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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ARMIDA RODRIGUEZ,

Plaintiff,

vs.

BURLINGTON COAT FACTORY
WAREHOUSE CORPORATION, a
New Jersey Corporation;
BURLINGTON COAT FACTORY, an
unknown business entity;
BURLINGTON COAT FACTORY OF
CALIFORNIA LLC, a California
Limited Liability Company;
BURLINGTON COAT FACTORY
WAREHOUSE OF CA, an unknown
business entity, and DOES 1 through
50, inclusive,

Defendants.

CASE NO. CV13-02426 DDP (RZx)

Magistrate Judge: Ralph Zarefsky
Courtroom: 540

Complaint filed October 11, 2012

**[PROPOSED] PROTECTIVE
ORDER ON STIPULATION OF THE
PARTIES**

**NOTE: CHANGES HAVE BEEN
MADE TO THIS DOCUMENT**

Pursuant to the Stipulation of the Parties, by and through their counsel of record, Plaintiff ARMIDA RODRIGUEZ (“Plaintiff”) and Defendants BURLINGTON COAT FACTORY WAREHOUSE CORPORATION and BURLINGTON COAT FACTORY OF CALIFORNIA LLC (collectively, “Burlington” or “Defendants”), this Court makes the following Order:

1. Proceedings and Information Governed. This Order will govern the

1 video surveillance footage and documents produced by Burlington in this action.
2 The information protected includes, but is not limited to, information produced in
3 connection with Federal Rule of Civil Procedure 26, information contained in
4 responses to demands for identification and production of documents or other
5 things; responses to special interrogatories; deposition testimony and exhibits,
6 including any documents or other information or materials that may be produced
7 prior, or subsequent, to any depositions; and all copies, extracts, summaries,
8 compilations, and portions of the foregoing.

9 2. “Confidential” Information or Material Defined. For purposes of this
10 Order, “Confidential” information or material will mean all video surveillance
11 footage, information, documents, or material that:

12 a. Is produced for or disclosed to a receiving party (Plaintiff or
13 Defendants); and

14 b. Is among the documents and information Defendants have
15 agreed to produce to Plaintiff; and

16 c. contains private and confidential information of third parties or
17 proprietary information of Burlington.

18 3. Designation of “Confidential” Information or Material. All video
19 surveillance footage and documents, including but not limited to the putative Class
20 List, produced by Burlington will be designated as “Confidential” with a stamp or
21 other inscription on the video disc and documents that states: “Confidential” or
22 “Confidential Pursuant to Protective Order.”

23 4. Party’s Own Information. The restrictions on the use of
24 “Confidential” information or material established by this Order apply only to the
25 use by a party of “Confidential” information or material received from another
26 party to this action, or from a non-party to this action, and shall not apply to the use
27 by a party of her/its own information.

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1 5. Persons Authorized to Receive Confidential Information and Material.

2 For purposes of this Order, the term “qualified recipient” of information and
3 material that has been designated pursuant to the terms of the Stipulation of the
4 Parties, and in compliance with this Order shall mean:

5 (a) The parties to this action, including officers, directors, and
6 other employees of the party to whom disclosure of confidential information is
7 deemed necessary by that party for purposes of this action only;

8 (b) The attorneys of record in this action, attorneys employed in-
9 house by or on behalf of the parties, any attorneys retained by the parties in this
10 action to consult on the litigation, their respective partners, associates, clerks, legal
11 assistants, secretaries, and stenographic and support personnel, and such other
12 persons retained by such attorneys to provide litigation support services in this
13 action including outside consultants or experts;

14 (c) This Court and its personnel and jury members, and any
15 persons to whom the Court in this action orders that disclosures may be made.

16 (d) During their depositions, witnesses in this action to whom
17 disclosure is reasonably necessary and only if the witnesses agree in writing to be
18 bound by the terms of this Order.

19 (e) Any other person with prior written consent of the designating
20 party. Each person to whom disclosure of “Confidential” information is made
21 agrees to be subject to the jurisdiction of this Court solely for purposes of
22 proceedings relating to that person’s performance under, compliance with, or
23 violation of this Order.

24 6. Use of “Confidential” Information or Material. Information or
25 material designated as “Confidential” will be handled by the receiving party in
26 accordance with the terms of the Stipulation of the Parties, and this Order.
27 Information and material designated as “Confidential” will be held in confidence
28 by the receiving party, will be used by each receiving party for purposes of this

1 action and trial only and not for any business, competitive, marketing, or other
2 purpose unless agreed to in writing in advance by all parties to this action or as
3 authorized by further Order of the Court, and will not be disclosed to, or the
4 substance discussed with, any person who is not a qualified recipient. The
5 information or material produced, including but not limited to the putative Class
6 List, will not be sold or provided to another person(s) or entity(ies), placed on any
7 Internet website, or used to create any Internet website.

8 7. Copies of “Confidential” Information or Material. Nothing in this
9 Order shall prevent or otherwise restrict a qualified recipient from making working
10 copies, abstracts, summaries, digests and analyses of “Confidential” information or
11 material for use in connection with this action and trial only. All working copies,
12 abstracts, summaries, digests and analyses will also be considered “Confidential”
13 under the terms of this Order.

14 8. Transmission of “Confidential” Information or Material. Nothing in
15 this Order shall prevent or otherwise restrict the transmission or communication of
16 “Confidential” information or material between or among qualified recipients of
17 such material.

18 9. Sealing and Filing of “Confidential” Information or Material. Any
19 party seeking to file with the Court information or material designated as
20 “Confidential” is required to file a motion or application with the Court to seal
21 such records and to take whatever other and further steps are necessary in
22 accordance with United States District Court, Central District, Local Rule 79-5, as
23 well as all other applicable Federal and Local Court Rules.

24 10. Court Proceedings. Any portion of a court hearing or other
25 proceeding that reveals “Confidential” information shall be held in camera in the
26 Court’s discretion.

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1 11. Challenging Confidentiality Designations. Any party may challenge a
2 designation of information or material as “Confidential,” but shall do so in a
3 prompt fashion. A party that elects to initiate a challenge to a designating party’s
4 designation of information or material as “Confidential” shall first meet and confer
5 in good faith with counsel for the designating party. If a challenge to a
6 confidentiality designation cannot be resolved without Court intervention, the party
7 making the challenge shall file and serve a motion under Local Rule 7 (and in
8 compliance with Local Rule 79-5, if applicable) for an order that the information
9 or material at issue not be so designated. Until the Court rules on the motion, the
10 parties shall continue to treat the information or material in question as
11 “Confidential” in accordance with the Stipulation of the Parties and this Order.

12 12. Testimony. Any party shall identify on the record, before the close of
13 the deposition, hearing or other pretrial proceeding, all information or material
14 designated as “Confidential.” Alternatively, any party may invoke on the record
15 (before the deposition, hearing or proceeding is concluded) a right to have up to
16 twenty (20) calendar days to designate specific portions of the testimony, any
17 exhibits thereto, or the entirety of the transcript as “Confidential.” During the
18 twenty (20) calendar day period, the original, and all copies of any deposition
19 transcript, and exhibits, will be initially considered as a whole to constitute
20 “Confidential” information subject to this Order and will be conspicuously marked
21 as such. In any event, pages of transcribed deposition testimony or exhibits to
22 depositions that reveal information or material designated as “Confidential” must
23 be separately bound by the court reporter and may not be disclosed to anyone
24 except as permitted by this Order.

25 Notwithstanding any provision of this Order to the contrary, any person may
26 be examined as a witness at deposition and may testify concerning all
27 “Confidential” information of which the person is the author, addressee or has
28 knowledge. If the examination reveals “Confidential” information or material, the

1 producing party will have the right to exclude from that portion of the deposition
2 that reveals the “Confidential” information or material any person other than the
3 witness, the witness’s attorney(s), and qualified recipients of the “Confidential”
4 information or material. If the witness and/or his or her attorney is not a qualified
5 recipient, then before the examination commences regarding the “Confidential”
6 information or material, the witness and his or her attorney each will be requested
7 to provide written confirmation that he or she will comply with the terms of this
8 Order, and maintain the confidentiality of the “Confidential” information or
9 material disclosed during the course of the interview or examination. If the
10 witness and/or his or her attorney declines to provide written confirmation agreeing
11 to the terms of this Order, the producing party has the right to adjourn the
12 examination concerning the “Confidential” information and material to promptly
13 seek a further protective order from the Court requiring that the witness and/or his
14 or her attorney comply with the terms of this Order.

15 Any court reporter who takes down testimony in this action that reveals
16 “Confidential” information or material, through interview, examination, deposition
17 or otherwise (collectively “deposition”), will be given a copy of this Order, and
18 will be required to agree on the transcript of the deposition that he or she will not
19 disclose any testimony and/or information that reveals “Confidential” information
20 or material, except to the attorneys of record for the parties in this action or to such
21 other qualified recipients as the attorneys of record for the parties so designate in
22 writing to the court reporter.

23 13. Attorneys’ Actions. Nothing in this Order will bar or otherwise
24 restrict an attorney who is a qualified recipient from:

25 (a) Rendering advice to his, her or its client with respect to this
26 action; or

27 (b) Generally referring to or relying on his or her examination of
28 documents that have been produced pursuant to this Order, and that contain

1 “Confidential” information.

2 14. Inadvertent Failures to Designate: An inadvertent failure to designate
3 information or material as “Confidential” shall not waive the designating party’s
4 right to subsequently secure protection under this Order. If any information or
5 material is appropriately designated as “Confidential” after it is initially produced,
6 the receiving party shall make reasonable efforts to assure that the information or
7 material is treated as “Confidential” pursuant to the Stipulation of the Parties and
8 this Order.

9 15. No Probative Value. The fact that information has been designated as
10 “Confidential” will not be admissible during trial. Any designation of information
11 or materials as “Confidential” pursuant to this Order shall not be construed as an
12 admission of relevance. This Order shall not constitute a waiver of the rights of any
13 party to make objections or assert privileges in connection with discovery in this
14 action or the introduction in this action of “Confidential” information or material
15 on any grounds, other than those related to confidentiality pursuant to the terms of
16 this Order.

17 This Order will not abrogate or diminish any contractual, statutory, or other
18 legal obligation or right of any party or person with respect to any “Confidential”
19 information or material.

20 16. Return of Information and Materials. At the conclusion of this action,
21 all “Confidential” information or material will, within sixty (60) days of written
22 request of the party furnishing the information or materials, be delivered to the
23 party that furnished the “Confidential” information or material, or shall be
24 destroyed by the receiving party, whereupon the receiving party shall provide
25 written confirmation to the designating party of the destruction of the
26 “Confidential” information or material within the sixty (60) day time period
27 described above. This provision shall not apply to court filings or file copies of
28 pleadings, briefs or correspondence maintained by the parties’ respective counsel

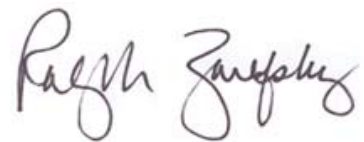
1 in the ordinary course of business.

2 All “Confidential” information not embodied in written materials,
3 documents, or tangible items will remain subject to this Order. For purposes of
4 this paragraph, “conclusion of this action” shall mean, as to any party, the
5 dismissal of that party from this action by Order of Court, whether by stipulation,
6 Request for Dismissal, or other proceeding, or final judgment as against that party
7 after expiration of all appellate rights or the time for any such appeal.

8 This paragraph shall not apply to this Court or its personnel.

9 17. Court’s Jurisdiction. The Court retains jurisdiction to make
10 amendments, modifications, deletions, and additions to the Order approving the
11 Stipulation of the Parties as the Court from time to time considers appropriate.
12 This Order is entered without prejudice to the right of any party to apply to the
13 Court at any time to modify the restrictions of this Order, when convenience or
14 necessity requires.

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16 **IT IS SO ORDERED;** however, notwithstanding anything to the contrary
17 stated above, this order shall not govern in connection with dispositive motions or
18 at trial. A different legal standard applies at that time. . *Foltz v. State Farm*
19 *Mutual Auto Insurance Co.*, 331 F.3d 1122, 1136 (9th Cir. 2003); *Kamakana v.*
20 *City and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006). A party seeking
21 protection in connection with either dispositive motions or at trial must make
22 separate application to the judge presiding over those proceedings.

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26 Dated: August 26, 2013

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The Honorable Ralph Zarefsky
Magistrate Judge

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