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THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GINA KIM, on behalf of a class consisting
of herself and all other persons similarly
situated,

No. 2:11-cv-00214-RSM

Plaintiffs,

[PROPOSED] PROTECTIVE ORDER

v.

COACH, INC., a Maryland corporation,
and COACH SERVICES, INC., a
Maryland corporation,

Defendants, and, as to
Coach, Inc., counterclaim
plaintiff,

v.

JAY CARLSON, a Washington resident;
CARLSON LEGAL, a Washington
resident; CHRISTOPHER CARNEY, a
Washington resident; CARNEY
GILLESPIE & ISITT PLLC, a Washington
PLLC,

Counterclaim defendants.

Having considered defendant Coach, Inc.'s motion for protective order, the Court being
fully advised, and good cause shown,

IT IS HEREBY ORDERED that defendant Coach, Inc.'s motion for protective order is
GRANTED; defendant Coach, Inc. having demonstrated that good cause exists to warrant the

1 issuance of a protective order (the “Protective Order”) and for leave to file documents under
2 seal.

3 IT IS HEREBY ORDERED that Plaintiffs Gina Kim, Jay Carlson, Carlson Legal,
4 Christopher Carney, Carney Gillespie & Isitt PLLC, Jason B. Moore, and Van Eyk & Moore,
5 PLLC (together “Plaintiffs”), defendants Coach, Inc. and Coach Services, Inc. (collectively
6 “Coach”), and counsel for all Parties comply with the following protective order. Plaintiffs and
7 Coach shall be referred to herein as the “Parties.” This Protective Order shall bind Plaintiffs
8 and employees, agents, and attorneys of Plaintiffs, including counsel of record, experts and
9 consultants (collectively, the “Bound Persons”).

10 **ATTORNEYS ONLY INFORMATION**

11 Plaintiff Ms. Kim alleges that Coach or its agents acted improperly in communicating
12 with eBay and with Ms. Kim on the subject of whether an item Ms. Kim listed for sale on eBay
13 is a counterfeit Coach product. According to Coach, the actions of which Ms. Kim complains
14 were taken as part of the counterfeiting detection program run by Coach’s law firm, Gibney
15 Anthony & Flaherty. Because information and documents concerning that counterfeiting
16 detection program are relevant to this lawsuit, and because public disclosure of information and
17 documents concerning the counterfeiting detection program would enable counterfeiters and
18 potential counterfeiters to attempt to evade detection of their counterfeiting activities, the Court
19 orders the Bound Persons to preserve the confidentiality of the following information:

- 20 (1) Descriptions of the online counterfeiting detection program run by Gibney
21 Anthony & Flaherty or Coach; and
22 (2) Documents relating to the online counterfeiting detection program run by
23 Gibney Anthony & Flaherty or Coach that describe or reveal the counterfeit
24 detection program.

25 The above-listed information will be designated “Attorneys Only Information.” Such
26 designation may be made by stamping the documents “CONFIDENTIAL – ATTORNEYS

1 ONLY.” Other forms of designation are acceptable provided that they make clear that
2 information is to be shared only among attorneys.

3 **1. WHO MAY RECEIVE ATTORNEYS ONLY INFORMATION**

4 No Bound Person may disclose Attorneys Only Information to any other person, other
5 than as provided below. No Bound Person may use Attorneys Only Information for any
6 purpose other than the prosecution or defense of this lawsuit. The attorneys of record for Ms.
7 Kim must make the terms of this Protective Order known to all Bound Persons and, together
8 with their clients, are responsible for compliance with this Protective Order.

9 The only persons to whom Attorneys Only Information may be disclosed are the
10 following:

- 11 a. Attorneys of record for Ms. Kim, including paralegal, stenographic, contract,
12 and administrative personnel associated with the attorneys;
- 13 b. Experts, consultants and investigators who are assisting the attorneys in this
14 lawsuit; however, prior to disclosure of any Attorneys Only Information, such
15 third parties must agree to be bound by this Protective Order by executing the
16 form attached hereto as Exhibit A;
- 17 c. The Court, judges, and Court personnel receiving pleadings or testimony related
18 to this lawsuit, if filed under seal;
- 19 d. Deposition witnesses; however, prior to disclosure of any Attorneys Only
20 Information, such witnesses must agree to be bound by this Protective Order by
21 executing the form attached hereto as Exhibit A; and, at least 10 days in advance
22 of the deposition, the attorneys for Ms. Kim must notify the attorneys for the
23 other Parties of the specific information and documents to be provided to the
24 deponent, and such Attorney Only Information may only be provided to the
25 deponent if a Party does not, within the 10-day period, file a motion for
26 protective order;

- 1 e. Court reporters involved in taking depositions in this lawsuit; and
2 f. Any person who is an author, addressee, or recipient of or who previously had
3 access to, the Attorneys Only Information.

