

ELECTROLYSIS PREVENTION
SOLUTIONS LLC,

Plaintiff,

vs.

DAIMLER TRUCKS NORTH
AMERICA LLC,

Defendant.

**MAHLE BEHR CHARLESTON, INC.'S OBJECTIONS AND RESPONSES TO
DEPOSITION SUBPOENA**

Pursuant to Rules 26 and 45 of the Federal Rules of Civil Procedure, Non-Party MAHLE Behr Charleston, Inc. f/k/a Behr Heat Transfer Systems, Inc. (“MAHLE”), by its undersigned attorneys, hereby objects and responds to Plaintiff Electrolysis Prevention Solutions LLC’s (“EPS”) Deposition Subpoena. These objections and responses are made solely for the purpose of the above-captioned case, are based on MAHLE’s present state of recollection, knowledge, and belief, and are made subject to the general objections and specific objections stated below. MAHLE reserves the right to amend or supplement any of its objections and/or responses. These responses shall not be construed as a waiver of any objection.

GENERAL OBJECTIONS

1. MAHLE objects to each and every topic, definition, and instruction to the extent it seeks to impose any burdens inconsistent with, or in addition to, MAHLE's obligations under the applicable rules, any order of this Court, or any stipulation or agreement between the parties.
2. MAHLE objects to each and every topic, definition, and instruction to the extent it

seeks documents, things, or information that is protected from disclosure by the attorney-client privilege, the work-product immunity doctrine, the common interest privilege, the joint-defense privilege, and/or any other applicable privilege or protection from disclosure afforded by law or regulation. Inadvertent production of such information shall not constitute the waiver of any applicable privilege, prohibition, limitation, doctrine, immunity, protection, or objection, including, but not limited to, objections on the basis of competency, confidentiality, relevancy, materiality, work-product, privilege, and/or admissibility as evidence.

3. MAHLE objects to each and every topic, definition, and instruction to the extent it calls for documents, things, or information not in MAHLE's possession, custody, or control, calls for documents, things, or information that are not obtainable by means of a reasonably diligent search, including, without limitation, documents, things, or information that are not maintained by MAHLE in the normal course of business or that are no longer maintained by MAHLE.

4. MAHLE objects to each and every topic, definition, and instruction to the extent it calls for production of information or documents that are publicly available or equally available to EPS, and therefore are of no greater burden for EPS to obtain than for MAHLE to obtain.

5. MAHLE objects to each and every topic, definition, and instruction to the extent it is overly broad, unduly burdensome, or oppressive.

6. MAHLE objects to each and every topic, definition, and instruction to the extent it purports to require information that is not proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.

7. MAHLE objects to each and every topic, definition, and instruction to the extent it is vague, ambiguous, or confusing by failing to adequately define terms or by failing to describe the information sought with reasonable particularity. Subject to its general and specific objections, MAHLE will produce reasonably available, relevant, responsive, non-privileged information to the extent they exist, are within MAHLE's possession, custody, or control, and only to the extent that MAHLE understands each topic.

8. MAHLE objects to each and every topic, definition, and instruction to the extent it is overly broad and/or unduly burdensome to the extent it is unlimited in temporal scope or otherwise not limited to a timeframe relevant to this action.

9. Each and every general objection shall be deemed to be incorporated in full into each of the individual responses set forth below. A specific response may repeat a general objection for emphasis or another reason. The omission of any general objection in any specific response to any Topic is not intended to be and should not be construed as a waiver or limitation of any general objection to that Topic.

DEPOSITION TOPICS

TOPIC NO. 1:

The identity of each radiator sold or otherwise provided by Mahle Behr Charleston, or one of its Affiliates, to DTNA from July 2019 until the present.

RESPONSE: In addition to and without limiting the foregoing General Objections, which are incorporated by reference as though fully set forth herein, MAHLE objects to this Topic as vague, ambiguous, overly broad, and unduly burdensome to the extent it seeks information regarding the identity of "each" radiator sold or otherwise provided by MAHLE to DTNA during

the specified period, regardless of whether such radiator is accused of infringement in the subject action.

Subject to and without waiving the foregoing General Objections, MAHLE responds as follows: MAHLE will produce a witness, at a date and time convenient to MAHLE, to testify regarding the non-privileged factual information responsive to this topic to the extent such information is within MAHLE's possession, custody, or control.

TOPIC NO. 2:

The number of each unit sold to or otherwise provided by Mahle Behr Charleston, or one of its Affiliates, to DTNA from July 2019 until the present.

RESPONSE: In addition to and without limiting the foregoing General Objections, which are incorporated by reference as though fully set forth herein, MAHLE objects to this Topic as vague, ambiguous, overly broad, and unduly burdensome to the extent it seeks information regarding the number of "each" unit sold or otherwise provided by MAHLE to DTNA during the specified period, regardless of whether such unit is accused of infringement in the subject action.

Subject to and without waiving the foregoing General Objections, MAHLE responds as follows: MAHLE will produce a witness, at a date and time convenient to MAHLE, to testify regarding the non-privileged factual information responsive to this topic to the extent such information is within MAHLE's possession, custody, or control.

TOPIC NO. 3:

The price of each unit sold to or otherwise provided by Mahle Behr Charleston, or one of its Affiliates, to DTNA from July 2019 until the present.

RESPONSE: In addition to and without limiting the foregoing General Objections, which are incorporated by reference as though fully set forth herein, MAHLE objects to this Topic as

vague, ambiguous, overly broad, and unduly burdensome to the extent it seeks information regarding the price of “each” unit sold or otherwise provided by MAHLE to DTNA during the specified period, regardless of whether such unit is accused of infringement in the subject action.

Subject to and without waiving the foregoing General Objections, MAHLE responds as follows: MAHLE will not produce a witness on this topic.

TOPIC NO. 4:

The design of each radiator, including its internal components, that has been sold to or otherwise provided by Mahle Behr Charleston, or one of its Affiliates, to DTNA from July 2019 until the present.

RESPONSE: In addition to and without limiting the foregoing General Objections, which are incorporated by reference as though fully set forth herein, MAHLE objects to this Topic as vague, ambiguous, overly broad, and unduly burdensome to the extent it seeks information regarding “the design of each radiator, including its internal components,” regardless of whether such radiator is accused of infringement in the subject action. Further, it is not clear what “internal components” are referenced in this Topic.

Subject to and without waiving the foregoing general and specific objections, MAHLE responds as follows: MAHLE will produce a witness, at a date and time convenient to MAHLE, to testify regarding the non-privileged factual information responsive to this topic to the extent such information is within MAHLE’s possession, custody, or control.

TOPIC NO. 5:

The composition of metal used for various internal and external components of each radiator that has been sold to or otherwise provided by Mahle Behr Charleston, or one of its Affiliates, to DTNA from July 2019 until the present.

RESPONSE: In addition to and without limiting the foregoing General Objections, which are incorporated by reference as though fully set forth herein, MAHLE objects to this Topic as vague, ambiguous, overly broad, and unduly burdensome to the extent it seeks information regarding “the composition of metal” and “various internal and external components.” It is not clear what “various internal and external components” are referenced in this Topic.

Subject to and without waiving the foregoing general and specific objections, MAHLE responds as follows: MAHLE will produce a witness, at a date and time convenient to MAHLE, to testify regarding the non-privileged factual information responsive to this topic to the extent such information is within MAHLE’s possession, custody, or control.

TOPIC NO. 6:

The functionality and purpose of various internal and external components of each radiator that has been sold to or otherwise provided by Mahle Behr Charleston, or one of its Affiliates, to DTNA from July 2019 until the present.

RESPONSE: In addition to and without limiting the foregoing General Objections, which are incorporated by reference as though fully set forth herein, MAHLE objects to this Topic as vague, ambiguous, overly broad, and unduly burdensome to the extent it seeks information regarding “various internal and external components.” It is not clear what “various internal and external components” are referenced in this Topic.

Subject to and without waiving the foregoing general and specific objections, MAHLE responds as follows: MAHLE will produce a witness, at a date and time convenient to MAHLE, to testify regarding the non-privileged factual information responsive to this topic to the extent such information is within MAHLE’s possession, custody, or control.

TOPIC NO. 7:

The contents and terms of any agreements between Active Radiator Service and DTNA regarding any radiator provided by Mahle Behr Charleston to DTNA for use in DTNA vehicles within the United States, from July 2019 until the present.

