

1 In anticipation of discovery that may seek confidential and proprietary business
2 information of a party and/or confidential information of a party or third parties,
3 Defendants TARGET CORPORATION and MARKETSOURCE, INC.
4 (DEFENDANTS) and PLAINTIFF KATRINA HAYWOOD (PLAINTIFF) have met,
5 conferred, and agreed on the following Joint Motion for Protective Order to govern
6 the instant matter on the following terms, which the parties jointly request the Court to
7 approve:

8 1. Any party to this litigation and any third-party shall have the right to
9 designate as “Confidential” and subject to this Order any information, document, or
10 thing, or portion of any document or thing which the producing party otherwise
11 believes in good faith: (a) contains trade secrets, competitively sensitive technical,
12 marketing, financial, sales or other confidential business information, or (b) contains
13 private or confidential third party personal information, including, but not limited to,
14 home addresses, electronic mail address, Social Security numbers, financial account
15 numbers, driver's license numbers, dates of birth, employment information, or
16 (c) contains information received in confidence from third parties, or (d) which the
17 producing party otherwise believes in good faith to be entitled to protection under
18 Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure. Any party to this litigation
19 or any third-party covered by this Order, who produces or discloses any Confidential
20 Material, including without limitation any information, document, thing, interrogatory
21 answer, admission, pleading, or testimony, shall mark the same with the foregoing or
22 similar legend: “CONFIDENTIAL” or “CONFIDENTIAL – SUBJECT TO
23 PROTECTIVE ORDER” (hereinafter “Confidential Material”).

24 2. Any producing party may further designate certain discovery material or
25 testimony which contains financial information and/or corporate ownership
26 information of a highly confidential and/or proprietary nature or employee
27 information of a highly confidential or private nature such as employee disciplinary
28 matters, salary information and/or other private information as “ATTORNEYS’ EYES

1 ONLY" in the manner described for "Confidential" information, except that the
2 applicable legend for such information shall be: "ATTORNEYS' EYES ONLY."
3 Attorneys' Eyes Only Material, and the information contained therein, shall be
4 disclosed only to the Court, counsel (including the paralegal, clerical, and secretarial
5 staff employed by such counsel) in the above-captioned litigation, and court reporters
6 employed in this action but shall not be disclosed to the Requesting Party itself, or to
7 an officer, director or employee of Requesting Party, or anyone else unless otherwise
8 agreed to in writing or ordered. The dispute procedures outlined herein shall apply to
9 Discovery Material designated under this paragraph. The procedures regarding
10 disclosure of Confidential Material at a deposition shall apply to Discovery Material
11 designated under this paragraph.

12 3. To the extent it is practical to do so, the designating party must designate for
13 protection only those parts of material, documents, items, or oral or written
14 communications that qualify – so that other portions of the material, documents,
15 items, or communications for which protection is not warranted are not swept
16 unjustifiably within the ambit of this Order.

17 If it comes to a designating party's attention that information or items that it
18 designated for protection do not qualify for protection at all or do not qualify for the
19 level of protection initially asserted, that designating party must promptly notify all
20 other parties that it is withdrawing the mistaken designation.

21 4. All Confidential Material shall be used by the receiving party solely for
22 purposes of the prosecution or defense of this action, shall not be used by the
23 receiving party for any business, commercial, competitive, personal or other purpose,
24 and shall not be disclosed by the receiving party to anyone other than those set forth in
25 Paragraph 5, unless and until the restrictions herein are removed either by written
26 agreement of counsel for the parties, or by Order of the Court.

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1 5. Unless otherwise ordered by the court or permitted in writing by the
2 designating party, a receiving party may disclose any information or item designated
3 "CONFIDENTIAL" only to:

4 a. Counsel for the parties, including outside counsel (herein defined
5 as any attorney at the parties' outside law firms) and relevant in-house counsel for the
6 parties, as well as employees of all such Counsel to whom it is reasonably necessary
7 to disclose the information for this litigation;

8 b. Experts or consultants of the receiving party to whom disclosure is
9 reasonably necessary for this litigation, provided they have signed a non-disclosure
10 agreement in the form attached hereto as Exhibit A;

11 c. Secretarial, paralegal, clerical, duplicating and data processing
12 personnel of the foregoing;

13 d. The Court and its personnel;

14 e. Any deponent may be shown or examined on any information,
15 document or thing designated Confidential if it appears that the witness authored or
16 received a copy of it, was involved in the subject matter described therein or is
17 employed by the party who produced the information, document or thing, or if the
18 producing party consents to such disclosure;

19 f. The author or recipient of a document containing the information
20 or a custodian or other person who otherwise possessed or knew the information;

21 g. Vendors retained by or for the parties to assist in preparing for
22 pretrial discovery, trial and/or hearings including, but not limited to, court reporters,
23 litigation support personnel, ESI vendors and consultants, jury consultants, individuals
24 to prepare demonstrative and audiovisual aids for use in the courtroom or in
25 depositions or mock jury sessions, as well as their staff, stenographic, and clerical
26 employees whose duties and responsibilities require access to such materials; and

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h. The parties. In the case of parties that are corporations or other business entities, “party” shall mean executives who are required to participate in decisions with reference to this lawsuit.

6. Confidential Material shall be used only by individuals permitted access to it under Paragraph 5. Such Confidential Material, copies thereof, and the information contained therein, shall not be disclosed in any manner to any other individual, until and unless (a) counsel for the party asserting confidentiality waives the claim of confidentiality, or (b) the Court orders such disclosure.

7. With respect to any depositions that involve a disclosure of Confidential Material of a party to this action, such party shall have until thirty (30) days after receipt of the deposition transcript within which to inform all other parties that portions of the transcript are to be designated Confidential, which period may be extended by agreement of the parties. No such deposition transcript shall be disclosed to any individual other than the individuals described in Paragraph 5(a), (b), (c), (d) and (f) above and the deponent during these thirty (30) days, and no individual attending such a deposition shall disclose the contents of the deposition to any individual other than those described in Paragraph 5(a), (b), (c), (d) and (f) above during said thirty (30) days. Upon being informed that certain portions of a deposition are to be designated as Confidential, all parties shall immediately cause each copy of the transcript in its custody or control to be appropriately marked and limit disclosure of that transcript in accordance with Paragraphs 3 and 4.

8. If counsel for a party receiving documents or information designated as Confidential Material hereunder objects to such designation of any or all of such items, the following procedure shall apply:

a. Counsel for the objecting party shall serve on the designating party or third-party a written objection to such designation, which shall identify the documents or information in question. Counsel for the designating party or third-party shall respond in writing to such objection within ten (10) days, and shall state

1 with particularity the grounds for asserting that the document or information is
2 Confidential. If no timely written response is made to the objection, the challenged
3 designation will be deemed to be void. If the designating party or nonparty makes a
4 timely response to such objection asserting the propriety of the designation, counsel
5 shall then confer in good faith in an effort to resolve the dispute.

6 b. If a dispute as to a Confidential designation of a document or item
7 of information cannot be resolved by agreement, the proponent of the designation
8 being challenged shall present the dispute to the Magistrate Judge within 14 days of
9 the parties reaching an impasse. The document or information that is the subject of
10 the filing shall be treated as originally designated pending resolution of the dispute.

11 9. The party seeking to submit Confidential Material to the Court will seek
12 an order of this Court permitting that party to file materials under seal as described in
13 Paragraph 10 herein, then will lodge any documents or materials which comprise or
14 contain Confidential Material with the Court in sealed envelopes or other
15 appropriately sealed containers, complying with all applicable rules of Court, on
16 which shall be marked the title of this action, an indication of the nature of the
17 contents, the identity of the party filing the material, the phrase "CONFIDENTIAL"
18 and a statement of the materials in the sealed envelope or container are "LODGED
19 CONDITIONALLY UNDER SEAL PURSUANT TO THE COURT ORDER IN
20 THIS ACTION DATED _____. That party shall serve the opposing party
21 with the lodged documents on the date of any lodgment, either by mail, e-mail or
22 personal service, and will contemporaneously make application or motion to seal these
23 records. Any application or motion to seal shall comply with all applicable rules of
24 Court, including Local Rule 141.1.

25 10. Nothing shall be filed under seal, and the Court shall not be required to
26 take any action, without separate prior order by the Judge before whom the hearing or
27 proceeding will take place, after application by the affected party with appropriate
28 notice to opposing counsel. The parties shall follow and abide by applicable law,

1 including Civ. L.R. 141.1 and the chambers' rules, with respect to filing documents
2 under seal. Pursuant to Civil Local Rule 141.1, a sealing order will issue only upon a
3 request establishing that the material at issue is privileged, protectable as a trade
4 secret, or otherwise entitled to protection under the law. The item may be redacted to
5 eliminate confidential material from the document. The document shall be titled to
6 show that it corresponds to an item filed under seal, e.g., "Redacted Copy of Sealed
7 Declaration of John Smith in Support of Motion for Summary Judgment." The sealed
8 and redacted documents shall be filed simultaneously.

9 11. If the need arises during trial or at any hearing before the Court for any
10 party to disclose Confidential Material, it may do so only after giving notice to the
11 producing party and as directed by the Court.

12 12. To the extent consistent with applicable law, the inadvertent or
13 unintentional disclosure of Confidential Material that should have been designated as
14 such, regardless of whether the information, document or thing was so designated at
15 the time of disclosure, shall not be deemed a waiver in whole or in part of a party's
16 claim of confidentiality, either as to the specific information, document or thing
17 disclosed or as to any other material or information concerning the same or related
18 subject matter. Such inadvertent or unintentional disclosure may be rectified by
19 notifying in writing counsel for all parties to whom the material was disclosed that the
20 material should have been designated Confidential within a reasonable time after
21 disclosure. Such notice shall constitute a designation of the information, document or
22 thing as Confidential Material under this Order.

23 13. When the inadvertent or mistaken disclosure of any information,
24 document or thing protected by privilege or work-product immunity is discovered by
25 the producing party and brought to the attention of the receiving party, the receiving
26 party's treatment of such material shall be in accordance with Federal Rule of Civil
27 Procedure 26(b)(5)(B). Such inadvertent or mistaken disclosure of such information,
28 document or thing shall not by itself constitute a waiver by the producing party of any

1 claims of privilege or work-product immunity. However, nothing herein restricts the
2 right of the receiving party to challenge the producing party's claim of privilege if
3 appropriate within a reasonable time after receiving notice of the inadvertent or
4 mistaken disclosure.

5 14. No information that is in the public domain or which is already known by
6 the receiving party through proper means or which is or becomes available to a party
7 from a source other than the party asserting confidentiality, rightfully in possession of
8 such information on a nonconfidential basis, shall be deemed or considered to be
9 Confidential Material under this Order.

10 15. This Order shall not deprive any party of its right to object to discovery
11 by any other party or on any otherwise permitted ground. This Order is being entered
12 without prejudice to the right of any party to move the Court for modification or for
13 relief from any of its terms.

14 16. Upon final conclusion of this litigation, including the expiration of any
15 appeals thereof, each party or other individual subject to the terms hereof shall be
16 under an obligation to certify that they have either returned to opposing counsel or
17 destroyed all originals and unmarked copies of documents and things containing
18 Confidential Material and to destroy, should such source so request, all copies of
19 Confidential Material that contain and/or constitute attorney work product as well as
20 excerpts, summaries and digests revealing Confidential Material; provided, however,
21 that counsel may retain complete copies of all transcripts and pleadings including any
22 exhibits attached thereto for archival purposes, subject to the provisions of this
23 Protective Order.

24 17. This Order may be modified by agreement of the parties, subject to Court
25 approval. In addition, the Court may modify the protective order in the interests of
26 justice and for public policy reasons.

27 The within order and parties' stipulation do not change, amend or circumvent
28 any court rule or local rule.

1 Dated: March 26, 2015

WILSON TURNER KOSMO LLP

2 By: /s/ James P. Leonard

3 CLAUDETTE G. WILSON
4 KATHERINE K. POTIER
5 JAMES P. LEONARD II
6 Attorneys for Defendant
7 TARGET CORPORATION

8 Dated: March 26, 2015

EPSTEIN BECKER & GREEN, P.C.

9 By: /s/ Ted A. Gehring (as authorized on 3/26/15)

10 MICHAEL S. KUN
11 TED A. GEHRING
12 Attorneys for Defendant
13 MARKETSOURCE, INC.

14 Dated: March 26, 2015

LAW OFFICES OF WILLIAM F. WRIGHT

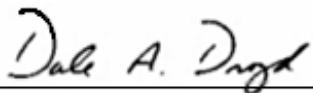
15 By: /s/ Julie A. Doumit (as authorized on 3/25/15)

16 WILLIAM F. WRIGHT
17 JULIE A. DOUMIT
18 Attorneys for Plaintiff
19 KATRINA HAYWOOD

ORDER

20 Pursuant to the parties' stipulation, IT IS SO ORDERED.

21 Dated: April 1, 2015

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23 DALE A. DROZD
24 UNITED STATES MAGISTRATE JUDGE

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EXHIBIT A
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13 TARGET CORPORATION

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34 KATRINA HAYWOOD

35 **UNITED STATES DISTRICT COURT**

36 **EASTERN DISTRICT OF CALIFORNIA**

37 KATRINA HAYWOOD,

38 Case No. 2:14-CV-00887-JAM-DAD

39 Plaintiff,

40 **JOINT MOTION FOR
41 PROTECTIVE ORDER**

42 v.
43 MARKETSOURCE, INC., TARGET
44 CORPORATION, and DOES 1 through
45 20, inclusive,

46 Complaint Filed: February 4, 2014

47 District Judge: Hon. John A. Mendez
48 Courtroom: 6, 14th Floor

49 Defendants.

50 Mag.Judge: Hon. Dale A. Drozd
51 Courtroom: 27, 8th Floor
52 Trial Date: August 17, 2015

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Eastern District of California on [date] in the case of KATRINA HAYWOOD v. MARKETSOURCE, INC., ET AL. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Eastern District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

I hereby appoint _____ [print or type full name] of _____ [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name:

Signature: