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

CORY WILSON, an individual,
Plaintiff,

vs.

ATHLEISURE, INC., d/b/a Sun Diego, a
California Corporation; OCEANSIDE
AUTO COUNTRY, INC., d/b/a Toyota
Carlsbad, a California Corporation; TRY
'J' ADVERTISING, INC., a California
Corporation; DOES 1-10, inclusive,
Defendants.

Case No.: 16-cv-01586-DOC-SS
Honorable David O. Carter Presiding
Referred to Magistrate Judge Suzanne H. Segal

[DISCOVERY MATTER]
~~[PROPOSED]~~ PROTECTIVE
ORDER

NOTE CHANGES MADE BY THE COURT

The Court, having read and considered the parties Stipulation for Protective
Order and good cause appearing therefor:

PROTECTIVE ORDER

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

WHEREAS Plaintiff Corey Wilson (“Plaintiff”), on the one hand, and Defendants Athleisure, Inc., dba Sun Diego (“Athleisure”), Oceanside Auto Country, Inc., dba Toyota Carlsbad, and Try ‘J’ Advertising, Inc. (“TJA”), (collectively referred to as “Defendants”), on the other hand, agree that, pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, this Protective Order is needed to prevent the unnecessary disclosure or dissemination of such confidential, proprietary or trade secret information;

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

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

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

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

1 (b)“AEO.” Information (regardless of how generated, stored, or
2 maintained) or tangible things that is “Confidential,” and disclosure of which would
3 create a substantial risk of injury that could not be avoided by less restrictive means.

4 3. (a) A party may designate any documents, material, or information as
5 “Confidential” or “AEO” when it is produced by affixing the legend
6 “CONFIDENTIAL” or “AEO” to each page containing any “Confidential” or
7 “AEO” documents, material or information. Affixing the legend
8 “CONFIDENTIAL” or “AEO” on the cover of any multipage document which is
9 bound, stapled, or otherwise securely attached shall designate all pages of the
10 document as “Confidential” or “AEO,” unless otherwise indicated by the producing
11 party.

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

27 (a) If at any deposition in the action any document, material or
28 information designated as “Confidential” or “AEO” is marked as an exhibit, inquired

1 | about or otherwise used, the portion of the deposition transcript that relates to such
2 | documents, material or information shall be automatically treated as if it had been so
3 | designated under the terms of this Stipulation and Protective Order.

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

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

1 | designates a document as “Confidential” or “AEO,” the party making that
2 | designation shall not challenge the authenticity of the document for which they have
3 | made such a designation.

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

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

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

14 | (b) employees of such counsel deemed necessary by counsel for the
15 | prosecution or defense of this litigation;

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

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

3 | (e) any authors or original recipients, if any, of the information
4 | designated “Confidential”;

5 | (f) the Court, Court personnel, court reporters and videographers
6 | (whether in court or at a deposition);

7 | (g) any mediator or arbitrator that the parties engage in this matter or
8 | the Court appoints; and

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

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

24 | 9. Except with the prior written consent of the other parties, or upon prior
25 | order of this Court obtained upon notice to opposing counsel, information designated
26 | as “AEO” shall not be disclosed to any person other than the following person(s):
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1 (a) counsel of record for the respective parties to this litigation,
2 including in-house counsel for Defendants and/or their parent companies, and
3 employees of counsel deemed necessary for the legal defense of this action;

4 (b) independent consultants or expert witnesses, which persons may
5 not be a former or current officer or employee of a party, who are retained for the
6 prosecution or defense of this litigation, including without limitation non-technical
7 jury or trial consulting services retained by counsel for a party, and graphics or
8 design services retained by counsel for a party for the purposes of preparing
9 demonstrative or other exhibits for deposition, trial, or other court proceedings in this
10 action, provided that each such person or service shall execute a copy of the
11 Certification attached to this Order before being shown or given any information
12 designated "AEO." Copies of all Certifications shall be retained by counsel for the
13 party so disclosing information designated "AEO" and made available for inspection
14 by opposing counsel during the pendency or after the termination of the action, upon
15 order of the Court for good cause shown;

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

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

20 (e) any authors or recipients, if any, of the information designated
21 "AEO."

22 10. Any persons receiving information designated "AEO" shall not reveal or
23 discuss such information with any person who is not entitled to receive such
24 information, except as set forth in this Stipulation and Protective Order.

25 11. Notwithstanding anything to the contrary herein, the parties agree that
26 the parties may be provided by their counsel a summary document, or oral summary,
27 setting forth the alleged infringers' full identities, revenues, and gross profits
28 numbers, license fees, or other similar financial information, notwithstanding any

1 party's designation of documents showing such information as "AEO" The parties
2 further agree that Plaintiff is free to name revealed alleged infringers as defendants in
3 a lawsuit.

4 12. If any party desires to submit information designated "Confidential" or
5 "AEO" to the Court for any purpose, that party will comply with Central District of
6 California Local Rule 79-5.

7 13. Any party may voluntarily disclose to others without restriction any
8 information designated by that party as "Confidential" or "AEO," although a
9 document may lose its confidential status if it is made public.

10 14. If a party contends that any specific document or information is not
11 entitled to confidential treatment, such party may at any time give written notice to
12 the party who designated the document or information as "Confidential" or "AEO."
13 The parties shall first try to resolve the dispute in good faith on an informal basis. If
14 the dispute cannot be so resolved, the party challenging the designation may apply to
15 the Court for an order determining that the material is not properly designated as
16 "Confidential" or "AEO". The party who designated the material as "Confidential"
17 or "AEO" shall have the burden of establishing that the document or information is
18 entitled to protection. The material shall be treated as confidential in accordance
19 with its designation while any motion or application concerning its confidential status
20 is pending before the Court. A party shall not be obligated to challenge the propriety
21 of any confidentiality designation at the time made, and failure to do so shall not
22 preclude a later challenge to the designation or constitute an admission that such
23 designation was proper. All applications or challenges made to the Court regarding
24 this protective order, must made in conformity with procedures set forth in Local
25 Rule 37.

26 15. Notwithstanding any challenge to the designation of information as
27 "Confidential" or "AEO," all documents shall be treated as such and shall be subject
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Pursuant
to
C.C.
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1 | to the provisions of this Stipulation and Protective Order unless and until one of the
2 | following occurs:

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

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

7 | 16. All provisions of this Order restricting the communication or use of
8 | information designated “Confidential” or “AEO” shall continue to be binding after
9 | the conclusion of this action, unless otherwise agreed or ordered. Upon conclusion
10 | of the litigation, a party in the possession of information designated “Confidential” or
11 | “AEO” shall destroy such documents and any materials incorporating, quoting from,
12 | or otherwise incorporating information from such documents, and certify in writing
13 | no later than sixty (60) days after conclusion of this action that the destruction has
14 | been completed.

15 | 17. The terms of this Order do not preclude, limit, restrict, or otherwise
16 | apply to the use of documents at court hearings or trial.

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

21 | 19. Any witness or other person, firm or entity from which discovery is
22 | sought may be informed of and may obtain the protection of this Order.

23 | 20. Any party receiving a subpoena duces tecum or other lawful process or
24 | order of any court, administrative body, tribunal or other public authority requiring
25 | the production and disclosure of documents, or the disclosure of information
26 | designated by another party as confidential and subject to this Order, shall notify the
27 | designating party in writing of receipt of the process or order within five (5) business
28 | days of the receipt thereof, and shall not produce the information until the

1 | designating party has had reasonable time to object or take other appropriate steps to
2 | protect the information.

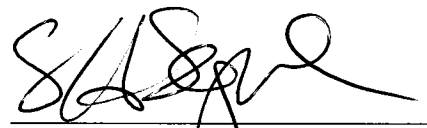
3 | 21. This stipulation may be executed in counterparts, all of which taken
4 | together shall constitute one and the same instrument.

5 | 22. The parties and their counsel of record agree to be bound by all the
6 | confidentiality provisions set forth in this Stipulation once the Stipulation is fully
7 | executed by the parties, even if the Court does not enter this Order.

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SO ORDERED.

Date: 2/10/17



Hon. Suzanne H. Segal
U.S. District Magistrate

Suzanne H. Segal
U.S. Magistrate Judge

CERTIFICATION

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2 I hereby certify my understanding that material designated as “Confidential” or
3 “AEO” (collectively “Confidential Information”) is being provided to me pursuant to
4 the terms and restrictions of the Protective Order dated _____, in the
5 case entitled Wilson v. Athleisure, Inc., et al., United States District Court for the
6 Central District of California Case Number 16-CV-01586-DOC-SS. I have been
7 given a copy of that Order and read it. I agree to be bound by the Order. I will not
8 reveal the Confidential Information to anyone, except as allowed by the Order. I will
9 maintain all such Confidential Information – including copies, notes, or other
10 transcriptions made therefrom – in a secure manner to prevent unauthorized access to
11 it. No later than sixty (60) days after the conclusion of this action, I will return the
12 Confidential Information – including copies, notes, or other transcriptions made
13 from, quoting from, or otherwise incorporating any portion of that information – to
14 the counsel who provided me with the Confidential Information. I hereby consent to
15 the jurisdiction of the United States District Court for the Central District of
16 California, for the purpose of enforcing the Protective Order.

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18 DATED: _____

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21 _____
22 Print Name

23 _____
24 Signature