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 22 HOLLISTER CO, HOLLISTER CO. CALIFORNIA,  
 23 LLC

24 **UNITED STATES DISTRICT COURT**  
 25 **NORTHERN DISTRICT OF CALIFORNIA**

26 U.S. EQUAL EMPLOYMENT  
 27 OPPORTUNITY COMMISSION,

Case No.: CV 11-3162 YGR

28 Plaintiff,

and

UMME-HANI KHAN,

**JOINT NOTICE OF EFFORTS TO MEET  
 AND CONFER ; AND ORDER RE SAME**

Plaintiff-Intervenor

vs.

ABERCROMBIE & FITCH STORES, INC.  
 dba HOLLISTER CO., HOLLISTER CO.  
 CALIFORNIA, LLC,

**Defendants.**

On January 29, 2013, the Court held a hearing on Defendants’ Motion for Sanctions [Doc. #68] filed against CAIR-California (“CAIR-CA”) based upon CAIR-CA’s purported failure to provide a 30(b)(6) witness as ordered by the Court. At the conclusion of the hearing, the Court

1 instructed Counsel for Defendants and Counsel for CAIR-CA to meet in-person and to discuss  
2 what subjects Defendants still needed CAIR-CA to provide testimony on. Counsel for Defendants  
3 and for CAIR-CA met for nearly two hours following the hearing.

#### 4 **A. Subjects for Further Inquiry**

5 Defendants identified two topics that are within the scope of the Court's October 17, 2012  
6 Order that additional testimony from a CAIR-CA designated witness is needed. First, Defendants  
7 need CAIR-CA to testify to its non-privileged, relevant communications with the EEOC during  
8 the EEOC's investigation and conciliation process, including the offer of reinstatement.

9  
10 Second, Defendants requested that CAIR-CA provide testimony regarding non-privileged,  
11 relevant communications with Ms. Khan regarding Abercrombie or her allegations against  
12 Abercrombie or CAIR-CA's communications regarding Ms. Khan's allegations. To further  
13 specify the communications at issue in greater detail, Defendants explained that the exhibits from  
14 Mr. Ayloush's deposition reflect statements by CAIR-CA or its representatives regarding Ms.  
15 Khan's allegations. For the statements reflected in the exhibits, Defendants are interested in  
16 whether the statement was made based upon information provided to CAIR-CA by Ms. Khan or  
17 by Abercrombie.  
18

#### 19 **B. Process for Obtaining Testimony**

20 Defendant had envisioned that CAIR-CA would provide a designated witness for  
21 deposition. However, Counsel for CAIR-CA suggested that many of the subjects could be easily  
22 addressed by CAIR-CA in a sworn declaration or affidavit rather than through another deposition.  
23 Given that Defendants have already expended time and resources on a deposition, both parties  
24 agreed that CAIR-CA will provide written sworn testimony in response to specific questions  
25 identified by Abercrombie. Counsel discussed a process whereby Abercrombie would provide  
26 within 7 days written questions to CAIR-CA addressing specific matters related to the above-  
27 described topics. CAIR-CA would provide answers in writing and under oath by an adequate  
28

1 representative 14 days thereafter. Ideally, CAIR-CA's written answers would be sufficient and  
2 would avoid the need for a deposition. However, given the limitations of written testimony,  
3 Abercrombie reserves the right to take the deposition if still necessary after Defendants have  
4 received CAIR-CA's written responses, and have met and conferred with CAIR-CA regarding any  
5 outstanding issues, in the event that CAIR-CA's written responses were inadequate, unclear, or  
6 incomplete. CAIR-CA reserves the right to seek the Court's protection if CAIR-CA believes that  
7 Defendants' attempt is not necessary and after the parties meet and confer.  
8

9  
10 Respectfully submitted,

11 /s/Daniel J. Clark

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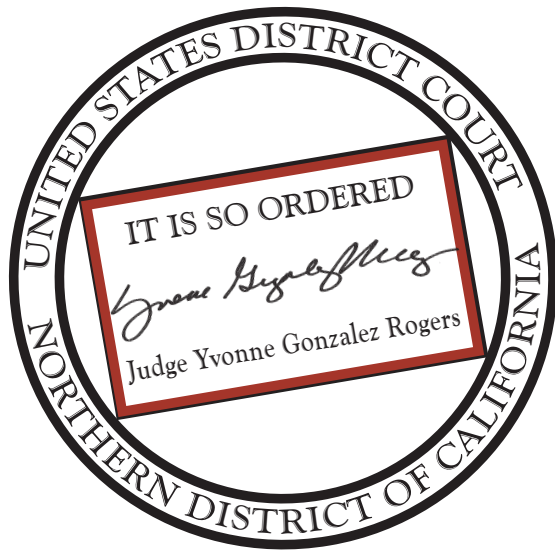
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Attorneys for Third-Party CAIR-CA

ORDER

The Court ORDERS that Defendants and third-party CAIR exchange the information as set forth herein.

Dated: February 5, 2013



1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that a true and correct copy of the foregoing **JOINT NOTICE OF**  
3 **EFFORTS TO MEET AND CONFER** was electronically filed on January 30, 2013, with the  
4 Clerk of Court through the CM/ECF system, which will send notice of electronic filing to the  
5 following:  
6

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26 /s/ Aliah Abdo  
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