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7  
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9 **UNITED STATES DISTRICT COURT**  
 10 **CENTRAL DISTRICT OF CALIFORNIA**

11  
12 STAR FABRICS, INC., a California  
corporation,

13 Plaintiff,

14 vs.

15  
 16 JOYCE LESLIE, INC., a Business Entity  
 of Form Unknown; N.Y. INVASION INC.,  
 17 a Business Entity of Form Unknown;  
 MYLETIX INTERNATIONAL INC., a  
 18 Business Entity of Form Unknown;  
 RAINBOW USA, INC., a New York  
 19 Corporation; MISS Sportswear, Inc dba  
 American City Wear, a Business Entity of  
 20 Form Unknown; ROSS STORES, INC. dba  
 DD'S DISCOUNT'S, a Delaware  
 21 Corporation; THE TJX COMPANIES,  
 INC., a Massachusetts corporation; LANY  
 22 GROUP, LLC, a New York limited liability  
 company; and DOES 1 through 10,

23 Defendants.  
24

Case No. CV13-02771 CAS (PJWx)

**~~[PROPOSED]~~ STIPULATED  
 PROTECTIVE ORDER**

25  
 26  
 27 Complaint Filed: April 19, 2013  
 Trial Date: July 22, 2014



1           PURPOSES AND LIMITATIONS

2           Disclosure and discovery activity in this action are likely to involve production of  
3 confidential, proprietary, or private information for which special protection from  
4 public disclosure and from use for any purpose other than prosecuting this matter would  
5 be warranted. Accordingly, the parties hereby stipulate to and petition this Court to  
6 enter the following Stipulated Protective Order. The parties acknowledge that this  
7 Order does not confer blanket protections on all disclosures or responses to discovery  
8 and that the protection it affords extends only to the limited information or items that  
9 are entitled under the applicable legal principles to treatment as confidential. The  
10 parties have agreed that the terms of this Protective Order shall also apply to any future  
11 voluntary disclosures of confidential, proprietary, or private information. The parties  
12 reserve their rights to object to or withhold any information, including confidential,  
13 proprietary, or private information, on any other applicable grounds permitted by law,  
14 including third-party rights and relevancy.

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16           2.    DEFINITIONS

17           2.1   Party: any party to this action, including all of its officers, directors,  
18 employees, consultants, retained experts, and outside counsel (and their support staff).

19           2.2   Disclosure or Discovery Material: all items or information,  
20 regardless of the medium or manner generated, stored, or maintained (including, among  
21 other things, testimony, transcripts, or tangible things), that are produced or generated in  
22 disclosures or responses to discovery in this matter.

23           2.3   "Confidential" Information or Items: information (regardless of how  
24 generated, stored, or maintained) or tangible things that qualify for protection under  
25 standards developed under F.R.Civ.P. 26(c).

26           2.4   "Attorneys' Eyes Only": Discovery Material or such portion of such  
27 material as consists of:  
28

1 a) any commercially sensitive and/or confidential business or  
2 financial information (including without limitation confidential nonpublic contracts,  
3 profitability reports or estimates, sales reports, and sales margins) which could  
4 reasonably create a competitive disadvantage if disclosed to the parties in this action;

5 b) any business or financial information that is confidential,  
6 proprietary, or commercially sensitive to third parties who have had business dealings  
7 with parties to this action; or

8 c) any other category of material or information hereinafter given  
9 Confidential status by the Court, to the extent said material could reasonably create a  
10 competitive disadvantage if disclosed to the parties in this action.

11 2.5 Receiving Party: a Party that receives Disclosure or Discovery  
12 Material from a Producing Party.

13 2.6 Producing Party: a Party or non-party that produces Disclosure or  
14 Discovery Material in this action.

15 2.7 Designating Party: a Party or non-party that designates information  
16 or items that it produces in disclosures or in responses to discovery as  
17 "CONFIDENTIAL" or "ATTORNEYS' EYES ONLY."

18 2.8 Protected Material: any Disclosure or Discovery Material that is  
19 designated as "CONFIDENTIAL" or "ATTORNEYS' EYES ONLY."

20 2.9 Expert: a person with specialized knowledge or experience in a  
21 matter pertinent to the litigation who has been retained by a Party or its counsel to serve  
22 as an expert witness or as a consultant in this action. This definition includes a  
23 professional jury or trial consultant retained in connection with this litigation. The  
24 expert witness or consultant may not be a past or a current employee of the Party  
25 (including any affiliates or related entities) adverse to the Party engaging the expert  
26 witness or consultant, or someone who at the time of retention is anticipated to become  
27 an employee of the Party (including any affiliates or related entities) adverse to the  
28 Party engaging the expert witness or consultant. Moreover, the expert witness or

1 consultant may not be a current employee or anticipated to become an employee of any  
2 entity who is a competitor of the Party adverse to the Party engaging the expert witness  
3 or consultant.

4           2.10 Professional Vendors: persons or entities that provide litigation  
5 support services (e.g., photocopying; videotaping; translating; preparing exhibits or  
6 demonstrations; organizing, storing, or retrieving data in any form or medium; etc.) and  
7 their employees and subcontractors.

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9           3.     SCOPE

10           The protections conferred by this Stipulation and Order cover not only Protected  
11 Material (as defined above), but also any information copied or extracted therefrom, as  
12 well as all copies, excerpts, summaries, or compilations thereof, plus testimony,  
13 conversations, or presentations by parties or counsel to or in litigation or in other  
14 settings that might reveal Protected Material.

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16           4.     DURATION

17           Even after the termination of this action, the confidentiality obligations imposed  
18 by this Order shall remain in effect until a Designating Party agrees otherwise in writing  
19 or a court order otherwise directs.

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21           5.     DESIGNATING PROTECTED MATERIAL

22           5.1 Exercise of Restraint and Care in Designating Material for  
23 Protection. Each Party or non-party that designates information or items for protection  
24 under this Order must take care to limit any such designation to specific material that  
25 qualifies under the appropriate standards. A Designating Party must take care to  
26 designate for protection only those parts of material, documents, items, or oral or  
27 written communications that qualify – so that other portions of the material, documents,  
28

1 items, or communications for which protection is not warranted are not swept  
2 unjustifiably within the ambit of this Order.

3 Mass, indiscriminate, or routinized designations are prohibited.  
4 Designations that are shown to be clearly unjustified, or that have been made for an  
5 improper purpose (e.g., to unnecessarily encumber or retard the case development  
6 process, or to impose unnecessary expenses and burdens on other parties), expose the  
7 Designating Party to sanctions.

8 If it comes to a Party's or a non-party's attention that information or items  
9 that it designated for protection do not qualify for protection at all, or do not qualify for  
10 the level of protection initially asserted, that Party or non-party must promptly notify all  
11 other parties that it is withdrawing the mistaken designation.

12 5.2 Manner and Timing of Designations. Except as otherwise provided  
13 in this Order (see, e.g., second paragraph of section 5.2(a), below), or as otherwise  
14 stipulated or ordered, material that qualifies for protection under this Order must be  
15 clearly so designated before the material is disclosed or produced.

16 Designation in conformity with this Order requires:

17 (a) for information in documentary form (apart from transcripts  
18 of depositions or other pretrial or trial proceedings), that the Producing Party affix the  
19 legend "CONFIDENTIAL" or "ATTORNEYS' EYES ONLY" at the top or bottom of  
20 each page that contains protected material.

21 A Party or non-party that makes originals or copies of documents or  
22 materials available for inspection need not designate them for protection until after the  
23 inspecting Party has indicated which material it intends to copy. During the inspection  
24 and before the designation, all of the material made available for inspection shall be  
25 deemed "ATTORNEYS' EYES ONLY." After the inspecting Party has identified the  
26 documents it wants copied and produced, the Producing Party must designate, either in  
27 writing or on the record (at a deposition), which documents, or portions thereof, qualify  
28 for protection under this Order. Then the Receiving Party must affix the

1 "CONFIDENTIAL" or "ATTORNEYS' EYES ONLY" legend at the top of each  
2 copied page that contains Protected Material. If only a portion or portions of the  
3 material on a page qualifies for protection, the Producing Party also must clearly  
4 identify the protected portion(s) (e.g., by making appropriate markings in the margins)  
5 and must specify, for each portion, the level of protection being asserted (either  
6 "CONFIDENTIAL" or "ATTORNEYS' EYES ONLY").

7 (b) for testimony given in deposition or in other pretrial or trial  
8 proceedings, that the Party or non-party offering or sponsoring the testimony identify on  
9 the record, before the close of the deposition, hearing, or other proceeding, all protected  
10 testimony, and further specify any portions of the testimony that qualify as  
11 "CONFIDENTIAL" or "ATTORNEYS' EYES ONLY." When it is impractical to  
12 identify separately each portion of testimony that is entitled to protection, and when it  
13 appears that substantial portions of the testimony may qualify for protection, the Party  
14 or non-party that sponsors, offers, or gives the testimony may invoke on the record  
15 (before the deposition or proceeding is concluded) a right to have up to 20 days to  
16 identify the specific portions of the testimony as to which protection is sought and to  
17 specify the level of protection being asserted ("CONFIDENTIAL" or "ATTORNEYS'  
18 EYES ONLY"). Only those portions of the testimony that are appropriately designated  
19 for protection within the 20 days shall be covered by the provisions of this Stipulated  
20 Protective Order.

21 Transcript pages containing Protected Material must be separately  
22 bound by the court reporter, who must affix to the top of each such page the legend  
23 "CONFIDENTIAL" or "ATTORNEYS' EYES ONLY," as instructed by the Party or  
24 non-party offering or sponsoring the witness or presenting the testimony.

25 (c) for information produced in some form other than  
26 documentary, and for any other tangible items, that the Producing Party affix in a  
27 prominent place on the exterior of the container or containers in which the information  
28 or item is stored the legend "CONFIDENTIAL" or "ATTORNEYS' EYES ONLY." If

1 only portions of the information or item warrant protection, the Producing Party, to the  
2 extent practicable, shall identify the protected portions, specifying whether they qualify  
3 as “CONFIDENTIAL” or as “ATTORNEYS’ EYES ONLY.”

4           5.3 Inadvertent Failures to Designate. If timely corrected, an  
5 inadvertent failure to designate qualified information or items as “CONFIDENTIAL” or  
6 “ATTORNEYS’ EYES ONLY” does not, standing alone, waive the Designating  
7 Party’s right to secure protection under this Order for such material. If material is  
8 appropriately designated as “CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY”  
9 after the material was initially produced, the Receiving Party, on timely notification of  
10 the designation, must make reasonable efforts to assure that the material is treated in  
11 accordance with the provisions of this Order.

## 12

### 13           6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

14           6.1 Timing of Challenges. Unless a prompt challenge to a Designating  
15 Party’s confidentiality designation is necessary to avoid foreseeable substantial  
16 unfairness, unnecessary economic burdens, or a later significant disruption or delay of  
17 the litigation, a Party does not waive its right to challenge a confidentiality designation  
18 by electing not to mount a challenge promptly after the original designation is disclosed.

19           6.2 Meet and Confer. A Party that elects to initiate a challenge to a  
20 Designating Party’s confidentiality designation must do so in good faith and must begin  
21 the process by conferring with counsel for the Designating Party in writing. In  
22 conferring, the challenging Party must explain the basis for its belief that the  
23 confidentiality designation was not proper and must give the Designating Party an  
24 opportunity to review the designated material, to reconsider the circumstances, and, if  
25 no change in designation is offered, to explain the basis for the chosen designation. A  
26 challenging Party may proceed to the next stage of the challenge process only if it has  
27 engaged in this meet-and-confer process first.

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1           6.3 Court Intervention. A Party that elects to press a challenge to a  
2 confidentiality designation after considering the justification offered by the Designating  
3 Party may file and serve a motion that identifies the challenged material and sets forth  
4 in detail the basis for the challenge. Each such motion must be accompanied by a  
5 competent declaration that affirms that the movant has complied with the meet-and-  
6 confer requirements imposed in the preceding paragraph and that sets forth with  
7 specificity the justification for the confidentiality designation that was given by the  
8 Designating Party in the meet-and-confer dialogue. The parties agree that a  
9 confidentiality designation shall not create a presumption in favor of such  
10 confidentiality designation, and that the Court shall decide the issue as such.

11           Until the Court rules on the challenge, all parties shall continue to afford  
12 the material in question the level of protection to which it is entitled under the  
13 Producing Party's designation.

14  
15           7. ACCESS TO AND USE OF PROTECTED MATERIAL

16           7.1 Basic Principles. A Receiving Party may use Protected Material that  
17 is disclosed or produced by another Party or by a non-party in connection with this case  
18 only for prosecuting, defending, or attempting to settle this litigation. Such Protected  
19 Material may be disclosed only to the categories of persons and under the conditions  
20 described in this Order. When the litigation has been terminated, a Receiving Party  
21 must comply with the provisions of section 11, below (FINAL DISPOSITION).

22           Protected Material must be stored and maintained by a Receiving Party at a  
23 location and in a secure manner that ensures that access is limited to the persons  
24 authorized under this Order.

25           7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless  
26 otherwise ordered by the Court or permitted in writing by the Designating Party, a  
27 Receiving Party may disclose any information or item designated "CONFIDENTIAL"  
28 only to:



1 (a) the Receiving Party's outside counsel, as well as employees of  
2 said outside counsel to whom it is reasonably necessary to disclose the information for  
3 this litigation;

4 (b) Board members, officers and directors of the Receiving Party;

5 (c) Other employees of the Receiving Party to whom disclosure is  
6 reasonably necessary for this litigation and who are bound by internal confidentiality  
7 obligations as part of their employment or who have signed the "Acknowledgment and  
8 Agreement to Be Bound" (Exhibit A);

9 (d) Experts (as defined in this Order) of the Receiving Party to  
10 whom disclosure is reasonably necessary for this litigation and who have signed the  
11 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

12 (e) the Court personnel assigned to this litigation;

13 (f) court reporters, their staffs, and professional vendors to whom  
14 disclosure is reasonably necessary for this litigation and who have signed the  
15 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

16 (g) during their depositions, witnesses in the action to whom  
17 disclosure is reasonably necessary and who have signed the "Acknowledgment and  
18 Agreement to Be Bound" (Exhibit A). Pages of transcribed deposition testimony or  
19 exhibits to depositions that reveal Protected Material must be separately bound by the  
20 court reporter and may not be disclosed to anyone except as permitted under this  
21 Stipulated Protective Order; and

22 (h) the author and recipients of the document or the original  
23 source of the information.

24 7.3 Disclosure of "ATTORNEYS' EYES ONLY" Information or Items.

25 Unless otherwise ordered by the Court or permitted in writing by the Designating Party,  
26 a Receiving Party may disclose any information or item designated "ATTORNEYS'  
27 EYES ONLY" only to:  
28

1 (a) the Receiving Party's outside counsel, as well as employees of  
2 said outside counsel to whom it is reasonably necessary to disclose the information for  
3 this litigation;

4 (b) Experts (as defined in this Order) of the Receiving Party to  
5 whom disclosure is reasonably necessary for this litigation and who have signed the  
6 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

7 (c) the Court personnel assigned to this litigation;

8 (d) court reporters, their staffs, and professional vendors to whom  
9 disclosure is reasonably necessary for this litigation and who have signed the  
10 "Acknowledgment and Agreement to Be Bound" (Exhibit A); and

11 (e) the author and recipients of the document or the original  
12 source of the information.

13  
14 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED  
15 PRODUCED IN OTHER LITIGATION

16 If a Receiving Party is served with a subpoena or an order issued in other  
17 litigation that would compel disclosure of any Discovery Material, the Receiving Party  
18 must so notify the Designating Party, in writing immediately and in no event more than  
19 five business days after receiving the subpoena or order. Such notification must include  
20 a copy of the subpoena or court order. The Receiving Party also must immediately  
21 inform in writing the Party who caused the subpoena or order to issue in the other  
22 litigation that some or all of the material covered by the subpoena or order is the subject  
23 of this Protective Order. In addition, the Receiving Party must deliver a copy of this  
24 Stipulated Protective Order promptly to the Party in the other action that caused the  
25 subpoena or order to issue.

26 The purpose of imposing these duties is to alert the interested parties to the  
27 existence of this Protective Order and to afford the Designating Party in this case an  
28 opportunity to try to protect its confidentiality interests in the court from which the

1 subpoena or order issued. The Designating Party shall bear the burdens and the  
2 expenses of seeking protection in that court of its confidential material – and nothing in  
3 these provisions should be construed as authorizing or encouraging a Receiving Party in  
4 this action to disobey a lawful directive from another court.

5  
6 9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

7 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
8 Protected Material to any person or in any circumstance not authorized under this  
9 Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing  
10 the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve  
11 all copies of the Protected Material, (c) inform the person or persons to whom  
12 unauthorized disclosures were made of all the terms of this Order, and (d) request such  
13 person or persons to execute the “Acknowledgment and Agreement to Be Bound” that  
14 is attached hereto as Exhibit A.

15  
16 10. FILING PROTECTED MATERIAL

17 Without written permission from the Designating Party, or a court order secured  
18 after appropriate notice to all interested persons and after following the procedures  
19 provided for in Local Rule 79-5.1, a Party may not file in the public record in this action  
20 any Protected Material.

21  
22 11. FINAL DISPOSITION

23 Unless otherwise ordered or agreed to in writing by the Producing Party, within  
24 60 days after the final termination of this action, each Receiving Party must either  
25 return all Protected Material to the Producing Party or certify the destruction of said  
26 material. As used in this subdivision, “all Protected Material” includes all copies,  
27 abstracts, compilations, summaries or any other form of reproducing or capturing any of  
28 the Protected Material. Whether the Protected Material is returned or destroyed, the

1 Receiving Party must submit a written certification to the Producing Party (and, if not  
2 the same person or entity, to the Designating Party) by the 60-day deadline that  
3 identifies (by category, where appropriate) all the Protected Material that was returned  
4 or destroyed and that affirms that the Receiving Party has not retained any copies,  
5 abstracts, compilations, summaries or other forms of reproducing or capturing any of  
6 the Protected Material.

7 Notwithstanding this provision, counsel are entitled to retain an archival copy of  
8 all pleadings, motion papers, transcripts, legal memoranda, correspondence or attorney  
9 work product, even if such materials contain Protected Material. Any such archival  
10 copies that contain or constitute Protected Material remain subject to this Protective  
11 Order as set forth in Section 4 (DURATION), above.

12  
13 12. MISCELLANEOUS

14 12.1 Right to Further Relief. Nothing in this Order abridges the right of  
15 any person to seek its modification in the future.

16 12.2 Right to Assert Other Objections. By stipulating to the entry of this  
17 Protective Order no Party waives any right it otherwise would have to object to  
18 disclosing or producing any information or item on any ground not addressed in this  
19 Stipulated Protective Order. Similarly, no Party waives any right to object on any  
20 ground to use in evidence of any of the material covered by this Protective Order.

21 12.3 Inadvertent Production of Privileged Documents. If a Party, through  
22 inadvertence, produces any document or information that it believes is immune from  
23 discovery pursuant to an attorney-client privilege, the work product privilege, or any  
24 other privilege, such production shall not be deemed a waiver of any privilege, and the  
25 Producing Party may give written notice to the Receiving Party that the document or  
26 information produced is deemed privileged and that return of the document or  
27 information is requested. Upon receipt of such notice, the Receiving Party shall  
28 immediately gather the original and all copies of the document or information of which

1 the Receiving Party is aware, in addition to any abstracts, summaries, or descriptions  
2 thereof, and shall immediately return the original and all such copies to the Producing  
3 Party. Nothing stated herein shall preclude a Party from challenging an assertion by the  
4 other Party of privilege or confidentiality.

5 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

6  
7 Dated: April 23, 2014

CALL & JENSEN  
A Professional Corporation  
Scott P. Shaw  
Samuel G. Brooks

8  
9  
10 By: /s/ Samuel G. Brooks  
Samuel G. Brooks

11 Attorneys for Defendants

12  
13 Dated: April 23, 2014

DONIGER / BURROUGHS

14 By: /s/ Stephen M. Doniger  
15 Stephen M. Doniger, Esq.  
16 Attorneys for Plaintiff

17 **SIGNATURE ATTESTATION**

18 I hereby certify that the content of this document is acceptable to Stephen  
19 Doniger, counsel for Plaintiff, and that I have obtained Mr. Doniger's authorization to  
20 affix his electronic signature to this document.

21  
22 By: /s/ Samuel G. Brooks  
Samuel G. Brooks

23  
24 PURSUANT TO STIPULATION, IT IS SO ORDERED.

25 Dated: 5/12, 2014

26 By: Patrick J. Walsh

27 PATRICK J. WALSH  
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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print full name],  
of \_\_\_\_\_ [print full address],  
declare under penalty of perjury that I have read in its entirety and understand the  
Stipulated Protective Order that was issued by the United States District Court for the  
Central District of California in the case of *Star Fabrics, Inc. v. Joyce Leslie, Inc., et  
al.*, Case No. CV13-02771 CAS (PJWx). I agree to comply with and to be bound by all  
of the terms of this Stipulated Protective Order and I understand and acknowledge that  
failure to so comply could expose me to sanctions and punishment in the nature of  
contempt. I solemnly promise that I will not disclose in any manner any information or  
item that is subject to this Stipulated Protective Order to any person or entity except in  
strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for  
the Central District of California for the purpose of enforcing the terms of this  
Stipulated Protective Order, even if such enforcement proceedings occur after  
termination of this action.

I hereby appoint \_\_\_\_\_ [print full name]  
of \_\_\_\_\_ [print full address and  
telephone number] as my California agent for service of process in connection with this  
action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: \_\_\_\_\_  
City and State where sworn and signed: \_\_\_\_\_  
Printed name: \_\_\_\_\_  
Signature: \_\_\_\_\_

