

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

DEREK ANDREW, INC., a Washington)	
corporation,)	Civ. Action No. _____
)	
Plaintiff,)	COMPLAINT FOR COPYRIGHT
)	INFRINGEMENT, TRADEMARK
v.)	INFRINGEMENT, AND
)	VIOLATIONS OF THE LANHAM
JOBBER1 WHOLESALE CLOTHING, INC.,)	ACT
d/b/a/ HUDSON WHOLESALE)	
)	JURY TRIAL DEMAND
Defendants.)	
)	
)	
)	
_____)	

Derek Andrew, Inc., (“Derek Andrew” or “Plaintiff”), 901 104th Avenue N.E., Suite 200, Bellevue, WA 98004, by and through its attorneys and for its complaint against Defendant Jobber1 Wholesale Clothing, Inc., d/b/a Hudson Wholesalers, 326 Hudson Street, Hackensack, NJ 07601, on personal knowledge as to its own activities, and on information and belief as to the activities of others, states as follows:

THE PARTIES

1. Plaintiff Derek Andrew, Inc. is a Washington corporation having its principal place of business in Bellevue, Washington.
2. On information and belief, Defendant Jobber1 Wholesale Clothing, Inc., d/b/a Hudson Wholesale (hereinafter “Jobber1” or “Defendant”), is a New Jersey corporation with its principal place of business at 326 Hudson St. Hackensack NJ 07601.

NATURE OF THE ACTION

3. Derek Andrew is a leading manufacturer of clothing, clothing accessories, and related products. One of its most prestigious and successful brands, “Twisted Heart”, is used in connection with high-end women’s sportswear – including t-shirts, sweats, camisoles, and other garments -- sold to department stores such as Neiman Marcus, Saks Fifth Avenue, and Nordstrom. The “Twisted Heart” brand is recognized by its TWISTED HEART and HEART DESIGN trademarks, and its unique TWISTED HEART hangtag, an expensive, laser-cut, four-color tag with metallic accents that hangs from each garment with a velvet ribbon. These trademarks and copyrighted design have been used to promote the sale of Derek Andrew’s products throughout the United States and elsewhere.

4. The hangtag and logo in question were the subject of a copyright and trademark infringement litigation against Poof Apparel in the United States District Court for the Western District of Washington (the “Washington Litigation”), that resulted in a judgment against Poof Apparel on December 23, 2006 (the “Poof Judgment”). The Court found that Poof Apparel, a manufacturer of inexpensive women’s sportswear sold to retail and wholesale customers throughout the United States including Defendant, had infringed on Derek Andrew’s trademarks and copyright by copying the TWISTED HEART hangtag and associated HEART DESIGN logo, printing a substantially identical hangtag (with the words “Twisted Heart” replaced with “Poof!”), and affixing it to numerous garments for sale throughout the United States. In that action, Derek Andrew was awarded a permanent injunction, statutory damages under §504 of the Copyright Act, Poof Apparel’s infringing profits under the Lanham Act, and attorneys’ fees and costs. *Derek Andrew v. Poof Apparel*, 2006 U.S. Dist LEXIS 92710 (W.D. WA, Dec. 22, 2006). The Washington Litigation is currently on appeal to the Ninth Circuit Court of Appeals.

5. In connection with the Washington Litigation, Derek Andrew issued a third party subpoena to Jobber1 for documents relating to its sales of Poof garments that bore the infringing hangtag (the “Subpoena”). Jobber1 produced documents in that litigation. This action stems from the continuing sale of garments bearing the Poof! infringing hangtag by Jobber1 long after it was aware of Derek Andrew’s rights in the marks.

6. By this Complaint, Derek Andrew seeks injunctive relief, trebled damages and attorneys’ fees against Defendant for its willful and wrongful: copyright infringement under 17 U.S.C. § 101, *et seq.*; false designation of origin, unfair competition and unfair business practices arising under the Lanham Act, 15 U.S.C. § 1051 *et seq.*; common law trademark infringement and unfair competition; and violation of New Jersey’s unfair competition statute.

JURISDICTION AND VENUE

7. This action arises under the Lanham Act, 15 U.S.C. §1051, *et seq.*, the Copyright Act of 1976, as amended, 17 U.S.C. §101 *et seq.*, and the laws of the State of New Jersey.

8. This Court has jurisdiction over this action pursuant to 15 U.S.C. § 1121 and 28 U.S.C. § 1338(a) because it arises under the Copyright and Trademark Laws of the United States. This action also asserts pendent claims under the common law of New Jersey, which claims are so related to the copyright and trademark claims that they form part of the same case and controversy, and hence fall within the scope of this Court’s supplemental jurisdiction under 28 U.S.C. §§ 1338(b) and 1367.

9. Venue in this action lies in the District of New Jersey pursuant to 28 U.S.C. §§ 1391(b) & (c) and 1400(a).

10. The Court has personal jurisdiction over Defendant because its principal place of business is in New Jersey, and the causes of action arise out of tortious acts substantially committed in New Jersey.

PLAINTIFF AND ITS BUSINESS

11. Derek Andrew is a manufacturer and retailer of high-end women's sportswear, including under its popular "Twisted Heart" brand.

12. Derek Andrew sells its Twisted Heart brand products in association with its TWISTED HEART and HEART DESIGN trademarks, which have been used in commerce since the 2003 launch of the brand. These trademarks have been used to promote the sale of Derek Andrew's products throughout the United States and elsewhere.

13. In addition to developing the clothing line, Derek Andrew has invested substantial time and money promoting and advertising the brand and popularizing its trademarks, through which efforts the marks have become well-known, and Derek Andrew's products have become associated with the marks.

14. Derek Andrew designed, used, and continues to use a label for its products that bears the TWISTED HEART and HEART DESIGN marks. That label has been used and is in current use in association with the marketing and sales of clothing throughout the United States and elsewhere. A true and correct copy of that label is attached hereto as Exhibit A.

15. The TWISTED HEART hangtag referred to in the previous paragraph, its configuration, and the original artwork embodied in the label have been consistently used in commerce since 2003 and is protected by United States Copyright Registration No. VA 1-327-899. The HEART DESIGN logo, which also appears on the hangtag, is the subject of United States Trademark No. 3,202,995 for the goods listed in the registration, namely: shirts,

camisoles, knit tops, tank tops, t-shirts, sweatshirts, pants, sweat pants, shorts, skirts, dresses, vests, sweaters, jackets, coats, hats, caps, shoes, and sandals. Attached hereto as Exhibit B are true and correct copies of the registrations.

16. Through Derek Andrew's promotional efforts, a substantial amount of good will has come to be associated with its products and its associated trademarks.

DEFENDANT AND ITS INFRINGING ACTIVITIES

17. On information and belief, Jobber1 is involved in the sale and marketing of clothing to retailers in this judicial district and throughout the United States. On information and belief, Jobber1 sells clothing through a website having an address of jobber1.stores.yahoo.net.

18. In the Washington Litigation, Derek Andrew learned that Defendant was a customer of Poof, and on information and belief had sold some Poof garments bearing the infringing hangtag. On January 26, 2006, Derek Andrew by subpoena and letter informed Defendant of Derek Andrew's rights in the marks, and served the Subpoena demanding production of certain documents relating to Defendant's sales of Poof garments. Attached hereto as Exhibit C is a true and correct copy of the Subpoena and letter.

19. On February 8, 2006, Defendant produced documents to Derek Andrew in response to the Subpoena. The documents included invoices and purchase orders for 19 different styles of clothing purchased by Jobber1 from Poof Apparel from January 1, 2004 to February 8, 2006 and were represented to reflect every order of Poof Apparel merchandise during that time. Attached hereto as Exhibit D is a true and correct copy of a letter from Jobber1 erroneously dated February 8, 2005.

20. Jobber1 is currently selling products manufactured by Poof Apparel and bearing the label that was determined in the Washington Litigation to improperly infringe on Derek Andrew's copyright and trademark in its HEART DESIGN mark and TWISTED HEART label. These sales are occurring in this judicial district and, on information and belief, elsewhere throughout the United States. A true and correct copy of the infringing label is attached hereto as Exhibit E.

21. On July 6, 2007 an employee of Derek Andrew became aware that Defendant was making available for sale on its website garments manufactured by Poof Apparel which bore the hangtag found to be infringing in the Washington Litigation. A Derek Andrew employee purchased several of this item, a drawstring capri pant, style No. 33477. On information and belief, those garments were shipped from Defendant's warehouse in this judicial District.

22. Style No. 33447 is not one of the styles previously acknowledged by Defendant, in response to the earlier Subpoena, to have been purchased from Poof between the dates of January 1, 2004 and February 8, 2006. On information and belief, these garments were first offered for sale by Defendant after Defendant was on actual notice of, and with direct knowledge pertaining to, Derek Andrew's rights in connection with the hangtag.

23. Defendant also has constructive knowledge of Derek Andrew's ownership of the copyrighted works pursuant to 17 U.S.C. §205(c), and of the trademark pursuant to 15 U.S.C. §1072. Having actual and constructive knowledge of Derek Andrew's ownership of the marks and copyrighted works, defendant's infringing use of the TWISTED HEART hangtag and HEART DESIGN mark has been willful and deliberate.

24. On information and belief, unless enjoined by this Court, defendant will continue to distribute the infringing garments.

COUNT I – COPYRIGHT INFRINGEMENT

25. Derek Andrew incorporates by reference paragraphs 1-24 of this Complaint by reference as if fully set forth herein.

26. The hangtag attached to the Poof Apparel garments for sale by Jobber1 has been conclusively determined to be infringing in the Washington litigation.

27. By distributing products incorporating Derek Andrew's TWISTED HEART label with knowledge of Derek Andrew's rights to that label, Jobber1 has willfully infringed Derek Andrew's copyright in the label in violation of 17 U.S.C. §501.

28. Unless enjoined by this Court, defendant will continue to distribute the infringing items. Derek Andrew has been and will continue to be harmed by Defendant's actions unless Defendant is enjoined from continuing its infringement.

29. Derek Andrew is entitled to collect actual and/or statutory damages resulting from Defendant's willful use of its label and other remedies provided for by law.

COUNT II – VIOLATION OF THE LANHAM ACT

30. Derek Andrew incorporates by reference paragraphs 1-24 of this Complaint by reference as if fully set forth herein.

31. Defendant's actions described above constitute an infringing use in interstate commerce of a colorable imitation of the HEART DESIGN mark, and defendant's sale, offering for sale, distribution, and advertising of products bearing the infringing mark is intended to cause confusion, mistake or to deceive consumers as to the source of origin of the products. Defendant's actions are likely to cause members of the public who see the unauthorized use of the mark to believe that the products sold by Defendant have an affiliation, connection,

association, origin, sponsorship or approval of Derek Andrew or vice versa. Defendant's actions constitute a false designation of origin in violation of the Lanham Act, 15 U.S.C. § 1125(a)(1).

32. Derek Andrew has been and will continue to be harmed by Defendant's actions unless Defendant is permanently enjoined from continuing their sale of clothing using Derek Andrew's HEART DESIGN mark at the conclusion of this action.

33. Derek Andrew is entitled to recover all of (1) Defendant's profits, (2) damages sustained by Derek Andrew, and (3) the costs of this action that result from Defendant's willful use of Derek Andrew's HEART DESIGN mark, as well as trebling of those damages and an award of reasonable attorneys' fees pursuant to 15 U.S.C. § 1117(a).

COUNT III – TRADEMARK INFRINGEMENT

34. Derek Andrew incorporates by reference paragraphs 1-24 of this Complaint by reference as if fully set forth herein.

35. Defendant's unauthorized use of Derek Andrew's HEART DESIGN mark infringes Derek Andrew's rights in its mark.

36. Derek Andrew has been and will continue to be harmed by Defendant's actions unless Defendant is permanently enjoined from continuing its sale of clothing using Derek Andrew's HEART DESIGN mark.

37. Derek Andrew is entitled to damages resulting from Defendant's willful use of its HEART DESIGN mark and other remedies provided for by law.

COUNT IV – VIOLATION OF NEW JERSEY'S UNFAIR COMPETITION STATUTE

38. Derek Andrew incorporates by reference paragraphs 1-24 of this Complaint as if fully set forth herein

39. Defendant's use of the HEART DESIGN mark and the reputation and goodwill associated with the mark, described above, constitutes an unfair and deceptive act or practice and an unfair method of competition in the conduct of trade or commerce in violation of N.J.S.A. 56:4-1.

40. As a direct and proximate result of the foregoing acts, practices, and conduct of defendants, Derek Andrew has been and is likely to be substantially injured in its business, including its reputation, resulting in lost revenue and profits, and diminished goodwill and reputation.

41. Derek Andrew is entitled to injunctive relief and treble damages pursuant to N.J.S.A. 56:4-2.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Derek Andrew, Inc. prays that:

A. Defendant, its agents, servants, employees and attorneys and all other persons in active concert or participation with them, be enjoined and restrained from importing, selling, offering for sale, distributing, advertising or promoting any goods by use of the infringing hangtag as illustrated by Exhibit E to the Complaint or any words or symbols that resemble Derek Andrew's HEART DESIGN mark as to be likely to cause confusion, mistake, or deception on or in connection with any product that is not authorized by or for Derek Andrew, including without limitation any product that uses Derek Andrew's HEART DESIGN mark as described in this Complaint and as illustrated by Exhibit A to the Complaint or any similarly confusing approximation of any such mark; or continuing to perform in any manner whatsoever any of the other acts complained of in this Complaint;

B. Defendant be required to pay to Derek Andrew actual and/or statutory damages for Defendant's willful copyright infringement in an amount to be determined at trial;

C. Defendant be required to account for and pay to Derek Andrew all gains, profits, and advantages wrongfully derived by Defendant through its distribution and sale of the infringing items;

D. This Court find that Defendants had knowledge of Derek Andrew's ownership of the TWISTED HEART copyrighted work and that therefore, defendant's actions constitute willful copyright infringement;

E. Defendant be required to pay Derek Andrew three times defendant's profits or Derek Andrew's damages, whichever is greater, pursuant to 15 U.S.C. § 1117 and three times Derek Andrew's damages, pursuant to N.J.S.A. 56:4-2;

F. Defendant be required to pay Derek Andrew statutory damages for the infringement of Derek Andrew's copyright;

G. Defendant be required to deliver up to be destroyed all infringing hangtags still attached to garments in its warehouse or otherwise in the possession of defendant;

H. Defendant be required to provide documents sufficient to establish when each item bearing the infringing hangtag and made available for sale by defendant between December 23, 2006 and the present was ordered from Poof Apparel and delivered to defendant;

I. Defendant be required to pay Derek Andrew's reasonable attorneys' fees, expert witness fees, and disbursements incurred herein, including costs;

- J. Derek Andrew recover prejudgment interest from Defendant;
- K. Derek Andrew have such other and further relief as this Court deems just and equitable.

JURY DEMAND

Plaintiff Derek Andrew demands a jury for all issues triable to a jury.

DATED this 6th day of August, 2007.

Davis Wright Tremaine LLP

By  _____

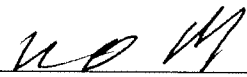
Robert D. Balin (RDB 5847)
Lacy H. Koonce, III
Elisa L. Miller
1633 Broadway
New York, NY 10019
Tel: (212) 489-8230
Fax: (212) 489-8340

Attorneys for Plaintiff Derek Andrew, Inc.

CERTIFICATION

In accordance with Civ. Rule 11.2 of the Local Rules of the U.S. District Court for the District of New Jersey, I hereby certify that the matter in controversy is not the subject of an action pending in any other Court, nor is it the subject of any arbitration or administrative proceeding.

DATED this 6th day of August, 2007.

By: 
Robert D. Balin
Davis Wright Tremaine LLP
1633 Broadway
New York, New York, 10019
Tel: (212) 489-8230
Fax: (212) 489-8340

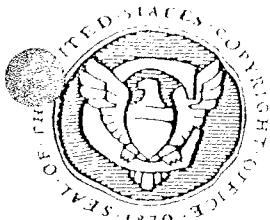
Attorneys for Plaintiff Derek Andrew, Inc.

EXHIBIT A



EXHIBIT B

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Form VA
For a Work of the Visual Arts

VA 1-301-899



EFFECTIVE DATE OF REGISTRATION

June 15 2005
Month Day Year

STATE CONTINUATION SHEET

1

Title of This Work ▼

Twisted Heart Hang Tag

NATURE OF THIS WORK ▼ See instructions

Hang Tag

Previous or Alternative Titles ▼

Publication as a Contribution If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼ Number ▼ Issue Date ▼ On Pages ▼

2

NAME OF AUTHOR ▼

a Cindy Molt

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

1960

Was this contribution to the work a "work made for hire"?

Yes
 No

Author's Nationality or Domicile
Name of Country

OR Citizen of USA
Domiciled in _____

Was This Author's Contribution to the Work

Anonymous? Yes No
Pseudonymous? Yes No

If the answer to either of these questions is "Yes" see detailed instructions

Nature of Authorship Check appropriate box(es) See instructions

- 3-Dimensional sculpture
- 2-Dimensional artwork
- Reproduction of work of art
- Map
- Photograph
- Jewelry design
- Technical drawing
- Text
- Architectural work

Name of Author ▼

b

Dates of Birth and Death
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?

Yes
 No

Author's Nationality or Domicile
Name of Country

OR Citizen of _____
Domiciled in _____

Was This Author's Contribution to the Work

Anonymous? Yes No
Pseudonymous? Yes No

If the answer to either of these questions is "Yes" see detailed instructions

Nature of Authorship Check appropriate box(es) See instructions

- 3-Dimensional sculpture
- 2-Dimensional artwork
- Reproduction of work of art
- Map
- Photograph
- Jewelry design
- Technical drawing
- Text
- Architectural work

3

Year in Which Creation of This Work Was Completed

2003

This information must be given Year in all cases

b

Date and Nation of First Publication of This Particular Work

Complete this information Month AUGUST Day 11 Year 2003
OR if this work has been published USA

Nation

4

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2 ▼

Derek Andrew, Inc
901 104th Avenue NE, Bellevue, WA 98004

Transfer If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2 give a brief statement of how the claimant(s) obtained ownership of the copyright ▼

Assignment

COPYRIGHT OFFICE RECEIVED ONLY

APPLICATION RECEIVED
JUN 15 2005

ONE DEPOSIT RECEIVED

TWO DEPOSITS RECEIVED

JUN 15 2005

FUNDS RECEIVED

MORE ON BACK ▶

• Complete all applicable spaces (numbers 5-9) on the reverse side of this page.
• See detailed instructions. • Sign the form at line 8.

00001341000000

EXAMINED BY _____ FOR M.V.A.

CHECKED BY _____

CORRESPONDENCE FOR COPYRIGHT OFFICE USE ONLY

Yes _____

DO NOT WRITE ABOVE THIS LINE IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

Yes No If your answer is "Yes" why is another registration being sought? (Check appropriate box) ▼

- a This is the first published edition of a work previously registered in unpublished form
- b This is the first application submitted by this author as copyright claimant
- c This is a changed version of the work, as shown by space 6 on this application

If your answer is "Yes" give Previous Registration Number ▼ Year of Registration ▼

5

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation

a Preexisting Material Identify any preexisting work or works that this work is based on or incorporates ▼

a 6 See instructions below completing this space

b Material Added to This Work Give a brief general statement of the material that has been added to this work and in which copyright is claimed ▼

b

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account

Name ▼ Account Number ▼

7

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/ZIP ▼

Catherine Maxson, Davis Wright Tremaine LLP
1501 Fourth Avenue Suite 2600, Seattle, WA 98101

a
b

Area code and daytime telephone number (206) 622-3150

Fax number (206) 628-7699

Email catherine.maxson@dwt.com

CERTIFICATION I, the undersigned, hereby certify that I am the

check only one →

- author
- other copyright claimant
- owner of exclusive right(s)
- authorized agent of Derek Andrew, Inc

Name of author or other copyright claimant or owner of exclusive right(s) ▼

8

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge

Typed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date

Catherine Maxson

Date 06/10/05

Handwritten signature (X) ▼

X *Catherine Maxson*

Certificate will be mailed in window envelope to this address

Name ▼ Catherine Maxson, Davis Wright Tremaine LLP

Number/Street/Apt ▼ 1501 Fourth Avenue Suite 2600

City/State/ZIP ▼ Seattle, WA 98101

SYMBOLS:

- Complete all necessary spaces
- Sign your application in space 8

SEND ALL ELEMENTS IN THE SAME ENVELOPE

- 1 Application form
- 2 Nonreturnable fee (a check or money order payable to Registrar of Copyrights)
- 3 Deposit material

MAIL TO:

Library of Congress
Copyright Office
101 Independence Avenue, SE
Washington, D.C. 20540-6000

9

17 USC § 506(a) Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 407 or in any written statement filed in connection with the application shall be liable not more than \$2,500

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 3,202,995

Registered Jan. 23, 2007

**TRADEMARK
PRINCIPAL REGISTER**



DEREK ANDREW INC. (WASHINGTON CORPORATION)
901 - 104TH AVENUE NE, SUITE 200
BELLEVUE, WA 98004

FOR: SHIRTS, CAMISOLES, KNIT TOPS, TANK TOPS, T-SHIRTS, SWEATSHIRTS, PANTS, SWEAT PANTS, SHORTS, SKIRTS, DRESSES, VESTS, SWEA-

TERS, JACKETS, COATS, HATS, CAPS, SHOES, AND SANDALS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 8-11-2003; IN COMMERCE 8-11-2003.

SN 78-977,714, FILED 4-6-2005.

ELLEN PERKINS, EXAMINING ATTORNEY

EXHIBIT C

LAWYERS

WORKING COPY

Davis Wright Tremaine LLP

ANCHORAGE BILLYEIGH LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHERBORNE WASHINGTON, DC

BRIAN G. BODINE
DIRECT (206) 628-7623
brianbodine@dwt.com

2600 CENTURY SQUARE
1501 FOURTH AVENUE
SEATTLE, WA 98101-1688

TEL (206) 628-3150
FAX (206) 628-7699
www.dwt.com

January 19, 2006

VIA FACSIMILE AND FIRST CLASS MAIL

Jobber1 Wholesale Clothing Inc.
326 Hudson Street
Hackensack, NJ 07602

Re: *Derek Andrew, Inc. v. Poof Apparel Corp, The Wet Seal, Inc. and Wet Seal GC, Inc.*
United States District Court for the Western District of Washington
Cause No. C05-1136Z
Our Reference No. 66284-64

Dear Records Custodian:

This office represents plaintiff Derek Andrew, Inc. in the above-referenced litigation.

It appears from our investigation that Jobber1 Wholesale Clothing Inc. is likely to have documents relevant to this litigation. Specifically, Jobber1 Wholesale Clothing Inc. has sold products that include the hangtag at issue in the litigation. See Complaint (copy attached). Enclosed you will find a courtesy copy of a subpoena directed to Jobber1 Wholesale Clothing Inc., requiring production of documents relating to the purchase and sale of garments sold by the defendant, Poof Apparel Corp. We will have the Subpoena served on Jobber1 Wholesale Clothing Inc. unless you indicate that you will waive service.

We recognize that some documents responsive to the attached subpoena may contain confidential information. The confidentiality of any such information will be maintained by the Protective Order governing this litigation. A copy of that order is attached.

Please confirm that you will produce the requested documents at the time and place specified in the subpoena. If you prefer to copy the documents and have them delivered directly to me at the Seattle offices of Davis Wright Tremaine LLP, we will of course reimburse you for the reasonable cost of copying and delivery.

Jobber1 Wholesale Clothing Inc.
January 19, 2006
Page 2



Please call me if you need additional information.

Best regards,

Davis Wright Tremaine LLP


Brian G. Bodine

BGB:sc

cc: Mark F. Kluger, Esq.
Mandelbaum Salsburg Gold Lazris Discenza & Steinberg
David H. Deits, Esq.
Shannon M. Jost, Esq. (w/ subpoena only)

Enclosures: Subpoena to Jobber1
Complaint
Protective Order

AO 88 (Rev. 1/94) Subpoena in a Civil Case

WORKING COPY

Issued by the
UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

DEREK ANDREW, INC., a Washington corporation,
Plaintiff,

SUBPOENA IN A CIVIL CASE

v.

POOF APPAREL CORPORATION, a New York corporation,
THE WET SEAL, INC., a Delaware corporation, and
WET SEAL GC, INC., a Virginia corporation,
Defendants.

CASE NUMBER. ¹ C05-1136Z
IN THE UNITED STATES DISTRICT
COURT FOR THE WESTERN DISTRICT
OF WASHINGTON AT SEATTLE

TO: Jobberl Wholesale Clothing Inc.
326 Hudson Street
Hackensack, NJ 07602

YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
---------------------	---------------

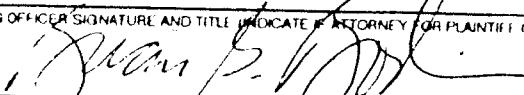
YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects): SEE EXHIBIT A ATTACHED HERETO FOR TOPICS

PLACE Mandelbaum Salsburg Gold Lazris Discenza & Steinberg 155 Prospect Avenue, West Orange, NJ 07052	DATE AND TIME 9:00 am Feb. 9, 2006
---	---------------------------------------

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
----------	---------------

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)  Attorney for Plaintiff	DATE January 19, 2006
--	--------------------------

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER Brian G. Bodine Davis Wright Tremaine LLP, 2600 Century Square, 1501 Fourth Avenue, Seattle, WA 98101 206-628-7623

(See Rule 45 Federal Rules of Civil Procedure, Parts C & D on Reverse)

¹ If action is pending in district other than district of issuance, state district under case number

AO 88 (Rev. 1/94) Subpoena in a Civil Case

PROOF OF SERVICE

DATE PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in

person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

SCHEDULE A
Subpoena to Jobber1 Wholesale Clothing Inc.

Definitions: The following definitions apply to this subpoena:

A. The term "document" is used in the broadest possible sense as interpreted under the Federal Rules of Civil Procedure and includes, without limitation, all originals and copies, duplicates, drafts, and recordings of any written, graphic or otherwise recorded matter, however produced or reproduced, and all "writings" as defined in Section 1001 of the Federal Rules of Evidence, including, without limitation, the following: abstracts, advertisements, agendas, agreements, analyses of any kind, articles, blueprints, brochures, charts, compilations, computer runs and printouts, letters, reports (including reports or notes of telephone or other conversations), memoranda, brochures, books, ledgers, drawings, photographs, specifications, drafts, e-mail, voice-mail, catalogs, invoices, bills of materials, purchase orders, proposals, contracts, and other writings of whatsoever nature, whether on paper or magnetic tape or other non-paper information storage means, including film and computer memory devices; and where any such items contain any marking not appearing on the original or are altered from the original, then such items shall be considered to be separate original documents.

B. The term "thing" as used herein refers to any tangible object other than a document, and includes objects of every kind and nature such as, but not limited to, models, samples, prototypes and commercial units, in each case, whether complete or not, or functional or not.

C. The terms "concerning," "referring," "relating," or "describing" include referring to, alluding to, responding to, relating to, connected with, commenting upon, in respect of, about, regarding, discussing, showing, describing, reflecting, analyzing, touching upon, constituting, and being.

D. The terms "Derek Andrew" and "Plaintiff" mean and refer to Plaintiff Derek Andrew, Inc., and to all of its agents, nominees, predecessors, successors and assignees, employees, representatives, consultants, special assistants, partners, joint ventures, contractors, and attorneys, and any persons who at any time acted by, through, or on behalf of any of it.

E. The terms "Poof Apparel," "Poof," and "Defendant Poof," mean and refer to Defendant Poof Apparel Corporation, and to all of its agencies, divisions, departments, nominees, affiliated entities and units, including subsidiaries, instrumentalities, subdivisions, predecessors, successors and assignees of any of them, administrators, officers, directors, employees, agents, representatives, consultants, special assistants, partners, joint ventures, contractors, and attorneys of any of them; and any persons who at any time acted by, through, or on behalf of any of them.

F. The terms "The Wet Seal, Inc.," "Wet Seal GC, Inc.," and "the Wet Seal Defendants" mean and refer to Defendants The Wet Seal, Inc. and/or Wet Seal GC, Inc., and to all of their agencies, divisions, departments, nominees, affiliated entities and units, including subsidiaries, instrumentalities, subdivisions, predecessors, successors and assignees of any of them, administrators, officers, directors, employees, agents, representatives, consultants, special assistants, partners, joint ventures, contractors, and attorneys of any of them; and any persons who at any time acted by, through, or on behalf of any of them. The term "The Wet Seal

Defendants” is specifically intended to encompass defendants The Wet Seal, Inc., and Wet Seal GC, Inc., both individually and collectively.

G. The term “Boscov’s” means and refers to either Boscov’s Investment Company or Boscov’s Department Store, L.L.C., and to any agencies, divisions, departments, nominees, affiliated entities and units, including subsidiaries, instrumentalities, subdivisions, predecessors, successors and assignees of either of them, administrators, officers, directors, employees, agents, representatives, consultants, special assistants, partners, joint ventures, contractors, and attorneys of any of them; and any persons who at any time acted by, through, or on behalf of any of them.

H. The terms “Group USA” and “Group USA, Inc.” mean and refer to Group USA, Inc., and to all of its agencies, divisions, departments, nominees, affiliated entities and units, including subsidiaries, instrumentalities, subdivisions, predecessors, successors and assignees of any of them, administrators, officers, directors, employees, agents, representatives, consultants, special assistants, partners, joint ventures, contractors, and attorneys of any of them; and any persons who at any time acted by, through, or on behalf of any of them.

I. The terms “Jobber1”, “Jobber1 Wholesale Clothing Inc.”, “you”, and/or “your” mean and refer to Jobber1 Wholesale Clothing, Inc., and to all of its agencies, divisions, departments, nominees, affiliated entities and units, including subsidiaries, instrumentalities, subdivisions, predecessors, successors and assignees of any of them, administrators, officers, directors, employees, agents, representatives, consultants, special assistants, partners, joint ventures, contractors, and attorneys of any of them; and any persons who at any time acted by, through, or on behalf of any of them.

