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

11 UNICOLORS, INC., a California
12 Corporation;

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14 Plaintiff,

15 vs.

16 G-III LEATHER FASHIONS, INC., a
17 New York Corporation; IVANKA
18 TRUMP MARKS II LLC., a New York
19 Limited Liability Company; THE
20 TJX COMPANIES, INC., a Delaware
Corporation; and DOES 1-10, inclusive,

21 Defendants.
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Case No.: 2:17-cv-01287-FMO-JEM

**[PROPOSED] STIPULATED
PROTECTIVE ORDER**

1. A. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, trade secret, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting or defending this litigation may be warranted. Accordingly, Plaintiff Unicolors, Inc. and Defendants G-III Leather Fashions, Inc., Ivanka Trump Marks II LLC, and The TJX Companies, Inc. (collectively, the “Parties”) hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The Parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The Parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order does not entitle them to file confidential information under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal.

B. GOOD CAUSE STATEMENT

This Action (defined below) is likely to involve confidential, proprietary, and trade-secret information, including customer and pricing lists and other valuable research, development, commercial, financial and/or technical information for which special protection from public disclosure and from use for any purpose other than prosecution or defense of this action is warranted. Such confidential materials and information consist of, among other things, confidential business or financial information, information regarding purchase and sale prices of fabric or

garments by suppliers, manufacturers, importers, distributors or fashion retailers, information regarding business practices, information regarding the creation, purchase or sale of graphics used on textiles and garments, or other confidential commercial information (including information implicating privacy rights of third parties), information generally unavailable to the public, or which may be privileged or otherwise protected from disclosure under state or federal law and rules, court rules, case decisions, or common law. Accordingly, to expedite the flow of information, to facilitate the prompt resolution of disputes over confidentiality of discovery materials, to adequately protect information the Parties are entitled to keep confidential and prevent from being published, to ensure that the Parties are permitted reasonably necessary uses of such material in preparation for and in the conduct of trial, to address their handling or disposition at the end of the litigation, and serve the ends of justice, a protective order for such information is justified in this matter. It is the intent of the Parties that information will not be designated as confidential for tactical reasons and that nothing be so designated without a good faith belief that it has been or will be maintained in a confidential, non-public manner, and there is good cause why it should not be part of the public record of this case.

2. DEFINITIONS

2.1 Action: this pending federal law suit.

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

2.3 “CONFIDENTIAL” Information or Items: information (regardless of how it is generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c), and as specified above in

1 the Good Cause Statement. Certain limited types of “CONFIDENTIAL”
2 information may be further designated, as defined and detailed below, as
3 “HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY.”

4 2.4 Counsel: Outside Counsel and House Counsel (as well as
5 their support staff).

6 2.5 Designating Party: a Party or Non-Party that designates information or
7 items that it produces in disclosures, in responses to discovery, or in deposition
8 testimony as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
9 ATTORNEY’S EYES ONLY.”

10 2.6 Disclosure or Discovery Material: all items or information, regardless
11 of the medium or manner in which they are generated, stored, or maintained
12 (including, among other things, testimony, transcripts, and tangible things), that are
13 produced or generated in disclosures or responses to discovery in this matter.

14 2.7 Expert: a person with specialized knowledge or experience in a matter
15 pertinent to the litigation who has been retained by a Party or its counsel to serve
16 as an expert witness or as a consultant in this Action.

17 2.8 “HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY”
18 Information or Items: CONFIDENTIAL Information or Items that are extremely
19 sensitive—such as trade secrets or highly sensitive business or product expansion
20 or reduction plans or developments—and whose disclosure to any Party in this
21 action would create a substantial risk of serious injury that could not be avoided by
22 less restrictive means.

23 2.9 House Counsel: attorneys who are employees of a Party. House Counsel
24 does not include Outside 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: attorneys who are not employees of a
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1 Party to this Action but are retained to represent or advise a Party in this Action,
2 including but not limited to attorneys that have appeared in this Action on behalf of
3 that Party or are affiliated with a law firm which has appeared on behalf of that
4 Party, and their support staff.

5 2.12 Party: any party to this Action, including its officers, directors,
6 employees, consultants, and retained experts.

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 ATTORNEY’S 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 a separate
26 agreement or order.

1 4. DURATION

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

12 5.1 Exercise of Restraint and Care in Designating Material for Protection.

13 Each Party or Non-Party that designates information or items for protection under
14 this Order must take good faith and reasonable care to limit any such designation
15 to specific material that qualifies under the appropriate standards. The Designating
16 Party must in good faith designate for protection only those parts of material,
17 documents, items, or oral or written communications that qualify so that other
18 portions of the material, documents, items, or communications for which
19 protection is not warranted are not swept unjustifiably within the ambit of this
20 Order.

21 Mass, indiscriminate, or routinized designations are prohibited.
22 Designations that are shown to be clearly unjustified without any good faith or
23 reasonable basis or that have been made for an improper purpose (e.g., to
24 unnecessarily encumber the case development process or to impose unnecessary
25 expenses and burdens on other Parties) may expose the Designating Party to
26 sanctions.

27 If it comes to a Designating Party's attention that information or items that it
28

1 designated for protection do not qualify for the designated level of protection, that
2 Designating Party must promptly notify all other Parties that it is withdrawing or
3 modifying the inapplicable designation.

4 5.2 Manner and Timing of Designations. Except as otherwise provided in
5 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
6 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
7 under this Order must be clearly so designated before the material is disclosed or
8 produced.

9 Designation in conformity with this Order requires:

10 (a) for information in documentary form (e.g., paper or electronic
11 documents, but excluding transcripts of depositions or other pretrial or trial
12 proceedings), that the Producing Party affix, at a minimum, the legend
13 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEY’S EYES
14 ONLY” (hereinafter “CONFIDENTIAL legend”), to each page that
15 contains Protected Material. If only a portion or portions of the material on a page
16 qualifies for protection, the Producing Party also must clearly identify the
17 protected portion(s) (e.g., by making appropriate markings in the margins).

18 A Party or Non-Party that makes original documents available for inspection
19 need not designate them for protection until after the inspecting Party has indicated
20 which documents it would like copied and produced. During the inspection and
21 before the designation, the material made available for inspection shall be deemed
22 “HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY.” After the
23 inspecting Party has identified the documents it wants copied and produced, the
24 Producing Party must determine which documents, or portions thereof, qualify for
25 protection under this Order. Then, before producing the specified documents, the
26 Producing Party must affix the appropriate “CONFIDENTIAL legend”
27 (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEY’S EYES
28 ONLY”) to each page that contains Protected Material. If only a portion or

1 portions of the material on a page qualifies for protection, the Producing Party also
2 must clearly identify the protected portion(s) (e.g., by making appropriate
3 markings in the margins).

4 (b) for testimony given in depositions or in other pretrial proceedings,
5 that the Designating Party identify on the record, before the close of the deposition,
6 hearing, or other proceeding, all protected testimony and specify the level of
7 protection being asserted; alternatively, a Designating Party may specify at the
8 deposition that the entire transcript shall be treated as “CONFIDENTIAL” or
9 “HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY,” after which the
10 Designating Party shall have up to thirty (30) days from the date the deposition
11 transcript is received by Outside Counsel for the Designating Party to identify the
12 specific portions of the testimony as to which protection is sought and to specify
13 the level of protection being asserted.

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

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

1 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

2 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
3 designation of confidentiality at any time that is consistent with the Court’s
4 Scheduling Order.

5 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
6 resolution process under Local Rule 37-1 et seq.

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

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16 7. ACCESS TO AND USE OF PROTECTED MATERIAL

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

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

27 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
28 otherwise ordered by the court or permitted in writing by the Designating Party, a

1 Receiving Party may disclose any information or item designated

2 “CONFIDENTIAL” only to:

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

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

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

11 (d) the court and its personnel;

12 (e) court reporters and their staff;

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

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

18 (h) during their depositions, witnesses in the action to whom disclosure is
19 reasonably necessary and who have signed the “Acknowledgment and Agreement
20 to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party or
21 ordered by the court. Pages of transcribed deposition testimony or exhibits to
22 depositions that reveal Protected Material must be separately bound by the court
23 reporter and may not be disclosed to anyone except as permitted under this
24 Stipulated Protective Order; and

25 (i) any mediator or settlement officer, and their supporting personnel,
26 mutually agreed upon by any of the Parties engaged in settlement discussions.

27 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEY’S EYES
28 ONLY” Information or Items. Unless otherwise ordered by the court or permitted

1 in writing by the Designating Party, a Receiving Party may disclose any
2 information or item designated “HIGHLY CONFIDENTIAL – ATTORNEY’S
3 EYES ONLY” only to:

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

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

10 (c) the court and its personnel;

11 (d) court reporters and their staff;

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

15 (f) the author or recipient of a document containing the information or a
16 custodian or other person who otherwise possessed or knew the information; and

17 (g) any mediator or settlement officer, and their supporting personnel,
18 mutually agreed upon by any of the Parties engaged in settlement discussions.

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20 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
21 IN OTHER LITIGATION

22 If a Party is served with a subpoena or a court order issued in other litigation
23 that compels disclosure of any information or items designated in this Action as
24 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEY’S EYES
25 ONLY,” that Party must:

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

28 (b) promptly notify in writing the party who caused the subpoena or order

1 to issue in the other litigation that some or all of the material covered by the
2 subpoena or order is subject to this Protective Order. Such notification shall
3 include a copy of this Stipulated Protective Order; and

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

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

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

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

25 (b) If a Party is required, by a valid discovery request, to produce a Non-
26 Party’s confidential information in its possession, and the Party is subject to an
27 agreement with the Non-Party not to produce the Non-Party’s confidential
28 information, then the Party shall:

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

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

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

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

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18 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

19 If a Receiving Party learns that, by inadvertence or otherwise, it has
20 disclosed Protected Material to any person or in any circumstance not authorized
21 under this Stipulated Protective Order, the Receiving Party must immediately (a)
22 notify in writing the Designating Party of the unauthorized disclosures, (b) use its
23 best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform
24 the person or persons to whom unauthorized disclosures were made of all the terms
25 of this Order, and (d) request such person or persons to execute the
26 "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit
27 A.
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11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
PROTECTED MATERIAL

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

12. MISCELLANEOUS

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

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

12.3 Filing Protected Material. Without written permission from the Designating Party or a Court order secured after appropriate notice to all interested Parties, a Party may not file in the public record in this Action any Protected Material. A Party that seeks to file under seal any Protected Material must comply with Civil Local Rule 79-5. Protected Material may only be filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material

1 at issue. If a Party's request to file Protected Material under seal is denied by the
2 court, then the Receiving Party may file the information in the public record unless
3 otherwise instructed by the court.

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5 13. FINAL DISPOSITION

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

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1 14. Any violation of this Order may be punished by any and all appropriate
2 measures including, without limitation, contempt proceedings and/or monetary
3 sanctions.
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5 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

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7 Dated: June 21, 2017

/s/C. Yong Jeong

C. Yong Jeong

Jesse Yanco

JEONG & LIKENS, L.C.

Attorneys for Plaintiff

10
11 Dated: June 21, 2017

/s/Robert J. Parks

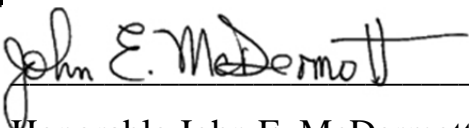
Robert J Parks

Parks and Solar LLP

Attorneys for all named Defendants

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15 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

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17 DATED: June 21, 2017

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19 _____

20 Honorable John E. McDermott

21 United States Magistrate Judge
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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 *UNICOLORS, INC. v. G-III LEATHER FASHIONS, INC*
8 *ET AL 2:17-cv-01287-FMO-JEM*. I agree to comply with and to be bound by all
9 the terms of this Stipulated Protective Order and I understand and acknowledge
10 that failure to so comply could expose me to sanctions and punishment in the
11 nature of contempt. I solemnly promise that I will not disclose in any manner any
12 information or item that is subject to this Stipulated Protective Order to any person
13 or entity except in strict compliance with the provisions of this Order.
14 I further agree to submit to the jurisdiction of the United States District Court for
15 the Central District of California for the purpose of enforcing the terms of this
16 Stipulated Protective Order, even if such enforcement proceedings occur after
17 termination of this action. I hereby appoint _____ [print
18 or type full name] of _____ [print or
19 type full address and telephone number] as my California agent for service of
20 process in connection with this action or any proceedings related to enforcement of
21 this Stipulated Protective Order.

22 Date: _____

23 City and State where sworn and signed: _____

24
25 Printed name: _____

26 Signature: _____
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