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26 UNITED STATES DISTRICT COURT
27 EASTERN DISTRICT OF CALIFORNIA – SACRAMENTO DIVISION

28 Jodi Scott-George, individually and
on behalf of other members of the
general public similarly situated,

Plaintiff,

Case No. 2:13-cv-0441-TLN-DAD

**AMENDED STIPULATED
PROTECTIVE ORDER AND
ORDER**

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v.

PVH Corporation, et al., a Delaware
Corporation,

Defendant.

F.R.C.P. 26(c); L.R. 141.1

1 Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure and Local
2 Rule 141.1, Plaintiff Jodi-Scott-George (“Plaintiff”) and Defendant PVH Corp.
3 (“Defendant”), through their counsel of record, jointly submit for the Court’s
4 approval this Amended Stipulated Protective Order to govern the handling of
5 information and materials produced in the course of discovery or filed with the
6 Court in this action.

7
8 **GOOD CAUSE STATEMENT**
9

10 It is the intent of the parties and the Court that information not be designated
11 as confidential solely for tactical reasons in this case and that nothing be so
12 designated without a good faith belief that there is good cause why it should not be
13 part of the public record of this case. That intention notwithstanding, the parties
14 anticipate that trade secrets, or confidential, personal or proprietary information, or
15 other information of a sensitive nature that is not generally known or readily
16 accessible to the general public belonging to the parties or third persons will be
17 produced or exchanged during the pendency of the above-captioned litigation. This
18 confidential, private or proprietary information needs protection so that it is not
19 publicly disclosed to the detriment of its owners. Examples of confidential,
20 personal or proprietary information that the parties may seek to protect from
21 unrestricted or unprotected disclosure include:

- 22 (a) Information that is the subject of a non-disclosure or confidentiality
23 agreement or obligation;
- 24 (b) Information related to internal operations and policies, including
25 personnel information;
- 26 (c) Trade secrets (as defined by the California Uniform Trade Secrets Act
27 or by the law of the jurisdiction in which the information is located), or
28 other confidential research, development or commercial information,

1 or information of a sensitive nature that is not generally known or
2 readily accessible to the general public; and

3 (d) Personal identification information.

4 Unrestricted or unprotected disclosure of such confidential, private or
5 proprietary information would result in prejudice or harm to the producing party by
6 revealing the producing party's competitive confidential information, which has
7 been developed at the expense of the producing party and which represents valuable
8 tangible and intangible assets of that party. Additionally, privacy interests must be
9 safeguarded.

10 Accordingly, the parties respectfully submit that there is good cause for the
11 entry of this Protective Order.

12 The parties agree, subject to the Court's approval, that the following terms
13 and conditions shall apply to this civil action.

14 1. This Protective Order shall govern the production and handling of
15 documents, data, communications, electronically stored information and
16 documentation associated therewith, answers or responses to interrogatories,
17 requests for documents, requests for admissions, testimony at depositions,
18 associated transcripts and exhibits, pleadings and associated exhibits, other
19 discovery taken pursuant to the Federal Rules of Civil Procedure, and all
20 information and documents, regardless of media, exchanged between the parties, or
21 produced by any third party, whether voluntarily, in response to discovery requests
22 or subpoenas, or otherwise and irrespective of whether the production, answers to
23 written discovery, pleadings or discovery were conducted before or after entry of
24 this Protective Order.

25 2. "Confidential Information" shall mean and collectively refer to
26 information designated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL"
27 pursuant to the terms of this Protective Order. The designation
28 "CONFIDENTIAL" shall be limited to information, regardless of the form in which

1 such information is disclosed, that any disclosing party, including any non-party to
2 this action, in good faith, believes to contain (a) proprietary or commercially
3 sensitive information; (b) information that is the subject of a non-disclosure or
4 confidentiality agreement or obligation; (c) current or past (to the extent they reflect
5 on current) methods, procedures and processes relating to the disclosing party's
6 respective business practices and internal operations and policies; and (d)
7 information, including but not limited to financial information, that should
8 otherwise be subject to confidential treatment. The designation
9 "CONFIDENTIAL" does not include information or materials available to the
10 public through means other than disclosure by parties or non-parties in violation of
11 this Protective Order.

12 3. Information to be treated under this Protective Order as Confidential
13 Information shall include:

14 (a) information furnished voluntarily or set forth in response to
15 discovery requests, provided that the information or responses are plainly marked
16 or otherwise identified by the producing party as "CONFIDENTIAL" or "HIGHLY
17 CONFIDENTIAL," including Confidential Information retroactively designated as
18 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" information as permitted by
19 Sections 19 through 22 of this Protective Order;

20 (b) information derived from or set forth in documents made
21 available for inspection by the producing party voluntarily or under Rules 26, 33,
22 34 or 36 of the Federal Rules of Civil Procedure, or pursuant to subpoena, and that
23 are identified, at the time of inspection, as comprising Confidential Information;

24 (c) information derived from or set forth in any copies of
25 documents produced to the discovering party, voluntarily or under Rules 26, 33, 34
26 or 36 of the Federal Rules of Civil Procedure, provided that the copies are marked
27 by the producing party, preferably at the lower edge of each page, as
28 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL", including Confidential

1 Information retroactively designated as “CONFIDENTIAL” or “HIGHLY
2 CONFIDENTIAL” information as permitted by Sections 19 through 22 of this
3 Protective Order;

4 (d) information revealed by inspection of things or premises,
5 voluntarily or under Rule 34 of the Federal Rules of Civil Procedure provided that,
6 prior to the inspection, the party permitting inspection states in writing that its
7 Confidential Information will be disclosed by the inspection and specifies, in
8 writing, the general nature, categories, or parts of the things, or those general areas
9 of the premises, in which its Confidential Information will be revealed;

10 (e) information revealed during depositions upon oral examination
11 under Rule 30 of the Federal Rules of Civil Procedure or pursuant to subpoena,
12 except that the information revealed during any particular deposition shall cease to
13 be Confidential Information thirty (30) days after the deposition transcript becomes
14 available, unless before the thirty (30) day period has expired, the witness, his
15 employer or his counsel designates either on the record or in writing that
16 Confidential Information of the witness, or his employer, which is set forth in the
17 transcript, or identifies either on the record or in writing the portions of the
18 transcript that set forth that Confidential Information. In the case of non-party
19 witnesses, either a party or the non-party witness may designate information
20 revealed as Confidential Information within thirty (30) days after the deposition
21 transcript becomes available. Information contained in deposition transcripts that
22 became available before the date of entry of this Protective Order may be
23 designated as Confidential Information within thirty (30) days after entry of this
24 Protective Order; and

25 (f) any summary, digest, analysis or comment on any information
26 identified in categories (a) - (e).

27 4. Information designated as “CONFIDENTIAL” may be disclosed only
28 to the following persons:

1 (a) a party, or officer, or current employee of a party, who has
2 executed a Certification attached hereto as Exhibit A;

3 (b) in-house counsel of a named party;

4 (c) outside counsel representing a named party, including all
5 paralegal assistants, and stenographic and clerical employees working under the
6 supervision of such counsel;

7 (d) court reporters, videographers, interpreters, translators, copy
8 services, graphic support services, document imaging services and database/coding
9 services retained by counsel to assist with this action;

10 (e) actual or potential experts or consultants who are retained by
11 any attorney described in Paragraphs 4(b) or (c) to assist with this action, and who
12 execute a Certification attached hereto as Exhibit A;

13 (f) a person who prepared, received or reviewed the
14 "CONFIDENTIAL" information prior to its production in the above-captioned
15 action;

16 (g) during depositions and preparation for depositions, a deposition
17 witness who is a current or former employee of the party that produced the
18 applicable document(s), or who appears, based upon the document itself or
19 testimony in a deposition, to have knowledge of the contents of the document
20 designated "CONFIDENTIAL", or the specific events, transactions, discussions or
21 date reflected in the document, provided such witness executes a Certification
22 attached hereto as Exhibit A;

23 (h) Non-party witnesses or persons to be interviewed in the
24 investigation of the above-captioned matter, to the extent deemed reasonably
25 necessary by counsel to aid in the prosecution, defense or settlement of the above-
26 captioned matter, and provided such witnesses or persons execute a Certification
27 attached hereto as Exhibit A;

28 (i) any private mediators used in this action; and

1 (j) the Court, and any Special Masters and/or Mediators appointed
2 by the Court.

3 5. The designation “HIGHLY CONFIDENTIAL” shall be limited to
4 information, regardless of the form in which such information is disclosed, that any
5 disclosing party, including non-parties to this action, in good faith, believes to
6 contain (a) non-public, personal or other Confidential Information relating to or
7 concerning current and/or former employees of any party, including personal
8 identification information; (b) trade secrets (as defined by the California Uniform
9 Trade Secrets Act or by the law of the jurisdiction in which the information is
10 located), or other confidential research, development or commercial information, or
11 information of a sensitive nature that is not generally known or readily accessible to
12 the general public; (c) other “CONFIDENTIAL” information (as defined in
13 Paragraph 2), the disclosure of which is likely to cause competitive or commercial
14 injury to the disclosing party; (d) financial, technological, operational, sales,
15 marketing, pricing and/or other proprietary information relating to any party’s
16 business that is not publicly available or known and that would be of benefit to a
17 competitor of the disclosing party; and (e) such other information, documents
18 and/or data within any party’s possession, custody or control as to which the
19 disclosing party believes that it has a legal obligation to protect its confidentiality.

20 6. Information designated “HIGHLY CONFIDENTIAL” may be
21 disclosed only to the following persons:

22 (a) outside counsel of record, including all paralegal assistants, and
23 stenographic and clerical employees working under the supervision of such
24 counsel;

25 (b) court reporters, videographers, translators, copy services,
26 graphic support services, document imaging services and database/coding services
27 retained by counsel to assist with this action;
28

1 (c) potential or actual experts or consultants who (i) are retained by
2 any attorney described in Paragraphs 4(b) and (c) to assist with this matter, and (ii)
3 who execute a Certification attached hereto as Exhibit A;

4 (d) a person who prepared, received or reviewed the “HIGHLY
5 CONFIDENTIAL” information prior to its production in the above-captioned
6 matter, with respect to such information only;

7 (e) during depositions and preparation for depositions, a deposition
8 witness who is a current or former employee of the party that produced the
9 applicable document(s) or who appears, based upon the document itself or
10 testimony in a deposition, to have knowledge of the contents of the document
11 designated “HIGHLY CONFIDENTIAL” or specific events, transactions,
12 discussions or date reflected in the document, provided such witness executes a
13 Certification attached hereto as Exhibit A;

14 (f) any private mediators utilized in this action;

15 (g) the Court, and any Special Masters and/or Mediators appointed
16 by the Court.

17 7. All information designated “CONFIDENTIAL” or “HIGHLY
18 CONFIDENTIAL” in accordance with the terms of this Protective Order and
19 disclosed, produced or exchanged in the course of this action shall be used or
20 disclosed solely for the purpose of this action, and in accordance with the
21 provisions of this Protective Order. Such “CONFIDENTIAL” or “HIGHLY
22 CONFIDENTIAL” information shall not be used for any business purpose, or in
23 any other litigation or proceeding, or for any other purpose, except as authorized by
24 order of this court. The foregoing notwithstanding, this Protective Order has no
25 effect on, and shall not extend to, any party’s use of its own Confidential
26 Information.

27 8. If a party receiving Confidential Information, including, without
28 limitation, its employees, agents or consultants, is compelled to disclose any of a

1 disclosing party's "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL"
2 information pursuant to applicable law, rule, regulation, court order or subpoena
3 (each a "Requirement"), the receiving party shall promptly notify the disclosing
4 party of any such Requirement, and shall cooperate with the disclosing party to
5 obtain a protective order or other appropriate arrangement pursuant to which the
6 confidentiality of the disclosing party's "CONFIDENTIAL" or "HIGHLY
7 CONFIDENTIAL" information is preserved. Provided that the
8 producing/disclosing party makes a timely motion or other application for relief
9 from the Requirement in the appropriate forum, the person or party subject to the
10 subpoena, or other request, shall not produce or disclose the requested information
11 without the consent of the disclosing/producing party, or until ordered to do so by a
12 court of competent jurisdiction. If such an order or arrangement is not obtained, the
13 receiving party shall disclose only that portion of the disclosing party's
14 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" information as is required
15 pursuant to such Requirement. Any such required disclosure shall not change the
16 status of the disclosed information as the disclosing party's "CONFIDENTIAL" or
17 "HIGHLY CONFIDENTIAL" information under the terms of this Protective Order.

18 9. Counsel shall provide each person to whom they disclose, or give
19 access to, "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" information, a
20 copy of this Protective Order and shall advise each such person of his or her
21 obligation to comply with the terms of the Protective Order. Each person who has
22 received or been given access to "CONFIDENTIAL" or "HIGHLY
23 CONFIDENTIAL" information pursuant to Paragraphs 4(a), (e), (g) and (h) or
24 Paragraphs 6(c) or (e) shall sign the Certification attached hereto as Exhibit "A."
25 Persons receiving "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL"
26 information are prohibited from disclosing it to any person, except in conformance
27 with this Protective Order. The recipient of any "CONFIDENTIAL" or "HIGHLY
28 CONFIDENTIAL" information agrees to subject himself or herself to the

1 jurisdiction of this Court for the purposes of any proceedings relating to the
2 performance of, compliance with or violation of this Protective Order. Counsel
3 shall maintain a file of all executed Certifications pursuant to this Protective Order.

4 10. The recipient of any “CONFIDENTIAL” or “HIGHLY
5 CONFIDENTIAL” information shall maintain such information in a secure and
6 safe area, and shall exercise due and proper care with respect to the storage,
7 custody, use and/or dissemination of such information.

8 11. In designating information “CONFIDENTIAL” or “HIGHLY
9 CONFIDENTIAL,” the producing or testifying party or person, including third
10 parties, will make such designation only as to that information that it, in good faith,
11 believes is “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL.”

12 12. All or any part of a document, tangible item, discovery response or
13 pleading disclosed, produced or filed by any party or person in the above-captioned
14 matter may be designated “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL”
15 information by the producing or disclosing party or person by marking the
16 appropriate legend on the face of the document and each page so designated. With
17 respect to tangible items, the appropriate legend shall be marked on the face of the
18 tangible item, if practicable, or by written notice at the time of disclosure,
19 production or filing to the party to which disclosure is made that such tangible item
20 is “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL.” Electronically stored
21 information produced in a format that does not permit the disclosing party to affix
22 an appropriate confidentiality legend to each piece of data shall have the
23 appropriate confidentiality designation made in a transmittal letter that accompanies
24 the production of such material and, to the extent practical, the disclosing party
25 shall affix an appropriate legend on the media on which such data is produced.

26 13. Deposition testimony and exhibits (or portions thereof) of any witness
27 that have been designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL”
28 shall be labeled as follows: If any portion of a videotaped deposition is so

1 designated, the videocassette, other videotape, CD ROM, DVD or other container
2 shall be labeled with the appropriate legend. For testimony or exhibits designated
3 as Confidential Information after receipt of the deposition transcript, the deponent,
4 his/her counsel or any other designating party shall serve on all counsel a list of the
5 page and line numbers of the deposition transcript containing "CONFIDENTIAL"
6 or "HIGHLY CONFIDENTIAL" information. A party may reasonably request a
7 shortening of the time period within which a confidentiality designation for a
8 deposition transcript must be made for the purpose of conducting effective
9 discovery, and consent to such a request shall not be unreasonably withheld. In the
10 event of a dispute as to a request for a shortened time period, the parties shall first
11 try to resolve the dispute in good faith on an informal basis. If the dispute cannot
12 be resolved within five (5) business days, the party requesting the shortened time
13 period may request appropriate relief from the Court. The parties agree, subject to
14 Court approval, that such relief sought can be in the form of a telephone conference
15 to be scheduled at the Court's earliest convenience with the objective of obtaining a
16 prompt resolution of the dispute.

17 14. If a party wishes to file with the Court any documents or pleadings that
18 constitute or contain information designated as "CONFIDENTIAL" or "HIGHLY
19 CONFIDENTIAL" pursuant to this Protective Order, then that party must, prior to
20 filing such documents or pleadings, move the Court for an order sealing such
21 documents or pleadings in compliance with the requirements of Local Rules 140
22 and 141, which are hereby fully incorporated by reference.

23 15. Upon the issuance of an order of the Court sealing documents or
24 pleadings that constitute or contain information designated as "CONFIDENTIAL"
25 or "HIGHLY CONFIDENTIAL" pursuant to this Protective Order, such documents
26 or pleadings shall be submitted to the Clerk in accordance with Local Rules 140(d)
27 and 141(e).
28

1 16. At the request of a disclosing party, the Court may limit or restrict any
2 person(s) not permitted access to “CONFIDENTIAL” or “HIGHLY
3 CONFIDENTIAL” information from attending any hearing or deposition at which
4 such information is revealed.

5 17. Nothing in this Order shall be construed in any way as a finding that
6 information designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL”
7 actually is Confidential Information. Any party may object, in writing, to another
8 party’s or a non-party’s designation by specifying the information at issue and the
9 grounds for questioning the designation. A party shall not be obligated to challenge
10 the propriety of a designation at the time made, and a failure to do so shall not
11 preclude any subsequent challenge. In the event that any party to the above-
12 captioned matter disagrees at any time with the designation by the disclosing party,
13 the parties shall try first to resolve said dispute in good faith on an informal basis.
14 If the parties cannot resolve the dispute within fifteen (15) days of service of a
15 written objection to the designation, the objecting party may, pursuant to the
16 requirements set out in Rule 37 of the Federal Rules of Civil Procedure, file a
17 motion with the Court regarding the dispute. Alternatively, the party that
18 designated the information may file a motion for a protective order within fifteen
19 (15) days after the parties’ informal attempts at resolution have concluded. Any
20 Confidential Information, the designation of which is subject to such dispute, shall
21 be treated as Confidential Information unless and until further order of the Court.
22 The person asserting the confidentiality of any such Confidential Information shall
23 bear the burden of establishing that the Confidential Information is entitled to be
24 classified as designated.

25 18. Nothing herein shall be construed to be an admission of relevance or to
26 affect, in any way, the admissibility of any documents, testimony or other evidence
27 in the above-captioned matter. This Protective Order is without prejudice to the
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1 right of any party to bring before the Court at any time the question of whether any
2 particular information is or is not discoverable or admissible.

3 19. Nothing in this Protective Order shall bar or otherwise restrict any
4 attorney from advising his or her clients with respect to the above-captioned matter
5 and in the course thereof, referring to or relying upon the attorney's examination of
6 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" information so long as the
7 attorney does not disclose "HIGHLY CONFIDENTIAL" information or its
8 contents in the course of such advice – except as and to the extent permitted by this
9 Protective Order.

10 20. The inadvertent or mistaken disclosure by a disclosing party of
11 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" information that is
12 unmarked or incorrectly designated shall not constitute a waiver of any claim of
13 confidentiality where: (a) the disclosing party notifies a receiving party in writing
14 of such inadvertent or mistaken disclosure within ten (10) business days of
15 becoming aware of such disclosure, and (b) within thirty (30) days of such notice,
16 the disclosing party provides properly re-designated documents to the receiving
17 party. During the thirty (30)-day period after notice, the materials shall be treated
18 as designated in the disclosing party's notice. Upon receipt of properly re-
19 designated documents, the receiving party shall return all unmarked or incorrectly
20 designated documents and other materials to the disclosing party within five (5)
21 business days, including any copies thereof. The receiving party shall not retain
22 originals or copies of unmarked or incorrectly designated materials and shall treat
23 information contained in said documents and materials and any summaries or notes
24 thereof as appropriately marked pursuant to the disclosing party's notice. All such
25 unmarked or incorrectly designated information that is maintained or reflected in
26 computer databases, backup tapes, or any other electronic form shall be erased by
27 the receiving party in a manner that renders the information irretrievable by the
28 receiving party and any other person or entity.

1 21. Should any “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL”
2 information be disclosed, through inadvertence or otherwise, by a receiving party to
3 any person or party not authorized to receive it under this Protective Order, then the
4 receiving party shall:

5 (a) use its best efforts to obtain the return of any such
6 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” information, and to bind
7 such person or party to the terms of this Protective Order;

8 (b) immediately upon the discovery of such disclosure, but no later
9 than one (1) day therefrom, inform such person who received such information of
10 all provisions of this Protective Order and identify such person or party to the
11 disclosing party; and

12 (c) request that such person or party sign the Certification attached
13 hereto as Exhibit A. The executed Certification shall be served upon counsel for
14 the disclosing party within ten (10) business days of its execution by the party to
15 whom the “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” information was
16 inadvertently disclosed. Nothing in this Paragraph is intended to limit the remedies
17 that the disclosing party may pursue for breach of this Protective Order.

18 22. Federal Rule of Evidence 502 applies to this Protective Order. The
19 inadvertent or erroneous disclosure and/or production of documents claimed to be
20 subject to either the attorney-client privilege or work product doctrine does not
21 waive the applicability of such privilege or doctrine, either generally or relative to
22 the inadvertently or erroneously disclosed and/or produced documents. If any such
23 documents are inadvertently or erroneously disclosed to the receiving party by the
24 producing party, and the requirements of Federal Rule of Evidence 502(b) have
25 been satisfied, the producing party may request that the receiving party return such
26 documents to the producing party, and the receiving party must immediately
27 comply by, to the extent reasonably practicable and consistent with the technology
28 used by the producing party to produce the documents, returning such documents

1 and destroying any copies, notes or memoranda concerning the privileged
2 information. If, however, the receiving party disagrees with the claim that the
3 documents were inadvertently or erroneously produced, with the claim of privilege
4 or work-product protection, or with the claim that otherwise privileged or work-
5 product documents are entitled to privilege or protection, as to each allegedly
6 inadvertently or erroneously disclosed and/or produced document, the receiving
7 party may object to the return of the document by giving written notice to the party
8 claiming the privilege and inadvertent production. The written notice shall identify
9 the document to which the objection is made. If the parties cannot resolve the
10 objection within ten (10) business days after the time the notice is received, it shall
11 be the obligation of the party claiming the privilege, protection or inadvertent /
12 erroneous production to file an appropriate motion requesting that the Court
13 determine the validity of the privilege, protection or inadvertent / erroneous
14 production claim within five (5) court days after the expiration of the ten (10) day
15 meet and confer period. If the party claiming the privilege, protection or
16 inadvertent / erroneous production fails to file such a motion within the prescribed
17 time, the receiving party may retain the disputed document, which shall not
18 thereafter be treated as privileged or protected. In connection with a motion filed
19 under this provision, the party claiming the privilege, protection or inadvertent /
20 erroneous production shall bear the burden of establishing that good cause exists for
21 the disputed document to be treated as privileged or protected and inadvertently or
22 erroneously produced. The parties agree that steps taken by a producing party to
23 prevent any inadvertent or erroneous disclosure shall not be grounds to claim that
24 such disclosure creates a waiver of privilege. The parties further agree that any
25 delay in the discovery of inadvertently or erroneously disclosed privileged
26 information by the producing party shall not be grounds to claim that the privilege
27 is waived. The disputed document shall be treated as privileged or protected and
28 inadvertently or erroneously produced until either the Court rules on the motion

1 filed under this provision, or the time for filing such a motion has expired. The
2 parties acknowledge that issues of privilege may also arise under foreign law and/or
3 may be litigated in the foreign proceedings. Nothing in this agreement is intended
4 to affect any party's right to claim privilege or work product protection in the
5 foreign proceedings, or any counter argument or argument of waiver in respect of
6 any such claim.

7 23. If, in connection with the above-captioned matter, a party discloses
8 information subject to a claim of attorney-client privilege or attorney work product
9 protection (“Disclosed Protected Information”), the disclosure of the Disclosed
10 Protected Information shall not constitute or be deemed a waiver or forfeiture of
11 any claim of privilege or work product protection that the disclosing party would
12 otherwise be entitled to assert with respect to the Disclosed Protected Information
13 and its subject matter. A disclosing party may assert in writing attorney-client
14 privilege or work product protection with respect to Disclosed Protected
15 Information. The receiving party shall, within five business days of receipt of that
16 writing, return or destroy all copies of the Disclosed Protected Information and
17 provide a certification of counsel that all such Disclosed Protected Information has
18 been returned or destroyed. Within five business days of the notification that such
19 Disclosed Protected Information has been returned or destroyed, the disclosing
20 party shall produce a privilege log with respect to the Disclosed Protected
21 Information. The receiving party then may move the Court for an Order
22 compelling production of the Disclosed Protected Information (a “Privilege
23 Motion”) and shall not assert as a ground for entering such an Order the fact or
24 circumstances of the inadvertent production. The moving party, however, shall first
25 request, pursuant to Local Rule 141, the Court to order that the Privilege Motion be
26 filed under seal. The disclosing party retains the burden of establishing privileged
27 or protected nature of any Disclosed Protected Information. Nothing in this
28 paragraph shall limit the right of any party to petition the Court for an in camera

1 review of the Disclosed Protected Information. If, at trial, at a hearing, at a
2 deposition or on a motion, a disclosing party marks for identification or offers into
3 evidence Disclosed Protected Information — or proffers or elicits testimonial or
4 other evidence that incorporates or relies on Disclosed Protected Information,
5 including evidence within Federal Rule of Evidence 703 — that act shall be deemed
6 to effect a waiver and forfeiture by the disclosing party of attorney-client privilege
7 and work product protection that would otherwise apply to undisclosed information
8 concerning the same subject matter, within Federal Rule of Evidence 502(a). The
9 preceding sentence shall not apply to (i) proceedings to determine whether the
10 Disclosed Protected Information is privileged or protected or subject to discovery or
11 disclosure, or (ii) Disclosed Protected Information that is marked for identification,
12 offered into evidence or incorporated in evidence proffered or elicited by an
13 adverse party, or relied on by a witness proffered by an adverse party. The parties
14 expressly agree, in order to save the significant expense and burden of pre-
15 production privilege review, that a party may produce its information, including
16 without limitation hard copy and electronic documents and electronic data without
17 first reviewing such materials for work product or attorney client privilege and that
18 such a production will not in any manner constitute a waiver of privilege or work
19 product protections.

20 24. A disclosing person or entity who is not a party in the above-captioned
21 matter may invoke and take advantage of and thereupon shall be entitled to the
22 protections afforded herein by signing a copy of this Protective Order and serving
23 same on all counsel of record. Thereafter, a disclosing person or entity may
24 designate as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” testimony,
25 information, documents or things that such disclosing person or entity has produced
26 or provided in the above-captioned matter. Any non-party electing to invoke and
27 take advantage of the provisions of this Protective Order by doing so irrevocably
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1 consents to the personal jurisdiction of this Court to exclusively adjudicate any
2 dispute arising under or in connection with this Protective Order.

3 25. The parties agree that after final termination of this action, including
4 the resolution of all appellate proceedings, outside counsel for each named party
5 may each retain one copy of deposition transcripts and exhibits, court transcripts
6 and exhibits, and documents and other materials submitted to the Court. Such
7 materials shall continue to be treated as designated under this Protective Order.
8 Nothing herein shall require the return or destruction of attorney work product.

9 26. The parties agree that within sixty (60) days after the final termination
10 of the above-captioned matter, each party that has received, and counsel for all
11 parties (including their paralegals, assistants, and stenographic and clerical
12 employees) who have received, and experts and consultants, potential or actual, for
13 all parties who have received “CONFIDENTIAL” or “HIGHLY
14 CONFIDENTIAL” information shall either (a) return all “CONFIDENTIAL” or
15 “HIGHLY CONFIDENTIAL” information in his/her possession, custody or control
16 or in the custody of any authorized agents, outside experts and consultants retained
17 or utilized by counsel for the receiving party to counsel for the party who has
18 provided such “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” information;
19 or (b) certify destruction thereof to the disclosing party’s counsel. All
20 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” information maintained in or
21 reflected in computer databases, backup tapes, or any other electronic form shall be
22 erased by the receiving party in a manner that renders all such information
23 irretrievable by the receiving party and any other person or entity.

24 27. The Court and its personnel are not obligated to destroy or return
25 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” information, or other
26 information or documents that are filed under seal. Further, the Court and its
27 personnel are not obligated to destroy or return materials subject to the attorney-
28

1 client privilege and/or work product protection filed under seal. Court personnel
2 who receive such information are not required to sign this Protective Order.

3 28. Nothing in this Protective Order shall allow non-testifying experts and
4 consultants to be deposed or otherwise be the subject of discovery other than as
5 provided under the Federal Rules of Civil Procedure.

6 29. Nothing in this Protective Order shall prevent any party from applying
7 to the Court for relief therefrom, or from applying to the Court for further or
8 additional protective orders or for a modification of this Protective Order.

9 30. The prevailing party in any action arising out of an alleged violation of
10 the terms of this Protective Order may seek attorneys' fees and costs incurred in
11 connection with such action.

12 **STIPULATION**

13 IT IS HEREBY STIPULATED by and among the parties, through their
14 respective counsel, this Honorable Court consenting, that the foregoing Amended
15 Stipulated Protective Order may be entered in this action.

16
17 HOGAN LOVELLS US LLP

18 Dated: August 8, 2013

19
20 By: /s/ Dean Hansell

21 Dean Hansell
22 Asheley Dean
23 Rachel Patta
24 Attorneys for Defendant
25 PVH CORPORATION

26 /////

27 /////

28 /////

29 /////

1 Dated: August 8, 2013

AEQUITAS LAW GROUP, APLC

2
3
4 By: /s/ Ronald H. Bae (with authorization)

Ronald H. Bae

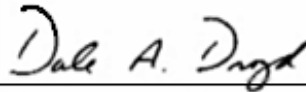
Autumn E. Love

Attorneys for Plaintiff

JODI SCOTT-GEORGE

7
8 **IT IS SO ORDERED.**

9 Dated: August 9, 2013

10 

11 DALE A. DROZD

12 UNITED STATES MAGISTRATE JUDGE

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EXHIBIT A

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4 Rachel Patta (Bar No. 273968)
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13 PVH Corporation

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25 Attorneys for Plaintiff Jodi Scott-George

26 UNITED STATES DISTRICT COURT
27 EASTERN DISTRICT OF CALIFORNIA – SACRAMENTO DIVISION

28 Jodi Scott-George, individually and
on behalf of other members of the
general public similarly situated,
Plaintiff,

Case No. 2:13-cv-0441-TLN-DAD

**ACKNOWLEDGEMENT OF
AMENDED STIPULATED
PROTECTIVE ORDER**

1 v.

2
3 PVH Corporation, et al., a Delaware
4 Corporation,

5 Defendant.
6

7
8
9
10 By my signature, I hereby acknowledge that I have read the Amended
11 Stipulated Protective Order, dated _____, 2013 (the “Protective Order”)
12 entered in Jodi Scott-George, individually and on behalf of other members of the
13 general public similarly situated v. PVH Corporation pending in the United States
14 District Court for the Eastern District of California and hereby agree to abide by the
15 obligations and terms thereof. I further agree that to the extent that my employees
16 are provided with “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL”
17 Designated Materials, I will instruct such employees regarding the terms of the
18 Protective Order. I further agree to subject myself to the jurisdiction of the United
19 States District Court for the Eastern District of California with respect to all matters
20 relating to compliance with the Protective Order.
21

22 Dated: _____

(Signature)

(Print Name)