

1 **LYNCH CARPENTER, LLP**
 Edwin J. Kilpela (*Pro Hac Vice*)
 2 ekilpela@lcllp.com
 1133 Penn Ave., 5th Floor
 3 Pittsburgh, PA 15222
 Tel.: (412) 322-9243
 4 Fax: (412) 231-0246

5 *Attorneys for Plaintiffs and the Class*
 6 [additional counsel listed on signature page.]

7
 8 **IN THE UNITED STATES DISTRICT COURT**
 9 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

10 **ANDY PARTIDA, PATRICIA GARY,**
 and **GLENN GRAEVES**, individually and
 11 on behalf of all others similarly situated,

Case No.: 5:20-cv-00436-JGB-KK

**~~PROPOSED~~ ORDER GRANTING
 STIPULATION GOVERNING THE
 DISCLOSURE OF PRIVILEGED
 INFORMATION**

12 Plaintiffs,

13 v.

14 **TRISTAR PRODUCTS, INC.,**

15 Defendant.

16
 17 The Parties, by and through their respective counsel, have jointly stipulated to
 18 the terms of the Stipulation Governing the Disclosure of Privileged Information, and
 19 with the Court being fully advised as to the same, it is hereby ORDERED:

20 **I. APPLICABILITY**

21 1. This Order shall apply to and govern all deposition transcripts and/or
 22 videotapes, documents produced in response to requests for production of documents,
 23 answers to interrogatories, responses to requests for admissions, affidavits,
 24 declarations, and all other information or material produced, made available for
 25 inspection, or otherwise submitted by any of the parties in this litigation pursuant to
 26 the Federal Rules, as well as testimony adduced at trial or during any hearing
 27 (collectively, "Information").

1 **II. GOOD CAUSE STATEMENT**

2 2. This action is likely to involve trade secrets, customer and pricing lists
3 and other valuable research, development, commercial, financial, technical and/or
4 proprietary information for which special protection from public disclosure and from
5 use for any purpose other than prosecution of this action is warranted. Such
6 confidential and proprietary materials and information consist of, among other things,
7 confidential business or financial information, information regarding confidential
8 business practices, or other confidential research, development, or commercial
9 information (including information implicating privacy rights of third parties),
10 information otherwise generally unavailable to the public, or which may be privileged
11 or otherwise protected from disclosure under state or federal statutes, court rules, case
12 decisions, or common law. Accordingly, to expedite the flow of information, to
13 facilitate the prompt resolution of disputes over confidentiality of discovery materials,
14 to adequately protect information the parties are entitled to keep confidential, to ensure
15 that the parties are permitted reasonable necessary uses of such material in preparation
16 for and in the conduct of trial, to address their handling at the end of the litigation, and
17 serve the ends of justice, a protective order for such information is justified in this
18 matter. It is the intent of the parties that information will not be designated as
19 confidential for tactical reasons and that nothing be so designated without a good faith
20 belief that it has been maintained in a confidential, non-public manner, and there is
21 good cause why it should not be part of the public record of this case.

22 **III. PRODUCTION OF DISCOVERY MATERIALS CONTAINING**
23 **POTENTIALLY PRIVILEGED INFORMATION**

24 3. The parties agree that the production in this matter of any privileged or
25 otherwise protected or exempted Information, as well as the production of Information
26 without an appropriate designation of privilege, may be deemed a waiver or
27 impairment of any claim of privilege or protection, including, but not limited to, the
28 attorney-client privilege, the protection afforded to work product materials, or the
subject matter thereof.

1 4. In order to avoid waiving or impairing a claim of privilege or protection
2 due to the production of any privileged, protected, or otherwise exempted Information,
3 the producing party must notify the receiving party within ninety (90) days of the
4 production thereof that privileged or otherwise protected or exempted Information has
5 been produced (“Identified Material”) by providing the receiving party with the
6 following: (1) written notice that Identified Material has been produced; and (2) a
7 privilege log in the format provided for in paragraph 6 hereto that describes the
8 Identified Material. Other than for purposes of challenging the designation of
9 Identified Material, the receiving party may make no further use of Identified Material
10 or any internally or externally generated analyses, memoranda, or notes based upon
11 Identified Material during any aspect of this matter or any other matter, including in
12 depositions, unless the producing party agrees in writing to withdraw its claim
13 concerning the Identified Material or the Identified Material is later designated by a
14 court as not privileged or protected. If the receiving party does not contest the
15 designation of Identified Material as provided for in this paragraph, then the receiving
16 party shall, within fifteen (15) business days of receiving the written notice and
17 privilege log provided for herein: (1) destroy all copies of Identified Material; (2)
18 destroy any internally or externally generated analyses, memoranda, or notes based
19 upon Identified Material; and (3) direct all individuals to whom the receiving party
20 transmitted Identified Material to destroy the same. The receiving party must further
21 certify in writing to the producing party that it has complied with this Paragraph by
22 the end of the aforementioned fifteen-day period.

23 5. A challenge to a designation of confidentiality or privilege may be made
24 at any time that is consistent with the Court’s Scheduling Order. The receiving party
25 may contest the Identified Material designation by notifying the producing party in
26 writing of the disagreement and the reasons for the disagreement. In that instance, the
27 receiving party shall, within fifteen (15) business days of receiving the written notice
28 and privilege log provided for in paragraph 3 hereto, move to compel the production

1 of the Identified Material. Such motions must include a statement that the receiving
2 party attempted to resolve the dispute through good faith discussions with the
3 producing party before seeking court intervention or an explanation detailing why
4 such discussions were not possible. Any motion challenging a party's designation of
5 material as Identified Material must be brought in strict compliance with Local Civil
6 Rules 37-1 and 37-2 (including the Joint Stipulation requirement).

7 6. If the Court denies the receiving party's motion to compel the production
8 of Identified Material, then the receiving party shall, within fifteen (15) business days
9 of that order: (1) destroy all copies of Identified Material; (2) destroy any internally
10 or externally generated analyses, memoranda, or notes based upon Identified Material;
11 and (3) direct all individuals to whom the receiving party transmitted Identified
12 Material to destroy the same. The receiving party must further certify in writing to
13 the producing party that it has complied with this Order by the end of the
14 aforementioned fifteen-day period.

15 **IV. PRIVILEGE LOGGING**

16 7. Pursuant to Fed. R. Civ. P. 26, the parties shall exchange privilege logs
17 that describe the nature of the documents, communications, or tangible things that are
18 not produced or disclosed (including documents produced in redacted form) and do so
19 in a manner that will—without revealing the information that is asserted to be
20 privileged or protected—enable other parties to assess the claim. In addition the
21 parties agree that all privilege logs shall include the following information: the Bates
22 number of the document (for redacted documents only); the date the document was
23 created; the identity of all persons known to or believed to have authored the
24 document; the identity of all persons designated as addressees, copyees, or blind
25 copyees (indicating whether a person was an addressee, copyee, or blind copyee); the
26 custodian(s) of the document; asterisks identifying all attorneys appearing on the log;
27 the privilege, protection, or exemption asserted; and a brief description of the subject
28 matter of the document sufficient to enable another party's evaluation of the claim of

1 protection from disclosure. Each producing party shall produce along with any
2 privilege log a list of (a) any attorney named in the privilege log including information
3 about whether they are internal or external counsel, and (b) each employee of the
4 producing party identified in the privilege log, including, if known, his or her
5 corresponding title(s).

6 **V. MISCELLANEOUS**

7 8. A party seeking to file Identified Material with the Court must comply
8 with Local Civil Rule 79-5. Identified Material may only be filed under seal pursuant
9 to a separate court order authorizing the sealing of the specific Identified Material at
10 issue. If a party's request to file Identified Material under seal is denied by the Court,
11 then the Receiving Party may file the information in the public record unless otherwise
12 instructed by the Court.

13 9. Any use of Identified Material at trial or other court hearings or
14 proceedings shall be governed by the orders of the trial judge and the Stipulation
15 Governing the Disclosure of Privileged Information does not govern the use of
16 Identified Material at trial.

17 10. The terms of this order do not apply to the Court and court personnel,
18 who are subject only to the Court's internal procedures regarding the handling of
19 material filed or lodged, including material filed or lodged under seal.

20 11. Nothing in the protective order shall be construed as authorizing or
21 encouraging a party to disobey a lawful subpoena or court order issued in another
22 action.

23 12. Nothing in this Order abridges the right of any person to seek its
24 modification by the Court in the future.

25 13. By stipulating to the entry of this Order, no Party waives any right it
26 otherwise would have to object to disclosing or producing any information or item on
27 any ground not addressed in this Order. Similarly, no Party waives any right to object
28 on any ground to use in evidence of any of the material covered by this Order.

1 IT IS SO STIPULATED.

2 Dated: February 23, 2022

LYNCH CARPENTER, LLP

/s/ Edwin J. Kilpela

Edwin J. Kilpela (*Pro Hac Vice*)
ekilpela@lcllp.com
Matthew Brady (*Pro Hac Vice*)
matthew@lcllp.com
1133 Penn Ave., 5th Floor
Pittsburgh, PA 15222
Tel.: (412) 322-9243
Fax: (412) 231-0246

LYNCH CARPENTER, LLP

Katrina Carroll (*Pro Hac Vice*)
katrina@lcllp.com
111 W. Washington St., Ste. 1240
Chicago, IL 60602
Tel.: (312) 750-1265
Fax: (412) 231-0246

**CAFFERTY CLOBES MERIWETHER
& SPRENGEL LLP**

Daniel O. Herrera (*Pro Hac Vice*)
dherrera@caffertyclobes.com
135 S. LaSalle Street, Suite 3210
Chicago, IL 60603
Tel.: (312)782-4880
Fax: (312)782-7785

Attorneys for Plaintiffs and the Class

18 Dated: February 23, 2022

**LEWIS BRISBOIS BISGAARD &
SMITH LLP**

/s/ Eric Y. Kizirian

Eric Y. Kizirian (SB# 210584)
Eric.Kizirian@lewisbrisbois.com
Zourik Zarifian (SB# 306368)
Zourik.Zarifian@lewisbrisbois.com
633 West 5th Street, Suite 4000
Los Angeles, California 90071
Tel.: 213.250.1800
Fax: 213.250.7900

Attorneys for Defendant

28

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
28

SIGNATURE ATTESTATION

I, Edwin J. Kilpela, pursuant to L.R. 5-4.3.4(a)(2)(i), attest that all other signatories listed, and on whose behalf this filing is submitted, concur in the filing's consent and have authorized this filing.

/s/ Edwin J. Kilpela
Edwin J. Kilpela

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.



DATED: February 23, 2022

HON. KENLY KIYA KATO
UNITED STATES MAGISTRATE JUDGE