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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

GILLIAN WALKER, an individual, on behalf
of herself and all others similarly situated, all
aggrieved employees, and on behalf of the
general public,

Plaintiff,

v.

COREPOWER YOGA LLC, and DOES 1
through 15, inclusive

Defendants.

Civil No. 12-cv-0004-WQH (DHB)

**ORDER GRANTING JOINT MOTION
FOR ENTRY OF STIPULATED
PROTECTIVE ORDER REGARDING
CONFIDENTIAL INFORMATION**

[ECF No. 15]

On May 29, 2012, Plaintiff Gillian Walker and Defendant CorePower Yoga LLC (referred to individually as a “Party” or collectively as the “Parties”) filed a Joint Motion for Entry of Stipulated Protective Order Regarding Confidential Information. (ECF No. 15.) Good cause appearing, the Parties’ request that a Protective Order¹ be entered in the above-entitled matter is hereby **GRANTED** and **IT IS HEREBY ORDERED:**

PROTECTIVE ORDER

The Parties recognize that, during the course of discovery and other proceedings in this action, it may become necessary for them to disclose certain confidential and proprietary information to the other party, including confidential or private information of third parties. All Parties wish to ensure that any such confidential and proprietary information shall not be used for any purpose other than this action, not be made public, or otherwise be disclosed or disseminated beyond the extent necessary for

¹The Parties’ proposed Protective Order is adopted with certain modifications.

1 purposes of this action.

2 Accordingly, the Parties stipulate to and this Court orders the following procedures for protecting
3 confidential and proprietary information:

4 **A. Definitions**

5 1. For purposes of this Protective Order, CONFIDENTIAL INFORMATION means any
6 Document (as defined below) and transcripts of oral testimony or recorded statements, or any portion
7 thereof, which is designated by any Party as confidential because it contains confidential information,
8 trade secrets or other confidential research, development, or commercial information as those terms are
9 used in Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, or contains personal, private, and
10 confidential information of individuals. By way of example, and not limitation, CONFIDENTIAL
11 INFORMATION may be included in Documents, portions of Documents, electronic files, transcripts,
12 answers to interrogatories, briefs, summaries, notes, abstracts, motions, drawings and any instrument,
13 which comprises, embodies or summarizes matter that any Party considers confidential and desires not
14 to be made public.

15 2. The term “Document(s)” shall mean and include, but not be limited to: (a) any
16 electronically stored information, data, documents, files, programs, emails, and other electronic
17 communications, regardless of format; (b) printed matter and other writings, including letters,
18 correspondence, memoranda, bulletins, circulars, catalogs, publications, interoffice and/or
19 intra-corporate communications, minutes, telegrams, statements, cancelled checks, emails, contracts,
20 invoices, drafts, maps, charts, specifications, guidelines, manuals, books of accounts, work sheets, notes
21 of conversations, desk diaries, appointment books, expense accounts; sketches, drawings, notes,
22 blueprints, disclosures, data, reports, work assignments, instructions, and compilations from which
23 information can be obtained and translated; and (c) other tangible things, including, photographs, motion
24 pictures, videotapes, and models.

25 **B. Designation of Information**

26 3. If any Party intends to produce Documents, provide discovery responses or testimony that
27 the producing Party deems to contain or include CONFIDENTIAL INFORMATION and wishes such
28 Document, discovery responses, or testimony to be subject to this Protective Order, the producing Party

1 shall designate confidentiality by marking the Documents, testimony, or discovery responses
2 “CONFIDENTIAL” at the time it is provided to the receiving Party. Any copy made of such Documents
3 or other materials shall also bear on its face the legend “CONFIDENTIAL.” Such designation shall be
4 made only upon the designating Party’s good faith and well founded belief that the material constitutes
5 CONFIDENTIAL INFORMATION as defined above.

6 4. Any Party may also designate particularly sensitive Documents and other information as
7 “CONFIDENTIAL FOR ATTORNEYS’ EYES ONLY” by so marking or designating it in good faith.
8 All Documents or information designated “CONFIDENTIAL FOR ATTORNEYS’ EYES ONLY” are
9 included within the meaning of “CONFIDENTIAL INFORMATION” as used in this Protective Order
10 and, except as otherwise provided herein, all provisions set forth in this Protective Order applicable to
11 “CONFIDENTIAL INFORMATION” also apply to Documents or information designated
12 “CONFIDENTIAL FOR ATTORNEYS’ EYES ONLY,” except that “CONFIDENTIAL FOR
13 ATTORNEYS’ EYES ONLY” Documents and information shall not be shown, disclosed, or
14 communicated by the receiving Party in any way to anyone other than those persons described in
15 paragraphs 9(i) herein. Such designation shall be made only upon the designating Party’s good faith and
16 well founded belief that the information constitutes highly sensitive financial information, trade secrets
17 or other highly confidential proprietary or personal information.

