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ELECTRONIC RECYCLERS OF AMERICA LLC
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9 UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA

11 ELECTRONIC RECYCLERS
INTERNATIONAL INC., a Delaware
12 Corporation, and ELECTRONIC
RECYCLERS OF AMERICA LLC, a
13 California Limited Liability Company,

14 Plaintiffs,

15 v.

16 DLUBAK GLASS COMPANY, INC., a
17 Pennsylvania Corporation, DAVID A.
DLUBAK, an individual, and DOES 1
18 through 25, inclusive,

19 Defendants.

Case No. 1:10-CV-0760-LJO-GSA

**STIPULATION FOR PROTECTIVE
ORDER; ORDER THEREON**

Action Filed: April 29, 2010
Trial Date: None

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22 Whereas Defendants and Plaintiffs (collectively the “Parties”) will be required
23 to exchange, and will exchange, certain documents pursuant to the Federal Rules of Civil
24 Procedure, as well as serve interrogatories, notices of depositions and similar discovery
25 requests, the responses to which may include the disclosure of trade secrets, proprietary data
26 and/or confidential business information (“Confidential Information” as defined in paragraph 1
27 herein); and,

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1 Whereas the Parties, by and through their counsel, may agree to produce such
2 information for inspection, copying and use in the present action subject to the terms and
3 conditions of this Stipulation for Protective Order and Order Thereon (“Protective Order”);

4 The Parties hereby stipulate to the following protective order:

5 1. In connection with this action, the Parties may designate any document,
6 thing, material, testimony or other information derived there from as “Confidential
7 Information” under the terms of this Protective Order. "Confidential information" means:

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9 a. Financial documents of any and all types;

10 b. trade secrets, proprietary data, and/or confidential business
11 information including without limitation a formula, pattern,
12 compilation, program, device, method, technique, or process that:

13 (1) Derives independent economic value, actual or potential,
14 from not being generally known to the public or to other persons
15 who can obtain economic value from its disclosure or use; and

16 (2) Is the subject of efforts that are reasonable under the
17 circumstances to maintain its secrecy.

18 By designating a document, thing, material, testimony or other information
19 derived there from as “Confidential” under the terms of this Protective Stipulation, the Party
20 making the designation is certifying that there is a good faith basis both in law and in fact for
21 the designation consistent with Federal Rules of Civil Procedure.

22 2. Confidential documents shall be so designated by stamping copies of the
23 document produced to a Party with the legend “CONFIDENTIAL.” Stamping the legend
24 “CONFIDENTIAL” on the cover of any multipage document shall designate all pages of the
25 document as confidential, unless otherwise indicated by the producing Party. If only portions
26 of a document are confidential, the confidential information may be so designated also by
27 placing "CONFIDENTIAL" in an easily identifiable place within the document.

28 3. Testimony taken at a deposition, conference, hearing or trial may be
designated as confidential by making a statement to that effect on the record at the deposition

1 or other proceeding. Arrangements shall be made with the court reporter taking and
2 transcribing such proceeding to separately bind such portions of the transcript containing
3 information designated as confidential, and to label such portions appropriately.

4 4. Material designated as CONFIDENTIAL under this Protective Order,
5 the information contained therein, and any summaries, copies, abstracts, or other documents
6 derived in whole or in part from material designated as confidential (hereinafter “Confidential
7 Material”) shall be used only for the purpose of the prosecution, defense, or settlement of this
8 action, and for no other purpose.

9 5. Confidential Material produced pursuant to this Protective Order may be
10 discussed or made available only to the Court, to counsel for a party (including the paralegal,
11 clerical, and secretarial staff employed by such counsel), and to the “qualified persons”
12 designated below:

13 a. Party, or an officer, director, shareholder, or employee of a Party
14 reasonably deemed necessary by counsel for that party to aid in the prosecution, defense, or
15 settlement of this action;

16 b. experts or consultants (together with their staff) retained by such counsel
17 to assist in the prosecution, defense, or settlement of this action;

18 c. certified shorthand court reporter(s) engaged in this action;

19 d. a witness at any deposition or other proceeding in this action; and

20 e. any other person as to whom the parties in writing agree.

