

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF ARKANSAS

BEST PALLETS INC. and BEST INDUSTRIAL PALLETS, L.L.C., by and through their President and Owner JAMES L. TAYLOR; ITNOLAP PALLET & CRATING, INC., by and through its President and Owner WILLIAM M. CLARK; ITNOLAP PALLET & CRATING, L.L.C., by and through its President and Half-Owner WILLIAM M. CLARK; PALLET EXPRESS, INC., by and through its Vice-President and Owner LYNN RIDGE BELL; and GOEMAN'S WOOD PRODUCTS, INC., by and through its President and Owner DANNY J. GOEMAN, for themselves and all others similarly situated,  
PLAINTIFFS AND PROPOSED CLASS REPRESENTATIVES,

vs.

BRAMBLES INDUSTRIES, INC., and BRAMBLES NORTH AMERICA, INC., d/b/a CHEP USA,  
DEFENDANTS.

Case No: 08-2012  
The Honorable Robert T. Dawson  
U.S. District Judge

STIPULATION AND MOTION  
FOR PROTECTIVE ORDER  
PERTAINING TO  
CONFIDENTIAL INFORMATION

Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, it is stipulated by and between plaintiffs and defendants, and the court is requested to enter this Order of Protection governing the disclosure and discovery of certain commercially sensitive materials.

1. This Order shall be binding on: (a) the parties; (b) counsel for all of the parties; and (c) any other person who receives or possesses materials produced by a producing party.
2. Material produced by the producing parties shall not be used or disclosed by any person except as specifically and expressly permitted by this Order.
3. All material produced by a producing party shall be used solely for the purpose of, and only to the extent necessary for, prosecuting or defending the claims in this case. Such material shall not be used by any person for any other purpose, including, without

limitation, any business, competitive, personal, private, public, commercial, or other purpose.

4. A producing party may designate all or any part of a document or material produced as "Confidential." "Confidential" shall mean information that the producing party reasonably believes contains or reflects trade secrets, "know-how," customer information, financial and marketing information, strategy, planning, and other highly sensitive commercial information, or information that should otherwise be subject to heightened confidential treatment because the producing party believes in good faith that disclosure of such material could negatively impact the producing party's ability to conduct its business or compete for business customers.
5. "Confidential" material may only be disclosed to: (a) outside counsel, including paralegals and assistants, retained by any party, (b) court personnel, (c) the parties' retained experts and consultants, (provided they are not employees of any party, including potential class members), (d) authors or recipients of the material, (e) where appropriate, the "carve-out group" (defined below) or (f) any other person authorized to receive such information by prior written consent of the producing party or prior order of this Court.
6. The "carve-out group" are those employees of the plaintiff and defendant who counsel relies on to assist them in preparing their cases. Counsel will only provide carve-out group members access to Confidential material when counsel believes that it is necessary to do so because neither counsel nor the retained experts possess the requisite business knowledge to interpret the material. Counsel for each party will advise carve-out group members of their obligation not to disclose any Confidential material to anyone not

entitled to see it and not to use the information for any purpose other than the preparation of this case. Counsel for plaintiff and defendant will disclose to each other the names of no more than four proposed carve-out group members, all of whom must be current or former employees of the named plaintiffs or CHEP, for each side, with each side reserving the right to add two more members if that becomes necessary. Within seven days of that disclosure, if the parties have not been able to reach agreement as to the inclusion of an individual in the carve-out group, the party wanting to have the disputed person included in the carve-out group may ask the Court to resolve the issue. Until the Court resolves any such issues, the proposed person may not have access to any material designated Confidential.

7. A producing party's failure to designate Confidential information or the misdesignation of Confidential information does not waive the confidentiality otherwise attaching to such information. Upon discovery that Confidential information was incorrectly designated or not designated at all, the producing party shall notify the parties and shall then have ten days to redesignate and reproduce the material. In the interim, the information may not be used or disclosed in a manner inconsistent with the Confidential designation indicated by the producing party in its notification. In the event a producing party redesignates and reproduces material, the parties that received the material at issue shall promptly return all incorrectly designated material, and all copies of such material, to the producing party.
8. If a party disputes the appropriateness of the above protective designation and the issue cannot be resolved between the parties, the party issuing such a challenge may apply to the court for relief.

9. All pleadings, motions, or other papers filed with the Court that contain or make reference to Confidential information shall be filed under seal in a sealed envelope, shall be kept under seal by the Clerk of the Court, and shall not be part of the public record in the Action if and until such time as the court enters an order unsealing that information. The sealed envelope shall prominently bear the designation "Confidential – Filed Under Seal." Any party filing a motion or pleading under seal shall also file a public version that redacts the Confidential material.
10. Each person to whom designated protected information is disclosed (e.g., law firm personnel, experts and other litigation support personnel) shall agree to be bound by the above provisions of protection by signing Exhibit "A" attached to this stipulation.

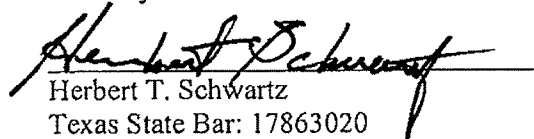
**IT IS SO STIPULATED.**

Dated: December 9, 2008


Herbert T. Schwartz  
BAILEY & GAYLEN  
18333 Egret Bay Blvd., Suite 120  
Houston, TX 77058-3860  
281-335-7744 – Telephone  
281-335-4774 – Facsimile

William J. Kolasky  
Eric Mahr  
WILMER CUTLER PICKERING HALE  
AND DORR LLP  
1875 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006  
202-663-6000 – Telephone  
202-663-6363 – Facsimile  
william.kolasky@wilmerhale.com  
eric.mahr@wilmerhale.com

Attorney for Plaintiffs

  
Herbert T. Schwartz  
Texas State Bar: 17863020  
Florida State Bar: 100248

Attorneys for Defendants

  
Eric Mahr  
District of Columbia Bar: 459350

# the

**IT IS SO ORDERED:**

Date: December \_\_\_\_, 2008

---

Robert T. Dawson  
United States District Judge

EXHIBIT A

BEST PALLETS INC., ET AL. V. BRAMBLES INDUSTRIES, INC., ET AL. – W.D. Ark. Case No. 08-2012

I hereby acknowledge that I, [name], [position of employment], am about to receive Confidential Information supplied by a producing party in *Best Pallets, Inc., et al. v. Brambles Industries, Inc.*, W.D. Ark. Case No. 08-2012. I certify my understanding that such information will be provided to me pursuant to the terms and restrictions of the court order of \_\_\_\_\_, and that I have been given a copy of and have read this order and agree to be bound by its terms. I understand, agree, and represent that such materials, shall not be disclosed to any persons, used, or otherwise processed except as provided in that order. I hereby affirm that the foregoing is true and correct.

Dated: \_\_\_\_\_

(Type or Print)

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Signature

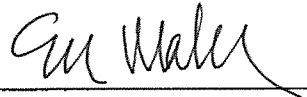
\_\_\_\_\_  
Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone

**CERTIFICATE OF SERVICE**

I, Eric Mahr, hereby certify that on December 9, 2008, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which shall send notification of such filing to Herb T. Schwartz.



Eric Mahr