18 5. It is contemplated that one or more of the Parties may make certain Documents available
19 for review and inspection by the opposing Party, and that such Documents may contain confidential as
20 well as non-confidential material, and that following such inspection the inspecting Party will request
21 Documents to be copied and furnished to the inspecting Party. All Documents and their contents made
22 available for such inspection in this manner shall be treated as containing CONFIDENTIAL
23 INFORMATION until the producing Party has had the opportunity to designate and mark selected
24 Documents as CONFIDENTIAL or CONFIDENTIAL FOR ATTORNEYS’ EYES ONLY according
25 to paragraphs 3 and 4 hereof.

26 6. If, during the course of discovery in this action, the Parties hereto, or their representatives,
27 are authorized to inspect another Party’s facilities, processes, or products, any Documents or things
28 generated as a consequence of any such inspection by the inspecting Party, subject to the other

1 provisions of this Protective Order, shall be deemed to comprise or to be CONFIDENTIAL or
2 CONFIDENTIAL FOR ATTORNEYS' EYES ONLY as designated by the Party whose facilities,
3 processes, or products are being inspected, and shall be treated as such.

4 7. Whenever a deposition taken on behalf of any Party hereto involves a disclosure of
5 CONFIDENTIAL INFORMATION of another Party, the following procedure shall be implemented:

6 (a) During the deposition, counsel for the Party whose CONFIDENTIAL INFORMATION
7 is subject to disclosure may state that the testimony is CONFIDENTIAL or
8 CONFIDENTIAL FOR ATTORNEYS' EYES ONLY and advise all persons present that
9 the information is subject to this Protective Order. Only those persons authorized to
10 receive disclosures of such CONFIDENTIAL INFORMATION as provided in
11 paragraphs 4, 9, and 10 hereof shall be permitted to listen to or read testimony so
12 designated.

13 (b) If a designation of CONFIDENTIAL INFORMATION is not made during a deposition,
14 a Party may designate the deposition or parts thereof as CONFIDENTIAL or
15 CONFIDENTIAL FOR ATTORNEYS' EYES ONLY by written notice to the other
16 Party and the court reporter within 30 days of the mailing of the official transcript of this
17 deposition. All persons with copies of the deposition transcript shall then mark their
18 copies with the above legend. If a Party or its counsel discloses any deposition
19 transcripts that are subsequently designated as CONFIDENTIAL or CONFIDENTIAL
20 FOR ATTORNEYS' EYES ONLY in accordance with this provision, then such Party
21 and counsel shall make all reasonable and good faith efforts to recover the disclosed
22 CONFIDENTIAL INFORMATION and protect it under the terms of this Protective
23 Order.

24 **C. Filing Documents Under Seal**

25 8. No Document shall be filed under seal unless counsel secures a court order allowing the
26 filing of a Document under seal. An application to file a Document under seal shall be served on
27 opposing counsel, and on the person or entity that has custody and control of the Document, if different
28 from opposing counsel. If opposing counsel, or the person or entity who has custody and control of the

1 Document, wishes to oppose the application, he/she must contact the chambers of the judge who will
2 rule on the application, to notify the judge's staff that an opposition to the application will be filed. The
3 Parties shall follow and abide by applicable law, including Civ. L.R. 79.2, Electronic Case Filing
4 Administrative Policies and Procedures Manual, Section II.j, and the chambers' rules, with respect to
5 filing Documents under seal.

6 9. In the event that any Party wishes to include matters that are CONFIDENTIAL or
7 CONFIDENTIAL ATTORNEYS' EYES ONLY in any Document, including any pleading, motion,
8 deposition transcript, or other paper filed with this Court, such Party shall take all necessary steps,
9 pursuant to the rules and procedures of this Court, to request and obtain an order allowing such
10 Document containing CONFIDENTIAL or CONFIDENTIAL ATTORNEYS' EYES ONLY to be filed
11 under seal or to otherwise restrict access to such Document.