RESPONSE: In addition to and without limiting the foregoing General Objections, which are incorporated by reference as though fully set forth herein, MAHLE objects to this Topic as vague, ambiguous, overly broad, and unduly burdensome to the extent it seeks information regarding “Active Radiator Service.” MAHLE further objects to this Topic to the extent it relates to information outside of MAHLE’s possession, custody, or control.

Subject to and without waiving the foregoing general and specific objections, MAHLE responds as follows: MAHLE will produce a witness, at a date and time convenient to MAHLE, to testify regarding the non-privileged factual information responsive to this topic to the extent such information is within MAHLE’s possession, custody, or control.

TOPIC NO. 8:

The existence and content of all communications and other documents relating to the Litigation, the Patent-in-Suit, EPS, EPS’s outside counsel, Frank Catalano, Webster’s Radiator, and/or EPS’s subpoenas to Spectra Premium, including all communications between Mahle Behr Charleston and DTNA, DTNA’s counsel, Frank Catalano, and/or Webster’s Radiator regarding any of the foregoing.

RESPONSE: In addition to and without limiting the foregoing General Objections, which are incorporated by reference as though fully set forth herein, MAHLE objects to this Topic to the extent it seeks information that is protected from disclosure by the attorney-client privilege, the work-product immunity doctrine, the common interest privilege, the joint-defense privilege,

and/or any other applicable privilege or protection from disclosure afforded by law or regulation. MAHLE further objects to this Topic as vague, ambiguous, overly broad, and unduly burdensome to the extent it seeks *all* communications and/or documents.

Subject to and without waiving the foregoing general and specific objections, MAHLE responds as follows: MAHLE will not produce a witness on this topic.

TOPIC NO. 9:

The existence and content of all documents relating to each of the topics in this subpoena.

RESPONSE: In addition to and without limiting the foregoing General Objections, which are incorporated by reference as though fully set forth herein, MAHLE objects to this Topic as vague, ambiguous, overly broad, and unduly burdensome to the extent it seeks information regarding “[a]ll documents relating to each of the topics in this subpoena,” without specifying which documents EPS considers related to any particular topic.

Subject to and without waiving the foregoing general and specific objections, MAHLE responds as follows: MAHLE will produce a witness, at a date and time convenient to MAHLE, to testify regarding the non-privileged factual information responsive to this topic to the extent such information was produced by MAHLE pursuant to EPS’s subpoenas in this action.

TOPIC NO. 10:

The content, custodian(s), creation, maintenance, and authenticity of all documents produced by Mahle Behr Charleston pursuant to EPS’s subpoenas in this action, including the business record and/or authenticity foundation for any such Documents.

RESPONSE: In addition to and without limiting the foregoing General Objections, which are incorporated by reference as though fully set forth herein, MAHLE objects to this Topic to the extent it seeks a legal determination as to the authenticity or foundation of any particular document.

Subject to and without waiving the foregoing general and specific objections, MAHLE responds as follows: MAHLE will produce a witness, at a date and time convenient to MAHLE, to testify regarding the non-privileged factual information responsive to this topic to the extent such information is within MAHLE's possession, custody, or control.

TOPIC NO. 11:

Any and all modifications made to any radiator sold or otherwise provided by Mahle Behr Charleston, or one of its Affiliates, to DTNA from July 2019 until the present.

RESPONSE:

In addition to and without limiting the foregoing General Objections, which are incorporated by reference as though fully set forth herein, MAHLE objects to this Topic as vague, ambiguous, overly broad, and unduly burdensome to the extent it seeks all information regarding "any and all modifications," without specifying any particular modification or limiting any particular modification in manner relevant to the action.

Subject to and without waiving the foregoing general and specific objections, MAHLE responds as follows: MAHLE will produce a witness, at a date and time convenient to MAHLE, to testify regarding the non-privileged factual information responsive to this topic to the extent such information is within MAHLE's possession, custody, or control relates to the structural header bracket of the radiators identified in connection with MAHLE's response to EPS' document subpoena.

Dated: December 23, 2022

Respectfully submitted,

/s/R. Spencer Montei

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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on December 23, 2022, I served a copy of the foregoing on EPS' counsel of record via email.

/s/R. Spencer Montei

R. Spencer Montei