4 **2. HANDLING OF ATTORNEYS ONLY INFORMATION**

5 No Attorneys Only Information may be disclosed, either directly or indirectly, except
6 by prior written approval of the attorneys for Coach or pursuant to an order of the Court (where
7 applicable), except to the persons specified above.

8 A Party that files with the Court, or seeks to use at trial, materials designated as
9 Attorneys Only Information, must seek to have the record containing such information sealed.
10 Therefore, in addition to filing such materials under seal, that Party must simultaneously file
11 with the Court a motion to seal and request appropriate findings supporting the need for the
12 material to be maintained under seal, in full compliance with all applicable filing rules.

13 A Party that files with the Court, or seeks to use at trial, materials designated as
14 Attorneys Only Information, and who does not wish to have the record containing such
15 information sealed, must comply with one of the following requirements:

16 (a) At least 10 business days prior to the filing or use of the Attorneys Only
17 Information, the submitting Party must give notice to all other parties of the submitting Party's
18 intention to file or use the Attorneys Only Information, including specific identification (by
19 reference to Bates number or other identifier) of the Attorneys Only Information. Any affected
20 Party or non-party may then file with the Court a motion, in full compliance all applicable
21 filing rules, and request appropriate findings supporting the need for the material to be
22 maintained under seal; or

23 (b) At the time of filing or using the Attorneys Only Information, the
24 submitting Party must file the materials with the Court pursuant to the following procedure:

25 (i) the document(s) containing Attorneys Only Information must be filed under seal, in full
26 compliance with all applicable filing rules; (ii) the document(s) must be labeled

1 “CONDITIONALLY UNDER SEAL”; and (iii) the Party submitting the document(s) must
2 include as part of each document filed under seal a statement that the document may be
3 unsealed pending Court order. Any affected Party or non-party may then file a motion to seal,
4 in full compliance with all applicable filing rules, and request appropriate findings supporting
5 the need for the material to be maintained under seal, within 10 business days after the
6 document(s) are filed. If no Party or non-party files a motion to seal before the expiration of 10
7 business days, the Parties must file a stipulated motion to unseal the document in question. For
8 the convenience of the Court, a full hardcopy of the Attorneys Only Information may be
9 provided directly to the Court, for the Court’s use only.

10 To the extent practicable, Attorneys Only Information to be filed with the Court must be
11 filed separately or in severable portions of filed papers, so that the non-confidential portions
12 may freely be disseminated.

13 **3. RETURN OF ATTORNEYS ONLY MATERIAL**

14 Once participation in this lawsuit by any person obtaining Attorneys Only Information
15 has been concluded, all Attorneys Only Information must be returned by such person within 30
16 days to the counsel from whom he or she obtained such Attorneys Only Information.

17 **4. MISCELLANEOUS**

18 If Attorneys Only Information is disclosed to any person other than in the manner
19 authorized by this Protective Order, the person responsible for the disclosure must immediately
20 bring all the pertinent facts relating to such disclosure to the attention of counsel for all Parties
21 without prejudice to the rights and remedies of any Party, and must make every effort to
22 prevent further disclosure by it or by the person who was the recipient of such information.

23 This Protective Order does not abrogate, amend, enhance, or diminish any contractual,
24 statutory, or other legal right or obligation any Party may have with respect to information
25 disclosed in this lawsuit.

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on March 10, 2011, I electronically filed the foregoing with the
3 Clerk of the Court using the CM/ECF System which will send notification of such filing to all
4 counsel of record.

5 Dated this 10th day of March, 2011.

6 *s/Stellman Keehnel*
7 _____
8 Stellman Keehnel, WSBA No. 9309

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EXHIBIT A

EXHIBIT A

THE UNDERSIGNED HEREBY AGREES AS FOLLOWS: (A) I HAVE READ THE PROTECTIVE ORDER REGARDING ATTORNEYS ONLY INFORMATION IN THIS LAWSUIT AND AGREE TO BE BOUND THEREBY; (B) I WILL NOT DISCLOSE ANY ATTORNEYS ONLY INFORMATION, OR THE CONTENTS THEREOF TO ANY PERSON NOT ENTITLED TO ACCESS THAT INFORMATION UNDER THE TERMS OF THE PROTECTIVE ORDER; AND (C) I WILL NOT USE SUCH ATTORNEYS ONLY INFORMATION, OR THE CONTENTS THEREOF EXCEPT IN CONNECTION WITH THIS LITIGATION.

Dated this _____ day of _____, 20__.

Print Name: