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NOTE: CHANGES MADE BY THE COURT

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MICHAEL GRECCO PRODUCTIONS,
INC.,

Plaintiff,

vs.

TIME INC., *et al.*,

Defendants.

Case No. **2:17-cv-01198-CBM (PLAx)**

DISCOVERY MATTER

Referred to Hon. Paul L. Abrams

**STIPULATED PROTECTIVE
ORDER**

Having considered the parties' pleadings on file to date, and the parties' jointly submitted 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, the Court determines as follows:

1 WHEREAS documents, things and information may be furnished or disclosed
2 in this action which contain or constitute confidential, proprietary or trade secret
3 information; and

4 WHEREAS Plaintiff Michael Grecco Productions, Inc. (“Plaintiff”), on the
5 one hand, and Defendant Time, Inc. (“Elite Daily”), on the other hand, agree that,
6 pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, this Protective Order
7 is needed to prevent the unnecessary disclosure or dissemination of such confidential,
8 proprietary or trade secret information;

9 IT IS HEREBY STIPULATED AND AGREED by and between the parties
10 herein, through their undersigned counsel, as follows:

11 1. Good cause statement: The parties to this case may need to produce or
12 rely upon trade secrets, confidential agreements, and/or sensitive financial, customer,
13 pricing, technical or other proprietary information, among other things. While such
14 material may be relevant to this litigation, it may be damaging if competitors,
15 licensees or others had full access to it. The terms of this Order ensure the
16 confidentiality of important and proprietary business information while placing a
17 minimal burden on the flow of discovery. The parties thus believe that there is good
18 cause supporting such an Order.

19 2. Except as otherwise expressly defined in this Order, the following
20 definitions apply:

21 (a) “**Confidential.**” Information (regardless of how generated, stored, or
22 maintained) or tangible things that constitute trade secrets, proprietary, confidential
23 or competitively sensitive business, commercial, research, development or financial
24 information.

25 (b) “**AEO.**” Information (regardless of how generated, stored, or
26 maintained) or tangible things that is “Confidential,” and disclosure of which would
27 create a substantial risk of injury that could not be avoided by less restrictive means.
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1 3. (a) A party may designate any documents, material, or information as
2 “Confidential” or “AEO” when it is produced by affixing the legend
3 “CONFIDENTIAL” or “AEO” to each page containing any “Confidential” or
4 “AEO” documents, material or information. Affixing the legend
5 “CONFIDENTIAL” or “AEO” on the cover of any multipage document which is
6 bound, stapled, or otherwise securely attached shall designate all pages of the
7 document as “Confidential” or “AEO,” unless otherwise indicated by the producing
8 party.

9 (b) A party or third party may designate information disclosed during
10 a deposition or in response to written discovery as “Confidential” or “AEO” by so
11 indicating in the responses or on the record at the deposition and requesting the
12 preparation of a separate transcript of such material. Additionally, a party or third
13 party may designate in writing, within ten (10) business days after receipt of
14 discovery responses or of a deposition transcript for which the designation is
15 proposed, that specific pages of the transcript and/or specific responses be treated as
16 “Confidential” or “AEO.” Any other party may object to such proposal, in writing
17 or on the record. If an objection is made, the parties shall follow the procedures
18 described in Paragraph 13 below. After any designation is made according to the
19 procedure set forth in this Paragraph, the designated documents or information shall
20 be treated according to the designation until the matter is resolved according to the
21 procedures described in Paragraph 13 below, and counsel for all parties shall be
22 responsible for marking all previously unmarked copies of the designated material in
23 their possession or control with the specified designation.

24 (a) If at any deposition in the action any document, material or
25 information designated as “Confidential” or “AEO” is marked as an exhibit, inquired
26 about or otherwise used, the portion of the deposition transcript that relates to such
27 documents, material or information shall be automatically treated as if it had been so
28 designated under the terms of this Stipulation and Protective Order.

1 4. The inadvertent production by any of the undersigned parties of any
2 “Confidential” or “AEO” document, material or information during discovery in this
3 Action without an appropriate designation, or any other inadvertent production by
4 such party of any document, material or information in discovery in this Action, shall
5 be without prejudice to any claim that such material is “Confidential” or “AEO” or is
6 privileged in any respect or protected from discovery as work product or as trial
7 preparation material, and such party shall not be held to have waived any rights by
8 such inadvertent production. In the event that such production occurs, counsel for
9 the producing party shall redesignate the appropriate level of confidentiality, which
10 shall thereafter apply to such document, material or information subject to the terms
11 of this Stipulation and Protective Order, but the receiving party shall have no liability
12 for any disclosures made prior to such designation. Counsel for the producing party
13 will also re-produce the documents with the appropriate confidentiality designation.
14 In the event that any document that is subject to a claim of privilege or that is
15 protected from discovery as work product or as trial preparation material is
16 inadvertently produced, the party that inadvertently received the document shall
17 return the document together with all copies of the document to counsel for the
18 producing party promptly after it receives a written notice from counsel for the
19 producing party that the document was produced inadvertently.

20 5. The parties’ treatment of designated documents or information in
21 conformity with the indicated designation shall not be an admission or agreement by
22 any party that the designated information, in fact or in law, constitutes or contains
23 any proprietary and/or confidential information of any other party. The designation
24 of documents as confidential shall not affect any party’s burden of proof imposed by
25 relevant substantive law.

26 6. All documents and information produced or exchanged in the course of
27 this case shall be used by the party or parties to whom the information is produced
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1 solely for the purpose of this case. This restriction does not apply to documents
2 and/or information that are publicly available.

3 7. Except with the prior written consent of the other parties, or upon prior
4 order of this Court obtained upon notice to opposing counsel, information designated
5 as “Confidential” shall not be disclosed to any person other than the following
6 person(s):

7 (a) counsel for the respective parties to this litigation, including co-
8 counsel and in-house counsel for Defendants and/or their parent companies;

9 (b) employees of such counsel deemed necessary by counsel for the
10 prosecution or defense of this litigation;

11 (c) Plaintiff, Defendants, and any officer or employee of Defendants
12 and/or their parent companies, to the extent deemed necessary by counsel for the
13 prosecution or defense of this litigation;

14 (d) consultants or expert witnesses retained for the prosecution or
15 defense of this litigation, including without limitation non-technical jury or trial
16 consulting services retained by counsel for a party, and graphics or design services
17 retained by counsel for a party for the purposes of preparing demonstrative or other
18 exhibits for deposition, trial, or other court proceedings in this action, provided that
19 each such person or service shall execute a copy of the Certification attached to this
20 Order before being shown or given any information designated “Confidential.”
21 Copies of all Certifications shall be retained by counsel for the party so disclosing the
22 information designated “Confidential” and made available for inspection by opposing
23 counsel during the pendency or after the termination of the action, upon order of the
24 Court for good cause shown;

25 (e) any authors or original recipients, if any, of the information
26 designated “Confidential”;

27 (f) the Court, Court personnel, court reporters and videographers
28 (whether in court or at a deposition);

1 (g) any mediator or arbitrator that the parties engage in this matter or
2 the Court appoints; and

3 (h) witnesses. Except in cases where the witness is an author or
4 original recipient of the document in question, a witness shall sign the Certification
5 before being shown a document designated as “Confidential.” Information
6 designated “Confidential” may be disclosed to a witness who will not sign the
7 Certification only in a deposition at which the party who designated the information
8 is represented or has been given notice that information produced by the party may
9 be used. Witnesses affiliated with a party to this action and nonparty witnesses
10 appearing for deposition pursuant to a subpoena shall be notified of and given a copy
11 of this Stipulation and Order and shall be bound by its terms. At the request of any
12 party, the portion of the deposition transcript involving such information shall be
13 designated “Confidential” pursuant to Paragraph 3 above. Witnesses shown
14 information designated “Confidential” shall not be allowed to retain copies.

15 8. Any persons receiving information designated “Confidential” shall not
16 reveal or discuss such information with any person who is not entitled to receive such
17 information, except as set forth in this Stipulation and Protective Order.

18 9. Except with the prior written consent of the other parties, or upon prior
19 order of this Court obtained upon notice to opposing counsel, information designated
20 as “AEO” shall not be disclosed to any person other than the following person(s):

21 (a) counsel of record for the respective parties to this litigation,
22 including in-house counsel for Defendants and/or their parent companies, and
23 employees of counsel deemed necessary for the legal defense of this action;

24 (b) independent consultants or expert witnesses, which persons may
25 not be a former or current officer or employee of a party, who are retained for the
26 prosecution or defense of this litigation, including without limitation non-technical
27 jury or trial consulting services retained by counsel for a party, and graphics or
28 design services retained by counsel for a party for the purposes of preparing

1 demonstrative or other exhibits for deposition, trial, or other court proceedings in this
2 action, provided that each such person or service shall execute a copy of the
3 Certification attached to this Order before being shown or given any information
4 designated “AEO.” Copies of all Certifications shall be retained by counsel for the
5 party so disclosing information designated “AEO” and made available for inspection
6 by opposing counsel during the pendency or after the termination of the action, upon
7 order of the Court for good cause shown;

8 (c) the Court, Court personnel, court reporters and videographers
9 (whether in court or at a deposition);

10 (d) any mediator or arbitrator that the parties engage in this matter or
11 the Court appoints; and

12 (e) any authors of the information designated “AEO,” and any
13 authorized recipient who received it at the time it was created.

14 10. Any persons receiving information designated “AEO” shall not reveal or
15 discuss such information with any person who is not entitled to receive such
16 information, except as set forth in this Stipulation and Protective Order.

17 11. If any party desires to submit information designated “Confidential” or
18 “AEO” to the Court for any purpose, that party will comply with Central District of
19 California Local Rule 79-5. **Any request to file a document under seal must show**
20 **good cause for the under seal filing.**

21 12. Any party may voluntarily disclose to others without restriction any
22 information designated by that party as “Confidential” or “AEO,” although a
23 document may lose its confidential status if it is made public.

24 13. If a party contends that any specific document or information is not
25 entitled to confidential treatment, such party may at any time give written notice to
26 the party who designated the document or information as “Confidential” or “AEO.”
27 The parties shall first try to resolve the dispute in good faith on an informal basis. If
28 the dispute cannot be so resolved, the party challenging the designation may apply to

1 the Court for an order determining that the material is not properly designated as
2 “Confidential” or “AEO.” The party who designated the material as “Confidential”
3 or “AEO” shall have the burden of establishing that the document or information is
4 entitled to protection. The material shall be treated as confidential in accordance
5 with its designation while any motion or application concerning its confidential status
6 is pending before the Court. A party shall not be obligated to challenge the propriety
7 of any confidentiality designation at the time made, and failure to do so shall not
8 preclude a later challenge to the designation or constitute an admission that such
9 designation was proper. **The requirements of Local Rule 37 must be followed in**
10 **resolving any dispute.**

11 14. Notwithstanding any challenge to the designation of information as
12 “Confidential” or “AEO,” all documents shall be treated as such and shall be subject
13 to the provisions of this Stipulation and Protective Order unless and until one of the
14 following occurs:

15 (a) the party who has designated the information “Confidential” or
16 “AEO” withdraws such designation in writing; or

17 (b) the Court rules the information should not be designated as
18 “Confidential” or “AEO” under this Stipulation and Protective Order.

19 15. All provisions of this Order restricting the communication or use of
20 information designated “Confidential” or “AEO” shall continue to be binding after
21 the conclusion of this action, unless otherwise agreed or ordered. Upon conclusion
22 of the litigation, a party in the possession of information designated “Confidential” or
23 “AEO” shall destroy such documents and any materials incorporating, quoting from,
24 or otherwise incorporating information from such documents, and certify in writing
25 no later than sixty (60) days after conclusion of this action that the destruction has
26 been completed.

27 16. The terms of this Order do not preclude, limit, restrict, or otherwise
28 apply to the use of documents at trial.

1 17. Nothing in this Stipulation and Protective Order shall be deemed to
2 waive any applicable privilege or work product protection, or to affect the ability of a
3 party to seek relief for an inadvertent disclosure of material protected by privilege or
4 work product protection.

5 18. Any witness or other person, firm or entity from which discovery is
6 sought may be informed of and may obtain the protection of this Order.

7 19. Any party receiving a subpoena duces tecum or other lawful process or
8 order of any court, administrative body, tribunal or other public authority requiring
9 the production and disclosure of documents, or the disclosure of information
10 designated by another party as confidential and subject to this Order, shall notify the
11 designating party in writing of receipt of the process or order within five (5) business
12 days of the receipt thereof, and shall not produce the information until the
13 designating party has had reasonable time to object or take other appropriate steps to
14 protect the information.

15 20. This stipulation may be executed in counterparts, all of which taken
16 together shall constitute one and the same instrument.

17 21. The parties and their counsel of record agree to be bound by all the
18 confidentiality provisions set forth in this Stipulation once the Stipulation is fully
19 executed by the parties, even if the Court does not enter this Order.

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21 IT IS SO ORDERED.

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23 Dated: August 31, 2017



24 Hon. Paul L. Abrams
25 U.S. Magistrate Judge
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