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ERNESTO ESPINOSA

16 UNITED STATES DISTRICT COURT
 17 CENTRAL DISTRICT OF CALIFORNIA

18 ERNESTO ESPINOSA,
 19 Plaintiff,
 20 vs.
 21 ARTISTREE, INC., a corporation;
 22 MICHAELS STORES, INC., a
 23 corporation; DANA JOHNSON, an
 individual; and DOES 1-100, inclusive,
 24 Defendants.

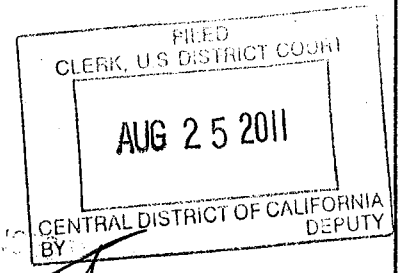
CASE NO.: CV10-10038 JHN (SSx)
 District Judge Jacqueline Nguyen
 Magistrate Judge Suzanne H. Segal

DISCOVERY MATTER

[PROPOSED] PROTECTIVE ORDER

[Filed concurrently with Stipulated
 Protective Order]

Complaint filed: November 23, 2010
 Discovery Cut-Off August 12, 2011
 Final Pre-Trial Conf.: December 12, 2011
 Trial: January 10, 2012



NOTE CHANGES

NOTE CHANGES MADE BY THE COURT

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ERNESTO ESPINOSA,
Plaintiff,

vs.

ARTISTREE, INC., a corporation;
MICHAELS STORES, INC., a
corporation; DANA JOHNSON, an
individual; and DOES 1-100, inclusive,

Defendants.

CASE NO.: CV10-10038 JHN (SSx)

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[PROPOSED] PROTECTIVE ORDER

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1 Based upon the Stipulated Protective Order submitted by parties, and for good
2 cause shown:

3 The Court hereby orders that:

4 **A. DEFINITIONS**

5 1. "ACTION" shall mean the above-captioned action and any appeal(s) of that
6 action.

7 2. "PARTIES" shall mean all parties of record in the ACTION, including all
8 counsel of record, their employees, contractors, representatives, and agents.

9 3. "DOCUMENT(S)" shall mean any document or electronically stored
10 information -- including writings, drawings, graphs, charts, photographs, sound
11 recordings, images, and other data or data compilations stored in any medium from which
12 information can be obtained either directly or after translation into a usable form -- as
13 defined by Federal Rule of Civil Procedure 34(a)(1)(A).

14 4. "CONFIDENTIAL MATERIALS" shall include all DOCUMENTS
15 produced in the course of the ACTION that:

16 a) contain information located in personnel files of current and former
17 employees;

18 b) contain information located in medical files of current and former
19 employees;

20 c) contain information located in workplace injury files of current and
21 former employees;

22 d) contain information seeking the disclosure of business and financial
23 information that is confidential, proprietary, commercially sensitive and/or a trade secret
24 as defined by California Civil Code §3426.1 and the Restatement Torts, Section 757.

25 **B. PROCEDURES FOR USE AND DISCLOSURE OF CONFIDENTIAL**
26 **MATERIAL**

27 5. CONFIDENTIAL MATERIAL shall be so designated by stamping copies of
28 the document produced to a party with the legend "CONFIDENTIAL." Stamping the

1 legend "CONFIDENTIAL" on the cover of any multipage document shall designate all
2 pages of the document as confidential, unless otherwise indicated by the producing party.

3 6. Testimony taken at a deposition may be designated as confidential by
4 making a statement to that effect on the record at the deposition or other ACTION and
5 notifying the court reporter, if applicable, to separately transcribe the portion of the
6 testimony or argument during which CONFIDENTIAL MATERIAL is discussed. Such
7 portion of the deposition or hearing transcript shall be separately transcribed and stamped
8 with the appropriate legal legend as specified in Paragraph 5, above. The transcript shall
9 then be maintained by the witness, the court and/or outside counsel in accordance with
10 the provisions of this Order.

11 7. CONFIDENTIAL MATERIAL shall be protected by the PARTIES and may
12 only be used in a manner that is consistent with this Order, and only as necessary for the
13 purpose of the prosecution, defense, or settlement of this ACTION and for no other
14 purpose. CONFIDENTIAL MATERIAL shall not be used in any other lawsuit, action,
15 or other matter. Nothing in this Order restricts the ability of any party to use or disclose
16 its own CONFIDENTIAL MATERIAL.

17 8. CONFIDENTIAL MATERIAL produced under this Order may be disclosed
18 or made available only to the Court, to counsel for a party (including the paralegal,
19 clerical, and secretarial staff employed by such counsel), and to the "qualified persons"
20 designated below:

21 a) a party, or an officer, director, or employee of a party deemed necessary
22 by counsel to aid in the prosecution, defense, or settlement of this ACTION;

23 b) experts or consultants retained by the PARTIES in this ACTION;

24 c) court reporters employed in this action;

25 d) witnesses testifying during any aspect of the ACTION or designated by
26 the PARTIES in this ACTION; and

27 e) any other person as to whom both PARTIES agree in writing.

28 9. With the exception of the PARTIES and court personnel, to whom this

1 Order applies, CONFIDENTIAL MATERIAL shall not be disclosed to any person or
2 entity unless that person or entity first agrees to the terms and conditions of this Order in
3 writing, in the form of a nondisclosure agreement (*see* Attachment A), or on the record in
4 the ACTION. The disclosing party shall retain the executed nondisclosure agreement,
5 and shall provide a copy to the PARTIES within seven days after the agreement is signed.

6 10. A party seeking to resolve a dispute regarding the designation of confidential
7 information will comply with Local Rule 37.

8 11. A party seeking to file confidential information under seal must comply with
9 the procedures in Local Rule 79-5. However, should Plaintiff seek to file any document
10 produced to him by Defendants and designated as CONFIDENTIAL MATERIALS,
11 Plaintiff's obligation to comply with Local Rule 79-5 is limited to submitting the
12 CONFIDENTIAL MATERIALS to the Court under seal, with a completed template
13 application in the form attached hereto as Attachment B, which Defendants have
14 provided to Plaintiff for this purpose. Plaintiff is not required to take any additional steps
15 to ensure any document designated by Defendants as CONFIDENTIAL MATERIALS is
16 ordered by the Court to be filed under seal, and is in no way liable for the Court's refusal
17 to do so.

18 12. ~~CONFIDENTIAL MATERIAL filed under seal shall be labeled with a cover~~
19 ~~sheet bearing the case name and number, along with the following statement: "This~~
20 ~~document is subject to a protective order in this case and shall not be copied or examined~~
21 ~~except in compliance with that order." Documents so-labeled shall be kept under seal by~~
22 ~~the court clerk if the Court so permits.~~ SA

23 13. All persons and entities having access to CONFIDENTIAL MATERIAL
24 shall not make copies of the CONFIDENTIAL MATERIAL except as necessary for the
25 ACTION, and they shall maintain control of any such copies in compliance with this
26 Order.

27 14. All CONFIDENTIAL MATERIAL shall be maintained with adequate
28 security to ensure compliance with this Order. The PARTIES shall maintain a record of

1 the persons and entities granted access to CONFIDENTIAL MATERIAL.

2 15. Each person or entity having access to CONFIDENTIAL MATERIAL shall
3 not disclose or discuss the content of the CONFIDENTIAL MATERIAL except as
4 provided in this Order.

5 16. Nothing in this Order shall prevent any person or entity from accessing or
6 using CONFIDENTIAL MATERIAL as otherwise authorized in the normal scope of
7 their official duties.

8 17. Nothing in this Order shall affect the admissibility of CONFIDENTIAL
9 MATERIAL for any use in this ACTION, including during trial.

10 18. In the event any person or PARTY in the ACTION receives a court order,
11 process or subpoena seeking the disclosure of CONFIDENTIAL MATERIAL, such
12 person or PARTY shall promptly notify each of the PARTIES through their attorneys of
13 record, shall furnish each of the PARTIES through their attorneys of record with a copy
14 of the court order, process or subpoena, and shall not interfere with respect to any
15 procedure sought to be pursued by any PARTY whose interests may be affected by such
16 disclosure. The PARTY asserting that documents or information subject to the court
17 order, process or subpoena constitute CONFIDENTIAL MATERIAL shall have the
18 burden of defending against such court order, process or subpoena. The PARTY
19 receiving the court order, process, or subpoena shall, once sufficient notice to all other
20 PARTIES has been given and the PARTIES have had a reasonable opportunity to object
21 (but in no case less than ten (10) days after notice), be entitled to comply with it except to
22 the extent a PARTY has filed for or succeeded in obtaining an order modifying or
23 quashing the court order, process, or subpoena.

24 C. **DISPOSITION OF CONFIDENTIAL MATERIAL UPON**
25 **TERMINATION OF THE ACTION**

26 19. At the conclusion of the ACTION (including appeal), all such
27 CONFIDENTIAL MATERIAL shall be returned to the PARTY who produced it within
28 fifteen (15) days of the final District Court or Court of Appeal dispositive order. No

1 PARTY, expert, consultant or any other person or entity to whom such CONFIDENTIAL
2 MATERIAL was produced shall retain any copies or any such CONFIDENTIAL
3 MATERIAL, except that counsel for each PARTY may maintain one copy of all
4 documents containing CONFIDENTIAL MATERIAL for the purpose of maintaining
5 complete and accurate files of the ACTION.

6 20. This Order shall survive the final termination of this ACTION, to the extent
7 that the information contained in CONFIDENTIAL MATERIAL is not or does not
8 become known to the public.

9 **D. MISCELLANEOUS PROVISIONS**

10 21. The terms and conditions of this Order are without prejudice to the right of
11 any party:

12 22. All DOCUMENTS produced by any PARTY during the course of the
13 ACTION shall be used solely in connection with the ACTION. The PARTIES agree that
14 any DOCUMENT produced during the course of the ACTION shall not be used or
15 disseminated for any other purpose, including but not limited to, pending or future
16 litigation in any court.

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18 **IT IS SO ORDERED.**

19
20 Dated: 8/25, 2011


Magistrate Suzanne H. Segal
United States District Court

21
22 4819-1956-2505, v. 1

1 ATTACHMENT A

2 Espinosa v. Artistree, Inc., et al.

3 United States District Court, Central District Case No. CV10-10038 JHN (SSx)

4 Declaration of Compliance with Stipulation

5
6 1. My name is _____, I live
7 at _____, and I am
8 employed as (position) _____, at
9 _____ (name and address of employer).

10 2. I have read the Stipulated Protective Order that has been executed and entered as
11 an order in this action, and a copy of it has been provided to me. I understand the
12 provisions of this Stipulated Protective Order, and agree to comply with and to be bound
13 by its provisions.

14 3. I will not reveal CONFIDENTIAL MATERIAL to anyone, except as permitted by
15 the Stipulated Protective Order and will maintain all CONFIDENTIAL MATERIAL in a
16 secure manner to prevent unauthorized access to it. I will use CONFIDENTIAL
17 MATERIAL only for purposes of the above-referenced litigation.

18 4. Within 30 (days) days of receiving a request from any party, I will return any
19 Restricted Information, including copies of notes thereof, to the Party or attorneys who
20 provided me with the Information or destroy the information. However, I will not be
21 obligated to return or destroy my work product that incorporates CONFIDENTIAL
22 MATERIAL.

23 5. I hereby consent to the jurisdiction of the United States District Court, Central
24 District Court for the sole purpose of enforcing the Stipulated Protective Order any other
25 related orders of the Court.

26 I declare under penalty of perjury under the laws of the United States and of the State of
27 California that the foregoing is true and correct. Executed this ____ day of
28 _____, 201__, at _____.

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(Signature)

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Plaintiff hereby respectfully applies, pursuant to Local Rule 79-5.1 and the Protective Order in force in this case, for an Order that the

_____ be filed under seal.

On _____, the parties entered and filed the Stipulation and [Proposed] Protective Order. On _____, Magistrate Judge Suzanne H. Segal entered an order approving the parties' Stipulation and [Proposed] Protective Order and making it an Order of the Court.

Paragraph 11 of the Protective Order lays out the procedures for filing documents under seal, pursuant to Local Rule 79-5.

The document listed above contains information that must be handled as "Confidential" under the Protective Order. Specifically, the document contains [information located in personnel files of current and former employees] or [information located in medical files of current and former employees] or [information located in workplace injury files of current and former employees] or [information seeking the disclosure of business and financial information that is confidential, proprietary, commercially sensitive and or a trade secret as defined by California Civil Code § 3426.1 and Restatement Torts, § 757].

Plaintiff requests that the Court order the above-referenced document to be filed under seal.

Dated: _____

[INSERT FIRM NAME]