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 MARLIN EQUITY PARTNERS
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8 UNITED STATES DISTRICT COURT
 9 CENTRAL DISTRICT OF CALIFORNIA

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SUSAN BOZUNG, as Guardian on behalf of
 Nathan H. Bozung and Nathan H. Bozung,
 individually,

Plaintiff,

vs.

NEFF HEADWEAR, INC., SHAUN NEFF,
 JOSEPH NEFF, AND JOHN DOES 1-100,

Defendant.

Case No. 2:16-CV-05648

**STIPULATED PROTECTIVE ORDER
 BETWEEN PLAINTIFF SUSAN
 BOZUNG AND NON-PARTY MARLIN
 EQUITY PARTNERS**

1 1.

2 1.1 Purposes and Limitations

3 Discovery in this action is likely to involve production of confidential, proprietary, or
4 private information for which special protection from public disclosure and from use for any
5 purpose other than prosecuting this litigation may be warranted. Accordingly, Plaintiff Susan
6 Bozung (“Plaintiff”) and Non-Party Marlin Equity Partners (“Marlin Equity”) hereby stipulate to
7 and petition the Court to enter the following Stipulated Protective Order. Plaintiff and Marlin
8 Equity acknowledge that this Order does not confer blanket protections on all disclosures or
9 responses to 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 under the
11 applicable legal principles. Plaintiff and Marlin Equity further acknowledge, as set forth in
12 Section 12.3, below, that this Stipulated Protective Order does not entitle them to file
13 confidential information under seal; Civil Local Rule 79-5 sets forth the procedures that must be
14 followed and the standards that will be applied when a party seeks permission from the court to
15 file material under seal.

16 1.2 Good Cause Statement

17 Documents produced by Marlin Equity in this action are likely to involve valuable
18 commercial and financial information for which special protection from public disclosure and
19 from use for any purpose other than prosecution of this action is warranted. Such confidential
20 and proprietary materials and information consist of, among other things, confidential business
21 or financial information, information regarding confidential business practices, or other
22 confidential research, development, or commercial information (including information
23 implicating privacy rights of third parties), information otherwise generally unavailable to the
24 public, or which may be privileged or otherwise protected from disclosure under state or federal
25 statutes, court rules, case decisions, or common law. Accordingly, to expedite the flow of
26 information, to facilitate the prompt resolution of disputes over confidentiality of discovery
27 materials, to adequately protect information the parties are entitled to keep confidential, to ensure
28 that the parties are permitted reasonable necessary uses of such material in preparation for and in

1 the conduct of trial, to address their handling at the end of the litigation, and serve the ends of
2 justice, a protective order for such information is justified in this matter. It is the intent of
3 Plaintiff and Marlin Equity that information will not be designated as confidential for tactical
4 reasons and that nothing be so designated without a good faith belief that it has been maintained
5 in a confidential, non-public manner, and there is good cause why it should not be part of the
6 public record of this case.

7 2. DEFINITIONS

8 2.1 Action: this pending federal law suit.

9 2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is
10 generated, stored or maintained) or tangible things that qualify for protection under Federal Rule
11 of Civil Procedure 26(c), and as specified above in the Good Cause Statement.

12 2.3 Counsel: Outside Counsel of Record and House Counsel (as well as their support
13 staff).

14 2.4 Designating Party: a Party or Non-Party that designates information or items that it
15 produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

16 2.5 Disclosure or Discovery Material: all items or information, regardless of the medium
17 or manner in which it is generated, stored, or maintained (including, among other things,
18 testimony, transcripts, and tangible things), that are produced or generated in disclosures or
19 responses to discovery in this matter.

20 2.6 Expert: a person with specialized knowledge or experience in a matter pertinent to the
21 litigation who has been retained by a Party or its counsel to serve as an expert witness or as a
22 consultant in this Action.

23 2.7 House Counsel: attorneys who are employees of a party to this Action. House
24 Counsel does not include Outside Counsel of Record or any other outside counsel.

25 2.8 Non-Party: any natural person, partnership, corporation, association, or other legal
26 entity not named as a Party to this action.

27 2.9 Outside Counsel of Record: attorneys who are not employees of a party to this Action
28 but are retained to represent or advise a party to this Action and have appeared in this Action on

1 behalf of that party or are affiliated with a law firm which has appeared on behalf of that party,
2 and includes support staff.

3 2.10 Party: any party to this Action, including all of its officers, directors, employees,
4 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

5 2.11 Producing Party: a Party or Non-Party that produces Disclosure or Discovery
6 Material in this Action.

7 2.12 Professional Vendors: persons or entities that provide litigation support services
8 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and
9 organizing, storing, or retrieving data in any form or medium) and their employees and
10 subcontractors.

11 2.13 Protected Material: any Disclosure or Discovery Material that is designated as
12 "CONFIDENTIAL."

13 2.14 Receiving Party: a Party that receives Disclosure or Discovery Material from a
14 Producing Party.

15 3. SCOPE

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

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

22 4. DURATION

23 Even after final disposition of this litigation, the confidentiality obligations imposed by
24 this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court
25 order otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all
26 claims and defenses in this Action, with or without prejudice; and (2) final judgment herein after
27 the completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this
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1 Action, including the time limits for filing any motions or applications for extension of time
2 pursuant to applicable law.

3 5. DESIGNATING PROTECTED MATERIAL

4 5.1 Manner and Timing of Designations. Except as otherwise provided in this Order (see,
5 e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure
6 or Discovery Material that qualifies for protection under this Order must be clearly so designated
7 before the material is disclosed or produced. Designation in conformity with this Order requires:
8 (a) for information in documentary form (e.g., paper or electronic documents, but excluding
9 transcripts of depositions or other pretrial or trial proceedings), that the Producing Party affix at a
10 minimum, the legend "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each
11 page that contains protected material. If only a portion or portions of the material on a page
12 qualifies for protection, the Producing Party also must clearly identify the protected portion(s)
13 (e.g., by making appropriate markings in the margins).

14 5.2 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
15 designate qualified information or items does not, standing alone, waive the Designating Party's
16 right to secure protection under this Order for such material. Upon timely correction of a
17 designation, the Receiving Party must make reasonable efforts to assure that the material is
18 treated in accordance with the provisions of this Order.

19 6. ACCESS TO AND USE OF PROTECTED MATERIAL

20 6.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or
21 produced by another Party or by a Non-Party in connection with this Action only for prosecuting,
22 defending, or attempting to settle this Action. Such Protected Material may be disclosed only to
23 the categories of persons and under the conditions described in this Order. When the Action has
24 been terminated, a Receiving Party must comply with the provisions of section 10 below
25 (FINAL DISPOSITION). Protected Material must be stored and maintained by a Receiving
26 Party at a location and in a secure manner that ensures that access is limited to the persons
27 authorized under this Order.

1 6.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered by
2 the court or permitted in writing by the Designating Party, a Receiving Party may disclose any
3 information or item designated “CONFIDENTIAL” only to:

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

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

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

12 (d) the court and its personnel;

13 (e) court reporters and their staff;

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

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

19 (h) during their depositions, witnesses ,and attorneys for witnesses, in the Action to
20 whom disclosure is reasonably necessary provided:

21 (1) the deposing party requests that the witness sign the form attached as Exhibit
22 A hereto; and

23 (2) they will not be permitted to keep any confidential information unless they
24 sign the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless
25 otherwise agreed by the Designating Party or ordered by the court. Pages of
26 transcribed deposition testimony or exhibits to depositions that reveal Protected
27 Material may be separately bound by the court reporter and may not be disclosed
28 to anyone except as permitted under this Stipulated Protective Order; and

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

3 7. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

11 8. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
12 MATERIAL

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

22 9. MISCELLANEOUS

23 9.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek
24 its modification by the Court in the future.

25 9.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order
26 no Party waives any right it otherwise would have to object to disclosing or producing any
27 information or item on any ground not addressed in this Stipulated Protective Order. Similarly,
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1 no Party waives any right to object on any ground to use in evidence of any of the material
2 covered by this Protective Order.

3 9.3 Filing Protected Material. A Party that seeks to file under seal any Protected Material
4 must comply with Civil Local Rule 79-5. Protected Material may only be filed under seal
5 pursuant to a court order authorizing the sealing of the specific Protected Material at issue. If a
6 Party's request to file Protected Material under seal is denied by the court, then the Receiving
7 Party may file the information in the public record unless otherwise instructed by the court

8 10. FINAL DISPOSITION

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

25 11.

26 Any violation of this Order may be punished by any and all appropriate measures
27 including, without limitation, contempt proceedings and/or monetary sanctions.

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DATED: ~~June 19, 2017~~
July 5, 2017

STRADLING YOCCA CARLSON & RAUTH, P.C.

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~~Proposed~~ ORDER

Based upon the parties' stipulation and good cause appearing therefore, **IT IS SO**

ORDERED.

DATED: July 11, 2017



Magistrate Judge Steve Kim