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[attorneys continued on next page]

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JAMES TROJA, an individual,

Plaintiff,

vs.

SURFSIDE SOLUTIONS, INC. a New
York Corporation; MICHAEL BLANCHE,
an individual; JON LOWEN, an individual;
and DOES 1 through 30, inclusive,

Defendants.

Case No.: 8:23-cv-01137-CJC-DFM

**STIPULATED PROTECTIVE
ORDER**

Hon. Cormac J. Carney

ENGELS LAW
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COSTA MESA CA 92626
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Attorneys for Defendants
SURFSIDE SOLUTIONS, INC., MICHAEL
BLANCHE and JONATHON LOWEN

1 A. PURPOSES AND LIMITATIONS

2 Discovery in this action and any efforts by the parties to resolve this action
3 are likely to involve production of confidential, proprietary, or private information
4 for which special protection from public disclosure and from use for any purpose
5 other than prosecuting or attempting to resolve this litigation may be warranted.
6 Accordingly, the parties hereby stipulate to and petition the Court to enter the
7 following Stipulated Protective Order. The parties acknowledge that this Order does
8 not confer blanket protections on all disclosures or responses to discovery and that
9 the protection it affords from public disclosure and use extends only to the limited
10 information or items that are entitled to confidential treatment under the applicable
11 legal principles. The parties further acknowledge, as set forth in Section 12.3,
12 below, that this Stipulated Protective 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 B. GOOD CAUSE STATEMENT

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

12 2. DEFINITIONS

13 2.1 Action: this pending federal lawsuit in the Central District of
14 California, entitled *Troja v. Surfside Solutions, Inc., et al.*, Case No. 8:23-cv-01137.

15 2.2 Challenging Party: a Party or Non-Party that challenges the
16 designation of information or items under this Order.

17 2.3 “CONFIDENTIAL” Information or Items: information (regardless
18 of how it is generated, stored or maintained) or tangible things that qualify for
19 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
20 the Good Cause Statement.

21 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
22 their support staff).

23 2.5 Designating Party: a Party or Non-Party that designates information
24 or items that it produces in disclosures or in responses to discovery as
25 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
26 ONLY.”

1 2.6 Disclosure or Discovery Material: all items or information, regardless
2 of the medium or manner in which it is generated, stored, or maintained (including,
3 among other things, testimony, transcripts, and tangible things), that are produced
4 or generated in disclosures, depositions, or responses to discovery in this matter, or
5 that is exchanged in the course of any case resolution efforts.

6 2.7 Expert: a person with specialized knowledge or experience in a matter
7 pertinent to the litigation who has been retained by a Party or its counsel to serve as
8 an expert witness or as a consultant in this Action.

9 2.8 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
10 Information or Items: CONFIDENTIAL information (regardless of how it is
11 generated, stored or maintained) or tangible things the disclosure of which is likely
12 to cause competitive or commercial injury to the Producing Party or a Non-Party.

13 2.9 House Counsel: attorneys who are employees of a party to this Action.
14 House Counsel does not include Outside Counsel of Record or any other outside
15 counsel.

16 2.10 Non-Party: any natural person, partnership, corporation, association,
17 or other legal entity not named as a Party to this action.

18 2.11 Outside Counsel of Record: attorneys who are not employees of a party
19 to this Action but are retained to represent or advise a party to this Action and have
20 appeared in this Action on behalf of that party or are affiliated with a law firm which
21 has appeared on behalf of that party and includes support staff.

22 2.12 Party: any party to this Action, including all of its officers, directors,
23 employees, consultants, retained experts, and Outside Counsel of Record (and their
24 support staffs).

25 2.13 Producing Party: a Party or Non-Party that produces Disclosure or
26 Discovery Material in this Action.

1 or Non-Party that makes original documents available for inspection need not
2 designate them for protection until after the inspecting Party has indicated which
3 documents it would like copied and produced. During the inspection and before the
4 designation, all of the material made available for inspection shall be deemed
5 “CONFIDENTIAL.” After the inspecting Party has identified the documents, it
6 wants copied and produced, the Producing Party must determine which documents
7 qualify for protection under this Order. Then, before producing the specified
8 documents, the Producing Party must affix the “CONFIDENTIAL” or “HIGHLY
9 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” legend to each page of each
10 document that contains Protected Material.

11 (b) for testimony given in depositions that the Designating Party either
12 identify the Disclosure or Discovery Material on the record before the close of the
13 deposition all protected testimony or provide written designations within ten days
14 of receiving the final deposition transcript. Prior to the expiration of this ten day
15 post-transcript period, the deposition testimony shall be treated as
16 CONFIDENTIAL.

17 (c) for information produced in some form other than documentary and
18 for any other tangible items, that the Producing Party affix in a prominent place on
19 the exterior of the container or containers in which the information is stored the
20 legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
21 EYES ONLY” If only a portion or portions of the information warrants protection,
22 the Producing Party, to the extent practicable, shall 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
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1 efforts to assure that the material is treated in accordance with the provisions of this
2 Order.

3 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

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

7 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
8 resolution process under Local Rule 37.1 et seq.

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

17 7. ACCESS TO AND USE OF PROTECTED MATERIAL

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

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

2 7.2 Disclosure of “CONFIDENTIAL” 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” only to:

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

9 (b) the officers, directors, and employees (including House Counsel) of
10 the Receiving Party to whom disclosure is reasonably necessary for this Action.

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

14 (d) the court and its personnel.

15 (e) court reporters and their staff.

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

19 (g) the author or recipient of a document containing the information or a
20 custodian or other person who otherwise possessed or knew the information.

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

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

6 (j) any other person that the Producing Party agrees to in writing.

