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

27 JESSICA IVONE HERNANDEZ,
 28 Plaintiff,
 vs.
 TARGET CORPORATION, and DOES
 1-10, inclusive,
 Defendants.

Case No. 5:17-cv-02554-JAK (KKx)
 (Honorable John A. Kronstadt,
 Courtroom "10B")

**STIPULATED PROTECTIVE
 ORDER**

Removal Filed: December 28, 2017
 Motion Cut-Off: TBA
 Discovery Cut-Off: TBA

1 Plaintiff Jessica Ivone Hernandez (“Plaintiff”) and Defendant Target
2 Corporation (“Target”) hereby stipulate as follows:

3 1. PURPOSES AND LIMITATIONS

4 Discovery in this action is likely to involve production of confidential,
5 proprietary, or private information for which special protection from public
6 disclosure and from use for any purpose other than prosecuting this litigation may
7 be warranted. Accordingly, the parties hereby stipulate to and petition the Court to
8 enter the following Stipulated Protective Order. The parties acknowledge that this
9 Order does not confer blanket protections on all disclosures or responses to
10 discovery and that the protection it affords from public disclosure and use extends
11 only to the limited information or items that are entitled to confidential treatment
12 under the applicable legal principles. The parties further acknowledge, as set forth
13 in Section 13.3, below, that this Stipulated Protective Order does not entitle them to
14 file confidential information under seal; Civil Local Rule 79-5 sets forth the
15 procedures that must be followed and the standards that will be applied when a party
16 seeks permission from the court to file material under seal.

17 2. GOOD CAUSE STATEMENT

18 In light of the nature of the claims and allegations in this case on the parties’
19 representations that discovery in this case will involve the production of
20 confidential and proprietary materials and information consisting of, among other
21 things, confidential business or financial information, information regarding
22 confidential business practices and procedures, information otherwise generally
23 unavailable to the public, or which may be privileged or otherwise protected from
24 disclosure under state or federal statutes, court rules, case decisions, or common
25 law. Accordingly, to expedite the flow of information, to facilitate the prompt
26 resolution of disputes over confidentiality of discovery materials, to adequately
27 protect information the parties are entitled to keep confidential, to ensure that the
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1 parties are permitted reasonable necessary uses of such material in preparation for
2 and in the conduct of trial, to address their handling at the end of the litigation, and
3 serve the ends of justice, a protective order for such information is justified in this
4 matter. It is the intent of the parties that information will not be designated as
5 confidential for tactical reasons and that nothing be so designated without a good
6 faith belief that it has been maintained in a confidential, non-public manner, and
7 there is good cause why it should not be part of the public record of this case.

8 3. DEFINITIONS

9 3.1 Action: *Jessica Ivone Hernandez v. Target Corporation, et al.*, Case
10 No. 5:17-cv-02554-JAK(KKx) .

11 3.2 Challenging Party: a Party or Non-Party that challenges the
12 designation of information or items under this Order.

13 3.3 “CONFIDENTIAL” Information or Items: information (regardless of
14 how it is generated, stored or maintained) or tangible things that qualify for
15 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
16 the Good Cause Statement.

17 3.4 Counsel: Outside Counsel of Record and House Counsel (as well as
18 their support staff).

19 3.5 Designating Party: a Party or Non-Party that designates information or
20 items that it produces in disclosures or in responses to discovery as
21 “CONFIDENTIAL.”

22 3.6 Disclosure or Discovery Material: all items or information, regardless
23 of the medium or manner in which it is generated, stored, or maintained (including,
24 among other things, testimony, transcripts, and tangible things), that are produced or
25 generated in disclosures or responses to discovery in this matter.

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1 3.7 Expert: a person with specialized knowledge or experience in a matter
2 pertinent to the litigation who has been retained by a Party or its counsel to serve as
3 an expert witness or as a consultant in this Action.

4 3.8 House Counsel: attorneys who are employees of a party to this Action.
5 House Counsel does not include Outside Counsel of Record or any other outside
6 counsel.

7 3.9 Non-Party: any natural person, partnership, corporation, association, or
8 other legal entity not named as a Party to this action.

9 3.10 Outside Counsel of Record: attorneys who are not employees of a
10 party to this Action but are retained to represent or advise a party to this Action and
11 have appeared in this Action on behalf of that party or are affiliated with a law firm
12 which has appeared on behalf of that party, and includes support staff.

13 3.11 Party: any party to this Action, including all of its officers, directors,
14 employees, consultants, retained experts, and Outside Counsel of Record (and their
15 support staffs).

16 3.12 Producing Party: a Party or Non-Party that produces Disclosure or
17 Discovery Material in this Action.

18 3.13 Professional Vendors: persons or entities that provide litigation
19 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
20 demonstrations, and organizing, storing, or retrieving data in any form or medium)
21 and their employees and subcontractors.

22 3.14 Protected Material: any Disclosure or Discovery Material that is
23 designated as “CONFIDENTIAL.”

24 3.15 Receiving Party: a Party that receives Disclosure or Discovery
25 Material from a Producing Party.

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1 4. SCOPE

2 The protections conferred by this Stipulation and Order cover not only
3 Protected Material (as defined above), but also (1) any information copied or
4 extracted from Protected Material; (2) all copies, excerpts, summaries, or
5 compilations of Protected Material; and (3) any testimony, conversations, or
6 presentations by Parties or their Counsel that might reveal Protected Material. Any
7 use of Protected Material at trial shall be governed by the orders of the trial judge.
8 This Order does not govern the use of Protected Material at trial.

9 5. DURATION

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

18 6. DESIGNATING PROTECTED MATERIAL

19 6.1 Exercise of Restraint and Care in Designating Material for Protection.

20 Each Party or Non-Party that designates information or items for protection under
21 this Order must take care to limit any such designation to specific material that
22 qualifies under the appropriate standards. The Designating Party must designate for
23 protection only those parts of material, documents, items, or oral or written
24 communications that qualify so that other portions of the material, documents,
25 items, or communications for which protection is not warranted are not swept
26 unjustifiably within the ambit of this Order.

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

6 If it comes to a Designating Party's attention that information or items that it
7 designated for protection do not qualify for protection, that Designating Party must
8 promptly notify all other Parties that it is withdrawing the inapplicable designation.

9 6.2 Manner and Timing of Designations. Except as otherwise provided in
10 this Order (see, e.g., second paragraph of section 6.2(a) below), or as otherwise
11 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
12 under this Order must be clearly so designated before the material is disclosed or
13 produced.

14 Designation in conformity with this Order requires:

15 (a) for information in documentary form (e.g., paper or electronic
16 documents, but excluding transcripts of depositions or other pretrial or trial
17 proceedings), that the Producing Party affix at a minimum, the legend
18 "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that
19 contains protected material. If only a portion or portions of the material on a page
20 qualifies for protection, the Producing Party also must clearly identify the protected
21 portion(s) (e.g., by making appropriate markings in the margins).

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

7 (b) for testimony given in depositions that the Designating Party
8 identify the Disclosure or Discovery Material on the record, before the close of the
9 deposition all protected testimony.

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

16 6.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
17 failure to designate qualified information or items does not, standing alone, waive
18 the Designating Party’s right to secure protection under this Order for such material.
19 Upon timely correction of a designation, the Receiving Party must make reasonable
20 efforts to assure that the material is treated in accordance with the provisions of this
21 Order.

22 7. CHALLENGING CONFIDENTIALITY DESIGNATIONS

23 7.1 Timing of Challenges. Any Party or Non-Party may challenge a
24 designation of confidentiality at any time that is consistent with the Court’s
25 Scheduling Order.

26 7.2 Meet and Confer. The Challenging Party shall initiate the dispute
27 resolution process under Local Rule 37.1 et seq.

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1 7.3 The burden of persuasion in any such challenge proceeding shall be on
2 the Designating Party. Frivolous challenges, and those made for an improper
3 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
4 parties) may expose the Challenging Party to sanctions. Unless the Designating
5 Party has waived or withdrawn the confidentiality designation, all parties shall
6 continue to afford the material in question the level of protection to which it is
7 entitled under the Producing Party’s designation until the Court rules on the
8 challenge.

9 8. ACCESS TO AND USE OF PROTECTED MATERIAL

10 8.1 Basic Principles. A Receiving Party may use Protected Material that is
11 disclosed or produced by another Party or by a Non-Party in connection with this
12 Action only for prosecuting, defending, or attempting to settle this Action. Such
13 Protected Material may be disclosed only to the categories of persons and under the
14 conditions described in this Order. When the Action has been terminated, a
15 Receiving Party must comply with the provisions of section 13 below (FINAL
16 DISPOSITION).

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

20 8.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
21 otherwise ordered by the court or permitted in writing by the Designating Party, a
22 Receiving Party may disclose any information or item designated
23 “CONFIDENTIAL” only to:

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

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

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

6 (d) the court and its personnel;

7 (e) court reporters and their staff;

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

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

14 (h) during their depositions, witnesses ,and attorneys for witnesses,
15 in the Action to whom disclosure is reasonably necessary provided: (1) the
16 deposing party requests that the witness sign the form attached as Exhibit 1 hereto;
17 and (2) they will not be permitted to keep any confidential information unless they
18 sign the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless
19 otherwise agreed by the Designating Party or ordered by the court. Pages of
20 transcribed deposition testimony or exhibits to depositions that reveal Protected
21 Material may be separately bound by the court reporter and may not be disclosed to
22 anyone except as permitted under this Stipulated Protective Order; and

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

1 9. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
2 IN OTHER LITIGATION

3 If a Party is served with a subpoena or a court order issued in other litigation
4 that compels disclosure of any information or items designated in this Action as
5 “CONFIDENTIAL,” that Party must:

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

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

12 (c) cooperate with respect to all reasonable procedures sought to be
13 pursued by the Designating Party whose Protected Material may be affected. If the
14 Designating Party timely seeks a protective order, the Party served with the
15 subpoena or court order shall not produce any information designated in this action
16 as “CONFIDENTIAL” before a determination by the court from which the
17 subpoena or order issued, unless the Party has obtained the Designating Party’s
18 permission. The Designating Party shall bear the burden and expense of seeking
19 protection in that court of its confidential material and nothing in these provisions
20 should be construed as authorizing or encouraging a Receiving Party in this Action
21 to disobey a lawful directive from another court.

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

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

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

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

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

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

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

23 11. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

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

17 13. MISCELLANEOUS

18 13.1 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 13.2 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 addressed in this
23 Stipulated Protective Order. Similarly, no Party waives any right to object on any
24 ground to use in evidence of any of the material covered by this Protective Order.

25 13.3 Filing Protected Material. A Party that seeks to file under seal any
26 Protected Material must comply with Civil Local Rule 79-5. Protected Material
27 may only be filed under seal pursuant to a court order authorizing the sealing of the
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1 specific Protected Material at issue. If a Party's request to file Protected Material
2 under seal is denied by the court, then the Receiving Party may file the information
3 in the public record unless otherwise instructed by the court.

4 14. FINAL DISPOSITION

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

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

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1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

2 DATED: March 9, 2018 LAW OFFICES OF TODD M. FRIEDMAN, P.C.

3 */s/ Todd M. Friedman*
4 Todd M. Friedman
5 Attorneys for Plaintiff

6 DATED: March 9, 2018 HINSHAW & CULBERTSON LLP

7 */s/ Ashley M. Brettingen*
8 Ashley M. Brettingen
9 Attorneys for Defendant Target Corporation

10 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED:

11 DATED: 3/12/18 UNITED STATES DISTRICT COURT

12 *Kenly Kiya Kato*
13 Hon. Kenly Kiya Kato
14 U. S. 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 _____ [insert formal name of the case and the
8 number and initials assigned to it by the court]. I agree to comply with and to be
9 bound by all the terms of this Stipulated Protective Order and I understand and
10 acknowledge that failure to so comply could expose me to sanctions and punishment
11 in the nature of contempt. I solemnly promise that I will not disclose in any manner
12 any information or item that is subject to this Stipulated Protective Order to any
13 person or entity except in strict compliance with the provisions of this Order. I
14 further agree to submit to the jurisdiction of the United States District Court for the
15 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 or
18 type full name] of _____ [print or type
19 full address and telephone number] as my California agent for service of process in
20 connection with this action or any proceedings related to enforcement of this
21 Stipulated Protective Order.

22 Date: _____

23 City and State where sworn and signed: _____

24 Printed name: _____

25 Signature: _____