

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA

Driscoll's, Inc. v. California Berry Cultivars, LLC

Driscoll's · No. 2:19-cv-00493-TLN-CKD · Decided July 24, 2025

SUMMARY

This document is a joint stipulation and proposed order in Driscoll’s, Inc. v. California Berry Cultivars, LLC, a federal civil action in the Eastern District of California. The parties requested, and the court ordered, an August 1, 2025 deadline for filing requests to permanently seal confidential materials submitted with their July 25, 2025 opposition filings. The order was entered by Chief United States District Judge Troy L. Nunley on July 23, 2025.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                   |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of California                                                                                                                                                                                               |
| WRITING FOR THE COURT | Troy L. Nunley                                                                                                                                                                                                                                                    |
| DECIDED               | July 24, 2025                                                                                                                                                                                                                                                     |
| DOCKET                | 2:19-cv-00493-TLN-CKD                                                                                                                                                                                                                                             |
| DISPOSITION           | other                                                                                                                                                                                                                                                             |
| PROCEDURAL POSTURE    | The parties jointly stipulated to a schedule for filing requests to permanently seal confidential information submitted under seal with their summary-judgment opposition filings. The court approved the stipulation and entered the requested scheduling order. |
| PRECEDENTIAL VALUE    | Unknown; scheduling order approving a joint stipulation                                                                                                                                                                                                           |

TOPICS

- summary judgment
- civil procedure
- commercial litigation
- patent law

PRACTICE AREAS

- civil procedure
- commercial litigation
- patent law

QUESTIONS PRESENTED

- Whether the court should approve the parties' joint stipulation extending the deadline for permanent-sealing requests concerning confidential materials submitted with their summary-judgment opposition filings.

2. Whether materials submitted under seal with those opposition filings should remain unavailable to the public until the court rules on the sealing requests.

## HOLDINGS

1. The parties were permitted until August 1, 2025, to file requests, including evidentiary support, to permanently seal confidential information initially submitted under seal with their July 25, 2025, opposition filings.
2. Materials submitted under seal with the July 25, 2025, opposition filings were not to be placed in the public record until after the court ruled on the sealing requests filed August 1, 2025.

## KEY QUOTATIONS

*“The Parties shall have until August 1, 2025, to file requests (including any evidentiary support) to permanently seal confidential information submitted under seal in the first instance in connection with Parties’ July 25, 2025, opposition filings.” (Order ¶ 1)*

*“Material submitted under seal in connection with the Parties’ July 25, 2025, opposition filings shall not put in the public record until after the Court rules on the sealing requests to be filed on August 1, 2025.” (Order ¶ 2)*

## FACTUAL BACKGROUND

The parties were litigating invalidity counterclaims and were scheduled to file opposition briefs to summary-judgment motions by July 25, 2025. They anticipated that the briefs and supporting materials would include information designated confidential under a stipulated protective order. The parties sought until August 1, 2025, to file requests and evidentiary support for permanent sealing.

## PROCEDURAL HISTORY

The court had established deadlines for dispositive motions concerning invalidity counterclaims, and the parties filed summary-judgment motions on June 27, 2025. Anticipating that their opposition briefs would contain protected confidential material, the parties requested additional time to review the opposing submissions and file supported permanent-sealing requests. The court granted the request and ordered that the materials remain under seal pending resolution of those requests.

## DISPOSITION

other

## CASES CITED

- *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006)

## OPINION

1 | Richard K. Howell (State Bar No. 144241) rhowell@rutan.com 2 | Ronald P. Oines (State Bar No. 145016) roines@rutan.com 3 | Gerard M. Mooney (State Bar No. 222137) gmooney@rutan.com 4 | Lucas Hori (State Bar No. 294373) lhori@rutan.com 5 | RUTAN & TUCKER, LLP 18575 Jamboree Road, 9th Floor 6 | Irvine, CA 92612 Telephone: 714-641-5100 7 | Facsimile: 714-546-9035 8 | Attorneys for Defendants CALIFORNIA BERRY CULTIVARS, LLC and 9 | DOUGLAS SHAW 10 UNITED STATES DISTRICT COURT 11 EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION 12 13 | DRISCOLL’S, INC. Case No. 2:19-cv-00493-TLN-CKD Honorable Troy L. Nunley 14 | and Courtroom: 2 15 | DRISCOLL’S OF EUROPE B.V., JOINT STIPULATION TO SCHEDULE 16 Plaintiffs, SEALING REQUESTS; ORDER 17 V. Date Action Filed: March 20, 2019 18 | CALIFORNIA BERRY CULTIVARS, LLC Trial Date: Not Yet Set 19 | and 20 | DOUGLAS SHAW, 21 Defendants.