12 **D. Use of CONFIDENTIAL INFORMATION**

13 10. All material produced by any Party pursuant to pretrial discovery in this action that is
14 designated by the producing Party as CONFIDENTIAL or CONFIDENTIAL ATTORNEYS' EYES
15 ONLY, including any summaries, abstracts or other Documents derived in whole or in part from such
16 Documents, shall be maintained in confidence according to the terms of this Protective Order by the
17 receiving Party and used solely in the preparation, prosecution, settlement, or trial of this action. Subject
18 to the provisions of paragraphs 9 and 10 hereof, CONFIDENTIAL INFORMATION shall only be
19 disclosed by the receiving Party to:

- 20 (a) the Party who designated the Document or materials as CONFIDENTIAL;
- 21 (b) a current employee or other representative of a Party who designated the Document or
22 materials as CONFIDENTIAL and who is authorized by such designating Party to
23 receive the CONFIDENTIAL INFORMATION;
- 24 (c) a person or non-Party entity that authored or received the item prior to its production in
25 this litigation;
- 26 (d) outside or in-house counsel of record for either Party (including stenographic, clerical
27 and paralegal employees of outside counsel) and outside companies engaged by them
28 such as independent copying companies, temporary services, professional photographers

1 and/or photographic studios;

2 (e) the Court and its officers;

3 (f) outside independent experts and consultants, subject to the provisions of paragraph 10
4 of this Protective Order;

5 (g) court reporters used during the course of this litigation;

6 (h) employees of the receiving Party only on a need to know basis; and

7 (i) Documents and materials designated as CONFIDENTIAL FOR ATTORNEYS' EYES
8 ONLY shall be disclosed only to those persons designated in subparagraph (a), (b), (d),
9 (e), and (g) above.

10 **E. Right to Object to Designation**

11 11. The receipt of any Document or other materials designated as CONFIDENTIAL or
12 CONFIDENTIAL ATTORNEYS' EYES ONLY by a Party shall not be construed as an agreement by
13 any other Party that any such Document or other materials are in fact confidential, and shall not operate
14 as a waiver of any Party's right to challenge any such designation as provided herein.

15 12. The Parties shall act in good faith in designating information and materials as
16 CONFIDENTIAL or CONFIDENTIAL ATTORNEYS' EYES ONLY. A Party may object to the
17 designation of particular CONFIDENTIAL or CONFIDENTIAL ATTORNEYS' EYES ONLY
18 information by giving written notice to the Party designating the disputed information within thirty (30)
19 days of the receiving Party's receipt of the disputed information. Any objection to the designation shall
20 be reasonable and in good faith, and the written notice shall identify with reasonable particularity the
21 information to which the objection is made. If the Parties cannot resolve the objection within ten (10)
22 business days after the time the notice is received, it shall be the obligation of the Party designating the
23 information as CONFIDENTIAL or CONFIDENTIAL ATTORNEYS' EYES ONLY to file an
24 appropriate motion requesting that the Court determine whether the disputed information should be
25 subject to the terms of this Protective Order. If such a motion is filed within thirty (30) days after the
26 Parties were unable to resolve the designation dispute, the disputed information shall be treated as
27 CONFIDENTIAL or CONFIDENTIAL ATTORNEYS' EYES ONLY under the terms of this Protective
28 Order until the Court rules on the motion. If the designating Party fails to file such a motion within the

1 prescribed time, the disputed information shall lose its designation as CONFIDENTIAL or
2 CONFIDENTIAL ATTORNEYS' EYES ONLY and shall not thereafter be treated as CONFIDENTIAL
3 or CONFIDENTIAL ATTORNEYS' EYES ONLY in accordance with this Protective Order. In
4 connection with a motion filed under this provision, the Party designating the information as
5 CONFIDENTIAL or CONFIDENTIAL ATTORNEYS' EYES ONLY shall bear the burden of
6 establishing that good cause exists for the disputed information to be treated as CONFIDENTIAL or
7 CONFIDENTIAL ATTORNEYS' EYES ONLY.

8 13. If a Party lists a Document subject to this Protective Order on any trial exhibit list or in
9 a pretrial order, a Party seeking to maintain the protections of this Protective Order must within thirty
10 (30) days thereof file an appropriate pleading with the Court in support of further protection should such
11 Party require such for trial on the merits.

12 14. No Party shall be obligated to challenge the propriety or correctness of the designation
13 of information as CONFIDENTIAL or CONFIDENTIAL ATTORNEYS' EYES ONLY and a failure
14 to do so shall not preclude a subsequent challenge to such status. The burden of proof with respect to
15 the propriety or correctness in the designation of information as CONFIDENTIAL or CONFIDENTIAL
16 ATTORNEYS' EYES ONLY shall rest on the designating Party.

17 **F. Information Inadvertently Disclosed**

18 15. If a producing Party inadvertently discloses to a receiving Party any Document or other
19 materials containing information that the producing Party deems confidential without designating it as
20 CONFIDENTIAL or CONFIDENTIAL ATTORNEYS' EYES ONLY, the producing Party shall upon
21 discovery of such inadvertent disclosure promptly inform the receiving Party in writing that the
22 Document should be marked as CONFIDENTIAL or CONFIDENTIAL ATTORNEYS' EYES ONLY
23 and the receiving Party shall thereafter treat the Document and other materials as CONFIDENTIAL or
24 CONFIDENTIAL ATTORNEYS' EYES ONLY under this Protective Order. Notice given within, at
25 least, thirty (30) days after discovery of the inadvertent disclosure shall be considered prompt notice.
26 To the extent such Document or other materials may have been disclosed to persons other than
27 authorized persons described in this Protective Order, the receiving Party shall make every reasonable
28 effort to retrieve the Document or other materials promptly from such persons and to limit any further

1 disclosure to unauthorized persons.

2 **G. Privileged Materials**

3 16. Nothing in this Protective Order shall be construed to require the disclosure of material
4 that is protected from disclosure by the attorney-client privilege or the attorney work product doctrine
5 and shall not operate as a waiver of any Party's obligation to prove and/or support any such designation
6 as provided herein.

7 17. If a producing Party inadvertently discloses to a receiving Party information that is
8 privileged or otherwise immune from discovery, said producing Party shall so advise the receiving Party
9 within ten (10) days of discovery of such disclosure in writing and request that the item or items of
10 information be returned, and no Party to this action shall thereafter assert that such inadvertent disclosure
11 waived any privilege or immunity. It is further agreed that the receiving Party will return such
12 inadvertently produced item or items of information and all copies thereof within ten (10) days of
13 receiving a written request for the return of such item or items of information. The Party having returned
14 such inadvertently produced item or items of information may thereafter, without asserting waiver
15 because of inadvertent production, seek production of any such Documents in accordance with the
16 Federal Rules of Civil Procedure.

17 **H. Termination of Litigation or Settlement**

18 18. Within ninety (90) days of the conclusion or final settlement of this litigation and any
19 appeal thereof, all persons subject to the terms hereof shall destroy or assemble and return to the Party
20 who produced the Documents or other materials designated as CONFIDENTIAL or CONFIDENTIAL
21 ATTORNEYS' EYES ONLY, all such Documents and other materials including depositions and
22 deposition exhibits, and shall destroy any outlines, summaries, abstracts, compilations, memoranda,
23 Documents and the like, which constitute, embody, contain, or disclose the contents of any
24 CONFIDENTIAL INFORMATION; except that counsel for the Parties may retain one archival copy
25 of materials that they believe are required to satisfy their ethical obligations to retain client- or
26 case-related materials, including, one copy of court filings, deposition and trial transcripts (including one
27 copy of exhibits thereto), attorney notes and other work product, provided all such retained materials
28 remain subject to this Protective Order.

1 **I. Additional Protection of CONFIDENTIAL INFORMATION**

2 19. Nothing in the foregoing provisions of this Protective Order shall be deemed to preclude
3 any Party from seeking and obtaining, on an appropriate showing, additional protection with respect to
4 the confidentiality of Documents or other discovery material, or relief from this Protective Order with
5 respect to particular material designated hereunder.

6 **J. Obligations of Parties**

7 20. Each of the Parties and their counsel of record undertakes to abide by and be bound by
8 the provisions of this Protective Order and to use due care to see that its provisions are known and
9 adhered to by those under its supervision or control.

10 21. Nothing in this Protective Order shall bar counsel from rendering advice to their client
11 with respect to this litigation and, in the course thereof, relying upon any Documents, things, or
12 information designated CONFIDENTIAL, provided that such rendering of advice or opinions shall not
13 unnecessarily reveal the content of such information except pursuant to this agreement or other prior
14 written agreement with opposing counsel.

15 **K. Modifications of Protective Order by Court**

16 22. The Court may modify the terms and conditions of this Protective Order for good cause,
17 or in the interest of justice, or on its own order at any time in these proceedings.

18 **IT IS SO ORDERED.**

19 DATED: June 1, 2012

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21 **DAVID H. BARTICK**
22 United States Magistrate Judge
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