DOCUMENTS REQUESTED

1. All documents referring to, relating to, discussing, or evidencing any contract or agreement between you and Poof Apparel, including without limitation any contract or agreement to purchase garments from Poof Apparel from January 1, 2004 to the present.
2. All documents referring to, relating to, concerning, evidencing, or comprising any negotiations between you and Poof Apparel relating to the sale of apparel from January 1, 2004 to the present.
3. All documents referring to, relating to, discussing, or evidencing any purchase of apparel by you or on your behalf from Poof Apparel from January 1, 2004 to the present.
4. All documents referring to, relating to, concerning, evidencing, or comprising communications between you and Poof Apparel from January 1, 2004 to the present.
5. Documents sufficient to determine the quantity, style, or product number (or other identifying indicia), the location of the sale, sales price, cost, and the date of any sale of Poof products made by you since January 1, 2004 to the present.
6. All documents referring to, relating to, concerning, or evidencing sale by of apparel having a hangtag similar to or identical to the hangtag illustrated in Exhibit I hereto.
7. All documents referring to, relating to, concerning, or evidencing the purchase by you or

on your behalf of any apparel having a hangtag similar to or identical to the hangtag illustrated in Exhibit 1 hereto.

8. All documents referring to, relating to, concerning, or evidencing when you first learned of Derek Andrew's allegations that sale of products using the hangtag similar to or identical to the hangtag illustrated in Exhibit 1 hereto violated Derek Andrew's rights.
9. All documents referring to, relating to, concerning, or evidencing that any one might believe that any products using the hangtag similar to or identical to the hangtag illustrated in Exhibit 1 originate with or are otherwise authorized, sponsored, licensed or associated with Derek Andrew or are associated with the TWISTED HEART product line of clothing.

AO 88 (11/91) Subpoena In a Civil Case

PROOF OF SERVICE



WORKING COPY

SERVED	DATE: 01/26/2006 01:43PM	PLACE: 328 HUDSON STREET HACKENSACK NJ 07601
SERVED ON: ACCEPTED BY:	JOBBER 1 WHOLESALE CLOTHING INC. BRETT KELLY	MANNER OF SERVICE: RULE 45, FEDERAL CIVIL RULE SERVING: SUBPOENA IN A CIVIL CASE, LETTER, SERVICE A, ATTACHMENTS
SERVED BY	MICHAEL COMPOFELICE	TITLE PROCESS SERVER

DECLARATION OF SERVER

Description of Person Receiving Document(s):

SEX: F AGE: 36-50 HEIGHT: 5'9"-6'0" WEIGHT: 161-200 LBS. SKIN: WHITE HAIR: BROWN OTHER:

[X] To the best of my knowledge, said person was not engaged in the U.S. Military at the time of service.

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in this Certification of Service is true and correct.

SIGNATURE OF MICHAEL COMPOFELICE
GUARANTEED SUBPOENA SERVICE, INC.
2009 MORRIS AVENUE
UNION, NJ 07083

R.R.

SUZANNE BUTLER
NOTARY PUBLIC OF NEW JERSEY
My Commission Exp. July 15, 2007

EXECUTED ON: 01/26/2006 01:43PM

ATTORNEY: BRIAN C. BODINE, ESQ.
PLAINTIFF: DEREK ANDREW, INC.
DEFENDANT: POOF APPAREL CORPORATION, ET AL
VENUE: DISTRICT WASHINGTON
DOCKET: C 05 1138Z

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance,
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person,

except that, subject to the provisions of clause (c)(3)(B)(ii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unratified expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assure that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA

- (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.
- (2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim

SEB

WORKING COPY

United States District Court
District of New Jersey

DEREK ANDREW, Inc.,

Plaintiff

v.

POOF APPAREL CORPORATION ET AL.

Defendant

)
) Index No.: C05-1136Z
)
)

) AFFIDAVIT OF SERVICE
)
)
)
)
)
)

STATE OF NEW JERSEY COUNTY OF PASSAIC ss:

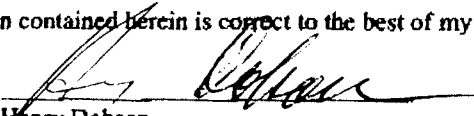
I, Henry Dobson, being duly sworn deposes and says deponent is not a party to this action and is over the age of eighteen years and resides in the state of NEW JERSEY. That on JANUARY 24, 2006 at 12:41 PM at 326 HUDSON AVENUE, HACKENSACK, NJ 07602, deponent served the within ATTORNEYS COVER LETTER, SUBPOENA IN A CIVIL CASE (RETURN DATE 2/9/06), SCHEDULE A, EXHIBITS on JOBBERL WHOLESALE CLOTHING INC. therein named.

CORPORATION: a corporation by delivering therat a true copy of each to BRETT KELLY personally, deponent knew said corporation so served to be the corporation described in legal papers and knew said individual to be the VICE PRESIDENT thereof.

DESCRIPTION: Deponent further states that the description of the person actually served is as follows:
Gender: Male Race/Skin: White Hair: Brown Glasses: No Approx. Age: 45 Height: 6'3" Weight: 190

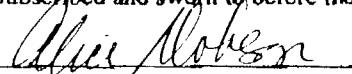
COMMENTS: Recipient represented to me that he is authorized to accept service of process on behalf of Jobberl Wholesale Clothing, Inc.,

I declare under penalties of perjury that the information contained herein is correct to the best of my knowledge.


