFIDENTIAL – TRADE SECRET” only to:

7 (a) the Receiving Party’s Outside Counsel of Record in this Action, as
 8 well as employees of said Outside Counsel of Record to whom it is reasonably
 9 necessary to disclose the information for this Action;

10 (b) Experts (as defined in this Order) of the Receiving Party to whom
 11 disclosure is reasonably necessary for this Action and who have signed the
 12 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

13 (c) the Court and its personnel;

14 (d) court reporters and their staff;

15 (e) professional jury or trial consultants, mock jurors, and Professional
 16 Vendors to whom disclosure is reasonably necessary for this Action and who have
 17 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

18 (f) the author or recipient of a document containing the information or
 19 a custodian or other person who otherwise possessed or knew the information;

20 (g) during their depositions, witnesses, and attorneys for witnesses, in
 21 the Action to whom disclosure is reasonably necessary provided: (1) the deposing
 22 party requests that the witness sign the form attached as Exhibit A hereto; and (2)
 23 they will not be permitted to keep any confidential information unless they sign the
 24 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
 25 agreed by the Designating Party or ordered by the Court. Pages of transcribed
 26 deposition testimony or exhibits to depositions that reveal Protected Material may
 27 be separately bound by the court reporter and may not be disclosed to anyone except
 28 as permitted under this Order; and

1 (h) any mediator or settlement officer, and their supporting personnel,
 2 mutually agreed upon by any of the parties engaged in settlement discussions.

3 Notwithstanding the foregoing, the Parties may mutually agree in writing to
 4 allow one or more identified employees of the Receiving Party to access information
 5 or items designated “CONFIDENTIAL-ATTORNEYS’ EYES ONLY” or
 6 “HIGHLY CONFIDENTIAL – TRADE SECRET” subject to the conditions,
 7 restrictions, and obligations set forth in this Order and any other agreed upon
 8 conditions, restrictions, and obligations on a case by case basis without having to
 9 seek leave of court.

10 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
 11 IN OTHER LITIGATION

12 If a Party is served with a subpoena or a court order issued in other litigation
 13 that compels disclosure of any information or items designated in this Action as
 14 “CONFIDENTIAL,” “CONFIDENTIAL-ATTORNEYS’ EYES ONLY,” or
 15 “HIGHLY CONFIDENTIAL – TRADE SECRET” that Party must:

16 (a) promptly notify in writing the Designating Party. Such notification will
 17 include a copy of the subpoena or court order;

18 (b) promptly notify in writing the party who caused the subpoena or order to
 19 issue in the other litigation that some or all of the material covered by the subpoena
 20 or order is subject to this Order. Such notification will include a copy of this Order;
 21 and

22 (c) cooperate with respect to all reasonable procedures sought to be pursued
 23 by the Designating Party whose Protected Material may be affected.

24 If the Designating Party timely seeks a protective order, the Party served with
 25 the subpoena or court order will not produce any information designated in this
 26 action as “CONFIDENTIAL,” “CONFIDENTIAL-ATTORNEYS’ EYES ONLY,”
 27 or “HIGHLY CONFIDENTIAL – TRADE SECRET” before a determination by the
 28 court from which the subpoena or order issued, unless the Party has obtained the

1 Designating Party’s permission. The Designating Party will bear the burden and
 2 expense of seeking protection in that court of its confidential material and nothing
 3 in these provisions should be construed as authorizing or encouraging a Receiving
 4 Party in this Action to disobey a lawful directive from another court.

5 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
 6 PRODUCED IN THIS LITIGATION

7 (a) The terms of this Order are applicable to information produced by a Non-
 8 Party in this Action and designated as “CONFIDENTIAL,” “CONFIDENTIAL-
 9 ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – TRADE
 10 SECRET.” Such information produced by Non-Parties in connection with this
 11 litigation is protected by the remedies and relief provided by this Order. Nothing in
 12 these provisions should be construed as prohibiting a Non-Party from seeking
 13 additional protections.

14 (b) In the event that a Party is required, by a valid discovery request, to
 15 produce a Non-Party’s confidential information in its possession, and the Party is
 16 subject to an agreement with the Non-Party not to produce the Non-Party’s
 17 confidential information, then the Party will:

18 (1) promptly notify in writing the Requesting Party and the Non-Party that
 19 some or all of the information requested is subject to a confidentiality agreement
 20 with a Non-Party;

21 (2) promptly provide the Non-Party with a copy of this Order, the relevant
 22 discovery request(s), and a reasonably specific description of the information
 23 requested; and

24 (3) make the information requested available for inspection by the Non-Party,
 25 if requested.

26 (c) If the Non-Party fails to seek a protective order from this Court within 14
 27 days of receiving the notice and accompanying information, the Receiving Party
 28 may produce the Non-Party’s confidential information responsive to the discovery

1 request. If the Non-Party timely seeks a protective order, the Receiving Party will
 2 not produce any information in its possession or control that is subject to the
 3 confidentiality agreement with the Non-Party before a determination by the Court.
 4 Absent a court order to the contrary, the Non-Party will bear the burden and expense
 5 of seeking protection in this Court of its Protected Material.

6 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

7 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
 8 Protected Material to any person or in any circumstance not authorized under this
 9 Order, the Receiving Party must immediately (a) notify in writing the Designating
 10 Party of the unauthorized disclosures, (b) use its best efforts to retrieve all
 11 unauthorized copies of the Protected Material, (c) inform the person or persons to
 12 whom unauthorized disclosures were made of all the terms of this Order, and (d)
 13 request such person or persons to execute the “Acknowledgment and Agreement to
 14 Be Bound” that is attached hereto as Exhibit A.

15 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
 16 PROTECTED MATERIAL

17 When a Producing Party gives notice to Receiving Parties that certain
 18 inadvertently produced material is subject to a claim of privilege or other protection,
 19 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
 20 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
 21 may be established in an e-discovery order that provides for production without prior
 22 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), the
 23 inadvertent disclosure of a communication or information covered by the attorney-
 24 client privilege or work product protection does not effect a waiver in connection
 25 with the Action or any other federal or state proceeding.

26 12. MISCELLANEOUS

27 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
 28 person to seek its modification by the Court in the future.

1 12.2 Right to Assert Other Objections. By stipulating to the entry of this
 2 Order no Party waives any right it otherwise would have to object to disclosing or
 3 producing any information or item on any ground not addressed in this Order.
 4 Similarly, no Party waives any right to object on any ground to use in evidence of
 5 any of the material covered by this Order.

6 12.3 Filing Protected Material. A Party that seeks to file under seal any
 7 Protected Material must comply with Civil Local Rule 79-5. Protected Material may
 8 only be filed under seal pursuant to a court order authorizing the sealing of the
 9 specific Protected Material at issue. If a Party’s request to file Protected Material
 10 under seal is denied by the Court, then the Receiving Party may file the information
 11 in the public record unless otherwise instructed by the Court.

12 12.4 Binding on Signature. To facilitate the prompt exchange of documents,
 13 the parties will be bound by the terms of this Order immediately upon signing it.
 14 When and if this Order is entered by the Court, such entry shall be deemed
 15 retroactive to the date of execution of this Order by the parties.

16 13. FINAL DISPOSITION

17 After the final disposition of this Action, as defined in Section 4
 18 (DURATION), within 60 days of a written request by the Designating Party, each
 19 Receiving Party must return all Protected Material to the Producing Party or destroy
 20 such material. As used in this subdivision, “all Protected Material” includes all
 21 copies, abstracts, compilations, summaries, and any other format reproducing or
 22 capturing any of the Protected Material. Whether the Protected Material is returned
 23 or destroyed, the Receiving Party must submit a written certification to the
 24 Producing Party (and, if not the same person or entity, to the Designating Party) by
 25 the 60 day deadline that (1) identifies (by category, where appropriate) all the
 26 Protected Material that was returned or destroyed and (2) affirms that the Receiving
 27 Party has not retained any copies, abstracts, compilations, summaries or any other
 28 format reproducing or capturing any of the Protected Material. Notwithstanding this

1 provision, Counsel are entitled to retain an archival copy of all pleadings, motion
2 papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence,
3 deposition and trial exhibits, expert reports, attorney work product, and consultant
4 and expert work product, even if such materials contain Protected Material. Any
5 such archival copies that contain or constitute Protected Material remain subject to
6 this Order as set forth in Section 4 (DURATION).

7 14. Any willful violation of this Order may be punished by civil or criminal
8 contempt proceedings, financial or evidentiary sanctions, reference to disciplinary
9 authorities, or other appropriate action at the discretion of the Court.

10
11 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

12
13 DATED: September 17, 2018 _____ RUSS, AUGUST & KABAT


14
15 By: /s/ Irene Y. Lee
16 Irene Y. Lee
17 Attorneys for Plaintiffs Thor Tech,
Inc., Thor Industries, Inc., and Thor
Motor Coach, Inc.

18 DATED: September 17, 2018 _____ ARENT FOX LLP

19
20 By: /s/ Franjo M. Dolenac
21 Franjo M. Dolenac
22 Attorneys for Defendant Thor
Trucks, Inc.

23 **FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

24
25 DATED: 9/18/2018

26 
27 _____
28 Hon. Michael R. Wilner
United States Magistrate Judge

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EXHIBIT A
ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [full name], of

_____ [full address],
declare under penalty of perjury that I have read in its entirety and understand the
Stipulated Protective Order that was issued by the United States District Court for
the Central District of California on [date] in the case of *Thor Tech, Inc., et al. v.*
Thor Trucks, Inc., Case No.: 2:18-cv-02958. I agree to comply with and to be bound
by all the terms of this Stipulated Protective Order and I understand and
acknowledge that failure to so comply could expose me to sanctions and punishment
in the nature of contempt. I solemnly promise that I will not disclose in any manner
any information or item that is subject to this Stipulated Protective Order to any
person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court
for the Central District of California for the purpose of enforcing the terms of this
Stipulated Protective Order, even if such enforcement proceedings occur after
termination of this action. I hereby appoint

_____ [full name] of

_____ [full address and telephone number] as my California agent for service of process in
connection with this action or any proceedings related to enforcement of this
Stipulated Protective Order.

Date: _____
City and State where signed: _____
Printed name: _____

Signature: _____

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ECF CERTIFICATION

The filing attorneys attest that they have obtained concurrence regarding the filing of this document from the other signatories.

Dated: September 17, 2018

/s/ Irene Y. Lee
Irene Y. Lee

