

1 Timothy J. Buchanan, # 100409
Mandy L. Jeffcoach, # 232313
2 McCormick, Barstow, Sheppard,
Wayte & Carruth LLP
3 P.O. Box 28912
5 River Park Place East
4 Fresno, CA 93720-1501
Telephone: (559) 433-1300
5 Facsimile: (559) 433-2300

(SPACE BELOW FOR FILING STAMP ONLY)

6 Attorneys for Defendants DLUBAK GLASS
COMPANY, INC. and DAVID A. DLUBAK and
7 Counterclaimant DLUBAK GLASS COMPANY, INC.

8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

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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
Pennsylvania Corporation, DAVID A.
17 DLUBAK, an individual, and DOES 1
through 25, inclusive,,

18 Defendants.

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20 DLUBAK GLASS COMPANY, INC. a
Pennsylvania Corporation,

21 Counterclaimant

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23 ELECTRONIC RECYCLERS
INTERNATIONAL, INC., a Delaware
24 Corporation

25 Counterdefendant

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Case No. 1:10-CV-00760-LJO-GSA

**AMENDED STIPULATION OF PARTIES
AND [PROPOSED] ORDER OF COURT
ON DEFENDANTS' MOTION TO
COMPEL FURTHER DISCOVERY
RESPONSES**

Hearing Date: April 1, 2011

Time: 10:00 a.m.

**Courtroom: 10 (Hon. Gary S. Austin, United
States Magistrate Judge)**

Trial date: October 31, 2011

1 The parties to this action, by and through their counsel of record, hereby recite, stipulate
2 and agree as follows:

3 1. The motion of Defendant DLUBAK GLASS COMPANY (“DGC”) came on
4 regularly for hearing on April 1, 2011, at 10:00 a.m. in Courtroom 10, before the Honorable Gary
5 S. Austin, United States Magistrate Judge. Timothy J. Buchanan of McCormick Barstow LLP
6 appeared for DGC. G. Andrew Slater of Dowling, Aaron & Keeler appeared for the Plaintiffs.

7 2. The Court ordered further meet and confer discussions between counsel. After
8 further conference in the Courtroom and outside the Court’s presence, counsel reached an
9 agreement which was placed upon the Court record and which is now memorialized in this
10 Stipulation and Order.

11 3. The Court may enter as an Order of the Court the provisions set forth in this
12 stipulation.

13 4. The motion of DGC to compel further discovery responses is taken off calendar
14 upon approval of this stipulation and order by the Court, without prejudice to renewed motion in
15 the event of non-compliance with any of its particulars.

16 5. At or before the time set forth below, Plaintiffs shall hand-serve supplemental
17 written responses, verified in proper form under oath, factually and without qualification, the
18 following requests from DGC’s First Request for Production of Documents: Requests Nos. 29,
19 43, 45, 46, 48, 49, 50, 51, 52, 53, 54, 62, 73, 76, and 81.

20 6. At or before the time set forth below, Plaintiffs shall further serve supplemental
21 answers, in verified form factually and unequivocally under oath, DGC’s Request for Production
22 No. 83, rephrased as follows: “All DOCUMENTS that RELATE TO communications with any
23 and all PERSON about the methods or means of disposing of or processing glass products or
24 materials, or of materials that contain glass in any form, at any time.”

25 7. Documents responsive to the numbered requests itemized above shall be hand-
26 delivered to DGC’s counsel no later than 5:00 p.m. on Friday, April 15, 2011, or shall be made
27 available for inspection by DGC at a reasonable place and time in normal business hours not later
28 than April 22, 2011.

1 8. In the event that Plaintiffs produce no further documents in response to one or
2 more of the requests itemized above, the supplemental written response to that request shall state,
3 unequivocally and without qualification, verified under oath, that Plaintiffs have made a diligent
4 search and inquiry for the requested documents and that no responsive documents exist. In the
5 event that the responsive documents once existed and no longer exist, ERI shall state how, when,
6 and why they were discarded, deleted, or destroyed.

7 9. Plaintiffs further shall serve supplemental responses, in factual and unequivocal
8 form, verified under oath, to DGC's Requests for Admission No. 28, 31, and 35. Those
9 supplemental responses shall be hand-delivered to DGC's counsel no later than 5:00 p.m. on
10 Friday, April 15, 2011.

11 10. Plaintiffs further shall serve a supplemental response, in factual and unequivocal
12 form, verified under oath, to DGC's Special Interrogatory No. 24, modified by removing the
13 phrase "or attempted to ship" from its substance. That supplemental response shall be hand-
14 served on DGC's counsel no later than 5:00 p.m. on April 15, 2011.

15 11. Except as expressly noted above, all further disputed discovery requests described
16 in the parties' Joint Statement filed on March 25, 2011, are deemed withdrawn from this motion.

17 12. The parties mutually withdraw their requests for sanctions.

18 Dated: April 5 , 2011

McCORMICK, BARSTOW, SHEPPARD,
WAYTE & CARRUTH LLP

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By: /s/ Timothy J. Buchanan
Timothy J. Buchanan
Mandy L. Jeffcoach
Attorneys for Defendants, DLUBAK
GLASS COMPANY, INC. and DAVID A.
DLUBAK and Counter Claimant
DLUBAK GLASS COMPANY, INC

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1 Dated: April 5, 2011

DOWLING, AARON & KEELER LLP

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3 By: /s/ G. Andrew Slater
4 G. Andrew Slater
5 Attorneys for Plaintiffs ELECTRONIC
6 RECYCLERS INTERNATIONAL, INC.
7 and ELECTRONIC RECYCLERS OF
8 AMERICA LLC

9 **ORDER**

10 The Court, having reviewed the above stipulation and finding good cause to support it,
11 hereby enters the stipulation as an ORDER OF THE COURT. **FAILURE TO COMPLY WITH THIS**
12 **ORDER IN ANY RESPECT SHALL RESULT IN THE IMPOSITION OF SANCTIONS IN THE DISCRETION**
13 **OF THE COURT INCLUDING, WITHOUT LIMITATION, ONE OR MORE OF THE SANCTIONS LISTED IN**
14 **RULE 37(B)(2)(A) AND (C) OF THE FEDERAL RULES OF CIVIL PROCEDURE, AND MAY BE**
15 **TREATED BY THE COURT AS A CONTEMPT OF COURT.**

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18 IT IS SO ORDERED.

19 Dated: April 5, 2011

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE