

Federal Court



Cour fédérale

Date: 20260716

Docket: T-3743-25

Ottawa, Ontario, July 16, 2026

**PRESENT: Mr. Associate Judge Shannon
Case Management Judge**

BETWEEN:

NORTHERN REFLECTIONS LTD.

Plaintiff

and

ARITZIA INC. and ARITZIA LP

Defendants

AND BETWEEN:

ARITZIA LP

Plaintiff by Counterclaim

and

NORTHERN REFLECTIONS LTD.

Defendant by Counterclaim

REASONS AND ORDER

UPON motion filed by Defendants and Plaintiff by Counterclaim (“Aritzia”) for a Protective Order, asserting protections over certain documents and information to be exchanged between the parties during the discovery process in this action;

AND CONSIDERING the motion record and supplemental motion record filed by Aritzia on June 19, 2026, including the affidavits of Ms. Jenny Choy, affirmed March 9, 2026, and of Ms. Elysia Panaroni, affirmed March 26, 2026, as well as the transcripts of cross-examinations that accompany Aritzia’s filings;

AND CONSIDERING the responding motion record filed by the Plaintiff/Defendant by Counterclaim (“Northern Reflections”) on June 26, 2026, including the affidavit of Mr. Hanspal Jando, affirmed on June 4, 2026;

AND CONSIDERING the draft orders filed by each of the parties;

AND UPON hearing from the parties at a hearing held on July 3, 2026;

AND CONSIDERING that the underlying proceeding is an action wherein the Northern Reflections asserts that Aritzia infringed its registered trademark for EFFORTLESS (in association with pants and shorts) by selling pants and shorts branded as “EFFORTLESS” or “THE EFFORTLESS PANT”;

AND CONSIDERING that the parties are in agreement that a protective order should issue in this proceeding;

AND CONSIDERING the only remaining dispute on this motion is with respect to Aritzia’s request to protect certain confidential information by means of a “solicitor’s eyes only”

(“SEO”) designation, which would prevent Northern Reflections from having access to certain confidential information produced by Aritzia where Aritzia “in good faith believes” that Aritzia “could be harmed if the [i]nformation were made available to [Northern Reflections] or the information is of commercial value to [Northern Reflections], and the [i]nformation is or contains sales, marketing, financial or other commercially sensitive information or proprietary information not otherwise known or available to the public...”;

AND CONSIDERING Aritzia’s arguments, including that SEO protection is necessary because of Northern Reflections’ claim, which Aritzia denies, that the parties are competitors and, therefore, as an alleged competitor in the women’s fashion industry, Northern Reflections would gain unfair insight and competitive advantage were its management team to be given access to the sensitive information described above;

AND CONSIDERING Aritzia’s additional argument that, given other roles played by the four Northern Reflections’ executives seeking access, in other women’s fashion brands also owned by Putman Investments, the same executives may inadvertently use the information at issue in other business dealings, militating further in favour of granting the SEO order requested;

AND CONSIDERING Aritzia’s argument that the implied undertaking is insufficient or inadequate to protect the commercially sensitive information at issue;

AND CONSIDERING Northern Reflections’ argument that it does not have in-house legal counsel and, as a result, four specific members of its executive team must be given access to all Aritzia disclosure in order to permit Northern Reflections to properly instruct counsel in this litigation;

AND CONSIDERING Northern Reflections' argument that denying four specifically named executives access to the information over which an SEO designation is claimed would preclude Northern Reflections from consulting with their counsel in a fully informed manner, thereby interfering with the normal solicitor-client relationship and unfairly limiting Northern Reflections' ability evaluate the probability of success and the likely outcome of litigation;

AND CONSIDERING Northern Reflections' additional argument that, despite Northern Reflections' claim to the contrary, Aritzia does not view Northern Reflections as a competitor and that any alleged harm to Aritzia is speculative and not supported by the evidence on the motion;

AND CONSIDERING the information that is the subject of the request for an SEO designation on this motion are the sales and products costs, costs of manufacturing, and gross profit margins, at a product level, for 33 Aritzia products that form the EFFORTLESS product line;