7 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
 8 ONLY” Information or Items. Unless otherwise ordered by the court or
 9 permitted in writing by the Designating Party, a Receiving Party may
 10 disclose any information or item designated “HIGHLY CONFIDENTIAL –
 11 ATTORNEYS’ EYES ONLY” only to:

12 (a) the Receiving Party’s Outside Counsel of Record in this Action, as
 13 well as employees of said Outside Counsel of Record to whom it is reasonably
 14 necessary to disclose the information for this Action.

15 (b) House Counsel provided that House Counsel does not share the
 16 documents, the contents, thereof, or information derived from the documents with
 17 officers, directors, and employees.

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

21 (d) the court and its personnel.

22 (e) court reporters and their staff, provided, however, that each non-
 23 lawyer given access to HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
 24 ONLY documents shall be advised that such materials are being disclosed pursuant
 25 to, and are subject to the terms of this Stipulated Protective Order.

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

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

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

(i) any other person that the Producing Party agrees to in writing.

8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

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

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

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

(c) cooperate with respect to all reasonable procedures sought to be pursued by the Designating Party whose Protected Material may be affected. If the Designating Party timely seeks a protective order, the Party served with the subpoena or court order shall not produce any information designated in this action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” before a determination by the court from which the subpoena or order issued, unless the Party has obtained the Designating Party’s permission. The

1 Designating Party shall bear the burden and expense of seeking protection in that
2 court of its confidential material and nothing in these provisions should be
3 construed as authorizing or encouraging a Receiving Party in this Action to disobey
4 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
8 Non-Party in this Action and designated as "CONFIDENTIAL" or "HIGHLY
9 CONFIDENTIAL – ATTORNEYS' EYES ONLY." Such information produced by
10 Non-Parties in connection with this litigation is protected by the remedies and relief
11 provided by this Order. Nothing in these provisions should be construed as
12 prohibiting a Non-Party from seeking additional protections.

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

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

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

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

25 (c) If the Non-Party fails to seek a protective order from this court within 14
26 days of receiving the notice and accompanying information, the Receiving Party
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1 may produce the Non-Party's confidential information responsive to the discovery
2 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
3 not produce any information in its possession or control that is subject to the
4 confidentiality agreement with the Non-Party before a determination by the court.
5 Absent a court order to the contrary, the Non-Party shall bear the burden and
6 expense of seeking protection in this court of its Protected Material.

7 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

17 11. INADVERTENT PRODUCTION OF PRIVILEGED OR 18 OTHERWISE PROTECTED MATERIAL

19 When a Producing Party gives notice to Receiving Parties that certain
20 inadvertently produced material is subject to a claim of privilege or other protection,
21 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
22 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
23 may be established in an e-discovery order that provides for production without
24 prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar
25 as the parties reach an agreement on the effect of disclosure of a communication or
26 information covered by the attorney-client privilege or work product protection, the
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1 parties may incorporate their agreement in the stipulated protective order submitted
2 to the court.

3 12. MISCELLANEOUS

4 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
5 person to seek its modification by the Court in the future.

6 12.2 Right to Assert Other Objections. By stipulating to the entry of this
7 Protective Order no Party waives any right it otherwise would have to object to
8 disclosing or producing any information or item on any ground not addressed in this
9 Stipulated Protective Order. Similarly, no Party waives any right to object on any
10 ground to use in evidence of any of the material covered by this Protective Order.

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

17 13. FINAL DISPOSITION

18 After the final disposition of this Action, as defined in paragraph 4, within 60
19 days of a written request by the Designating Party, each Receiving Party must return
20 all Protected Material to the Producing Party or destroy such material. As used in
21 this subdivision, "all Protected Material" includes all copies, abstracts,
22 compilations, summaries, and any other format reproducing or capturing any of the
23 Protected Material. Whether the Protected Material is returned or destroyed, the
24 Receiving Party must submit a written certification to the Producing Party (and, if
25 not the same person or entity, to the Designating Party) by the 60 day deadline that
26 (1) identifies (by category, where appropriate) all the Protected Material that was
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1 returned or destroyed and (2)affirms that the Receiving Party has not retained
2 any copies, abstracts, compilations, summaries or any other format reproducing or
3 capturing any of the Protected Material. Notwithstanding this provision, Counsel is
4 entitled to retain an archival copy of all pleadings, motion papers, trial, deposition,
5 and hearing transcripts, legal memoranda, correspondence, deposition and trial
6 exhibits, expert reports, attorney work product, and consultant and expert work
7 product, even if such materials contain Protected Material. Any such archival
8 copies that contain or constitute Protected Material remain subject to this Protective
9 Order as set forth in Section 4 (DURATION).

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14. Any violation of this Order may be punished by any and all appropriate measures including, without limitation, contempt proceedings and/or monetary sanctions.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: March 25, 2024,

ENGELS LAW APC

/s/ Sean B. Janzen
Christopher Engels, Esq.
Sean B. Janzen, Esq.
Attorneys for Plaintiff James Troja


Dated: March 25, 2024,

MORGAN, LEWIS & BOCKIUS

/s/ Daniel R. Rodriguez
Jennifer B. Zargarof
Adam E. Wagmeister
Daniel R. Rodriguez
Attorneys for Defendants,
Surfside Solutions, Inc., Michael
Blanche and Jonathon Lowen

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

Dated: March 26, 2024


Hon. Douglas F. McCormick
United States Magistrate Judge

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____, of _____, 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 _____ 2024 in the case of Troja v. Surfside, et al. Case No. 8:23-cv-01137. 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 _____ of _____ [Address] 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 sworn and signed: _
Printed name:
Signature: