

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,

Plaintiffs, and as to Ms.
Kim, counterclaim
defendant,

v.

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

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

NO. 2:11-cv-00214-RSM

**DEFENDANTS' MOTION TO SEAL
MOTION TO STRIKE CLASS
ALLEGATIONS AND DECLARATIONS
OF JOHN MACALUSO AND NANCY
AXILROD**

**NOTE ON MOTION CALENDAR:
APRIL 22, 2011**

Pursuant to Local Rule 5(g), defendants Coach, Inc. and Coach Services, Inc. (collectively, "Defendants" or "Coach Companies") hereby respectfully make this request to have the following documents, filed herewith, filed under seal:

1. Defendants' Motion to Strike Class Allegations (the "Motion to Strike");
2. Declaration of John Macaluso (and attached exhibits) in Support of Defendants' Motion to Strike (the "Macaluso Declaration");
3. Declaration of Nancy Axilrod in Support of Defendants' Motion to Strike (the "Axilrod Declaration").

DEFENDANTS' MOTION TO SEAL
MOTION TO STRIKE CLASS
ALLEGATIONS AND DECLARATIONS – 1
NO. 2:11-cv-00214-RSM

DLA Piper LLP (US)
701 Fifth Avenue, Suite 7000
Seattle, WA 98104-7044 • Tel: 206.839.4800

1 The Macaluso and Axilrod Declarations are filed in connection with the Court’s consideration
2 of Defendants’ Motion to Strike the class allegations from the Second Amended Complaint
3 filed by plaintiff Gina Kim (Dkt. No. 20-1). *See* Declaration of Patrick Eagan in Support of
4 Coach Companies’ Motion to Seal Motion to Strike Class Allegations and Declarations of John
5 Macaluso and Nancy Axilrod (“Eagan Dec.”) ¶ 2.

6 There are sufficient and compelling reasons to permit the filing of the Motion to Strike
7 and the Macaluso and Axilrod Declarations under seal. Local Rule 5(g)(1) provides for filing
8 under seal where “the public’s right of access is outweighed by the interests of the public and
9 the parties in protecting files, records, or other documents from public review.” Sealing
10 documents in the Court record is appropriate where the documents contain confidential or
11 sensitive business information. *See Omax Corp. v. Flow Intern. Corp.*, No. C04-2334RSL,
12 2007 WL 3232540, *1 (W.D. Wash., Oct. 31, 2007) (sealing certain documents relating to
13 businesses’ “long-term strategic plans, proprietary software, control methodology and cutting
14 models, and/or customer and competitor research,” where “disclosure . . . would put [parties] at
15 a competitive disadvantage”).

16 The Motion to Strike and Macaluso and Axilrod Declarations contain highly
17 confidential business information concerning how Coach Companies identify counterfeit
18 products, the public disclosure of which would enable counterfeiters to evade detection and
19 which would harm Coach Companies’ business. *See* Eagan Dec. ¶¶ 3-5; Macaluso Dec. ¶ 1;
20 Axilrod Dec. ¶ 1. Online sales of counterfeit products are a major problem for intellectual
21 property holders such as Coach. Eagan Dec. ¶¶ 3-5; Macaluso Dec. ¶ 3; Axilrod Dec. ¶ 3.
22 Online sales of counterfeit products also injure the general public, who believe that they are
23 obtaining high-quality merchandise and instead receive poor-quality knockoffs. The Motion to
24 Strike and the Macaluso and Axilrod Declarations contain information concerning Coach
25 Companies’ efforts to monitor and enforce Coach Companies’ intellectual property rights on
26 the internet. Eagan Dec. ¶¶ 3-5. Coach Companies do not seek to file their entire Motion to

1 Strike and the Macaluso and Axilrod Declarations under seal. Rather, as soon as possible after
2 consulting with opposing counsel regarding the acceptability of proposed redactions, Coach
3 Companies will file redacted versions of the Motion to Strike and Macaluso and Axilrod
4 Declarations, which documents will be accessible to the public. Accordingly, Coach
5 Companies respectfully request that the Court grant the motion and permit Coach Companies to
6 file the Motion to Strike and Macaluso and Axilrod Declarations under seal.

7
8 Dated this 14th day of April, 2011.

9 DLA Piper LLP (US)

10
11 By: *s/ Stelman Keehnel*

12 Stelman Keehnel, WSBA No. 9309
13 R. Omar Riojas, WSBA No. 35400
14 Patrick Eagan, WSBA No. 42679
15 DLA Piper LLP (US)
16 701 Fifth Avenue, Suite 7000
17 Seattle, WA 98104
18 Tel: 206.839.4800
19 Fax: 206.839.4801
20 E-mail: stellman.keehnel@dlapiper.com
21 E-mail: omar.riojas@dlapiper.com
22 E-mail: patrick.eagan@dlapiper.com
23 Attorneys for defendant and counterclaim plaintiff
24 Coach, Inc., and defendant Coach Services, Inc.
25
26

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on April 14, 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 14th day of April, 2011.

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

9 WEST223350251.1

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26