AND CONSIDERING that a party seeking a protective order must establish that: i) the information at issue has been treated by the party at all relevant times as confidential; and ii) on a balance of probabilities, the requesting party's proprietary, commercial and scientific interests could reasonably be harmed by the disclosure of the information: *AB Hassle v Canada (Minister of National Health & Welfare)* (1998), 83 CPR (3d) 428 (FCTD) at paras 29-30 [*AB Hassle*], *aff'd* (2000) 5 CPR (4th) 149 (FCA); *Impulse Downhole Solutions Ltd v Challenger Downhole Tools Inc*, 2024 FC 1600 (CanLII) at para 19 [*Impulse*]; *Fox Restaurant Concepts LLC v 43 North Restaurant Group Inc*, 2022 FC 1149 (CanLII) at para 52;

AND CONSIDERING that SEO orders are a more restrictive form of protective order, which the Court has held should only be granted in “unusual circumstances” (*Lundbeck Canada Inc v Canada (Health)*, 2007 FC 412 at para 14 [*Lundbeck*]);

AND CONSIDERING that the Court has often considered the three *Apotex* factors in determining whether to grant an SEO order (*Bard Peripheral Vascular Inc v WL Gore & Associates, Inc*, 2017 FC 585 at para 15 [*Bard*]), notwithstanding that the *Apotex* factors do not purport to set out a series of criteria to be examined in every instance (*Del Ridge Homes Inc v Ledge-mark Homes Inc*, 2022 FC 566 at para 45 [*Del Ridge*]);

AND CONSIDERING that the *Apotex* factors are: i) the existence of a similar order granted upon consent in parallel litigation elsewhere; ii) the possibility for a party to object to an SEO designation and the Court’s power to control the “declassification” process; and iii) a party’s belief in good faith that its commercial business or scientific interest may be seriously harmed by disclosure: *Bard* at para 15;

AND CONSIDERING that a party seeking an SEO order must show that the harm caused by the disclosure of information at issue poses “a serious threat to the interest in question”, which is “real, substantial, and grounded in evidence”: *Bard* at para 16;

AND CONSIDERING that the “harm asserted cannot be “merely speculative” – “concrete evidence” is required. That said, the test does not require “certainty as to the occurrence of apprehended injury”. Rather, the evidence only needs to indicate some likelihood that the harmful event will occur. Neither bald assertions nor good faith belief that harm will occur are sufficiently persuasive to satisfy the test”: *Impulse* at para 20 [internal citations omitted];

AND CONSIDERING that the Court must be satisfied through “clear and non-speculative evidence that the harms the [moving party] seek to protect against could occur absent the more restrictive disclosure terms they seek to include in the Protective Order to be issued”: *Boehringer Ingelheim Canada Ltd v Jamp Pharma Corporation*, 2023 CanLII 125709 (FC) at para 31;

AND CONSIDERING as follows:

[1] With respect to the first component of the *AB Hassle* test, I am satisfied based on the affidavit of Ms. Choy, that Aritzia has protected the confidentiality of the sensitive information at issue at all relevant times and by various mechanisms. Northern Reflections did not contest this point in its written representations or at the hearing on the motion.

[2] Regarding the second component of the *AB Hassle* test and upon considering the above case law setting out the high threshold that must be met when seeking an SEO order, I am satisfied, based on the evidence, that this case involves “unusual circumstances” that justify such an order.

[3] According to Aritiza, Northern Reflections’ claim (in its statement of claim and on the motion) that the parties are competitors in the women’s fashion industry, militates in favour of granting an SEO order. Aritzia is correct that courts have often considered whether the parties are competitors as a factor in the SEO analysis: *Arkipelago Architecture Inc v Enghouse Systems Limited*, 2018 FC 37 [Arkipelago FC] at para 19; *Arkipelago Architecture Inc v Enghouse Systems Limited*, 2018 FCA 192 [Arkipelago FCA] at para 16; *Impulse* at para 21. This is particularly the case in IP litigation: *Impulse* at para 21. However, this factor is not

determinative, and this Court has denied requests for SEO orders even where the parties are direct competitors: *Del Ridge*.

[4] Because the question of whether the parties are in fact competitors is an issue in the underlying trademark infringement action, I must leave the final factual determination on the issue to the trial judge. However, on the limited record before me, and while the evidence is equivocal as to whether the parties are currently competitors, I find that Northern Reflections operates in the same industry, claims to be Aritzia's competitor in this litigation, and, at the very least, is an aspiring or would-be competitor. Given the sensitivity and granularity of the information being sought, this factor, though not determinative, does militate in favour of granting the SEO order requested in this case.

[5] The evidence on the motion further shows that the information that would be subject to the SEO order – product sales and costs data, costs of manufacturing and gross profit margins, all at a product level for 33 Aritzia products that form their EFFORTLESS product line – is highly sensitive. This was confirmed by affiants for both parties on cross-examination: Choy cross-examination, pp 45-47, Jando cross-examination, pp 63-64. I accept that the product-level confidential information to be disclosed would be of significant value to any would-be competitor, such as Northern Reflections, in the highly competitive women's fashion industry.

[6] Furthermore, I accept the evidence of Aritzia's Senior Vice President and Corporate Controller, who stated concretely that the information at issue (and at the particular level of granularity at which it is sought), amounts to Aritzia's "special sauce": Choy cross-examination, p 46. On a balance of probabilities, I am persuaded that Ms. Choy's evidence demonstrates that there is a real and substantial threat that an entity claiming to be its competitor (*i.e.*, Northern

Reflections) with access could replicate the costing and sales structures put in place by Aritzia, and thereby cause serious harm to Aritzia's market share and financial position: Choy affidavit, paras 13-15, 20-26.

[7] I also accept that the valuable commercial information at issue could be helpful to the four members of Northern Reflections' management team seeking access, who may unwittingly and unintentionally misuse this information in future business matters: *Arkipelago FC* at paras 34-35. This is particularly the case here, where the evidence shows that several of the relevant Northern Reflections management team members also hold positions or provide support to other women's fashion brands or companies under the same ownership. This further increases the competitive risks to which Aritzia is exposed if its product-level cost and profit data are disclosed to the Northern Reflections executive team.

[8] Northern Reflections relies on this Court's decision in *Del Ridge*, arguing that SEO designations are not as necessary in trademarks cases, which, unlike patent cases, often involve sales data rather patent source code. However, the Court in *Del Ridge* makes no such finding. In any event, on the facts of this case, I find that *Del Ridge* is distinguishable.

[9] In *Del Ridge*, the request for an SEO order was "somewhat unusual" as it was filed at a later stage of the proceeding when discoveries were largely completed, and included a challenge by one of the parties regarding whether the SEO designation of the particular documents at issue was appropriate: *Del Ridge* at paras 18, 49-50. Importantly, the motion record filed in *Del Ridge* failed to include any evidence "setting out what the information at issue is (beyond as described in the Prothonotary's reasons) or how that information could be used by Del Ridge to harm the commercial interests of Ledgemark": *Del Ridge* at para 61. By contrast, and as set out above, I

have found that there is concrete, non-speculative evidence in this case setting out what the information at issue is, and how that information could be used by Northern Reflections to harm the commercial interests of Aritzia. A close reading of *Del Ridge* therefore does not support Northern Reflections' position on this motion.

[10] Finally, Northern Reflections argues that an SEO order would limit Northern Reflections' ability to provide instructions to its counsel, to consider settlement options and to consult with counsel in a fully informed manner. Courts have consistently found that there is no merit to the argument that an SEO order interferes with the solicitor-client relationship: *Arkipelago FCA* at para 17; *Rivard Instruments, Inc v Ideal Instruments Inc*, 2006 FC 1338 at para 41; *Paid Search Engine Tools, LLC v Google Canada Corporation*, 2019 FC 559 at para 69. In any event, I find that any concerns about the impact of solicitor-client relations of the SEO order are mitigated by the mechanisms built into the order, whereby counsel can challenge designation of the information should they believe it necessary to disclose specific documents to their clients.

Conclusion and costs

[11] In accordance with the foregoing and upon considering the evidence, I find that Aritzia has satisfied the test for the issuance of a protective order that includes a solicitor's eyes only designation.

[12] The parties have requested, on consent, that the successful party on the motion should be awarded a lump cost award of \$5,500 plus reasonable disbursements. Exercising my discretion under Rule 400 of the *Federal Courts Rules*, I find no reason to depart from this recommendation.

THIS COURT ORDERS that:

I. DEFINITIONS

1) In this Order:

- a) “Proceeding” means this action and any appeals;
- b) “Plaintiff” means the Plaintiff/Defendant by Counterclaim Northern Reflections Ltd.;
- c) “Counsel for Plaintiff” means the law firm of Aird & Berlis LLP, solicitors of record for the Plaintiff in this Proceeding, and their members and regular employees;
- d) “Defendants” means the Defendant Aritzia Inc. and the Defendant/Plaintiff by Counterclaim Aritzia LP;
- e) “Counsel for Defendants” means the law firm of Gowling WLG (Canada) LLP, solicitors of record for Defendants in this Proceeding, and their members and regular employees;
- f) “Confidential Information” means the Information referred to in paragraph 4(a) hereof;
- g) “Court” means the Federal Court;
- h) “Discovery Information” means any document that is referred to in any Party’s affidavit of documents or disclosed during this Proceeding, any transcript or exhibit from an examination for discovery in this Proceeding, any answer given or document produced in response to a discovery question or in response to the Court ordering a discovery question answered or document produced, and the contents of any such documents, transcripts, exhibits or answers;

- i) “Document” shall have the same meaning as in the *Federal Courts Rules* including Rule 222(1) thereof;
- j) “Examination” refers to an examination as defined in Rule 87 of the *Federal Courts Rules*;
- k) “Information” shall mean the information, including Discovery Information, contained in any Document produced by any Party to this Proceeding or by a non-party, the information in any affidavit, transcript, answer, submission, testimony or reasons for decision, and the information disclosed by any test sample;
- l) “Parties” shall mean Plaintiff and Defendants, collectively;
- m) “Party” shall mean each of Plaintiff and Defendants;
- n) “Producing Party” means a Party, or a person other than a Party, including non-party witnesses, which or who produces Confidential Information and/or Solicitor’s Eyes Only Information in testimony, documents or other tangible or intangible forms in relation to this Proceeding;
- o) “Receiving Party” means a Party receiving or requesting production of Confidential Information and/or Solicitor’s Eyes Only Information in testimony, documents or other tangible or intangible forms in relation to this Proceeding; and
- p) “Solicitor’s Eyes Only Information” means the Information referred to in sub-paragraph 4(b) hereof.

II. CONFIDENTIALITY DESIGNATIONS

- 2) This Order shall apply to any Confidential Information and Solicitor's Eyes Only Information produced or disclosed by or on behalf of any Producing Party in relation to this Proceeding, which is designated as such by that Producing Party in accordance with the procedures described herein.
- 3) A Producing Party, when it reasonably believes it will be disclosing or has disclosed Confidential Information or Solicitor's Eyes Only Information, as referred to in paragraph 4 hereof, shall have the right, through its counsel, to designate such information as "Confidential Information" or "Solicitor's Eyes Only Information" in accordance with the procedures set out herein. Confidential Information and Solicitor's Eyes Only Information shall thereafter be governed by the terms of this Order, subject to the right of a Receiving Party to challenge the designation. However, the Parties shall make their best efforts to limit designations of information as Solicitor's Eyes Only Information.
- 4) Information may be designated as:
 - a) Confidential Information under this Order where the Producing Party in good faith believes that the Information is maintained by the Producing Party as confidential and that the Producing Party could be harmed if the Information were made available to the public, and the Information is or contains confidential sales, marketing, financial or other commercially sensitive information or proprietary information not otherwise known or available to the public, whether embodied in physical objects, documents, or the factual knowledge of persons; and

- b) Solicitor's Eyes Only Information under this Order where the Producing Party in good faith believes that the Information is maintained by the Producing Party as confidential and that the Producing Party could be harmed if the Information were made available to the Receiving Party or the information is of commercial value to the Receiving Party, and the Information is or contains sales, marketing, financial or other commercially sensitive information or proprietary information not otherwise known or available to the public, whether embodied in physical objects, documents, or the factual knowledge of persons.

If Information has more than one designation by the Producing Party, it shall be treated as Solicitor's Eyes Only Information.

- 5) The designation of any Information as Confidential Information or Solicitor's Eyes Only Information shall not be an admission by a Producing Party as to the relevance of such Information in this Proceeding.
- 6) A non-party producing Information or material voluntarily or pursuant to a *subpoena* or a Court Order may designate such material or Information in the same manner and shall receive the same level of protection under this Order as any Party to this lawsuit, provided that such non-party complies with the provisions of this Order. A non-party's use of this Order to protect its Confidential Information or Solicitor's Eyes Only Information does not entitle that non-party access to Confidential Information or Solicitor's Eyes Only Information produced by any Party in this Proceeding.

III. MANNER OF MAKING CONFIDENTIALITY DESIGNATIONS

- 7) Information shall be designated as Confidential Information or Solicitor's Eyes Only Information by marking the document, affidavit, exhibit, transcript or answer containing the Information as "Confidential Information" or "Solicitor's Eyes Only Information". The document, affidavit, exhibit, transcript or answer may be marked on each page or prominent visible surface thereof, before or promptly after the Information has been produced with the following legend or other suitable means of marking:

- a) in terms of Confidential Information:

**CONFIDENTIAL INFORMATION
SUBJECT TO PROTECTIVE ORDER
dated July 16, 2026, IN COURT FILE T-3743-25**

- b) in terms of Solicitor's Eyes Only Information:

**SOLICITOR'S EYES ONLY INFORMATION
SUBJECT TO PROTECTIVE ORDER
dated July 16, 2026, IN COURT FILE T-3743-25**

- 8) Any Receiving Party shall ensure that all copies made by the Receiving Party of received Confidential Information or Solicitor's Eyes Only Information are marked in accordance with paragraph 7 hereof. Where it is not reasonably possible to so mark the Information, the Receiving Party will use other means to clearly indicate to recipients that the information is Confidential Information or Solicitor's Eyes Only Information.

- 9) At or following any Examination and before a court reporter in this Proceeding, where evidence is given or documents are produced which are designated by a Producing Party to be Confidential Information or Solicitor's Eyes Only Information:
 - a) a copy of this Order shall be presented to the court reporter, and the reporter shall omit such evidence and documents from the non-confidential transcript and transcribe them separately as a "Confidential Transcript – Confidential Information" or "Confidential Transcript – Solicitor's Eyes Only Information", as the case may be, and shall mark the transcripts in accordance with paragraph 7 hereof. The reporter shall in the normal course send copies of the "Confidential Transcript – Confidential Information" and "Confidential Transcript – Solicitor's Eyes Only Information" only to Counsel for all Parties in this Proceeding, and such copies shall thereafter be treated as Confidential Information or Solicitor's Eyes Only Information subject to this Order; and
 - b) the Producing Party may, within thirty (30) calendar days of receiving a copy of any transcript of any Examination or other Proceeding from a court reporter, designate all or any part of the transcript as Confidential Information or Solicitor's Eyes Only Information, as the case may be, subject to this Order, by writing to counsel for any Receiving Party and advising which part of the transcript is to be treated as Confidential Information or Solicitor's Eyes Only Information, as the case may be.
- 10) Where a Producing Party permits a Receiving Party to inspect any document that has not yet been produced, whether by agreement, order or otherwise, and indicates that the document comprises or contains Confidential Information or Solicitor's Eyes Only Information, the

Receiving Party shall treat the document as such until a copy is produced under the procedures set forth in this Order to the Receiving Party for use in this Proceeding.

11) The inadvertent or unintentional disclosure by a Producing Party of Confidential Information or Solicitor's Eyes Only Information, either by way of document production or otherwise, regardless of whether the Information was so designated at the time of disclosure, shall not be deemed a waiver in whole or in part of the Producing Party's claim of confidentiality, either as to the specific Information disclosed, or as to other Information relating thereto, or on the same or related subject matter.

