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

NEMAN BROTHERS & ASSOC.,  
INC., a California Corporation;

Plaintiff,

vs.

WAL-MART STORES, INC., a  
Delaware Corporation; UNITED  
FASHIONS OF TEXAS d/b/a  
MELROSE FAMILY FASHIONS, a  
Texas Corporation; and DOES 1-10,  
inclusive,

Defendants.

Case No.: 2:16-cv-5040 GW (JPRx)

**STIPULATED PROTECTIVE  
ORDER**

**NOTE CHANGES MADE BY THE  
COURT**

1 1. A. PURPOSES AND LIMITATIONS

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3 Discovery in this action is likely to involve production of confidential,  
4 proprietary, or private information for which special protection from public  
5 disclosure and from use for any purpose other than prosecuting this litigation may  
6 be warranted. Accordingly, the parties hereby stipulate to and petition the Court to  
7 enter the following Stipulated Protective Order. The parties acknowledge that this  
8 Order does not confer blanket protections on all disclosures or responses to  
9 discovery and that the protection it affords from public disclosure and use extends  
10 only to the limited information or items that are entitled to confidential treatment  
11 under the applicable legal principles. The parties further acknowledge, as set forth  
12 in Section 12.4, below, that this Stipulated Protective Order does not entitle them  
13 to file confidential information under seal; Civil Local Rule 79-5 sets forth the  
14 procedures that must be followed and the standards that will be applied when a  
15 party seeks permission from the court to file material under seal.

16  
17 B. GOOD CAUSE STATEMENT

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19 This action is likely to involve trade secrets, customer and pricing lists and  
20 other valuable research, development, commercial, financial and/or technical  
21 information for which special protection from public disclosure and from use for  
22 any purpose other than prosecution of this action is warranted. Such confidential  
23 materials and information consist of, among other things, confidential business or  
24 financial information, information regarding purchase and sale prices of fabric or  
25 garments by suppliers, manufacturers, importers, distributors or fashion retailers,  
26 information regarding business practices, information regarding the creation,  
27 purchase or sale of graphics used on textiles and garments, or other confidential  
28 commercial information (including information implicating privacy rights of third

1 parties), information generally unavailable to the public, or which may be  
2 privileged or otherwise protected from disclosure under state or federal rules, court  
3 rules, case decisions, or common law. Accordingly, to expedite the flow of  
4 information, to facilitate the prompt resolution of disputes over confidentiality of  
5 discovery materials, to adequately protect information the parties are entitled to  
6 keep confidential, to ensure that the parties are permitted reasonable necessary uses  
7 of such material in preparation for and in the conduct of trial, to address their  
8 handling at the end of the litigation, and serve the ends of justice, a protective order  
9 for such information is justified in this matter. It is the intent of the parties that  
10 information will not be designated as confidential for tactical reasons and that no  
11 information shall be so designated.

12 Notwithstanding anything contained in this Protective Order, the Parties  
13 acknowledge and agree that the discoverability of sensitive documents and/or  
14 information, as well as a party's ability and/or decision to disclose, withhold, or  
15 redact any sensitive documents and/or information, shall not otherwise be affected  
16 by its ability to classify such sensitive documents and/or information as  
17 CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY,  
18 as defined hereinafter. Nothing herein shall prevent any Party from withholding or  
19 redacting any documents and/or information that the Party deems privileged,  
20 irrelevant, or otherwise objectionable.

21  
22 2. DEFINITIONS

23 2.1 Action: This pending federal law suit. NEMAN BROTHERS & ASSOC.,  
24 INC., v. WALMART STORES, INC. et al (16-cv-5040).

25 2.2 Challenging Party: a Party or Non-Party that challenges the  
26 designation of information or items under this Order.

27 2.3 "CONFIDENTIAL" Information or Items: information (regardless of  
28 how it is generated, stored or maintained) or tangible things that qualify for

1 protection under Federal Rule of Civil Procedure 26(c), and as specified above in  
2 the Good Cause Statement. Such information may include, but is not  
3 limited to:

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

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

10 (c) Names, addresses, and other information that would identify  
11 customers or prospective customers, or the distributors or prospective distributors  
12 of the Designating Party;

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

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

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

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

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

4 2.3.1 Unless otherwise ordered by the court or permitted in writing by  
5 the Designating Party, a Receiving Party may disclose any information or item  
6 designated “CONFIDENTIAL” only to:

7 (a) the Receiving Party’s Outside Counsel of Record in this Action, as  
8 well as employees of said Outside Counsel of Record to whom it is reasonably  
9 necessary to disclose the information for this Action;

10 (b) the officers, directors, and employees (including House Counsel)  
11 of the Receiving Party to whom disclosure is reasonably necessary for this Action;

12 (c) Experts (as defined in this Order) of the Receiving Party to whom  
13 disclosure is reasonably necessary for this Action and who have signed the  
14 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

15 (d) the court and its personnel;

16 (e) court reporters and their staff;

17 (f) professional jury or trial consultants, mock jurors, and Professional  
18 Vendors to whom disclosure is reasonably necessary for this Action and who have  
19 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

20 (g) the author or recipient of a document containing the information or  
21 a custodian or other person who otherwise possessed or knew the information;

22 (h) during their depositions, witnesses, other than those under Section  
23 2.3.1(b) above, and attorneys for witnesses, other than those under Section 2.3.1(b)  
24 above, in the Action to whom disclosure is reasonably necessary provided: (1) the  
25 deposing party requests permission to use any information or item designated  
26 “CONFIDENTIAL” from the Designating Party (2) the deposing party requests  
27 that the witness sign the form attached as Exhibit 1 hereto; and (3) they will not be  
28 permitted to keep any confidential information unless they sign the

1 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise  
2 agreed by the Designating Party or ordered by the court. Pages of transcribed  
3 deposition testimony or exhibits to depositions that reveal Protected Material may  
4 be separately bound by the court reporter and may not be disclosed to anyone  
5 except as permitted under this Stipulated Protective Order; and

6 (i) any mediator or settlement officer, and their supporting personnel,  
7 mutually agreed upon by any of the parties engaged in settlement discussions.  
8

9 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as  
10 their support staff).

11 2.5 Designating Party: a Party or Non-Party that designates information or  
12 items that it produces in disclosures or in responses to discovery as  
13 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL- ATTORNEYS’ EYES  
14 ONLY”.

15 2.6 Disclosure or Discovery Material: all items or information, regardless  
16 of the medium or manner in which it is generated, stored, or maintained (including,  
17 among other things, testimony, transcripts, and tangible things), that are produced  
18 or generated in disclosures or responses to discovery in this matter.

19 2.7 Expert: a person with specialized knowledge or experience in a matter  
20 pertinent to the litigation who has been retained by a Party or its counsel to serve  
21 as an expert witness or as a consultant in this Action.

22 2.8 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”: Subject  
23 to the limitations in this Protective Order, Discovery Materials may be marked  
24 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” for the purpose of  
25 preventing the disclosure of information or materials which, if disclosed to the  
26 Receiving Party, might cause competitive harm to the Designating Party.  
27 Information and material that may be subject to this protection includes, but is not  
28 limited to, technical and/or research and development data, intellectual property,

1 financial, marketing and other sales data, and/or information having strategic  
2 commercial value pertaining to the Designating Party's trade or business. Nothing  
3 in paragraph 2.5 shall limit the information or material that can be designated  
4 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" under this  
5 paragraph. Before designating any specific information "HIGHLY  
6 CONFIDENTIAL – ATTORNEYS' EYES ONLY," the Designating Party's  
7 counsel shall make a good faith determination that the information warrants such  
8 protection.

9 Materials designated "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
10 ONLY" materials may be disclosed only to the following Designees:

- 11 (a) Persons who appear on the face of Designated Materials  
12 marked "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
13 ONLY" as an author, addressee, or recipient thereof;
- 14 (b) Counsel for the parties to this action, as defined in section  
15 2.4;
- 16 (c) Expert for the parties to this action, as defined in section 2.7;
- 17 (d) The Court, its clerks and secretaries, and any court reporter  
18 retained to record proceedings before the Court;
- 19 (e) Any mediator employed by the Parties and his or her staff; and
- 20 (f) Court reporters retained to transcribe depositions.

21  
22 2.9 House Counsel: attorneys who are employees of a party to this Action.  
23 House Counsel does not include Outside Counsel of Record or any other outside  
24 counsel.

25 2.10 Non-Party: any natural person, partnership, corporation, association, or  
26 other legal entity not named as a Party to this action.

27 2.11 Outside Counsel of Record: attorneys who are not employees of a  
28

1 party to this Action but are retained to represent or advise a party to this Action  
2 and have appeared in this Action on behalf of that party or are affiliated with a law  
3 firm which has appeared on behalf of that party, and includes support staff.

4 2.12 Party: any party to this Action, including all of its officers, directors,  
5 employees, consultants, retained experts, and Outside Counsel of Record (and their  
6 support staffs).

7 2.13 Producing Party: a Party or Non-Party that produces Disclosure or  
8 Discovery Material in this Action.

9 2.14 Professional Vendors: persons or entities that provide litigation  
10 support services (e.g., photocopying, videotaping, translating, preparing exhibits or  
11 demonstrations, and organizing, storing, or retrieving data in any form or medium)  
12 and their employees and subcontractors.

13 2.15 Protected Material: any Disclosure or Discovery Material that is  
14 designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –  
15 ATTORNEYS’ EYES ONLY.”

16 2.16 Receiving Party: a Party that receives Disclosure or Discovery Material  
17 from a Producing Party.

### 18 19 3. SCOPE

20 The protections conferred by this Stipulation and Order cover not only  
21 Protected Material (as defined above), but also (1) any information copied or  
22 extracted from Protected Material; (2) all copies, excerpts, summaries, or  
23 compilations of Protected Material; and (3) any testimony, conversations, or  
24 presentations by Parties or their Counsel that might reveal Protected Material.

25 Any use of Protected Material at trial shall be governed by the orders of the  
26 trial judge. This Order does not govern the use of Protected Material at trial.

27 The designation of any information or materials as “CONFIDENTIAL” or  
28 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” is intended solely



1 to facilitate the conduct of this litigation. Neither such designation nor treatment in  
2 conformity with such designation shall be construed in any way as an admission or  
3 agreement by the Receiving Party that the Protected Materials constitute or contain  
4 any trade secret or confidential information, or the discoverability thereof. Except  
5 as provided in this Protective Order, the Receiving Party shall not be obligated to  
6 challenge the propriety of any designation, and a failure to do so shall not preclude  
7 a subsequent attack on the propriety of such designation.

8       Nothing contained herein in any way restricts the ability of the Receiving  
9       Party to use “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –  
10 ATTORNEYS’ EYES ONLY” material produced to it in examining or cross-  
11 examining any employee or consultant of the Designating Party. The Parties  
12 acknowledge and agree that Receiving Party may not use Protected Materials  
13 marked by a Designating Party to examine or cross-examine an employee or  
14 consultant or another individual associated with a non-Designating Party. At  
15 deposition, the party using Designated Material must request that the portion of the  
16 proceeding where use is made be conducted so as to exclude persons not qualified  
17 to receive such Designated Material.

18  
19 4.     DURATION

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

23  
24 5.     DESIGNATING PROTECTED MATERIAL

25       5.1 Exercise of Restraint and Care in Designating Material for Protection.

26 Each Party or Non-Party that designates information or items for protection under  
27 this Order must take care to limit any such designation to specific material that  
28 qualifies under the appropriate standards. The Designating Party must designate for

1 protection only those parts of material, documents, items, or oral or written  
2 communications that qualify so that other portions of the material, documents,  
3 items, or communications for which protection is not warranted are not swept  
4 unjustifiably within the ambit of this Order.

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

10 If it comes to a Designating Party's attention that information or items that it  
11 designated for protection do not qualify for protection, that Designating Party must  
12 promptly notify all other Parties that it is withdrawing the inapplicable designation  
13 a reasonable time following such discovery.

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

19 Designation in conformity with this Order requires:

20 (a) for information in documentary form (e.g., paper or electronic  
21 documents, but excluding transcripts of depositions or other pretrial or trial  
22 proceedings), that the Producing Party affix at a minimum, the legend  
23 "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend") or "HIGHLY  
24 CONFIDENTIAL – ATTORNEYS' EYES ONLY" ("HIGHLY CONFIDENTIAL  
25 legend"), to each page that contains protected material. If only a portion or portions  
26 of the material on a page  
27 qualifies for protection, the Producing Party also must clearly identify the  
28 protected portion(s) (e.g., by making appropriate markings in the margins).

1 A Party or Non-Party that makes original documents available for inspection  
2 need not designate them for protection until after the inspecting Party has indicated  
3 which documents it would like copied and produced. During the inspection and  
4 before the designation, all of the material made available for inspection shall be  
5 deemed “CONFIDENTIAL or “HIGHLY CONFIDENTIAL- ATTORNEYS’  
6 EYES ONLY.” After the inspecting Party has identified the  
7 documents it wants copied and produced, the Producing Party must determine  
8 which documents, or portions thereof, qualify for protection under this Order.  
9 Then, before producing the specified documents, the Producing Party must affix  
10 the “CONFIDENTIAL legend” or “HIGHLY CONFIDENTIAL legend” to each  
11 page that contains Protected Material. If only a portion or portions of the material  
12 on a page qualifies for protection, the Producing Party also must clearly identify  
13 the protected portion(s) (e.g., by making appropriate markings in the margins).

14 (b) for testimony given in depositions

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

23 Within sixty (60) days after a deposition transcript is certified by the  
24 court reporter, any party may designate pages of the transcript and/or its exhibits as  
25 Protected Material. During such sixty (60) day period, the transcript in its entirety  
26 shall be treated as “CONFIDENTIAL” (except for those portions identified earlier  
27 as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” which shall be  
28 treated accordingly from the date of designation). If any party so designates such

1 material, the parties shall provide written notice of such designation to all parties  
2 within the sixty (60) day period. Protected Material within the deposition transcript  
3 or the exhibits thereto may be identified in writing by page and line, or by  
4 underlining and marking such portions “CONFIDENTIAL” or “HIGHLY  
5 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” and providing such marked-up  
6 portions to all counsel.

7 Where testimony is designated during the deposition, the Designating Party  
8 shall have the right to exclude, at those portions of the deposition, all persons not  
9 authorized by the terms of this Protective Order to receive such Protected Material.

10 (c) for information produced in some form other than documentary and  
11 for any other tangible items, that the Producing Party affix in a prominent place on  
12 the exterior of the container or containers in which the information is stored the  
13 legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL- ATTORNEYS’  
14 EYES ONLY.” If only a portion or portions of the information  
15 warrants protection, the Producing Party, to the extent practicable, shall identify  
16 the protected portion(s).

17 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent  
18 failure to designate qualified information or items does not, standing alone, waive  
19 the Designating Party’s right to secure protection under this Order for such  
20 material. Upon timely correction of a designation, the Receiving Party must make  
21 reasonable efforts to assure that the material is treated in accordance with the  
22 provisions of this Order.

## 23 24 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

25 6.1 Timing of Challenges. Any Party or Non-Party may challenge a  
26 designation of confidentiality at any time that is consistent with the Court’s  
27 Scheduling Order.

28 6.2 Meet and Confer. The Challenging Party shall initiate the dispute

1 resolution process under Local Rule 37.1 et seq.

2         6.3 The burden of persuasion in any such challenge proceeding shall be on  
3 the Designating Party. Frivolous challenges, and those made for an improper  
4 purpose (e.g., to harass or impose unnecessary expenses and burdens on other  
5 parties) may expose the Challenging Party to sanctions. Unless the Designating  
6 Party has waived or withdrawn the confidentiality designation, all parties shall  
7 continue to afford the material in question the level of protection to which it is  
8 entitled under the Producing Party’s designation until the Court rules on the  
9 challenge.

10  
11 7.     ACCESS TO AND USE OF PROTECTED MATERIAL

12         7.1 Basic Principles. A Receiving Party may use Protected Material that is  
13 disclosed or produced by another Party or by a Non-Party in connection with this  
14 Action only for prosecuting, defending, or attempting to settle this Action. Such  
15 Protected Material may be disclosed only to the categories of persons and under  
16 the conditions described in this Order. When the Action has been terminated, a  
17 Receiving Party must comply with the provisions of section 13 below (FINAL  
18 DISPOSITION).

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

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24 8.     PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED  
25         IN OTHER LITIGATION

26         If a Party is served with a subpoena or a court order issued in other litigation  
27 that compels disclosure of any information or items designated in this Action as  
28

1 “CONFIDENTIAL, or “HIGHLY CONFIDENTIAL- ATTORNEYS’ EYES  
2 ONLY,” that Party must:

3 (a) promptly notify in writing the Designating Party. Such notification  
4 shall include a copy of the subpoena or court order;

5 (b) promptly notify in writing the party who caused the subpoena or order  
6 to issue in the other litigation that some or all of the material covered by the  
7 subpoena or order is subject to this Protective Order. Such notification shall  
8 include a copy of this Stipulated Protective Order; and

9 (c) cooperate with respect to all reasonable procedures sought to be  
10 pursued by the Designating Party whose Protected Material may be affected.

11 If the Designating Party timely seeks a protective order, the Party served with  
12 the subpoena or court order shall not produce any information designated in this  
13 action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL- ATTORNEYS’  
14 EYES ONLY,” before a determination by the court from which the  
15 subpoena or order issued, unless the Party has obtained the Designating Party’s  
16 permission. The Designating Party shall bear the burden and expense of seeking  
17 protection in that court of its confidential material and nothing in these provisions  
18 should be construed as authorizing or encouraging a Receiving Party in this Action  
19 to disobey a lawful directive from another court.  
20

21 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE  
22 PRODUCED IN THIS LITIGATION

23 (a) The terms of this Order are applicable to information produced by a  
24 Non-Party in this Action and designated as “CONFIDENTIAL” or “HIGHLY  
25 CONFIDENTIAL- ATTORNEYS’ EYES ONLY.” Such information  
26 produced by Non-Parties in connection with this litigation is protected by the  
27 remedies and relief provided by this Order. Nothing in these provisions should be  
28 construed as prohibiting a Non-Party from seeking additional protections.

1 (b) In the event that a Party is required, by a valid discovery request, to  
2 produce a Non-Party's confidential information in its possession, and the Party is  
3 subject to an agreement with the Non-Party not to produce the Non-Party's  
4 confidential information, then the Party shall:

5 (1) promptly notify in writing the Requesting Party and the Non-Party  
6 that some or all of the information requested is subject to a confidentiality  
7 agreement with a Non-Party;

8 (2) promptly provide the Non-Party with a copy of the Stipulated  
9 Protective Order in this Action, the relevant discovery request(s), and a reasonably  
10 specific description of the information requested; and

11 (3) make the information requested available for inspection by the  
12 Non-Party, if requested.

13 (c) If the Non-Party fails to seek a protective order from this court within  
14 14 days of receiving the notice and accompanying information, the Receiving  
15 Party may produce the Non-Party's confidential information responsive to the  
16 discovery request. If the Non-Party timely seeks a protective order, the Receiving  
17 Party shall not produce any information in its possession or control that is subject  
18 to the confidentiality agreement with the Non-Party before a determination by the  
19 court. Absent a court order to the contrary, the Non-Party shall bear the burden and  
20 expense of seeking protection in this court of its Protected Material.

21  
22 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

23 If a Receiving Party learns that, by inadvertence or otherwise, it has  
24 disclosed Protected Material to any person or in any circumstance not authorized  
25 under this Stipulated Protective Order, the Receiving Party must immediately (a)  
26 notify in writing the Designating Party of the unauthorized disclosures, (b) use its  
27 best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform  
28 the person or persons to whom unauthorized disclosures were made of all the terms

1 of this Order, and (d) request such person or persons to execute the  
2 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit  
3 A.

4  
5 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE  
6 PROTECTED MATERIAL

7 When a Producing Party gives notice to Receiving Parties that certain  
8 inadvertently produced material is subject to a claim of privilege or other  
9 protection, the obligations of the Receiving Parties are those set forth in Federal  
10 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify  
11 whatever procedure may be established in an e-discovery order that provides for  
12 production without prior privilege review. Pursuant to Federal Rule of Evidence  
13 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure  
14 of a communication or information covered by the attorney-client privilege or  
15 work product protection, the parties may incorporate their agreement in the  
16 stipulated protective order submitted to the court provided the Court so allows.

17 12. MISCELLANEOUS

18 12.1 Right to Further Relief. Nothing in this Order abridges the right of any  
19 person to seek its modification by the Court in the future.

20 12.2 Right to Assert Other Objections. By stipulating to the entry of this  
21 Protective Order no Party waives any right it otherwise would have to object to

22 disclosing or producing any information or item on any ground not  
23 addressed in this Stipulated Protective Order. Similarly, no Party waives any right  
24 to object on any ground to use in evidence of any of the material covered by this  
25 Protective Order. Moreover, this Order shall not preclude or limit any Party’s right  
26 to seek further and additional protection against or limitation upon production of  
27 documents produced in response to discovery.  
28



1           12.3 Other Privileges. Nothing in this Order shall require disclosure of  
2 materials that a Party contends are protected from disclosure by the attorney-client  
3 privilege or the attorney work-product doctrine. This provision shall not, however,  
4 be construed to preclude any Party from moving the Court for an order directing  
5 the disclosure of such materials where it disputes the claim of attorney-client  
6 privilege or attorney work-product doctrine.

7  
8           12.4 Filing Protected Material. A Party that seeks to file under seal any  
9 Protected Material must comply with Civil Local Rule 79-5. Protected Material  
10 may only be filed under seal pursuant to a court order authorizing the sealing of the  
11 specific Protected Material at issue. If a Party's request to file Protected Material  
12 under seal is denied by the court, then the Receiving Party may file the information  
13 in the public record unless otherwise instructed by the court.

14           12.5 No Prejudice. This Protective Order shall not diminish any existing  
15 obligation or right with respect to Protected Material, nor shall it prevent a  
16 disclosure to which the Designating Party consented in writing before the  
17 disclosure takes place. Unless the parties stipulate otherwise, evidence of the  
18 existence or nonexistence of a designation under this Protective Order shall not be  
19 admissible for any purpose during any proceeding on the merits of this action.

20           12.6 Self-Disclosure. Nothing in this Order shall affect the right of the  
21 Designating Party to disclose the Designating Party's own Confidential information  
22 or items to any person or entity. Such disclosure shall not waive any of the  
23 protections of this Order.

24           12.7 Captions. The captions of paragraphs contained in this Order are for  
25 reference only and are not to be construed in any way as a part of this Order.

26  
27  
28 13. FINAL DISPOSITION

1 After the final disposition of this Action, within 60 days of a written request  
2 by the Designating Party, each Receiving Party must return all Protected Material  
3 to the Producing Party or destroy such material. As used in this subdivision, “all  
4 Protected Material” includes all copies, abstracts, compilations, summaries, and  
5 any other format reproducing or capturing any of the Protected Material. Whether  
6 the Protected Material is returned or destroyed, the Receiving Party must submit a  
7 written certification to the Producing Party (and, if not the same person or entity, to  
8 the Designating Party) by the 60 day deadline that (1) identifies (by category,  
9 where appropriate) all the Protected Material that was returned or destroyed and  
10 (2) affirms that the Receiving Party has not retained any copies, abstracts,  
11 compilations, summaries or any other format reproducing or capturing any of the  
12 Protected Material. Notwithstanding this provision, Counsel are entitled to retain  
13 copies of all pleadings, motion papers, trial, deposition, and hearing transcripts,  
14 legal memoranda, correspondence, deposition and trial exhibits, expert reports,  
15 attorney work product, and consultant and expert work product, even if such  
16 materials contain Protected Material. Any such archival copies that contain or  
17 constitute Protected Material remain subject to this Protective Order as set forth in  
18 Section 4 (DURATION).

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1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, \_\_\_\_\_ [print or type full name], of  
4 \_\_\_\_\_ [print or type full address], declare under penalty of perjury  
5 that I have read in its entirety and understand the Stipulated Protective Order that  
6 was issued by the United States District Court for the Central District of California  
7 on [date] in the case of \_\_\_\_\_ *NEMAN BROTHERS & ASSOC., INC. v.*  
8 *WAL-MART STORES, INC.; UNITED FASHIONS OF TEXAS d/b/a MELROSE*  
9 *FAMILY FASHIONS, INC., 2:16-cv-5040 GW (JPRx)*. I agree to comply with and  
10 to be bound by all the terms of this Stipulated Protective Order and I understand  
11 and acknowledge that failure to so comply could expose me to sanctions and  
12 punishment in the nature of contempt. I solemnly promise that I will not disclose in  
13 any manner any information or item that is subject to this Stipulated Protective  
14 Order to any person or entity except in strict compliance with the provisions of this  
15 Order.

16 I further agree to submit to the jurisdiction of the United States District Court for  
17 the Central District of California for the purpose of enforcing the terms of this  
18 Stipulated Protective Order, even if such enforcement proceedings occur after  
19 termination of this action. I hereby appoint \_\_\_\_\_ [print  
20 or type full name] of \_\_\_\_\_ [print or  
21 type full address and telephone number] as my California agent for service of  
22 process in connection with this action or any proceedings related to enforcement of  
23 this Stipulated Protective Order.

24 Date: \_\_\_\_\_

25 City and State where sworn and signed: \_\_\_\_\_

26  
27 Printed name: \_\_\_\_\_

28 Signature: \_\_\_\_\_