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6 Attorneys for Defendants,
JUMP APPAREL CO., INC., MARINA, INC., DILLARD’S, INC.,
 7 **THE BON-TON DEPARTMENT STORES, INC. and MACY’S RETAIL**
 8 **HOLDINGS, INC.**

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

11 MALIBU TEXTILES, INC., a New
 12 York corporation,

13 Plaintiff,

14 v.

15 JUMP APPAREL CO., INC., a New
 16 York corporation; MARINA, INC., a
 17 New York corporation; DILLARD’S,
 18 INC., a Delaware corporation;
 19 LADIES OUTFITTERS, a business
 20 entity of form unknown; THE BON-
 21 TON DEPARTMENT STORES, INC.,
 a Pennsylvania corporation; MACY’S
 22 RETAIL HOLDINGS, INC., a
 23 Delaware corporation; ROMEX
 24 TEXTILES, INC.; and DOES 2
 25 through 10,

26 Defendants.

Case No. CV13-5760 ABC (JEMx)

STIPULATED PROTECTIVE ORDER

27 Pursuant to Fed.R.Civ.P. 26(c), Plaintiff Malibu Textiles, Inc. and Defendants
 28 Jump Apparel Co., Inc., Marina, Inc., Dillard’s, Inc., The Bon-Ton Department
 Stores, Inc., Macy’s Retail Holdings, Inc. and Romex Textiles, Inc., through
 undersigned counsel, jointly submit this Stipulated Protective Order to govern the
 handling of information and materials produced in the course of discovery or filed
 with the Court in this action;

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GOOD CAUSE STATEMENT

It is the intent of the parties and the Court that information will not be designated as confidential for tactical reasons in this case and that nothing be so designated without a good faith belief that there is good cause why it should not be part of the public record of this case. Examples of confidential information that the parties may seek to protect from unrestricted or unprotected disclosure include:

- (a) Information that is the subject of a non-disclosure or confidentiality agreement or obligation;
- (b) The names, or other information tending to reveal the identity of a party's supplier, designer, distributor, or customer;
- (c) Agreements with third-parties, including license agreements, distributor agreements, manufacturing agreements, design agreements, development agreements, supply agreements, sales agreements, or service agreements;
- (d) Research and development information;
- (e) Proprietary engineering or technical information, including product design, manufacturing techniques, processing information, drawings, memoranda and reports;
- (f) Information related to budgets, sales, profits, costs, margins, licensing of technology or designs, product pricing, or other internal financial/accounting information, including non-public information related to financial condition or performance and income or other non-public tax information;
- (g) Information related to internal operations including personnel information;
- (h) Information related to past, current and future product development;

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- (i) Information related to past, current and future market analyses and business and marketing development, including plans, strategies, forecasts and competition; and
- (j) Trade secrets (as defined by the jurisdiction in which the information is located).

Unrestricted or unprotected disclosure of such confidential technical, commercial or personal information would result in prejudice or harm to the producing party by revealing the producing party's competitive confidential information, which has been developed at the expense of the producing party and which represents valuable tangible and intangible assets of that party. Additionally, privacy interests must be safeguarded. Accordingly, the parties respectfully submit that there is good cause for the entry of this Protective Order.

The parties agree, subject to the Court's approval, that the following terms and conditions shall apply to this civil action.

1 Designated Material.

1.1 Information or material may be designated for confidential treatment pursuant to this Protective Order by any party, person or entity producing or lodging it in this action (the "Designating Party"), if: (a) produced or served, formally or informally, pursuant to the Federal Rules of Civil Procedure or in response to any other formal or informal discovery request in this action; and/or (b) filed or lodged with the Court. All such information and material and all information or material derived from it constitutes "Designated Material" under this Protective Order.

1.2 Unless and until otherwise ordered by the Court or agreed to in writing by the parties, all Designated Materials designated under this Protective Order shall be used by the parties and persons receiving such Designated Materials solely for conducting the above-captioned litigation and any appellate proceeding relating

1 thereto. Designated Material shall not be used by any party or person receiving
2 them for any business or any other purpose. No party or person shall disclose
3 Designated Material to any other party or person not entitled to receive such
4 Designated Material under the terms of this Protective Order. For purposes of this
5 Protective Order, “disclose” or “disclosed” means to show, furnish, reveal or
6 provide, indirectly or directly, any portion of the Designated Material or its
7 contents, orally or in writing, including the original or any copy of the Designated
8 Material.

9 2. Access to Designated Materials.

10 2.1 Materials Designated “CONFIDENTIAL”: Subject to the limitations
11 set forth herein this Protective Order, Designated Material may be marked
12 “CONFIDENTIAL” for the purpose of preventing the disclosure of information or
13 materials that the designating party in good faith believes is confidential. Before
14 designating any specific information or material “CONFIDENTIAL”, the
15 Designating Party’s counsel shall make a good faith determination that the
16 information warrants protection under Rule 26(c) of the Federal Rules of Civil
17 Procedure. Such information may include, but is not limited to:

18 (a) The financial performance or results of the Designating Party,
19 including without limitation income statements, balance sheets, cash flow analyses,
20 budget projections, and present value calculations;

21 (b) Corporate and strategic planning by the Designating Party, including
22 without limitation marketing plans, competitive intelligence reports, sales
23 projections and competitive strategy documents;

24 (c) Names, addresses, and other information that would identify customers
25 or prospective customers, or the distributors or prospective distributors of the
26 Designating Party;

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1 (d) Technical data, research and development data, and any other
2 confidential commercial information, including but not limited to trade secrets of
3 the Designating Party;

4 (e) Information used by the Designating Party in or pertaining to its trade
5 or business, which information the Designating Party believes in good faith has
6 competitive value, which is not generally known to others and which the
7 Designating Party would not normally reveal to third parties except in confidence,
8 or has undertaken with others to maintain in confidence;

9 (f) Information which the Designating Party believes in good faith falls
10 within the right to privacy guaranteed by the laws of the United States or
11 California; and

12 (g) Information which the Designating Party believes in good faith to
13 constitute, contain, reveal or reflect proprietary, financial, business, technical, or
14 other confidential information.

15 (h) The fact that an item or category is listed as an example in this or other
16 sections of this Protective Order does not, by itself, render the item or category
17 discoverable.

18 2.1.0 Materials designated “CONFIDENTIAL” may be disclosed only to the
19 following Designees:

20 2.1.1 Persons who appear on the face of Designated Materials marked
21 “CONFIDENTIAL” as an author, addressee, or recipient thereof;

22 2.1.2 Counsel retained as outside litigation attorneys of record in this action,
23 and their respective associates, clerks, legal assistants, stenographic, videographic
24 and support personnel, and other employees of such outside litigation attorneys,
25 and organizations retained by such attorneys to provide litigation support services
26 in this action and the employees of said organizations. “Counsel” explicitly
27 excludes any in-house counsel whether or not they are attorneys of record in this
28 action.

1 2.1.3 Consultants, including non-party experts and consultants retained or
2 employed by Counsel to assist in the preparation of the case, to the extent they are
3 reasonably necessary to render professional services in this action, and subject to
4 the disclosure requirements of section 2.3. Each consultant must sign a
5 certification that he or she has read this Stipulated Protective Order, will abide by
6 its provisions, and will submit to the jurisdiction of this Court regarding the
7 enforcement of this Order’s provisions.

8 2.1.4 No more than two (2) designated officers and/or employees of each
9 party, who are reasonably necessary for the prosecution or defense of this action. A
10 party’s designated officers and/or employees may include in-house counsel. Each
11 designated officer or employee must sign a certification that he or she has read this
12 Stipulated Protective Order, will abide by its provisions, and will submit to the
13 jurisdiction of this Court regarding the enforcement of this Order’s provisions.

14 2.1.5 The Court, its clerks and secretaries, and any court reporter retained to
15 record proceedings before the Court;

16 2.2 Materials Designated “HIGHLY CONFIDENTIAL – OUTSIDE
17 ATTORNEYS’ EYES ONLY”: Subject to the limitations in this Protective Order,
18 Designated Materials may be marked “HIGHLY CONFIDENTIAL – OUTSIDE
19 ATTORNEYS’ EYES ONLY” for the purpose of preventing the disclosure of
20 information or materials which, if disclosed to the receiving party, might cause
21 competitive harm to the Designating Party. Information and material that may be
22 subject to this protection includes, but is not limited to, technical and/or research
23 and development data, intellectual property, financial, marketing and other sales
24 data, and/or information having strategic commercial value pertaining to the
25 Designating Party’s trade or business. Nothing in paragraph 2.1 shall limit the
26 information or material that can be designated “HIGHLY CONFIDENTIAL –
27 OUTSIDE ATTORNEYS’ EYES ONLY” under this paragraph. Before
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1 designating any specific information “HIGHLY CONFIDENTIAL – OUTSIDE
2 ATTORNEYS’ EYES ONLY,” the Designating Party’s counsel shall make a good
3 faith determination that the information warrants such protection.

4 2.2.0 Materials designated “HIGHLY CONFIDENTIAL – OUTSIDE
5 ATTORNEYS’ EYES ONLY” materials may be disclosed only to the following
6 Designees:

7 2.2.1 Persons who appear on the face of Designated Materials marked
8 “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY” as an
9 author, addressee, or recipient thereof;

10 2.2.2 Counsel for the parties to this action, as defined in section 2.1.2;

11 2.2.3 Consultants for the parties to this action, as defined in section 2.1.3;

12 and

13 2.2.4 The Court, its clerks and secretaries, and any court reporter retained to
14 record proceedings before the Court.

15 2.3 If any party wishes to disclose information or materials designated
16 under this Protective Order as “HIGHLY CONFIDENTIAL,” “CONFIDENTIAL –
17 OUTSIDE ATTORNEYS’ EYES ONLY” to any Consultant, it must first identify
18 that individual to the Counsel for the Designating Party and submit a Certification
19 of Consultant pursuant to Section 3. Such identification shall include at least the
20 full name and professional address and/or affiliation of the individual, his or her
21 prior employment, consultancies or matters for the previous five (5) years, and all
22 of the person’s present employment or consultancies. The Designating Party shall
23 have fifteen (15) business days from receipt of such initial identification and signed
24 certification to object in writing to disclosure to any individual so identified. The
25 parties shall confer in an attempt to resolve any objections informally, and approval
26 by the Designating Party shall not be unreasonably withheld. If the objections
27 cannot be resolved, the objecting party may move within ten (10) business days
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1 following its objection for a protective order to prevent disclosure of “HIGHLY
2 CONFIDENTIAL,” “CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES
3 ONLY” materials to the individual under Local Rule 37. In the event that such a
4 motion is made, the party seeking to prohibit disclosure shall bear the burden of
5 establishing good cause why the disclosure should not be made pursuant to Rule 26
6 of the Federal Rules of Civil Procedure. Such Consultant(s) cannot have access to
7 Designated Material until these relevant time periods expire, including for final
8 resolution of any timely motion.

9 2.4 Legal Effect of Designation. The designation of any information or
10 materials as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – OUTSIDE
11 ATTORNEYS’ EYES ONLY” is intended solely to facilitate the conduct of this
12 litigation. Neither such designation nor treatment in conformity with such
13 designation shall be construed in any way as an admission or agreement by any
14 party that the Designated Materials constitute or contain any trade secret or
15 confidential information. Except as provided in this Protective Order, no party to
16 this action shall be obligated to challenge the propriety of any designation, and a
17 failure to do so shall not preclude a subsequent attack on the propriety of such
18 designation.

19 2.5 Nothing herein in any way restricts the ability of the receiving party to
20 use “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – OUTSIDE
21 ATTORNEYS’ EYES ONLY” material produced to it in examining or cross-
22 examining any employee or consultant of the Designating Party.

23 3. Certificates Concerning Designated Materials. Each Consultant as
24 defined in section 2.1.3, to whom any Designated Materials will be disclosed shall,
25 prior to disclosure of such material, execute the Acknowledgement of Stipulated
26 Protective Order in the form attached hereto as Exhibit A. Counsel who makes any
27 disclosure of Designated Materials shall retain each original executed
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1 Acknowledgement of Stipulated Protective Order and shall circulate copies to all
2 Counsel for the opposing party concurrently with the identification of the
3 Consultant to the attorneys for the Designating Party pursuant to Section 2.3.

4 4. Use of Designated Materials by Designating Party. Nothing in this
5 Protective Order shall limit a Designating Party’s use of its own information or
6 materials, or prevent a Designating Party from disclosing its own information or
7 materials to any person. Such disclosure shall not affect any designations made
8 pursuant to the terms of this Protective Order, so long as the disclosure is made in a
9 manner that is reasonably calculated to maintain the confidentiality of the
10 information.

11 5. Manner of Designating Written Materials.

12 5.1 Documents, discovery responses and other written materials shall be
13 designated as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – OUTSIDE
14 ATTORNEYS’ EYES ONLY” whether in whole or in part, as follows.

15 5.2 The producing party shall designate materials by placing the legend
16 “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’
17 EYES ONLY” on each page so designated prior to production. If the first or cover
18 page of a multi-page document bears the legend “CONFIDENTIAL,” “HIGHLY
19 CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY” the entire document
20 shall be deemed so designated, and the absence of marking each page shall not
21 constitute a waiver of the terms of this Order. If the label affixed to a computer
22 disk containing multiple files bears the legend “CONFIDENTIAL,”
23 “CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY” the entire disk
24 shall be deemed so protected, and the absence of marking of each file shall not
25 constitute a waiver of the terms of this Order.

26 5.3 A designation of ““CONFIDENTIAL,” or “HIGHLY
27 CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY” as to any item,
28 thing or object that cannot otherwise be categorized as a document, shall be made:

1 (1) by placing the legend “CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL –
2 OUTSIDE ATTORNEYS’ EYES ONLY” on the thing, object or container within
3 which it is stored; or (2) by specifically identifying, in writing, the item and the
4 level of confidentiality designation, where such labeling is not feasible.

5 5.4 When a party wishes to designate as “CONFIDENTIAL,” or
6 “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY”
7 materials produced by someone other than the Designating Party (a “Producing
8 Party”), such designation shall be made:

9 5.4.1 Within fifteen (15) business days from the date that the Designating
10 Party receives copies of the materials from the producing or disclosing entity; and

11 5.4.2 By notice to all parties to this action and to the Producing Party, if
12 such party is not a party to this action, identifying the materials to be designated
13 with particularity (either by production numbers or by providing other adequate
14 identification of the specific material). Such notice shall be sent by facsimile and
15 regular mail.

16 5.4.3. A party shall be permitted to designate as “CONFIDENTIAL,” or
17 “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY” material
18 produced by a Producing Party only where:

19 a. The material being produced was provided to or developed by such
20 Producing Party: (i) under a written confidentiality agreement with the Designating
21 Party; or (ii) within a relationship with the Designating Party (or a party operating
22 under the control thereof) in which confidentiality is imposed by law (including, but
23 not limited, to the employment relationship and the vendor-customer relationship);
24 and

25 b. The material being produced would be considered confidential material of
26 the Designating Party under Section 2.1 of this Agreement if it were in the
27 possession of the Designating Party.

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1 5.5 Upon notice of designation, all persons receiving notice of the
2 requested designation of materials shall:

3 5.5.1 Make no further disclosure of such Designated Material or information
4 contained therein, except as allowed in this Protective Order;

5 5.5.2 Take reasonable steps to notify any persons known to have possession
6 of or access to such Designated Materials of the effect of such designation under
7 this Protective Order; and

8 5.5.3 If “CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL – OUTSIDE
9 ATTORNEYS’ EYES ONLY” material or information contained therein is
10 disclosed to any person other than those entitled to disclosure in the manner
11 authorized by this Protective Order, the party responsible for the disclosure shall,
12 immediately upon learning of such disclosure, inform the Designating Party in
13 writing of all pertinent facts relating to such disclosure, and shall make every effort
14 to prevent further disclosure by the unauthorized person(s).

15 6. Manner of Designating Deposition Testimony.

16 6.1 Deposition transcripts and portions thereof taken in this action may be
17 designated as “CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL – OUTSIDE
18 ATTORNEYS’ EYES ONLY” during the deposition or after, in which case the
19 portion of the transcript containing Designated Material shall be identified in the
20 transcript by the Court Reporter as “CONFIDENTIAL,” or “HIGHLY
21 CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY.” The designated
22 testimony shall be bound in a separate volume and marked by the reporter
23 accordingly.

24 6.2 Where testimony is designated during the deposition, the Designating
25 Party shall have the right to exclude, at those portions of the deposition, all persons
26 not authorized by the terms of this Protective Order to receive such Designated
27 Material.

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1 6.3 Within thirty (30) days after a deposition transcript is certified by the
2 court reporter, any party may designate pages of the transcript and/or its exhibits as
3 Designated Material. During such thirty (30) day period, the transcript in its
4 entirety shall be treated as “CONFIDENTIAL” (except for those portions identified
5 earlier as “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES
6 ONLY” which shall be treated accordingly from the date of designation). If any
7 party so designates such material, the parties shall provide written notice of such
8 designation to all parties within the thirty (30) day period. Designated Material
9 within the deposition transcript or the exhibits thereto may be identified in writing
10 by page and line, or by underlining and marking such portions “CONFIDENTIAL,”
11 “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY” and
12 providing such marked-up portions to all counsel.

13 7. Copies. All complete or partial copies of a document that disclose
14 Designated Materials shall be subject to the terms of this Protective Order.

15 8. Court Procedures.

16 8.1 Disclosure of Designated Material to Court Officials. Subject to the
17 provisions of this section, Designated Material may be disclosed to the Court,
18 Court officials or employees involved in this action (including court reporters,
19 persons operating video recording equipment at depositions, and any special
20 master, referee, expert, technical advisor or Third-Party Consultant appointed by
21 the Court), and to the jury in this action, and any interpreters interpreting on behalf
22 of any party or deponent.

23 8.2 Filing Designated Materials with the Court. Nothing in this Order shall
24 vary the requirements for filing under Seal imposed by the Federal Rules of Civil
25 Procedure or the Local Rules of this Court. If a party wishes to file with the Court
26 any document, transcript or thing containing information which has been designated
27 “CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’
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1 EYES ONLY” the Party shall designate the material as set forth herein and file it
2 with the Court in an application for filing under seal under the Local Rules of this
3 Court, with the material bearing the legend:

4 **“[CONFIDENTIAL, or HIGHLY CONFIDENTIAL – OUTSIDE**
5 **ATTORNEYS’ EYES ONLY] INFORMATION SUBJECT TO PROTECTIVE**
6 **ORDER.”**

7 The Application for Filing under Seal must show good cause for the under seal
8 filing. Filing the document under seal shall not bar any party from unrestricted use or
9 dissemination of those portions of the document that do not contain material
10 designated “CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL – OUTSIDE
11 ATTORNEYS’ EYES ONLY.” If a filing party fails to designate information as
12 “CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’
13 EYES ONLY,” any party who in good faith believes that designation and filing
14 under seal is required by this Protective Order may move the Court to file said
15 information under seal within five (5) days of learning of the defective filing. Notice
16 of such designation shall be given to all parties. Nothing in this provision relieves a
17 party of liability for damages caused by failure to properly file Designated Material
18 under seal.

19 8.3 Retrieval of Designated Materials. The party responsible for lodging or
20 filing the Designated Materials shall be responsible for retrieving such Designated
21 Materials from the Court following the final termination of the action (including
22 after any appeals).

23 9. Objections

24 9.1 A party may challenge any designation under this Protective Order at
25 any time, on the grounds that the information or material does not meet the
26 standards of Sections 1 and 2, by following the procedure of Local Rule 37 of this
27 Court.

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1 9.2 The parties shall meet and confer in good faith prior to the filing of
2 any motion under this section.

3 10. Client Communication. Nothing in this Protective Order shall prevent
4 or otherwise restrict counsel from rendering advice to their clients and, in the
5 course of rendering such advice, relying upon the examination of Designated
6 Material. In rendering such advice and otherwise communicating with the client,
7 however, counsel shall not disclose any Designated Material, except as otherwise
8 permitted by this Protective Order.

9 11. No Prejudice.

10 11.1 This Protective Order shall not diminish any existing obligation or
11 right with respect to Designated Material, nor shall it prevent a disclosure to which
12 the Designating Party consented in writing before the disclosure takes place.

13 11.2 Unless the parties stipulate otherwise, evidence of the existence or
14 nonexistence of a designation under this Protective Order shall not be admissible
15 for any purpose during any proceeding on the merits of this action.

16 11.3 If any party required to produce documents contends that it
17 inadvertently produced any Designated Material without marking it with the
18 appropriate legend, or inadvertently produced any Designated Material with an
19 incorrect legend, the producing party may give written notice to the receiving party
20 or parties, including appropriately stamped substitute copies of the Designated
21 Material. If the parties collectively agree to replacement of the Designated
22 Material, then the documents will be so designated. Within five (5) business days
23 of receipt of the substitute copies, the receiving party shall return the previously
24 unmarked or mismarked items and all copies thereof. If the parties do not
25 collectively agree to replacement of the Designated Material, the producing party
26 shall comply with the procedure of Local Rule 37 in seeking protection for the
27 inadvertently produced material.

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1 11.4 Neither the provisions of this Protective Order, nor the filing of any
2 material under seal, shall prevent the use in open court, in deposition, at any
3 hearing, or at trial of this case of any material that is subject to this Protective
4 Order or filed under seal pursuant to its provisions. At deposition, the party using
5 Designated Material must request that the portion of the proceeding where use is
6 made be conducted so as to exclude persons not qualified to receive such
7 Designated Material. At trial, the party using Designated Material must request
8 that the portion of the proceeding where use is made be conducted so as to exclude
9 persons not qualified to receive such Designated Material. All confidentiality
10 designations or legends placed pursuant to this Stipulated Protective Order shall be
11 removed from any document or thing used as a trial exhibit in this case. The
12 removal of such confidentiality designations or legends under the preceding
13 sentence shall not affect the treatment of such documents and things as Designated
14 Material under this Stipulated Protective Order. Upon request of a party, the
15 parties shall meet and confer concerning the use and protection of Designated
16 Material in open court at any hearing. Prior to the pretrial conference, the parties
17 shall meet and confer concerning appropriate methods for dealing with Designated
18 Material at trial.

19 11.5 Any inadvertent production of documents containing privileged
20 information shall not be deemed to be a waiver of the attorney-client privilege,
21 work product doctrine, or any other applicable privilege or doctrines. All parties
22 specifically reserve the right to demand the return of any privileged documents that
23 it may produce inadvertently during discovery if the producing party determines
24 that such documents contain privileged information. After receiving notice of such
25 inadvertent production by the producing party, the receiving party agrees to make
26 reasonable and good faith efforts to locate and return to the producing party all
27 such inadvertently produced documents.

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1 12. Modification and Survival.

2 12.1 Modification. The parties reserve the right to seek modification of this
3 Protective Order at any time for good cause. The parties agree to meet and confer
4 prior to seeking to modify this Protective Order for any reason. The restrictions
5 imposed by this Protective Order may only be modified or terminated by written
6 stipulation of all parties or by order of this Court. Parties entering into this
7 Protective Order will not be deemed to have waived any of their rights to seek
8 later amendment to this Protective Order.

9 12.2 Trial. The parties understand that this Protective Order does not
10 extend to trial of this Action. Once the case proceeds to trial, all of the information
11 that was designated as confidential and/or kept and maintained pursuant to the
12 terms of this Protective Order becomes public and will be presumptively available
13 to all members of the public, including the press, unless good cause is shown to the
14 district judge in advance of the trial to proceed otherwise.

15 12.3 Survival and Return of Designated Material. This Protective Order
16 shall survive termination of this action prior to trial of this action. Upon final
17 termination of the action prior to trial of this action, and at the written request
18 of the Designating Party, all Designated Material, including deposition
19 testimony, and all copies thereof, shall be returned to counsel for the
20 Designating Party (at the expense of the Designating Party) or (at the option
21 and expense of the requesting party) shall be destroyed. Upon request for the
22 return or destruction of Designated Materials, counsel shall certify their
23 compliance with this provision and shall serve such certification to counsel for
24 the Designating Party not more than ninety (90) days after the written request
25 to return or destroy Designated Materials. Counsel who have submitted one or
26 more Certificate(s) prepared pursuant to Section 3 do not need to retain such
27 Certificate(s) past the ninety (90) day period.

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1 12.4 Archival Copies. Notwithstanding the provisions for return or
2 destruction of Designated Material, each counsel may retain its internal files of
3 pleadings, correspondence, work product, deposition and discovery materials,
4 etc., as well as one copy of each item of Designated Material, for archival
5 purposes.

6 13. No Contract. This Protective Order shall not be construed to create
7 a contract between the parties or between the parties and their respective
8 counsel.

9 14. Court's Retention of Jurisdiction. The Court retains jurisdiction after
10 final termination of the action prior to trial, to enforce this Stipulation.

11 15. Exception for Public Information. Nothing in this Stipulation shall be
12 deemed in any way to restrict the use of documents or information which are
13 lawfully obtained or publicly available to a party independently of discovery in this
14 action, whether or not the same material has been obtained during the course of
15 discovery in the action and whether or not such documents or information have been
16 designated hereunder. However, in the event of a dispute regarding such
17 independent acquisition, a party wishing to use any independently acquired
18 documents or information shall bear the burden of proving independent acquisition.

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22 **IT IS SO ORDERED.**

23
24 Dated: December 9, 2013



~~Honorable Audrey B. Collins~~
~~United States District Judge~~

Exhibit A

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MALIBU TEXTILES, INC.,

Plaintiff,

v.

JUMP APPAREL CO., INC., LLC, ET
AL.,

Defendants.

Case No. 13-cv-5760 ABC(JEMx)

**ACKNOWLEDGEMENT OF
STIPULATED PROTECTIVE
ORDER**

[FED. R. CIV. P. 26(c)]

The undersigned hereby acknowledges that he/she has read the STIPULATED PROTECTIVE ORDER entered in the above captioned litigation, and that he/she fully understands and agrees to abide by the obligations and conditions thereof.

Dated: _____

(Signature)

(Print Name)