22 23 24 25 26 27 28 n & Tucker, LLP Case No. 2:19-cv-00493-TLN-CKD 1 Plaintiffs Driscoll’s, Inc. and Driscoll’s of Europe, B.V., on the one hand, and Defendants 2 | California Berry Cultivars, LLC and Douglas Shaw, on the other hand (together, the “Parties”) 3 | submit this joint stipulation to schedule sealing requests. 4 Recitals. 5 1.

On April 29, 2025, the Court entered an order establishing deadlines for dispositive 6 | motions concerning invalidity counterclaims. (Dkt. 161.) Per that order, the Parties filed summary 7 | judgment motions as to those counterclaims on June 27, 2025. (Dkts. 167, 171.)

The Parties are to 8 | file their opposition briefs by July 25, 2025. 9 2. The Parties anticipate their respective opposition briefs will contain materials 10 | designated confidential under this action’s stipulated protective order, and that the respective sides 11 | may submit for sealing materials in which the opposite side has a confidentiality interest.

The 12 | Parties anticipate such records will be submitted under seal in the first instance on July 25. 13 3. The Parties acknowledge documents filed with a dispositive motion may be sealed 14 | only upon a showing of “articulate[] compelling reasons supported by specific factual findings.” 15 | *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir.

2006). The Parties further 16 | acknowledge this Court’s civil standing order provides “The Court will only consider requests to 17 | seal or redact filed by the proponent of sealing or redaction.” 18 4. To allow the Parties the opportunity to review their adversaries’ respective filings 19 | and to timely prepare factual submissions supporting permanent sealing of appropriate confidential 20 | documents contained or referenced with those filings, the Parties request until Friday August 1, 21 | 2025, to file requests (supported by declarations if necessary) to permanently seal records submitted 22 | with the Parties’ July 25, 2025, opposition briefing pursuant to Local Rules 140 and 141.

23 Stipulation. 24 Based on the foregoing and subject to the Court's approval, the Parties stipulate they shall 25 | have until August 1, 2025, to file requests (including any evidentiary support) to permanently seal 26 | confidential information submitted under seal in the first instance in connection with Parties' July 27 | 25, 2025, summary judgment opposition filings.

The Parties respectfully request the Court enter 28 | the attached proposed order confirming this schedule. Case No. 2:19-cv-00493-TLN-CKD 1 | Dated: July 23, 2025 Respectfully submitted, MORRISON & FOERSTER LLP RUTAN & TUCKER, LLP By: /s/ Matthew A. Chivvis By: /s/ Gerard M. Mooney 6 MATTHEW A. CHIVVIS GERARD M. MOONEY 7 Attorneys for Plaintiffs Attorneys for Defendants DRISCOLL'S, INC. AND CALIFORNIA BERRY CULTIVARS, 8 DRISCOLL'S OF EUROPE B.V.

LLC AND DOUGLAS SHAW 10 1] 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 Case No. 2:19-cv-00493-TLN-CKD 1 ORDER 2 Based on the Parties' Joint Stipulation, and for good cause shown, IT IS ORDERED: 3 1. The Parties shall have until August 1, 2025, to file requests (including any 4 | evidentiary support) to permanently seal confidential information submitted under seal in the first 5 | instance in connection with Parties' July 25, 2025, opposition filings.

6 2. Material submitted under seal in connection with the Parties' July 25, 2025, 7 | opposition filings shall not put in the public record until after the Court rules on the sealing requests 8 | to be filed on August 1, 2025. Lal Pod Dated: July 23, 2025 10 ll Troy L. Nunley Chief United States District Judge 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 Case No. 2:19-cv-00493-TLN-CKD