21 Prior to receiving any Confidential Material, each “qualified person” shall be
22 provided with a copy of this Protective Order.

23 6. Depositions shall be taken only in the presence of qualified persons.

24 7. The Parties may further designate certain discovery material or
25 testimony of a highly confidential and/or proprietary nature as “CONFIDENTIAL—
26 ATTORNEY’S EYES ONLY” (hereinafter “Attorney’s Eyes Only Material”), in the manner
27 described in paragraphs 2 and 3 above. Attorney’s Eyes Only Material, and the information
28 contained therein, shall be disclosed only to the Court, to counsel for the Parties (including

1 paralegal, clerical and secretarial staff employed by such counsel), and to the “qualified
2 persons” listed in subparagraphs 5(b) through (f) above, but shall not be disclosed to a Party, or
3 to an officer, director or employee of a Party, unless otherwise agreed or ordered. If disclosure
4 of Attorney’s Eyes Only Material is made pursuant to this paragraph, all other provisions in this
5 Protective Order with respect to confidentiality shall also apply.

6 8. Nothing herein shall impose any restrictions on a Party from disclosing
7 its own Confidential Material as it deems appropriate, nor from using or disclosing material
8 that is in the public domain.

9 9. This Protective Order shall be without prejudice to the right of the
10 Parties (i) to bring before the Court at any time the question of whether any particular
11 document or information is confidential or whether its use should be restricted or (ii) to present
12 a motion to the Court pursuant to the Federal Rules of Civil Procedure for a separate protective
13 order as to any particular document or information, including restrictions differing from those
14 as specified herein. This Protective Order shall not be deemed to prejudice the Parties in any
15 way in any future application for modification of this Protective Order.

16 10. This Protective Order is entered solely for the purpose of facilitating the
17 exchange of documents and information between the Parties to this action without involving
18 the Court unnecessarily in the process. Nothing in this Protective Order nor the production of
19 any information or document under the terms of this Protective Order nor any proceedings
20 pursuant to this Protective Order shall be deemed to have the effect of an admission or waiver
21 by either Party or of altering the confidentiality or non-confidentiality of any such document or
22 information or altering any existing obligation of any Party or the absence thereof.

23 This Protective Order shall survive the final termination of this action, to the extent that the
24 information contained in Confidential Material is not or does not become known to the public,
25 and the Court shall retain jurisdiction to resolve any dispute concerning the use of information
26 disclosed hereunder. Within one year of after the termination of this case, counsel for the
27 Parties shall assemble and return to each other all documents, material and deposition

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1 transcripts designated as confidential and all copies of same, or shall certify the destruction
2 thereof.

3 SO STIPULATED.

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5 Dated: June 10, 2010

DOWLING, AARON & KEELER, INC.

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7 By: /s/ DONALD R. FISCHBACH
8 DONALD R. FISCHBACH
9 Attorneys for Plaintiffs ELECTRONIC
10 RECYCLERS INTERNATIONAL INC., and
11 ELECTRONIC RECYCLERS OF
12 AMERICA LLC

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14 Dated: June 15, 2010

McCORMICK, BARSTOW, SHEPPARD,
WAYTE & CARRUTH, LLP

15 By: /S/ TIMOTHY J. BUCHANAN
16 TIMOTHY J. BUCHANAN
17 Attorney for Defendants
18 DLUBAK GLASS COMPANY, INC. and
19 DAVID A. DLUBAK

20 IT IS SO ORDERED.

21 Dated: June 21, 2010

/s/GaryS.Austin
22 Judge of the Court
23 United States District Court, Eastern District
24 of California

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27 12402-009\00468728.DOC.