12) Any Producing Party who inadvertently fails to designate Confidential Information or Solicitor's Eyes Only Information shall, upon discovery of the inadvertent failure, promptly notify in writing all Receiving Parties known to have received the Information in question, and provide them with appropriately marked substitute copies of the Information. Until a Receiving Party receives such notification, any good faith disclosure made by that Receiving Party of the Confidential Information or Solicitor's Eyes Only Information to any person not permitted by this Order to have access to the Confidential Information or Solicitor's Eyes Only Information shall not constitute a violation of this Order. Any Receiving Party receiving any such notification shall promptly request all persons to whom the Confidential Information or Solicitor's Eyes Only Information was disclosed by the Receiving Party to return the Confidential Information or Solicitor's Eyes Only Information to the Producing Party or to destroy it. The Receiving Party may provide all persons entitled to receive the Confidential Information or Solicitor's Eyes Only Information with the substitute copies provided by the Producing Party.

IV. DISCLOSURE AND USE OF INFORMATION AND DOCUMENTS

13) All Confidential Information or Solicitor's Eyes Only Information shall be kept confidential, shall be used solely for the purposes of the Proceeding and shall not be disclosed to anyone except in accordance with the terms of this Order.

14) Subject to the limitations in paragraph 17 hereof, in the absence of prior written permission from the Producing Party who designated the Information as Confidential Information, Confidential Information shall not be disclosed to anyone except the following firms and individuals:

- a) Counsel for the Plaintiff and Counsel for the Defendants;
- b) up to 5 in-house legal counsel, and 5 employees or corporate officers of the Receiving Party to whom disclosure is reasonably necessary for this Proceeding;
- c) any outside service contractor (*e.g.*, court reporting, photocopying, videotaping, translating, preparing of exhibits, graphics, demonstratives or demonstrations, organizing, storing or retrieving data in any form or medium) retained by Counsel for the Plaintiff or Counsel for the Defendants to whom disclosure of the Confidential Information is reasonably necessary for the purpose of assisting with this Proceeding;
- d) Independent consultants or experts and their necessary assistants and secretarial and clerical personnel retained by a Party for the purpose of assisting with this Proceeding;
- e) any Judge, Associate Judge or personnel of the Court as may be necessary for the conduct of this Proceeding; and

f) such other persons as the Parties may agree in writing or as the Court may order.

15) Any Solicitor's Eyes Only Information designated under this Order shall be treated the same as Confidential Information, except that Solicitor's Eyes Only Information shall not be disclosed to anyone except stenographic and video reporters engaged in the within Proceeding and those persons specified in subparagraphs 14(a), (c), (d), (e) and (f) hereof.

16) Prior to the disclosure of designated Confidential Information or Solicitor's Eyes Only Information to the persons listed in subparagraph 14 (b) as applicable, (c), (d) and (f) hereof, the solicitor responsible for making such disclosure shall furnish the intended recipient with a copy of this Order and shall obtain from the intended recipient an acknowledgment in writing in the form annexed hereto as Appendix I that the intended recipient has read this Order, understands it, agrees to be bound by it and consents to the jurisdiction of the Court in connection therewith. Outside counsel shall retain a copy of the written acknowledgment, but need not provide a copy of same to other outside counsel except upon order of this Court.

17) In the event that Confidential Information or Solicitor's Eyes Only Information is disclosed to anyone other than in the manner authorized by this Order, the Receiving Party responsible for such disclosure shall immediately bring all pertinent facts relating to the disclosure to the attention of the Producing Party who designated the Information as Confidential Information or Solicitor's Eyes Only Information and shall make every effort to prevent further disclosure of the Information.

18) Before any materials produced in discovery, answers to undertakings, or questions agreed or compelled to be answered, responses to requests for admissions, examination transcripts, or other documents which are designated as Confidential Information or Solicitor's Eyes Only

Information (the “Materials for Filing”) are filed with the Court for any purpose, the parties shall adhere to the following procedure in all instances where such Materials for Filing have not previously been ordered sealed or to be treated as confidential pursuant to a Rule 151 Confidentiality Order:

- a) the party intending to file the Materials for Filing shall promptly advise the Producing Party of its intention to file the Materials for Filing before filing in Court the Materials for Filing in order to allow the Producing Party to apply for a Confidentiality Order pursuant to Rule 151 of the *Federal Courts Rules*;
- b) the Producing Party shall then have ten (10) business days to deliver a motion record for a Confidentiality Order pursuant to Rule 151 with respect to the Materials for Filing; and
- c) the party that intends to submit to the Court the Materials for Filing shall not submit to the Court such Materials for Filing unless: (a) the Producing Party consents in writing to the filing in Court of the Materials for Filing without any corresponding Rule 151 Order; (b) the Producing Party has failed to apply for a Rule 151 Order within the ten (10) business days set out above; (c) the Court has issued an Order providing that the Materials for Filing shall be sealed pursuant to Rule 151; (d) the Court has issued an Order providing that the Materials for Filing shall not be sealed pursuant to Rule 151, and the time for appealing such Order has expired; or, (e) the Court has ordered or directed that the Materials for Filing may be filed under seal pending the Court’s final determination of any motion for a Confidentiality Order pursuant to Rule 151.

19) In the event there is no Rule 151 Confidentiality Order prior to trial, a party shall provide a minimum of two (2) business days’ notice to the Producing Party in the event that a party

intends to use any designated Confidential Information or Solicitor's Eyes Only Information during trial.

20) The termination of this Proceeding shall not relieve any person to whom Confidential Information or Solicitor's Eyes Only Information was disclosed pursuant to this Order from the obligation of maintaining the confidentiality of such Information in accordance with the provisions of this Order.

21) Upon final termination of this Proceeding (including appeals), all copies of designated Confidential Information and Solicitor's Eyes Only Information in the possession of any Receiving Party shall be destroyed within 90 days, except:

- a) any witness and any Party may retain a copy of any transcript of evidence of that witness or that Party given in any examination or any hearing; and
- b) archive copies may be retained by each of Counsel for the Plaintiff and Counsel for the Defendants.

22) Any Party who inadvertently discloses Confidential Information or Solicitor's Eyes Only Information shall, upon discovery of the disclosure, promptly notify in writing all inadvertent recipients of the Information in question. The recipients of the document shall then promptly request all persons to whom the Information was disclosed to refrain from reading or viewing the Information and return it and all copies thereof to the Party who disclosed it, or destroy the Information and all copies thereof. No such inadvertently disclosed document or information contained therein may be used or disclosed by the recipient(s) without leave of the Court.

V. EXCLUSIONS, LIMITATIONS AND CHALLENGE PROCEDURES

23) The restrictions set forward in this Order shall not apply to Information that:

- a) was lawfully and without legal restriction in the possession of an individual or Party other than through disclosure in this Proceeding pursuant to this Order;
- b) was or is derived independently of disclosure hereunder;
- c) any individual or a Party or its counsel lawfully and without legal restriction obtained from a person having the right to disclose such Information; or
- d) is or becomes part of the public domain not as a result of any unauthorized act or omission on the part of a recipient of Confidential Information pursuant to this Order.

24) Nothing in this Order shall foreclose or limit a Party:

- a) from asserting that any designated Confidential Information is, in fact, not confidential or that any designated Solicitor's Eyes Only Information is either not confidential or does not meet the criteria to be designated as Solicitor's Eyes Only Information ("Challenged Information");
- b) from seeking an adjudication of the confidential character of the Challenged Information;
- c) from opposing the production of any documents or the answering of any questions on any proper grounds whatsoever (including relevance and privilege); or
- d) from use or disclosure of its own Confidential Information or Solicitor's Eyes Only Information for any purpose.

25) In the event of a challenge to the confidentiality of designated Confidential Information or Solicitor's Eyes Only Information, such a challenge shall be written, shall be served on counsel for the Producing Party and shall particularly identify the Information that the challenging Party contends should be designated differently. The Parties will engage in a good faith effort to try to resolve the dispute on an informal basis. If the Parties are unable to resolve such a dispute informally within fourteen (14) business days, the challenging Party may apply to the Court for relief at any time. Any such disputed items shall be treated as originally designated by the Producing Party and subject to the protections of this Order unless and until the Court determines otherwise. On any challenge before the Court, the Party or non-party asserting confidentiality shall have the burden on a balance of probabilities of establishing that the information is, in fact, Confidential Information or Solicitor's Eyes Only Information, as the case may be. No Party shall be obligated to challenge the propriety of any designation, and failure to do so shall not constitute an admission that any item or Information is in fact confidential.

26) If any party challenges the designation of any information pursuant to this Order, such information shall nevertheless be treated as Confidential Information or Solicitor's Eyes Only Information, as the case may be, in accordance with the provisions of this Protective Order until such designation is removed by order of the Court or by written consent of the Producing Party.

27) A Producing Party may waive in writing all or any part of its rights over its designated Confidential Information or Solicitor's Eyes Only Information under this Order.

28) Nothing in this Order shall preclude or impede Counsel for the respective Parties' ability to communicate with or advise their client of general or high-level conclusions based on their review and evaluation of Confidential Information or Solicitor's Eyes Only Information produced by any Producing Party, provided that such communications or advice shall not disclose or reveal the specific contents of any Confidential Information or Solicitor's Eyes Only Information in violation of this Order.

VI. MISCELLANEOUS PROVISIONS

29) This Order shall not aggregate or diminish any contractual, statutory or other legal obligation or right of any Party or person with respect to any Confidential Information or Solicitor's Eyes Only Information.

30) This Order shall be without prejudice to the right of any Party to apply to the Court at any time to vary or terminate the effect of this Order or for a direction on any specific issue concerning production of a specific Document or information, including on the basis that the designation of information as Solicitor's Eyes Only Information is unreasonably prejudicing the ability of a Receiving Party to assert any claim or defence in the Proceeding.

31) Unless otherwise specifically indicated, nothing in this Order is intended to vary or modify the implied undertaking rule.

32) The whole with costs payable to the moving party in the amount of \$5,500 plus reasonable disbursements.

“Kirk G. Shannon”
Case Management Judge

**Appendix I to the Protective Order of Case Management Judge Shannon
dated July 16, 2026 in Federal Court file No. T-3743-25**

UNDERTAKING

I, the undersigned, _____ (name), domiciled and residing at
_____ (address), hereby affirm the following:

- 1) I am _____ (specify occupation and relation to) _____ (indicate the Party)).
- 2) I acknowledge that I am about to receive Confidential Information and/or Solicitor's Eyes Only Information as defined in the Protective Order dated _____ (date).
- 3) I certify my understanding that this Confidential Information and/or Solicitor's Eyes Only Information is being provided to me pursuant to the terms and restrictions of the Protective Order referred to above in this Proceeding, and that I have received a copy of that order and have read and understand my obligations under that order.
- 4) I hereby agree and undertake to be bound by the terms of the Protective Order. I clearly understand that the Confidential Information and/or Solicitor's Eyes Only Information and my copies or notes relating thereto shall not be disclosed to anyone not similarly bound by the Protective Order.
- 5) On request from counsel for the Producing Party who provided me with the Confidential Information and/or Solicitor's Eyes Only Information, I will destroy all materials containing the Confidential Information and/or Solicitor's Eyes Only Information, copies thereof and notes that I have prepared relating thereto which are in my possession.
- 6) I hereby submit to the jurisdiction of the Federal Court for the purpose of enforcement of this Protective Order.

Date

Signature

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-3743-25

STYLE OF CAUSE: NORTHERN REFLECTIONS LTD. v ARITZIA INC.
ET AL.

PLACE OF HEARING: HEARD BY VIDEOCONFERENCE

DATE OF HEARING: JULY 3, 2026

REASONS AND ORDER: ASSOCIATE JUDGE SHANNON

DATED: JULY 16, 2026

APPEARANCES:

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