

**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

OPINION

1 | Richard K. Howell (State Bar No. 144241) rhowell@rutan.com 2 | Ronald P. Oines (State Bar
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| 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