Henry Dobson
Target Research Services, Inc.
20 Vesey Street, PH
New York, NY 10007
(212) 227-9600

1-25-06
Executed on:

Subscribed and sworn to before me, a notary public, on this 25th day of January, 2006.


Notary Public

My Commission Expires: 3/03/08

ALICE DOBSON
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 03/03/08



WORKING COPY

88 (11/91) Subpoena in a Civil Case **PROOF OF SERVICE**

SERVED	DATE: 01/26/2006 01:43PM	PLACE: 328 HUDSON STREET HACKENSACK NJ 07601
SERVED ON: JOBBER 1 WHOLESALE CLOTHING INC. ACCEPTED BY: BRETT KELLY		MANNER OF SERVICE: RULE 45, FEDERAL CIVIL RULE SERVING: SUBPOENA IN A CIVIL CASE, LETTER, SCHEDULE A, ATTACHMENTS
SERVED BY MICHAEL COMPOFELICE		TITLE PROCESS SERVER

DECLARATION OF SERVER

Description of Person Receiving Document(s):

SEX: F AGE: 36-50 HEIGHT: 5'9"-6'0" WEIGHT: 161-200 LBS. SKIN: WHITE HAIR: BROWN OTHER: _____

[X] To the best of my knowledge, said person was not engaged in the U.S. Military at the time of service.

I declare under penalty of perjury under the laws of the United States of America that the foregoing information is true and correct.

[Signature]
 L.S.
 SIGNATURE OF MICHAEL COMPOFELICE
 GUARANTEED SUBPOENA SERVICE, INC.
 2006 MORRIS AVENUE
 UNION, NJ 07083

R.R.

[Signature] 01/26/2006

SUZANNE BUTLER
NOTARY PUBLIC OF NEW JERSEY
My Commission Exp. July 18, 2007

EXECUTED ON: 01/26/2006 01:43PM

ATTORNEY: **BRIAN C. BODINE, ESQ.**
 PLAINTIFF: **DEREK ANDREW, INC.**
 DEFENDANT: **POOF APPAREL CORPORATION, ET AL**
 VENUE: **DISTRICT WASHINGTON**
 DOCKET: **C 05 11362**

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but not limited to, lost earnings and a reasonable attorney's fee.

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except that, subject to the provisions of clause (c)(3)(B)(ii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
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(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assure that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

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- (2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

SEB

EXHIBIT D

WORKING COPY

CILLICK & SPRAGUE
Attorneys at Law
Court Plaza North
25 Main Street
Hackensack, New Jersey 07601

MICHAEL J. SPRAGUE, ESQ.*
EDWARD W. CILLICK, ESQ.
SUZANNE M. SMITH, ESQ.

Tel: (201) 342-0808
Fax: (201) 342-0712

MICHAEL J. RAPPA, ESQ.
Of Counsel
*Member NJ & NY Bars
Via - Fax 206-628-7699
and Regular Mail
Davis Wright Tremaine LLP
2600 Century Square
1501 Fourth Avenue
Seattle, WA 98101-1688
Attn: Brian G. Bodine, Esq.

February 8, 2005

**Re: Derek Andrew, Inc. V. Poof Apparel Corp, The Wet Seal, Inc. And
Wet Seal GC, Inc.
United States District Court for the Western District of Washington
Cause No. C05-1136Z
Our Reference No. 66284-64
Response to Subpoena served on Jobber 1 Wholesale Clothing Inc.**

Dear Mr. Bodine:

Please be advised that this office represents Jobber 1 Wholesale Clothing Inc., and its agent Hudson Wholesale both located at 326 Hudson Street, Hackensack, New Jersey. I am in receipt of your Subpoena for requested documents returnable February 9, 2006 at the law offices of Mandelbaum Salsburg in West Orange, New Jersey. Please accept this letter with attachments in response to same.

In response to all numbered document requests 1 through 9, enclosed please find all documents in possession of Jabber 1 Wholesale Clothing Inc., and Hudson Wholesale regarding dealings with Poof Apparel Corp., from January 1, 2004 to the present:

1. Invoice Number 67494 dated 12/6/2004;
2. Invoice Number 67574 dated 12/28/2004;
3. Invoice Number 67675 dated 12/28/2004;
4. Invoice Number 67610 dated January 21, 2005;
5. Invoice Number 67611 dated January 21, 2005;
6. Invoice Number 67710 dated February 7, 2005;
7. Invoice Number 67709 dated February 9, 2005;
8. Invoice Number 67906 dated February 28, 2005;
9. Invoice Number 77828 dated March 17, 2005;
10. Invoice Number 78329 dated May 2, 2005;
11. Invoice Number 8536 dated August 18, 2005;

Page 2
February 8, 2006

If you have any questions regarding this matter please do not hesitate to contact me.
Thank you.

Very truly yours,
CILICK & SPRAGUE


EDWARD W. CILICK

EWC/dt
cc: Brian G. Bodine, Esq.
c /o Mark F. Kluger, Esq.
Mandelbaum Salsburg Gold Lazris
Discenza & Steinberg
155 Prospect Avenue
West Orange, New Jersey 07052
Via - Lawyers Service

Hudson Wholesale

EXHIBIT E

