

ESTTA Tracking number: **ESTTA992625**

Filing date: **08/05/2019**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91236083
Party	Plaintiff Michael Harlan Studio LLC
Correspondence Address	SHAUN P KEOUGH PARKER KEOUGH LLP PO BOX 590006 NEWTON, MA 02459 UNITED STATES skeough@parkerkeough.com, kparker@parkerkeough.com, nlicht-in@parkerkeough.com 321-262-1146
Submission	Testimony For Plaintiff
Filer's Name	Shaun Keough
Filer's email	skeough@parkerkeough.com, kparker@parkerkeough.com, nlicht-in@parkerkeough.com
Signature	/Shaun Keough/
Date	08/05/2019
Attachments	91236083_Schwarz_Declaration_FINAL_SIGNED_080119_REDUCED.pdf(314 013 bytes) 91236083_Schwarz_Declaration_Exhibit_A.pdf(5394269 bytes) 91236083_Schwarz_Declaration_Exhibits_B_thru_K.pdf(4043589 bytes) 91236083_Schwarz_Declaration_Exhibits_L_thru_O.pdf(2970461 bytes) 91236083_Griffin_Delcaration_FINAL_SIGNED_080219.pdf(103641 bytes) 91236083_Muehling_Declaration_FINAL_SIGNED_080119.pdf(4859633 bytes) 91236083_Herman_Declaration_FINAL_SIGNED_080119.pdf(423451 bytes) 91236083_Kerch_Declaration_FINAL_SIGNED_080119.pdf(915498 bytes) 91236083_Keough_Declaration_FINAL_SIGNED_080519.pdf(177271 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Intent-to-Use Application No. 87/213,550

Mark: MH MARILYN HATTEN (stylized)

Michael Harlan Studio LLC,

Opposer,

v.

Kari Vettese DBA Marilyn Hatten,

Applicant.

Opposition No. 91236083

TESTIMONY DECLARATION OF MICHAEL SCHWARZ

PLEASE TAKE NOTICE that, pursuant to Rule 2.123(a)(1) of the Trademark Rules of Practice, Opposer Michael Harlan Studio LLC hereby submits the Testimony Declaration of Michael Schwarz.


I, Michael Schwarz, declare as follows:


1. I am over the age of 18, am competent to make this declaration, and make this declaration based on my own personal knowledge. I submit this declaration in support of Opposition No. 91236083 of Opposer Michael Harlan Studio LLC ("**Michael Harlan Studio**"). Michael Harlan Studio is a New York limited liability company with a principal place of business in New York City, New York. Unless otherwise noted, the exhibits to which I refer and which are attached to this declaration are copies of documents and other materials from Michael Harlan Studio's business records kept in the ordinary course of business.

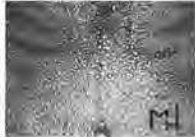
2. I am the sole owner of Michael Harlan Studio and have been continuously since Michael Harlan Studio's inception as a sole proprietorship on November 9, 2007, including through its conversion to a limited liability company on August 29, 2011, and, as such, am authorized to make this declaration on behalf of Michael Harlan Studio. I am highly familiar with and directly involved in the operations of



Michael Harlan Studio and its use of its trademarks, including the MH marks (defined below) at issue in this opposition, as well as the clothing and textiles industry in general. I have worked in the clothing and textiles industry for 22 years. During this time, I have designed, created, distributed, and sold clothing and related goods, including without limitation, shirts, blouses, pants, vests, jackets, coats, scarves, wallets, handbags, tote bags, and luggage.

3. Michael Harlan Studio is in the business of designing, creating, manufacturing, distributing, and selling clothing and related goods, including shirts, blouses, pants, vests, jackets, coats, scarves, wallets, handbags, tote bags, and luggage.


4. Michael Harlan Studio and I, as Michael Harlan Studio's predecessor-in-interest, have used the  mark in connection with the distribution and sale of various clothing and related items, such as jackets, vests, and tote bags, in the United States since at least as early as 2007 and have used

the  mark in connection with the distribution and sale of scarves, coats, wallets, handbags, tote bags, and luggage continuously in the United States since at least as early as April 26, 2016. This mark has appeared on sewn-in and sewn-on labels, product cards, look books, and hangtags for the goods, as well as on Michael Harlan Studio's website.

5. Michael Harlan Studio has continuously used the  mark in connection with the distribution and sale of wallets, handbags, tote bags, and luggage in the United States since at least as early as April 26, 2016. This mark has appeared on product cards, look books, and hangtags for the goods, as well as on Michael Harlan Studio's website.

6. The  and  marks are hereinafter collectively referred to as the “**MH Marks**.” The MH Marks are the marks identified and listed in Michael Harlan Studio’s trademark application Nos. 87269597, 87269608, 87269614, and 87269621 (collectively, the “**MH Applications**”). Michael Harlan Studio filed the MH Applications on December 15, 2016.

7. Michael Harlan Studio has used one or both of the MH Marks in the United States in connection with the distribution and sale of vests, jackets, coats, scarves, wallets, handbags, tote bags, and luggage since prior to October 24, 2016, the earliest date upon which Applicant, Kari Vettese, can rely for purposes of priority.

8. I assigned all right, title, and interest that I possessed in and to the  mark to Michael Harlan Studio on or about August 29, 2011.

9. Attached hereto as **Exhibit A** are true and accurate examples of Michael Harlan Studio’s use of the MH Marks on or in connection with shirts, blouses, pants, vests, jackets, coats, scarves, wallets, handbags, tote bags, and luggage during the relevant time periods.

10. Attached hereto as **Exhibit B** is a true and accurate example of a product card Michael Harlan Studio uses, and has used since at least as early as April of 2016, in connection with the distribution and sale of wallets, handbags, tote bags, and luggage (MH00111). **Exhibit B** also includes a true and accurate example of a product card Michael Harlan Studio uses in connection with the distribution and sale of shirts and blouses (MH00120).

11. Attached hereto as **Exhibit C** are true and accurate examples of the hangtags Michael Harlan Studio uses, and has used since 2011, in connection with pants it has offered for sale and with the distribution and sale of shirts, vests, jackets, coats, scarves, handbags, and tote bags.

12. Attached hereto as **Exhibit D** are true and accurate examples of Michael Harlan Studio look books that incorporate one or both of the MH Marks and that Michael Harlan Studio use, and has used since 2011, in connection with the offering to sell, distribution, promotion, and sale of Michael Harlan Studio clothing, including shirts, pants, vests, jackets, coats, and scarves. Such look books are routinely used in connection with the distribution, promotion, and sale of shirts (including women's shirts), dresses, skirts, blouses, pants, vests, jackets, coats, scarves, skirts, and dresses. Indeed, clothing resellers, such as department stores and boutiques, use look books to decide which clothing items to purchase from their clothing manufacturer partners.


13. Michael Harlan Studio launched its website in 2011 and has used the website ever since as an online catalogue and website version of the look book described in Paragraph 12, above, where consumers can browse Michael Harlan Studio's collection of clothing and related goods, including shirts, blouses, pants, vests, jackets, coats, scarves, wallets, handbags, tote bags, and luggage, which can be purchased directly from Michael Harlan Studio by email or by visiting any one of Michael Harlan Studio's retail partners. The Michael Harlan Studio website prominently displays the MH Marks. Consumers can view and learn about Michael Harlan Studio clothing and related goods (including wallets, handbags, tote bags, and luggage) branded with the MH Marks at www.michaelharlan.com/shop/, and can order these goods by contacting Michael Harlan Studio by email. Attached hereto as **Exhibit E** are true and accurate screenshots of the Michael Harlan Studio website accessed on August 1, 2019 (the URL from which a screenshot is taken is included on the screenshot itself). The goods depicted in the attached screenshots, Bates numbered MH00128-130, have been available for order since prior to October 24, 2016, the earliest date upon which Applicant, Kari Vettese, can rely for purposes of priority.

14. **Exhibits F through K** are true and accurate copies of documents evidencing Michael Harlan Studio's use of the MH Marks in connection with the distribution and sale of clothing and related goods during the time frames set forth in Paragraphs 4 & 5, above, specifically before October 24, 2016, the earliest date upon which Applicant, Kari Vettese, can rely for purposes of priority.

15. Attached hereto as **Exhibit F** are (a) a true and accurate copy of a March 15, 2008 invoice I sent to a boutique in Ketchum, Idaho called Gallery Davis for jackets and handbags (*see* MH00059) (the “**Davis Invoice**”); (b) true and accurate photographs of the jacket (*see* MH00041 & MH00123) and the “python/linen bucket” handbag (*see* MH00043 & MH00124) identified in the Davis Invoice; (c) true and accurate copies of checks representing Gallery Davis’ payment for the jackets and one of the “python/linen bucket” handbags identified in the Davis Invoice (*see* MH00060); and (d) a true and accurate copy of a check representing Gallery Davis’ payment for a vest on December 31, 2008 (MH00061). The jackets and handbags identified in the Davis Invoice and the vest Gallery Davis

purchased in 2008 bore the  mark when I sent them to Gallery Davis.

16. Attached hereto as **Exhibit G** are (a) a true and accurate copy of an April 26, 2016 invoice I sent to a boutique in Nantucket, Massachusetts called Patina for card cases, passport holders, wallets, and tote bags (*see* MH00062-63) (the “**April 26, 2016 Patina Invoice**”); (b) true and accurate photographs of the wallets and a tote bag identified in the April 26, 2016 Patina Invoice (*see* MH00055-56 & MH00090); and (c) a true and accurate copy of the check representing Patina’s payment for the April 26, 2016 Patina Invoice (*see* MH00064). The wallets and tote bags identified in the April 26, 2016 Invoice bore one or both of the MH Marks when I sent them to Patina.

17. Attached hereto as **Exhibit H** are (a) a true and accurate copy of a July 6, 2016 invoice I sent to Patina for coats (*see* MH00065) (the “**July 6, 2016 Patina Invoice**”); (b) true and accurate photographs of a coat identified in the July 6, 2016 Patina Invoice (*see* MH00039 & MH00092); and (c) a true and accurate copy of the bank deposit receipt representing Patina’s payment for the July 6, 2016 Patina Invoice (*see* MH00066). Like the coat depicted in the attached photographs (MH00039 & MH00092), the coats identified in the July 6, 2016 Patina Invoice bore the  mark when I sent them to Patina.

18. Attached hereto as **Exhibit I** are (a) a true and accurate copy of an October 3, 2016 invoice I sent to Patina for scarves (*see* MH00067-68) (the “**October 3, 2016 Patina Invoice**”); (b) a true and accurate example of one of the scarves identified in the October 3, 2016 Patina Invoice (*see* MH00057); and (c) a true and accurate copy of the bank deposit receipt representing Patina’s payment for the October 3, 2016 Patina Invoice (*see* MH00069). Like the scarf depicted in the attached example (MH00057), the scarves identified in the October 3, 2016 Patina Invoice bore one or both of the MH Marks when I sent them to Patina.

19. Attached hereto as **Exhibit J** are (a) a true and accurate copy of an October 11, 2016 invoice I sent to Patina for scarves (*see* MH00070-71) (the “**October 11, 2016 Patina Invoice**”); (b) a true and accurate example of one of the scarves identified in the October 11, 2016 Patina Invoice (*see* MH00057); and (c) a true and accurate copy of the bank deposit receipt representing Patina’s payment for the October 11, 2016 Patina Invoice (*see* MH00072). Like the scarf depicted in the attached example (MH00057), the scarves identified in the October 11, 2016 Patina Invoice bore one or both of the MH Marks when I sent them to Patina.

20. Attached hereto as **Exhibit K** are (a) a true and accurate copy of a September 1, 2016 invoice I sent to Patina for scarves (*see* MH00087-88) (the “**September 1, 2016 Patina Invoice**”); (b) a true and accurate example of one of the scarves identified in the September 1, 2016 Patina Invoice (*see* MH00057); and (c) a true and accurate copy of the bank deposit receipt representing Patina’s payment for the September 1, 2016 Patina Invoice (*see* MH00089). Like the scarf depicted in the attached example (MH00057), the scarves identified in the September 1, 2016 Patina Invoice bore one or both of the MH Marks when I sent them to Patina.

21. On or about April 25, 2016, I, as an agent of Michael Harlan Studio, began discussing and negotiating the terms of a custom shirt order for Patina with the assistance of its owner Carol Muehling (the “**Custom Shirt Order**”). *See* Ms. Muehling’s Testimony Declaration at ¶ 11. The shirts manufactured pursuant to the Custom Shirt Order were to be distributed and sold to Patina and then



offered for resale throughout Patina's show floor under one or both of the MH Marks. Ms. Muehling and I discussed the Custom Shirt Order via email, in phone conversations, and in in-person meetings prior to October 24, 2016 (*see, e.g.*, a true and accurate copy of email correspondence between Ms. Muehling and me, Bates numbered MH00104-110, attached hereto as **Exhibit L**, discussing, in part, the custom Patina shirt order). Ms. Muehling knew that the shirts created pursuant to the Custom Shirt Order were going to be distributed and sold to Patina under one or both of the MH Marks and that Patina would in turn offer to resell the shirts to its customers under one or both of the MH Marks. It was understood by Michael Harlan Studio and Ms. Muehling that each Michael Harlan Studio item offered for sale by Patina would include a product card or a hangtag bearing one or both of the MH Marks (*see* a true and accurate copy of an email from me to Ms. Muehling discussing a product card, Bates numbered MH00095, and a copy of the product card attachment, Bates numbered MH00111, both of which are attached hereto in **Exhibit L**). As contemplated by Ms. Muehling and me during our pre-October 24, 2016 discussions of the Custom Shirt Order, the shirts created pursuant to the Custom Shirt Order were distributed to Patina under one or both of the MH Marks and then offered for resale and sold throughout Patina's show floor under one or both of the MH Marks (*see* **Exhibit L**, attached hereto, containing true and accurate copies of the invoices memorializing the pre-October 24, 2016 discussions of the Custom Shirt Order, Bates numbered MH00112 & MH00114-116, bank deposit receipts representing Patina's payments for these invoices, Bates numbered MH00113 & MH00117, and photographs of shirts identified in these invoices, Bates numbered MH00073-74, MH00118-120 & MH00122, some of which, as shown in the photographs, are being displayed for sale on Patina's show floor). Michael Harlan Studio continues to distribute and to sell shirts and blouses under one or both of the MH Marks through clothing boutiques, including Patina, the Michael Harlan Studio website, and other retailers, such as a concept "pop up" store.



22. Patina is, and has always been throughout our business relationship, an authorized licensee with respect to the MH Marks for purposes of reselling the goods Patina purchases from Michael Harlan Studio.


23. Gallery Davis, Inc. was an authorized licensee with respect to the MH Mark for purposes of reselling the items Gallery Davis, Inc. purchased from Michael Harlan at all relevant times.

24. It has never at any time been my intention or the intent of Michael Harlan Studio to stop using the MH Marks in the United States in connection with shirts, blouses, pants, vests, jackets, coats, scarves, wallets, handbags, tote bags, or luggage.

25. Michael Harlan Studio has received unsolicited media coverage in connection with its MH-branded clothing and goods. For example, Michael Harlan Studio was highlighted in a July, 2011 edition of Women's Wear Daily ("WWD") as a "New Wave" designer that designs clothes of "impeccable construction and quiet luxury." That same year, Michael Harlan Studio was mentioned in a WWD article as one of several "up-and-comers" in the New York City fashion scene featured in an event hosted by Yeohlee Teng, a prominent figure in the New York City fashion community. Attached hereto as **Exhibit M** are true and accurate copies of the referenced unsolicited WWD articles.

26. Michael Harlan Studio's  mark and the MH component of its  mark sound identical to the MH component of the mark identified in subject Application No. 87/213,550.

27. Michael Harlan Studio's  mark and the MH component of its  mark are virtually identical to the MH component of the mark identified in subject Application No. 87/213,550.

28. The mark identified in subject Application No. 87/213,550 incorporates Michael Harlan Studio's entire  mark.

29. Items of women's clothing are substantially related to other items of women's clothing and to accessories. Specifically, shirts (including women's shirts), dresses, skirts, and blouses are substantially related to, and in fact complementary to, pants, vests, jackets, coats, scarves, wallets, handbags, tote bags, and luggage in the minds of consumers of such goods in that such consumers would mistakenly think these goods came from a single source if offered for sale under the same or a substantially similar mark. It is not uncommon for any of these items to be located in close proximity in the same department store or boutique or to be purchased together by the same consumer during a single shopping trip.

30. The normal trade channels for shirts (including women's shirts), dresses, skirts, blouses, pants, vests, jackets, coats, scarves, wallets, handbags, tote bags, and luggage include online retail stores and brick-and-mortar stores, such as department stores, boutiques, and similar retailers, such as concept "pop up" stores.

31. Michael Harlan Studio distributes and sells shirts, blouses, pants, vests, jackets, coats, scarves, wallets, handbags, tote bags, and luggage under one or both of the MH Marks through Michael Harlan Studio's website located at www.michaelharlan.com (see Paragraph 13, above) and through boutiques and other retailers, such as concept "pop up" stores. See **Exhibits E-F & L**.

32. The consumers who purchase women's shirts, dresses, skirts, and blouses are part of the same class of consumers who purchase women's pants, vests, jackets, coats, scarves, wallets, handbags, tote bags, and luggage.

33. The consumers who purchase Michael Harlan Studio's shirts, blouses, pants, vests, jackets, coats, scarves, wallets, handbags, tote bags, and luggage under one or both of the MH Marks are the ordinary and typical consumers of such goods and are part of the same class of consumers who purchase women's clothing generally, including shirts, dresses, skirts, and blouses. This class of consumers includes consumers of all sophistication levels.

34. Retailers, such as Patina and Gallery Davis, routinely and frequently purchase shirts (including women's shirts), dresses, skirts, blouses, pants, vests, jackets, coats, scarves, wallets, handbags, tote bags, and luggage.

35. The clothing listed in the subject Application No. 87/213,550 includes low-priced and high-priced women's clothing, including shirts, dresses, skirts, and blouses. See **Exhibits G-L** and true and accurate website screenshots showing women's clothing at various price points from websites accessed on August 1, 2019, attached hereto as **Exhibit N¹**.

36. Michael Harlan Studio is not restricted from manufacturing, distributing, or selling low-priced shirts, blouses, pants, vests, jackets, coats, scarves, wallets, handbags, tote bags, or luggage by any legal or practical limitations.

37. Michael Harlan Studio has sold hundreds of items under one or both of the MH Marks ranging in price from \$100 to \$6,500 wholesale.

38. The MH Marks do not describe any aspect of the goods that are distributed, offered for sale, or sold under the marks, and are therefore distinct source identifiers.

39. Michael Harlan Studio promotes and advertises its goods under the MH Mark through its website, its retailer relationships, physical and digital look books, networking, and word of mouth.

¹ Because some of the URLs for the websites accessed were long they are set forth in their entirety as follows: **MH000146** (https://www.kohls.com/catalog/womens-tops-clothing.jsp?CN=Gender:Womens+Category:Tops+Department:Clothing&icid=wo-d2-tops&kls_sbp=48948917067941004211784307252233546659); **MH00147** (https://www.kohls.com/catalog/womens-dresses-clothing.jsp?CN=Gender:Womens+Category:Dresses+Department:Clothing+MerchPricing:Under%20%2425+MerchPricing:%2425.00&BL=y&S=4&PPP=60&pfm=internal%20campaign%20P13N_control%20Visual%20Nav&kls_sbp=48948917067941004211784307252233546659); **MH00148** (https://www.kohls.com/catalog/womens-skirts-skorts-bottoms-clothing.jsp?CN=Gender:Womens+Product:Skirts%20%26%20Skorts+Category:Bottoms+Department:Clothing&S=1&PPP=60&pfm=internal%20campaign%20Visual%20Nav%20refine&kls_sbp=48948917067941004211784307252233546659); **MH00149** (<https://shop.nordstrom.com/c/designer-tops?breadcrumb=Home%2FDesigner%2FWomen%2FDesigner%20Clothing%2FTops>); **MH00150** (<https://shop.nordstrom.com/c/designer-dresses?breadcrumb=Home%2FDesigner%2FWomen%2FDesigner%20Clothing%2FDresses>); and **MH00151** (<https://shop.nordstrom.com/c/designer-skirts?breadcrumb=Home%2FDesigner%2FWomen%2FDesigner%20Clothing%2FSkirts>).

Attached hereto as **Exhibit O** is a true and accurate photograph of the business cards I use to promote Michael Harlan Studio clothing and related goods.

40. The foregoing sales, advertising, and publicity of the goods distributed, offered for sale, and sold under the MH Marks have resulted in consumer recognition of Michael Harlan Studio's brand in the United States.

41. Michael Harlan Studio has no business relationship with Applicant, Kari Vettese d/b/a Marilyn Hatten, and has never authorized Applicant or otherwise permitted Applicant to use or register the mark identified in subject Application No. 87/213,550 or any other mark consisting of or incorporating either of the MH Marks.

42. If Applicant is permitted to obtain a registration for the mark identified in subject Application No. 87/213,550, I expect her use of the mark to confuse consumers as to the source and/or affiliation of her products and that her use of the mark will devalue Michael Harlan Studio's brand and cause significant harm.

43. The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

Dated: 8-1-19

Michael Schwartz

Owner, Michael Harlan Studio LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing document with applicable exhibits has been served on Joshua S. Schoonover, counsel for Applicant, by forwarding said copy on August 5, 2019, via email to: lawgroup@coastalpatent.com.

Signature: /Shaun P. Keough/

Date: August 5, 2019

Exhibit A

MH00031





MH00032





MH00030



MH00034







MH00092









MH00123







MH00124











MH00053

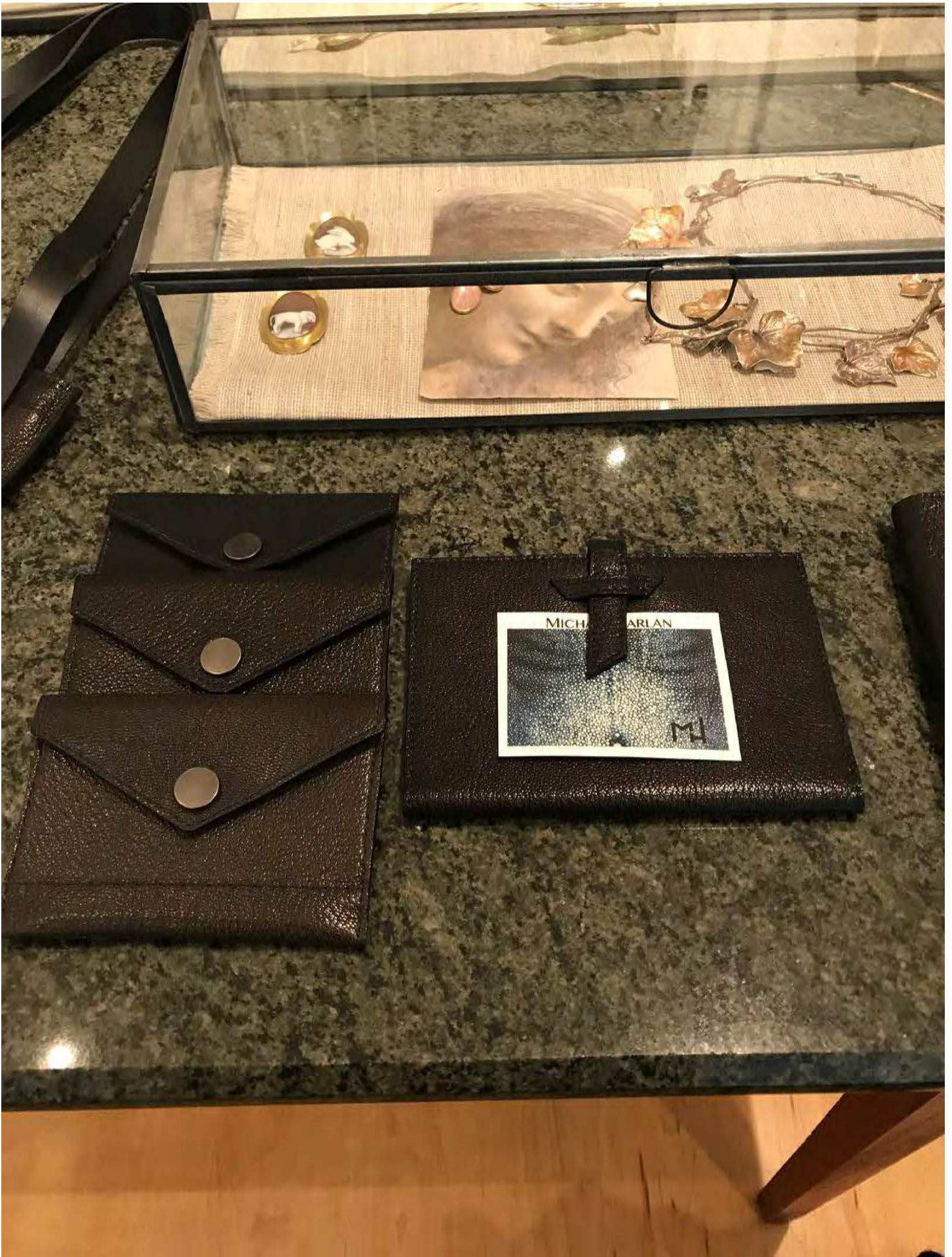




MH00054





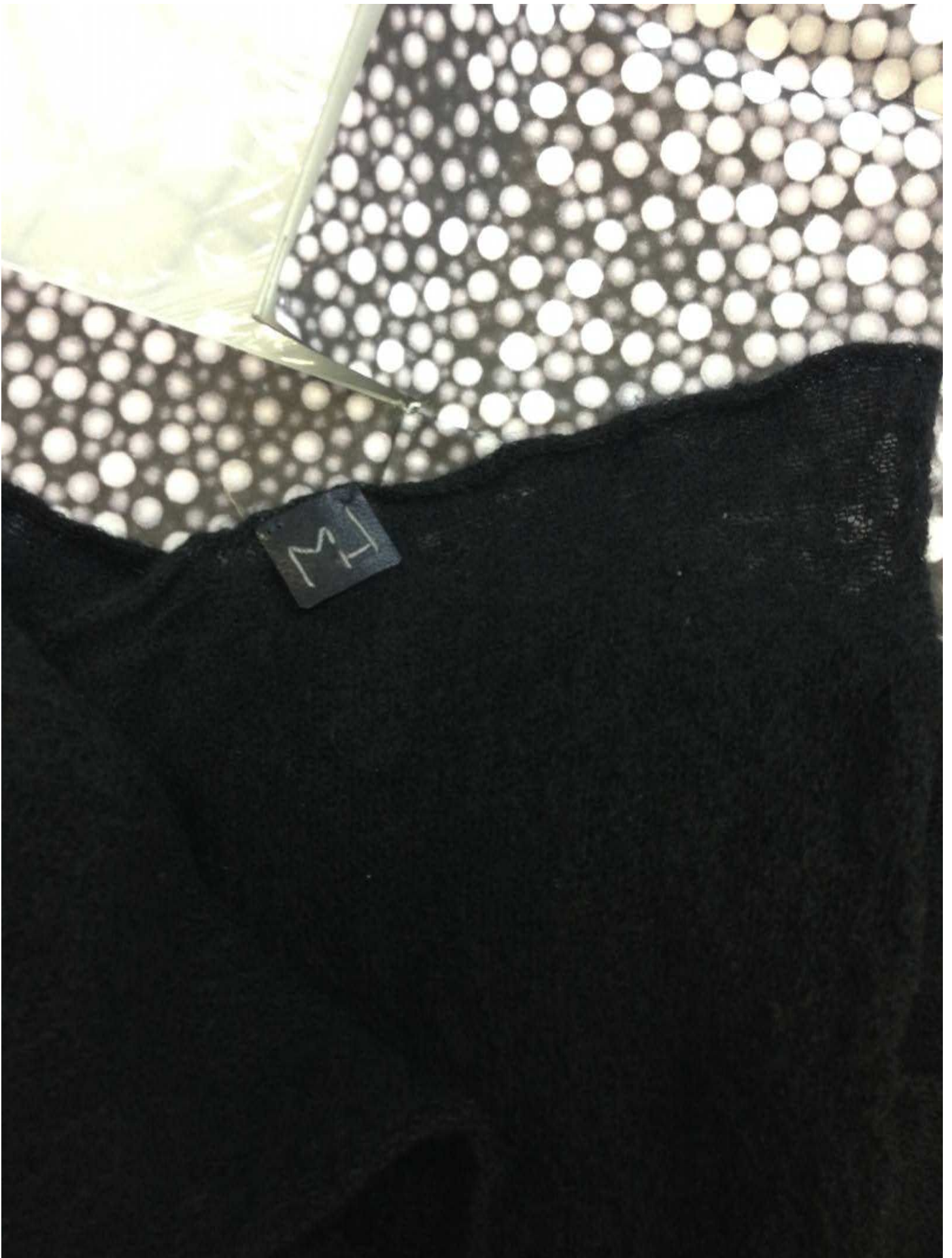




MH00057



MH00038



MH00073



MH00085



MH00090



MH00118



MH00119



MH00122

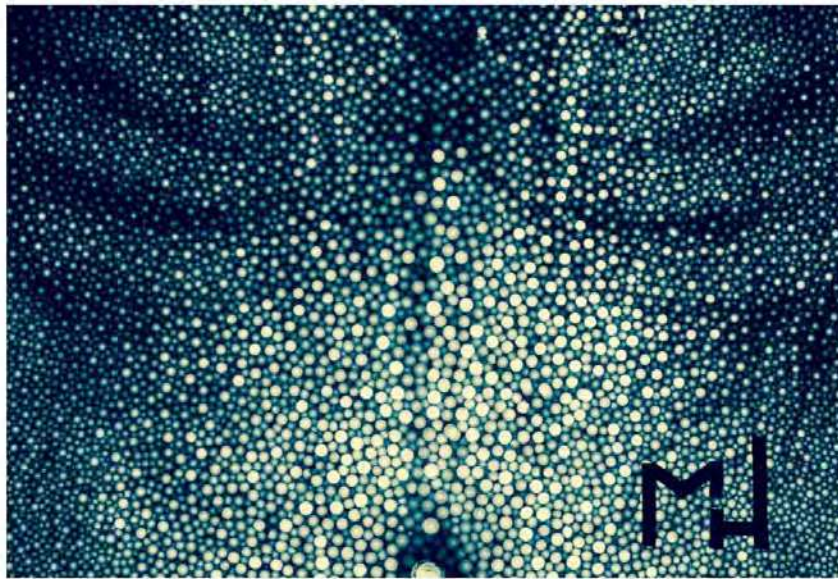




Exhibit B

FRONT

MICHAEL HARLAN



BACK

MICHAEL HARLAN utilizes the finest leathers and fabrics available while employing the ethics of local sustainable construction. Our design process deftly merges handcraft and material quality with a keen awareness of form and function. Each piece is individually hand cut and hand sewn to create and preserve its unique identity. Women's Wear Daily has lauded the "impeccable construction and quiet luxury" of our work. Our continued pursuit of authentic craftsmanship is unwavering in all we do.

All products are made in New York City.

Please enjoy.

Care instructions: Please store in the cloth pouch provided.
Wipe clean with a soft, dry cloth.

For more information please contact us at: studio@michaelharlan.com



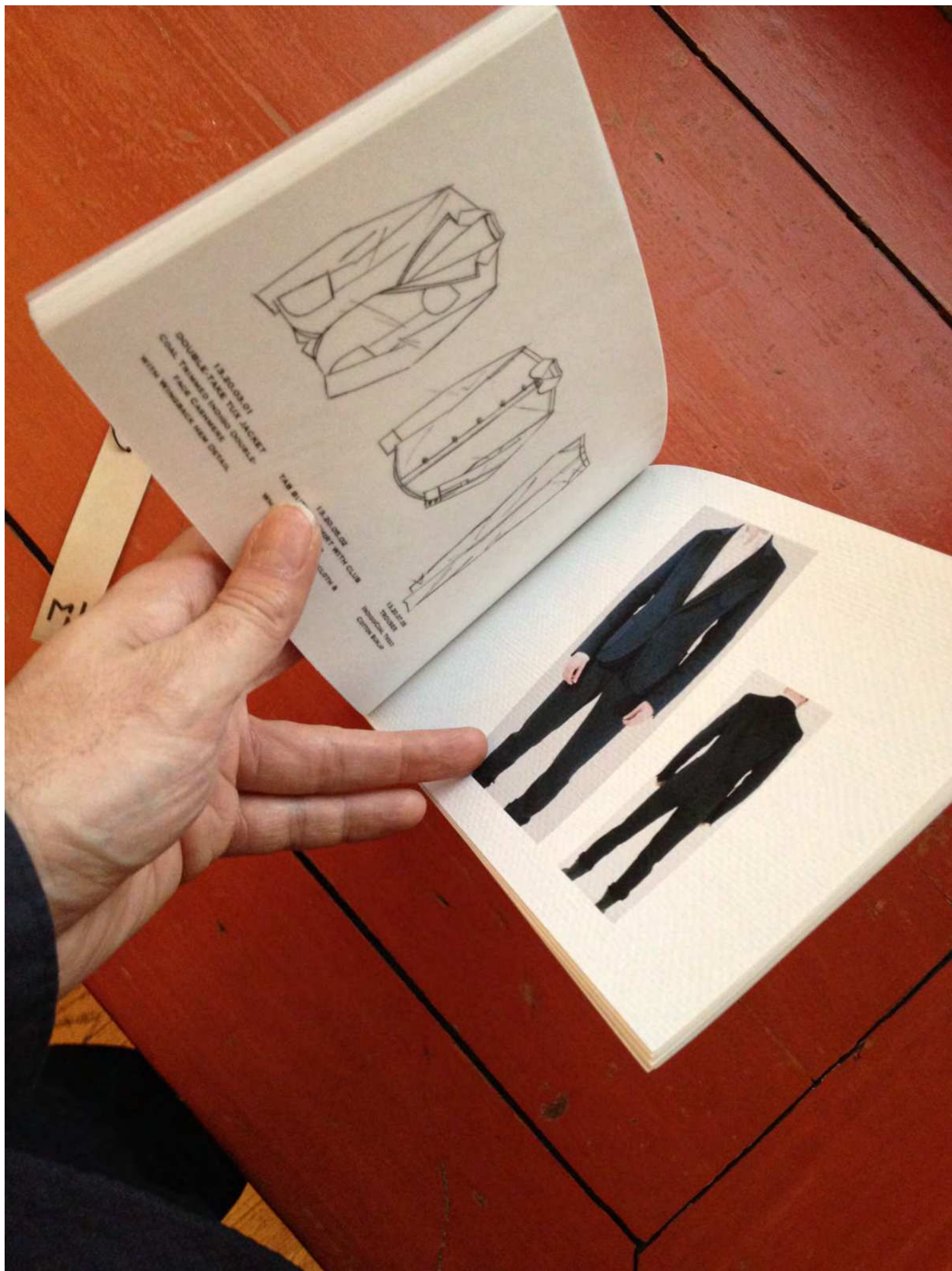
Exhibit C





Exhibit D







MICHAEL HARLAN



SPRING / SUMMER 2019



IN THE GARDEN

SPRING / SUMMER 2019

A collection reminiscent of time
in the garden.
The stark geometry of the trellis
converges with the organic beauty
of a diversity of flowers.

Patterns and Textures combine in
a casual élan...

-MICHAEL HARLAN



















MICHAEL HARLAN

WWW.MICHAELHARLAN.COM

CONTACT:

STUDIO@MICHAELHARLAN.COM



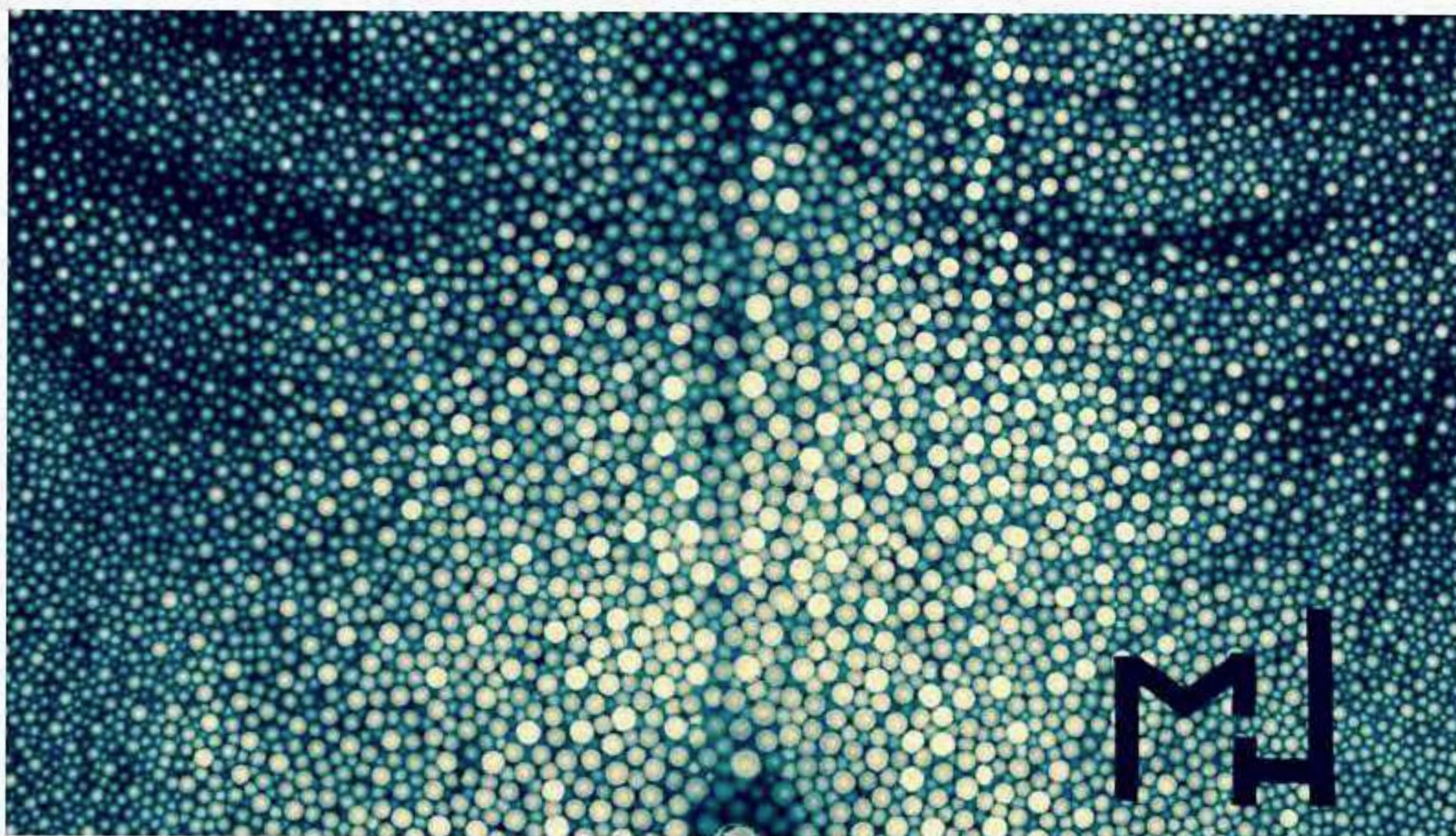
Exhibit E



[CUSTOMER SERVICE](#) | [SIGN IN](#) | [LOOK BOOK](#)



MICHAEL HARLAN



CLOTH & CUIR



HOME / SHOP

- STORY
- SHOP
- GALLERIES
- EXPERIENCE



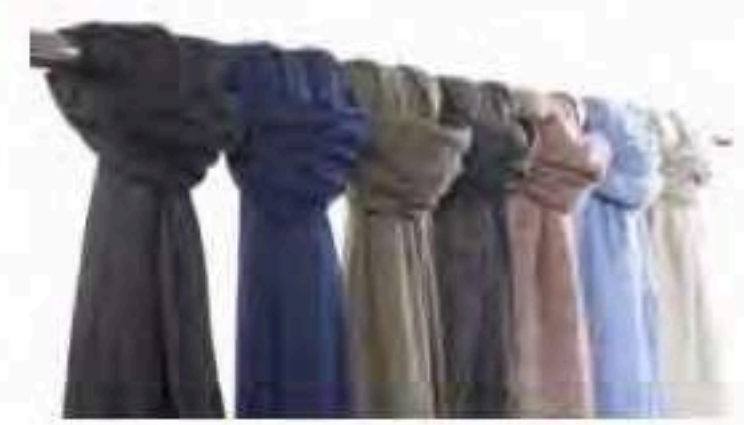
RETURN EXCHANGE POLICY



CLOTH



CUIR



CASHMERE



WHERE TO BUY

[✉ CUSTOMER SERVICE](#) | [SIGN IN](#) | [LOOK BOOK](#)[HOME / WOMEN / CUIR / LEATHER / OSTRICH AVIATOR JACKET](#)[VIEW THIS PAGE IN FULL SCREEN](#)

OSTRICH AVIATOR JACKET

A Bespoke Item. These Jackets are fit and made to order.
Please contact studio@michaelharlan.com for more information.

[✉ Email to a friend](#)[WHERE TO BUY](#)

[CUSTOMER SERVICE](#) | [SIGN IN](#) | [LOOK BOOK](#)[VIEW OUR LATEST COLLECTION](#)

100% CASHMERE GOSSAMER KNITTED SCARF

\$ 550.00

AVAILABLE OPTIONS

MATERIAL: 100% Italian cashmere
APPROXIMATE SIZE: 26" x 72"

COLOR: BLACK, NAVY, LODEN, MUSHROOM, CHARCOAL,
MORNING BLUE, CLOUD GREY, RUBY, BRONZE

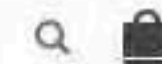
Knitted in New York

[Email to a friend](#)

[WHERE TO BUY](#)

[CUSTOMER SERVICE](#) | [SIGN IN](#) | [LOOK BOOK](#)

LUXURY WOMEN'S CUIR (LEATHER) BATHING SUITS CLASSIC TOTE



VIEW OUR RECOMMENDATIONS



CLASSIC TOTE

The Classic tote made of two tones of Python and lined in calf skin. This item is part of our Bespoke Collection. Please inquire for more information at studio@michaelharlan.com

[Email to a friend](#)[WHERE TO BUY](#)

MICHAEL HARLAN © 2018



HOME / MAIN_GALLERY

- STORY
- SHOP
- GALLERIES
- EXPERIENCE



RETURN TO PREVIOUS PAGE



Exhibit F

Consignment Agreement

DAVIS
653 Sun Valley Rd
Ketchum Idaho 83340-2797
208 725 0180

March 15, 2008

(1) python jacket size 4
wholesale 6500. retail 15500.
(1) python jacket size 6
wholesale 6500. retail 15500.
(1) python/linen tote
wholesale 1800. retail 4500.
(1) python/linen bucket
wholesale 1400 retail 3500.

Payment will be made within 10 days of sale

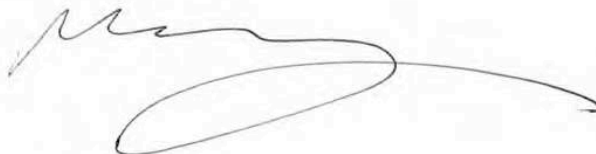
This contract will be valid through October 15th. We will return unsold items to the address below after this date.

Michael Schwarz
382 Central Park W. #18x
NY NY 10025
212 222 2094

Kevin Davis



Micheal Schwarz



MH00123





MH00124






GALLERY DAVIS, INC.
PH 208-725-0180
P O BOX 2797
KETCHUM, ID 83340

2640
92-7195/1231

12/31/07 DATE

PAY TO THE ORDER OF MICHAEL SCHWARTZ \$ 6500.-

SIX THOUSAND FIVE HUNDRED DOLLARS

 **Mountain West Bank**
PO Box 2237 208-822-1639
Ketchum, Idaho 83340

FOR INVENTORY

2640

Pythian Jacket


GALLERY DAVIS, INC.
PH 208-725-0180
P O BOX 2797
KETCHUM, ID 83340

2701
92-7195/1231

3/30/08 DATE

PAY TO THE ORDER OF MICHAEL SCHWARTZ \$ 7900.-

SEVEN THOUSAND NINE HUNDRED DOLLARS

 **Mountain West Bank**
PO Box 2237 208-822-1639
Ketchum, Idaho 83340

FOR INVENTORY

2701

Pythian Jacket 6500
Total Profit 1400

GALLERY DAVIS, INC. PH 208-725-0180 P O BOX 2797 KETCHUM, ID 83340		2923 92-7185/1231	
		DATE <u>12/31/08</u>	
PAY TO THE ORDER OF <u>MICHAEL SCHWART</u>		<u>\$ 950 -</u>	
<u>nine hundred fifty</u>		DOLLARS 	
 Mountain West Bank PO Box 2237 208-422-1633 Ketchum, Idaho 83340			
FOR 		MP 2923	

Exhibit G

INVOICE #160426

PATINA
Carol Muehling
23 Centre Street
Nantucket, MA 02554
508-228-7188

April 26, 2016

Re: Merchandise Invoice

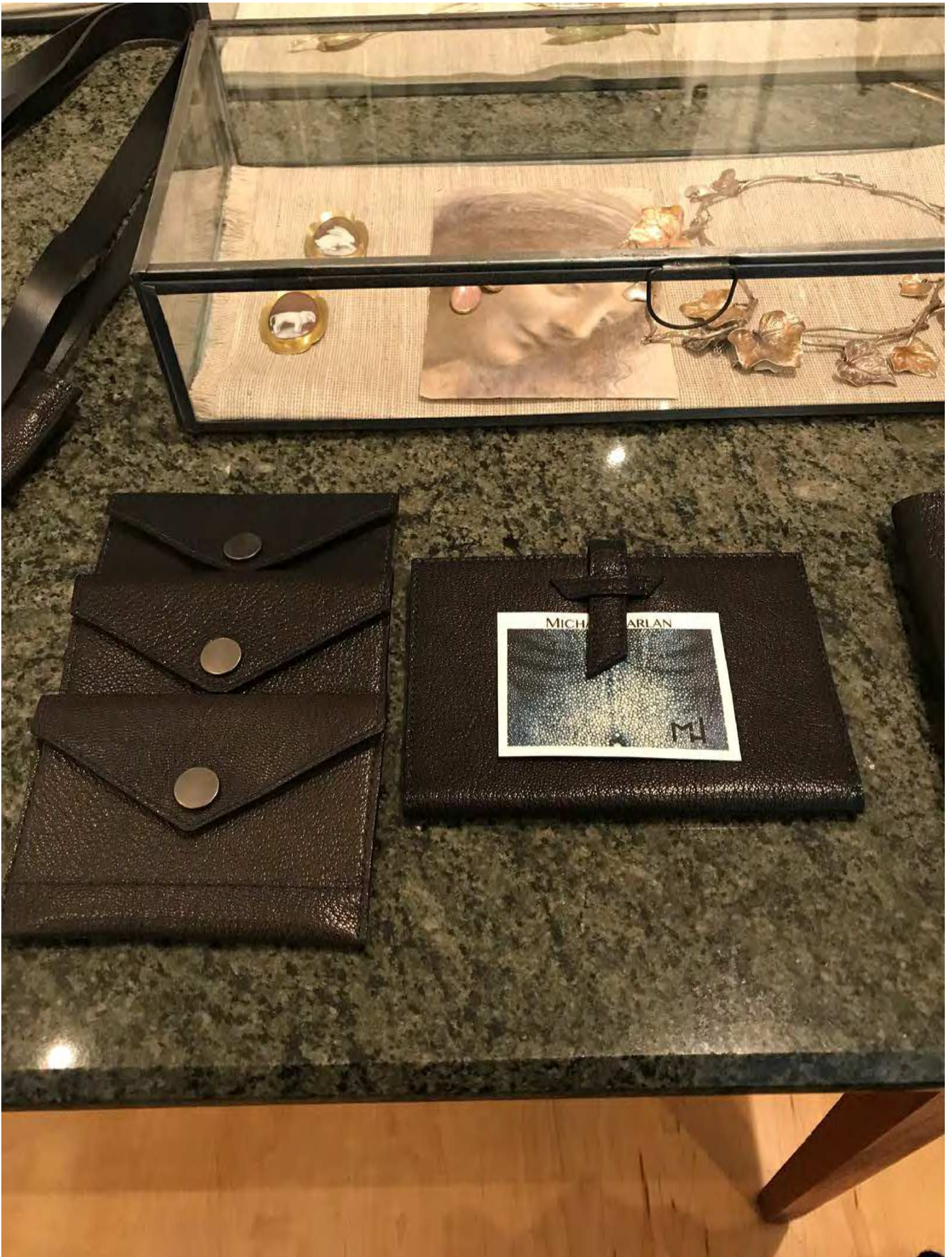
4	Card cases_____	@ \$100_____	\$400
4	Passports_____	@ \$150_____	\$600
2	Wallets_____	@ \$225_____	\$450
2	Linen Totes_____	@ \$800_____	\$1600
2	Leather totes_____	@ \$950_____	\$1900

Amount Due_____ \$4,950.00

Remit to:

Michael Harlan Studio
382 Central Park West
#18 X
New York City, NY 10025

MICHAEL HARLAN STUDIO 382 Central Park West #18X NYC, NY 10025
212-222-2094





MH00090



THIS CHECK IS VOID WITHOUT A COLORED BACKGROUND AND AN ARTIFICIAL WATERMARK ON THE BACK - HOLD AT ANGLE TO VIEW

CAROL A. MUEHLING
PATINA
23 CENTRE STREET
NANTUCKET, MA 02554
(508) 228-7118

CAPE COD FIVE
ZERO MAIN PO BOX 2840
NANTUCKET, MA 02554
53-7107/2113

1746

DATE 4/30/2016

PAY TO THE ORDER OF Michael Harlan Studio

\$ **4,950.00

Four Thousand Nine Hundred Fifty and 00/100

Michael Harlan Studio

MEMO INV 100426

Carol A. Muehling

DOLLARS

⑈001746⑈

Exhibit H

INVOICE #160706

PATINA
Carol Muehling
23 Centre Street
Nantucket, MA 02554
508-228-7188

July 6, 2016

Re: Merchandise Invoice

2	Cashmere cocoon zip coats	@ \$1200	\$2400
2	Wool cocoon zip coats	@ \$1150	\$2300
<u>Amount Due</u>			<u>\$4,700.00</u>

Remit to:

Michael Harlan Studio
382 Central Park West
#18 X
New York City, NY 10025

MH00092



CAROL A. MUEHLING/PATINA
Michael Harlan Studio

4 coats

7/6/2016

1807

4,700.00

CC 5 - 1595

4,700.00

Exhibit I

INVOICE #161003

PATINA
Carol Muehling
23 Centre Street
Nantucket, MA 02554
508-228-7188

October 3, 2016

Re: Merchandise Invoice

3	Black knitted cashmere scarves_____	@ \$220_____	\$660
3	charcoal knitted cashmere scarves_____	@ \$220_____	\$660
3	Mushroom knitted cashmere scarves_____	@ \$220_____	\$660

Amount Due \$1980.00

Remit to:

Michael Harlan Studio
382 Central Park West
#18 X
New York City, NY 10025

MICHAEL HARLAN STUDIO 382 Central Park West #18X NYC, NY 10025
212-222-2094

MH00057





10-17-2016

TELLER DEPOSIT Oct 17 12:05

\$ 1,980.00

Exhibit J

INVOICE #161011

PATINA
Carol Muehling
23 Centre Street
Nantucket, MA 02554
508-228-7188

October 11, 2016

Re: Merchandise Invoice

1	Black knitted cashmere scarf_____	@ \$220_____	\$220
2	charcoal knitted cashmere scarves_____	@ \$220_____	\$440
4	Mushroom knitted cashmere scarves_____	@ \$220_____	\$880
4	Navy knitted cashmere scarves_____	@ \$220_____	\$880
4	Loden knitted cashmere scarves_____	@ \$220_____	\$880

Shipping_____ \$70

Amount Due_____ \$3,370.00

Remit to:

Michael Harlan Studio
382 Central Park West
#18 X
New York City, NY 10025

MICHAEL HARLAN STUDIO 382 Central Park West #18X NYC, NY 10025
212-222-2094

MH00057



MH00072

CAROL A. MUEHLING/PATINA

1915

Thank you


3370
INV 16011

Exhibit K

INVOICE #160901

PATINA
Carol Muehling
23 Centre Street
Nantucket, MA 02554
508-228-7188

September 1, 2016

Re: Merchandise Invoice

3 Black 100% cashmere scarves_____ \$210.00

Amount Due_____ \$630.00

Remit to:

Michael Harlan Studio
382 Central Park West
#18 X
New York City, NY 10025

MICHAEL HARLAN STUDIO 382 Central Park West #18X NYC, NY 10025
212-222-2094

MH00057



CAROL A. MUEHLING/PATINA
Michael Harlan Studio

3 black scarves

9/2/2016

1864

660.00

CC 5 - 1595

3 black scarves

660.00

Exhibit L

[Fwd: Re: HELLO!]

mharlan@michaelharlan.com

Thu 9/1/2016 12:06 PM

To: mwgriffin10@hotmail.com <mwgriffin10@hotmail.com>;

 1 attachments (19 KB)

untitled-[2];

Original Message

Subject: Re: HELLO!

From: "Carol Muehling" <carolmuehling@hotmail.com>

Date: Thu, September 1, 2016 10:38 am

To: "mharlan@michaelharlan.com" <mharlan@michaelharlan.com>

Hi! Here now...a bit quiet so maybe a good time if it works for you.
I'll have to re read your email from yesterday...too crazy to do much
yesterday. The last hurrah!!

From: mharlan@michaelharlan.com <mharlan@michaelharlan.com>

Sent: Thursday, September 1, 2016 8:32 AM

To: Carol Muehling

Subject: Re: HELLO!

Good morning!
raining morning... actually perfect because I'll have a little time to
label the scarves...

My unchangeable schedule at the moment is as follows:

Picking up family this afternoon at 5 then dinner,
and then we have a flight tomorrow :(at 4.

Beyond that i'm flexible to what works for you.

let me know!

M

> Thank yew!!

>

>

>

> From: mharlan@michaelharlan.com <mharlan@michaelharlan.com>

> Sent: Wednesday, August 31, 2016 11:26 AM
 > To: Carol Muehling
 > Subject: Re: HELLO!
 >
 > Sorry! I know its a lot....
 > Yes we can wait till tomorrow... I should have some scarves fro you then!
 > (adding to that list we'll talk retail of that too..... :)
 > I'll drop you a not in the morning
 >
 >
 >> YIKES!! A lot to digest.....but necessary of course. Wondering if you
 >> could come by tomorrow or friday instead? I'm a bit overwhelmed by a
 >> couple of things that I desperately need to attend to. Could even do
 >> tomorrow end of day at the house if that works any better for you. I
 >> also
 >> need some time to go over your questions so I'm prepared!
 >>
 >> hope you're enjoying your last bit of quiet before family descends!
 >>
 >> C
 >>
 >>
 >>
 >> From: mharlan@michaelharlan.com <mharlan@michaelharlan.com>
 >> Sent: Wednesday, August 31, 2016 8:30 AM
 >> To: Carol Muehling
 >> Subject: Re: HELLO!
 >>
 >> Hey there!
 >> I am hoping to stop by for a few minutes today and chat if you have a
 >> little time.
 >>
 >> In the mean time just a recap of what you saw and then some questions.
 >> sorry for the barrage, its train of thought so i don't forget. We can
 >> discuss it all when I see you.
 >>
 >> Bags
 >>
 >> I will be looking at the same leather as before, but will also see what
 >> else they have
 >> to mix it up a bit. Are you opposed to them being all black if thats
 >> what
 >> seams to work best?
 >>
 >> 2 styles of small totes: you would want 3 of each
 >>
 >> large scallop bag how many? do you see this in just black?
 >>
 >> Are you thinking of any of this years bags or versions of them as a
 >> reorder
 >>
 >> I am thinking of doing a small zip clutch like the ones you sell... if
 >> interested
 >>
 >>
 >> SHIRTS
 >>

>> I want to discuss the price point as we narrow in on fabric
 >> take a look at the breakdown and let me know if you agree.
 >> Let me know which, if any, you were thinking you would want in multiple
 >> fabrics
 >> (you've mentioned this it at least twice but i have spaced out)
 >> Let me know what your wish list is and we'll see how fabric availability
 >> works out. What is your thought if there is not enough to complete a
 >> full
 >> order per shirt?
 >>
 >>
 >> Pleated print or solid
 >> 3 of each size
 >>
 >> ball button ?
 >> 3 of each size
 >>
 >> rolled sleeve print, ?possible multiple, or linen
 >> 3 of each size
 >>
 >> long shirt solid fine linen or cotton?
 >> ?
 >>
 >> all for now .
 >> See you soon.
 >>
 >> M
 >>
 >>
 >>
 >>
 >>
 >>
 >>> Great! I get in at 9
 >>> Katie at 10
 >>> We're there so come when its good for you. Hopefully won't be crazy.
 >> It's
 >>> been nuts!
 >>>
 >>> Sent from my iPhone
 >>>
 >>>> On Aug 28, 2016, at 6:34 PM, "mharlan@michaelharlan.com"
 >>>> <mharlan@michaelharlan.com> wrote:
 >>>> Hey there!
 >>>> So, I will see you in the morning... (monday)
 >>>> what time would you like me to be there?
 >>>> looking forward to it!
 >>>> M
 >>>>> Perfect!
 >>>>> Sent from my iPhone
 >>>>> On Aug 26, 2016, at 3:18 PM, "mharlan@michaelharlan.com"
 >>>>> <mharlan@michaelharlan.com> wrote:
 >>>>> GOOD!
 >>>>> the sea is too wild but for that reason the beach is beautiful.
 >>>>> let's
 >> shoot for Monday as a work session, but we will stop by if we find
 >>>>> ourselves downtown before.
 >>>>> See you soon!

>>>>>> Hi! This is the first chance I've had to check emails! Sorry! But
 >> the
 >>>>>> good
 >>>>>> news is, we are busy!!
 >>>>>> Not sure about my schedule tomorrow. Might be in after 1 until 6
 >>>>>> but
 >> not
 >>>>>> sure. Otherwise maybe Monday when Katie is here? She's a good judge
 >>>>>> of
 >>>>>> proportion.
 >>>>>> Can we touch base tomorrow??
 >>>>>> Or if you're in town I'm here until 6.
 >>>>>> Hope you're floating in the sea!
 >>>>>> Sent from my iPhone
 >>>>>> On Aug 26, 2016, at 10:55 AM, "mharlan@michaelharlan.com"
 >>>>>> <mharlan@michaelharlan.com> wrote:
 >>>>>> Good morning!
 >>>>>> I hope everything went well yesterday. Seemed like it was a good
 >>>>>> day
 >>>>>> for
 >>>>>> anything!
 >>>>>> Let me know what works with your schedule.
 >>>>>> see you soon,
 >>>>>> M
 >>>>>>> HI!! Thought I might hear from you today. I'm volunteering most
 >>>>>>> of
 >>>>>>> tomorrow for Swim Across America so won't be around. Let's touch
 >> base
 >>>>>>> friday.
 >>>>>>> Only one lonely coat left.....not bad for starters and some
 >> very
 >>>>>>> warm
 >>>>>>> days! You rock!!
 >>>>>>> soon....
 >>>>>>>
 >>>>>>>> From: mharlan@michaelharlan.com <mharlan@michaelharlan.com> Sent:
 >> Wednesday, August 24, 2016 5:01 PM
 >>>>>>>> To: Carol Muehling
 >>>>>>>> Subject: HELLO!
 >>>>>>>> Hey there!!
 >>>>>>>> We made it and of course it's beautiful...
 >>>>>>>> Looking forward to seeing you!
 >>>>>>>> We also have a little work to do so I'll need you to let me know
 >>>>>>>> what
 >>>>>>>> day
 >>>>>>>> is best to take some time from you and try size fits of all shirt
 >> styles,
 >>>>>>>> and a couple bag samples to showetc....
 >>>>>>>> Let me know what works...now on no schedule but yours.
 >>>>>>>> soon
 >>>>>>>> Michael
 >>>>>>>>> Can't wait to see you guys!! Thanks for the warning;))
 >>>>>>>>> Good on shirts.
 >>>>>>>>> I'll take the scarves late and sell what I can and hold the rest
 >>>>>>>>> for
 >>>>>>>>> next
 >>>>>>>>> season.....never hurts to get what you can when you can! And yes

>>>>>>>> to
 >>>>>>>> the
 >>>>>>>> black!!
 >>>>>>>> Been BUSY!!!
 >>>>>>>> See you soon!
 >>>>>>>> Sent from my iPhone
 >>>>>>>> On Aug 10, 2016, at 8:12 AM, "mharlan@michaelharlan.com"
 >> <mharlan@michaelharlan.com> wrote:
 >>>>>>>> Good morning!
 >>>>>>>> quick update.
 >>>>>>>> We'll be there in two weeks... just saying...
 >>>>>>>> Shirts
 >>>>>>>> I'll have fit sizes of all the shirts
 >>>>>>>> (corrected size 3 of first shirt, and then three other styles
 >>>>>>>> one
 >>>>>>>> you
 >>>>>>>> have not seen,
 >>>>>>>> but think you will like)
 >>>>>>>> Scarves
 >>>>>>>> Have had a setback where the maker did not order the yarns as
 >>>>>>>> fast
 >>>>>>>> as
 >>>>>>>> they
 >>>>>>>> said they would. I should have some black ones soon but think
 >>>>>>>> all
 >>>>>>>> the
 >>>>>>>> other colors will
 >>>>>>>> not come until it is passed the time you wanted.
 >>>>>>>> Do you want a few black for this fall?
 >>>>>>>> And then I guess it will be next fall for the full color range?
 >> Let me know your thoughts, sorry for the setback.
 >>>>>>>> see you soon.
 >>>>>>>> Michael
 >>>>>>>> Hi Michael. Sorry for delayed response....I took a time out
 >>>>>>>> this
 >>>>>>>> weekend.
 >>>>>>>> Was on overload and out of fuel.
 >>>>>>>> I think I'm a bit confused by your grading questions. I'm not
 >> sure
 >>>>>>>> about
 >>>>>>>> 1" or 2" from the original. I think I just felt that it would
 >>>>>>>> hit
 >>>>>>>> some
 >>>>>>>> people in the wrong place (widest part of hip) if it weren't
 >> longer.
 >>>>>>>> But
 >>>>>>>> am willing to leave it up to you if you think the proportion
 >>>>>>>> is
 >> wrong
 >>>>>>>> Re peasant shirt....I purchased that from the competition a
 >> few
 >>>>>>>> years
 >>>>>>>> ago....didn't sell them so don't know about grade. I think
 >>>>>>>> for
 >> the
 >>>>>>>> sm/med
 >>>>>>>> which that one is, the length worked because of the drape of

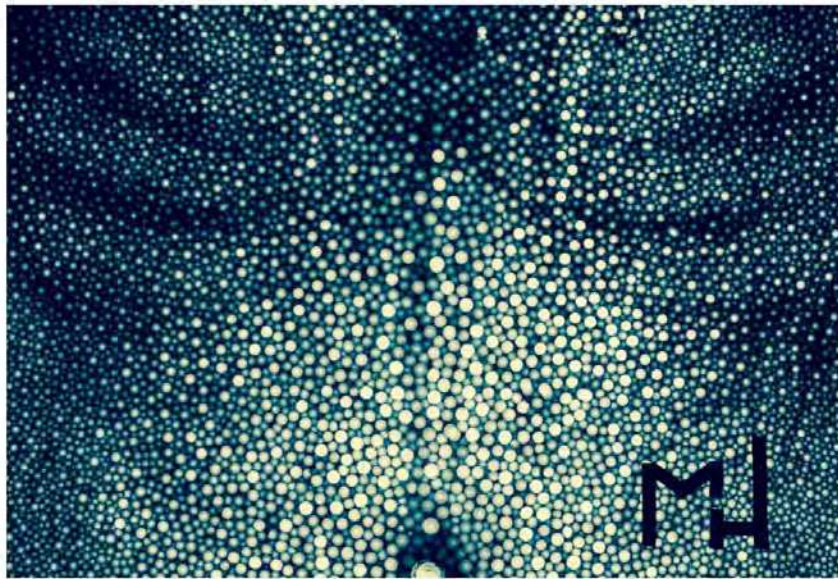
>>>>>>>>> the
 >>>>>>>>> fabric.
 >>>>>>>>> Make sense??
 >>>>>>>>> And.....FYI.....sold the black cashmere jacket this weekend
 >> (sm/med)!!!!
 >>>>>>>>> And Carol Greenwald coming in tomorrow to check out the grey.
 >> Congratulations!!
 >>>>>>>>> Call me if you have any other questions.....I'm here every day
 >> this
 >>>>>>>>> week.
 >>>>>>>>> C
 >>>>>>>>>
 >>>>>>>>> From: mharlan@michaelharlan.com <mharlan@michaelharlan.com>
 >> Sent: Friday, July 29, 2016 11:55 PM
 >>>>>>>>> To: Carol Muehling
 >>>>>>>>> Subject: HOMEWORK :)
 >>>>>>>>> I have started to grade the next shirt style (see attached
 >> photo
 >>>>>>>>> as
 >>>>>>>>> a
 >>>>>>>>> reminder)
 >>>>>>>>> and have a few questions..
 >>>>>>>>> you said the first size that you tried on needs to be two
 >> inches
 >>>>>>>>> longer..
 >>>>>>>>> that would make it an inch longer than the first shirt that
 >>>>>>>>> you
 >> tried
 >>>>>>>>> on.
 >>>>>>>>> (to me this shirt shouldn't be longer than the first one-a
 >> proportional
 >>>>>>>>> thing, but your call...)
 >>>>>>>>> I assume I should follow the same grading in the length as the
 >> first
 >>>>>>>>> shirt
 >>>>>>>>> i.e. they are almost 2" LONGER than the size before , and the
 >>>>>>>>> 3rd
 >>>>>>>>> size
 >>>>>>>>> is
 >>>>>>>>> actually
 >>>>>>>>> a 4" grade up (skipping a size) correct?
 >>>>>>>>> For future reference.... That peasant shirt that you like so
 >>>>>>>>> much,
 >>>>>>>>> (that
 >>>>>>>>> got the stain on it) is stylistically a shorter shirt. When
 >>>>>>>>> that
 >>>>>>>>> shirt
 >>>>>>>>> graded up was it still "short" in comparison? was that a
 >> detriment
 >>>>>>>>> to
 >>>>>>>>> that shirt? did it sell and or would you have wanted it
 >>>>>>>>> longer
 >>>>>>>>> ?
 >>>>>>>>> I am trying to understand how different styles can work when
 >> reading
 >>>>>>>>> up
 >>>>>>>>> based on your experience...

```
>>>>>>>>>> thats it for now....  
>>>>>>>>>> Thanks!  
>>>>>>>>>> You can now return to your weekend : )  
>>>>>>>>>> M  
>>>  
>>  
>>  
>>  
>>  
>>  
>  
>
```


>>> On Mar 20, 2016, at 4:21 AM, "mharlan@michaelharlan.com"
>>> <mharlan@michaelharlan.com> wrote:
>>>
>>> Carol,
>>> I am not sure when you are getting back from your trip, but I hope you
>>> had
>>> a wonderful time!
>>>
>>> Everything is ready to go- which is exciting!
>>> I am attaching a copy of the card that i am including with each piece
>>> (front and back)
>>> to make sure you are OK with it.
>>> Please let me know your thoughts.
>>>
>>> AND when you get a moment we just need to discuss when you want me to
>>> send
>>> everything/want it to arrive and pricing.
>>> Michael and I went comparison shopping and worked out a spreadsheet of
>>> scenarios to share with you... when you are ready..
>>>
>>> Looking forward to hearing from you.
>>>
>>> Michael
>>>
>>>
>>>
>>>
>>> <product card.docx>
>>
>

FRONT

MICHAEL HARLAN



BACK

MICHAEL HARLAN utilizes the finest leathers and fabrics available while employing the ethics of local sustainable construction. Our design process deftly merges handcraft and material quality with a keen awareness of form and function. Each piece is individually hand cut and hand sewn to create and preserve its unique identity. Women's Wear Daily has lauded the "impeccable construction and quiet luxury" of our work. Our continued pursuit of authentic craftsmanship is unwavering in all we do.

All products are made in New York City.

Please enjoy.

Care instructions: Please store in the cloth pouch provided.
Wipe clean with a soft, dry cloth.

For more information please contact us at: studio@michaelharlan.com

**INVOICE #170307**

PATINA
 Carol Muehling
 23 Centre Street
 Nantucket, MA 02554
 508-228-7188

March 7, 2017

Re: Merchandise Invoice

9	Chrysanthemum Yoke Shirt/Jac	@ \$225	\$2,025
9	Navy Polka Dot Pleat Shirt	@ \$225	\$2,025
9	Chambray Long Shirt	@ \$235	\$2,115
9	Cotton/Ramie Kimono-Tux Shirt	@ \$235	\$2,115
3	Navy Polka Dot Long Shirt	@ \$235	\$705
3	Chambray Pleat Shirt	@ \$225	\$675
3	Cotton/Ramie yoke shirt	@ \$ 235	\$705
4	Small Tote	@ \$350	\$1,400
	2 black, 1 navy, 1 stone		
4	Cross Shoulder Tote	@ \$425	\$1,700
	2 black, 1 navy, 1 stone		
4	Large Shopper	@ \$950	\$3,800
	2 black, 1 navy, 1 stone		
6	Clutch	@ \$300	\$1,800
	2 back, 2 navy, 2 stone		

PRODUCT TOTAL \$19,065.00

SHIPPING \$270.00

Amount Due \$19,335.00

Remit to:

Michael Harlan Studio
 382 Central Park West
 #18 X
 New York City, NY 10025

MICHAEL HARLAN STUDIO 382 Central Park West #18X NYC, NY 10025 212-222-2094

**INVOICE #170717**

PATINA
 Carol Muehling
 23 Centre Street
 Nantucket, MA 02554
 508-228-7188

July 17, 2017

Re: Merchandise Invoice

9	Plaid shirts	3 per size	@ \$220	\$1,980
9	Corduroy Shirts	3 per size	@ \$235	\$ 2,115
9	Chambray Floral shirts	3 per size	@ \$225	\$2,025
9	Clipped Dot Shirts	3 per size	@ \$235	\$2,115
8	Swing sweater vests	4 per size	@ \$175	\$1400
8	Tunics with belt	4 per size	@ \$195	\$1560
4	Sweater-knit zip vest	2 per size	@ \$230	\$920
4	Loden Cocoon Zip Coats	2 per size	@ \$1150	\$4,600
4	Double face Kimono Coats	2 per size	@ \$1100	\$4,400
22	Cashmere scarves	5 colors	@ \$220	\$4,840
	3 Navy, 2 Loden, 3 Mushroom, 4 black, 5 Sky, 5 cloud			

PRODUCT TOTAL \$25,950.00
 SHIPPING \$430.00

Amount Due \$26,380.00

Remit to:

Michael Harlan Studio
 382 Central Park West
 #18 X
 New York City, NY 10025

MICHAEL HARLAN STUDIO 382 Central Park West #18X NYC, NY 10025 212-222-2094



INVOICE #170716

PACKING LIST

BOX 1

4 Zip Vests
4 Kimono coats
8 swing sweater vests
9 Corduroy shirts
9 Floral Shirts
9 Plaid Shirts
9 Clipped Dot shirts
3 Navy Scarves
2 Loden Scarves
2 Spring shirts

BOX 2

4 Loden Coats

BOX 3

8 Tunics with belts
4 Black scarves
3 mushroom scarves

BOX 4

5 Cloud Scarves
5 Sky Scarves

MICHAEL HARLAN STUDIO 382 Central Park West #18X NYC, NY 10025 212-222-2094

citibank

1065 6th Avenue, New York, NY, 10018

DATE
03-13-2017

TIME
11:29

Maximize your efforts.

Earn bonus interest when
you maintain a qualifying
deposit in a new or existing
Savings Plus Account.

Speak with a Banker or
call us at 1-866-524-8640.

Citibank, N.A. Member FDIC.

CHECK DEPOSIT \$ 19,335.00
To: Business Checking -

CHECK AMOUNT: \$ 19,335.00

CAROL A. BROWN, INC.		1000	
1000 6TH AVE		DATE 3/13/17	
NEW YORK, NY 10018		AMOUNT \$ 19,335.00	
MY <u>Michael Horton</u> <u>\$ 19,335.00</u> <u>thirteen thousand three hundred thirty five and 00/100</u> <u>for deposit only</u> <u>3/13/17</u> <u>Carol A. Brown, Inc.</u>			

MH00073





MH00118



MH00119



MH00122





Exhibit M



Men's Week

Springing Up

AT THE NEW YORK MEN'S TRADE SHOWS THIS WEEK, RETAILERS SAW LOTS TO FUEL OPTIMISM THAT THE SECTOR'S GROWTH WILL CONTINUE. **PAGE MW1**

WWD

THURSDAY, JULY 21, 2011 • \$2.00 • WOMEN'S

New Wave

Form and function. Many designers harp on the tricky combo, but few have the expertise of Michael Hartan, who spent more than a decade designing uniforms for FedEx, JetBlue and US Airways. "That taught me that everything needs to have a purpose — a pocket, a button," says Hartan. To that end, his debut collection revolves around impeccable construction and quiet luxury. The line wholesales on average from \$200 to \$2,400, but exotics, such as this ostrich leather jacket, go for \$10,000. Here, it's paired with Hartan's bag, also in ostrich leather, and his wool alpaca bouclé dress. Alejandro Ingelmo shoes. For more new designers, see pages 4 and 5.



PHOTO BY THOMAS HANAGGONE, STYLED BY NAÏTÉ ALLENDE

CALLING ON KARL

Macy's Is Lagerfeld's Latest Fashion Project

By DAVID MOIN and MELISSA SOCHA

NEW YORK — Karl Lagerfeld aims to give Macy's contemporary business a kick come fall.

The multitasking designer is the latest in design: an exclusive capsule collection for the department store group, which will launch Aug. 31 in 235 of Macy's 600-plus stores, and on macy.com.

The Karl Lagerfeld for Impulse collection will have 45 limited edition styles, and an average price tag of \$100, though items will range from \$50 to \$170, putting it within Macy's "better" price range. Lagerfeld's exclusives for Macy's will have a limited run from six to eight weeks, depending on consumer reaction.

The Macy's collaboration is "a kind of test how to do this kind of clothes in that price range... As you know, I love occasional co-branding," deadpanned Lagerfeld, who ignited the massive movement in 2004 when he partnered with fast-fashion giant H&M on a one-time collection that sold out in a flash, spawning annual designer tie-ups at H&M and copycat strategies by other low-cost players.

The profile Lagerfeld has engaged in numerous fashion collaborations, including H&M, Diesel, Hugen and alpine specialist Napapijri, even pens and lighters for French accessories firm S.T. Dupont, and tableware for Swedish crystal maker Orrefors. "It's interesting to see and participate in the world of others in that business on all kinds of levels," he said.

Vocal about the splendid working conditions he enjoys at Chanel and Fendi, Lagerfeld on Wednesday told WWD that "in work with the Macy's team was extremely pleasant," and yielded "the right look for the season to come and in the direction we wanted to go."

While the designer is known to do most of his shopping in Paris boutiques — Dior Homme and Colette for clothes, Galignani for books, for example — he noted that "department stores and the 'Net are the best and largest possibilities for a

SEE PAGE 8

IN WWD TODAY

Hanesbrands Shares Fall **PAGE 6**
FINANCIAL: Despite higher earnings in the second quarter, Hanesbrands' shares drop 9 percent over uncertainty about the future of cotton prices.

Neiman's Star Turn **PAGE 7**

MEMO PAD:

Neuman Marcus recruits Drew Barrymore for its fall ad campaign, only the second time in its history it has used an actress.



Bridgepoint Buys La Gardenia **PAGE 6**

BEAUTY: Equity firm Bridgepoint has expanded its European beauty holdings with the acquisition of Italian chain La Gardenia.

10 **WWD** THURSDAY, SEPTEMBER 8, 2011

SECTION II

WWW.COM

NEW YORK'S GARMENT CENTER

Grass Roots

Remodeling the district with measured steps. By Rosemary Feitelberg

DEPENDING ON WHOM you ask, saving the garment center either means holding fast to the neighborhood's roots (and boundaries) or sprucing up the area to appeal to an assortment of businesses.

There may not be any immediate plans in the works for meetings to hash out potential new zoning, but many other initiatives have taken hold in the district.

The Fashion Center Business Improvement District unveiled the neighborhood's first bike-share program Wednesday. Prabal Gurung, Betsey Johnson, Elie Tahari, Rebecca Minkoff and Nanelle Lepore were among the 30 designers who customized the Bowery Lane bicycles that can now be borrowed temporarily from stations in the Garment Center or the Meatpacking District.

Other community-minded efforts for all sorts of creative types take place throughout the fall, including next month's arts festival. The fashion crowd is expected to be well-represented when the names of Ralph Rucci and Donald Brooks are added to the Fashion Walk of Fame. And to try to increase the neighborhood feel, the Fashion Center Business Improvement District will host Fashion District Kite Flight on Sept. 18 on the roof of the Port Authority Bus Terminal, where participants can try out kite-making, kite-flying, arts and crafts and free ice cream. There will also be live music, yoga demonstrations and dance performances.

As for designating an Eighth Avenue building for apparel making for small New York-based labels — an idea championed by Andrew Rosen that has been bandied about in recent years — that has yet to materialize. FCBD's executive director, Barbara Randall, said via e-mail Tuesday, "Honestly there is no progress on the one-stop manufacturing building proposed."

A spokeswoman for New York City's Economic Development Corp. said via e-mail Tuesday, "The EDC is continuing to evaluate alternatives for preserving production space in the Garment Center and supporting the area's revitalization. We are committed to the Garment Center's function as a central place for fashion designers, suppliers and manufacturers to congregate, recognizing that it is essential to New York's economy."

years through Facebook and other means. Its Web site, Savethegarmentcenter.org, is being relaunched today with a greater emphasis on how the design process comes to fruition in the Garment District. "We want to create an inside look of the Garment Center to try to grow consumer appreciation for the process, and to debunk the myth that nothing is made in America anymore," she said. "That simply isn't the case."

"At the moment, we are working to figure out how to mobilize the industry as a whole, and not just those who have been consistently involved for the past four years," Wolf added.

For those who are relatively new to the neighborhood, Save the Garment Center refers emerging designers who inquire about getting some direction about the ins and outs of the apparel business to Andy Ward of the Garment Industry Development Corp. Ward tries to help arrange mentorships. "Although our infrastructure is small, we help each designer as much as we can," Wolf said. "These aspiring designers are most grateful for the guidance and for the assistance."

Yeohlee Teng, who has been steadfast in her efforts to try to keep the neighborhood's core intact, will showcase a few local up-and-comers at her space tonight during Fashion's Night Out. Three New York-made labels — Emmanuelle by Thomas Chen, Michael Harlan Bespoke and 1-100's Graham Tabor and Miguel Villalobo — will each have a presence at her 25 West 38th Street site. The gathering is meant to support locally made goods, something Teng has long been a proponent of with her signature collection, as well as through the Made in Midtown initiative. The FNO crowd can learn all about the Made in Midtown study and how the apparel industry energizes the area.

Teng recently mulled over the idea of having an outpost that sells only New York-made clothes or a concept shop within a major retailer. "I thought, 'Why sit around and wait for someone to do it?' I can't do it

be held Sept. 13 at Elettra Wiedmann's Goodness, a pop-up restaurant in Ed's Chowder House near Lincoln Center.

Over the summer, academics Sarah Williams and Elizabeth Currid-Halkett teamed up to oversee one of the more progressive studies of the area. Their "Check-In Fashion" project used Foursquare's social media to map out how the industry is clustered throughout Manhattan. Williams serves as director of Columbia University's Spatial Information Design Lab, and was one of the fellows in Phase One of the Made in Midtown Study. Currid-Halkett is assistant professor at University of Southern California's School of Policy, Planning and Development. Rather than purely looking at the neighborhood from a statistical standpoint, as



Betsey Johnson helped launch the district's bike-share program on Wednesday.

Exhibit N

KOHL'S

What are you looking for today?



Account



\$0.00



Check Out

the **OUTFIT** bar



SHOP NEW LOOKS

40% off Dana Buchman

Shop by Brand

Apt. 9
Chaps
Croft & Barrow
Dana Buchman
Elle
EVRI Plus Size
Jennifer Lopez
LC Lauren Conrad
POPSUGAR
Simply Vera Vera Wang
Sonoma Goods for Life

Shop by Style

Graphic Tops
Blazers
Hoodies & Sweatshirts
Sweaters & Cardigans
Tunics
Vests

Women's Tops

**\$10
& UNDER**

Shop Now



Shirts & Blouses



T-Shirts



Tank Tops



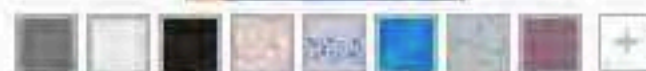
Plus Size Tops

All Products (8702)

Sort By : Featured

Show : 60 items

1 of 146



best seller

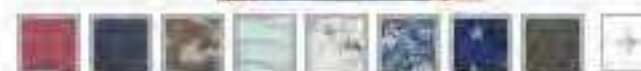
2 / \$20.00

\$13.00 each

Women's SONOMA Goods for Life™

★★★★★ (591)

FREE Store Pickup Today



best seller

2 / \$20.00

\$13.00 each

Women's SONOMA Goods for Life™

★★★★★ (432)

FREE Store Pickup Today



best seller

**SALE
\$24.99**

Original \$30.00

Women's SONOMA Goods for Life™

★★★★★ (153)

FREE Store Pickup Today



What are you looking for today?

Account

\$0.00

Check Out

Womens Dresses

All Products Clothing x Dresses x Womens x Under \$25 x \$25.00 x

PICKUP & SHIPPING

Pickup at Secaucus
[check other stores](#)

☐ FREE Store Pickup Today (36)

☐ FREE Ship to Store (113)

☐ Ship to Me (198)

OCCASION

☐ Active (6)

☐ Casual (115)

☐ Career (14)

☐ Easter (24)

☐ Evening (2)

☐ Homecoming (8)

☐ Party (23)

☐ Prom (12)

SIZE RANGE +

STYLE +

BRAND +

LENGTH +

SIZE +

SLEEVE LENGTH +


COLOR +


CUSTOMER RATING +

PROMOTIONS +

All Products (198)


Sort By : Price Low-High Show : 60 items






CLEARANCE
\$12.00
Original \$40.00


Women's Croft & Barrow® Print ...
★★★★★ (11)






CLEARANCE
\$12.00
Original \$30.00


Women's Sleeveless Swing ...
★★★★★ (21)







CLEARANCE
\$13.20
Original \$44.00

Women's SONOMA Goods for Life™
★★★★★ (9)









What are you looking for today?

Account

\$0.00

Check Out

Women's Skirts & Skorts

All Products Clothing Bottoms Skirts & Skorts Womens

PICKUP & SHIPPING

- Pickup at ★ Secaucus
[check other stores](#)
- ☐ FREE Store Pickup Today (40)
 - ☐ FREE Ship to Store (181)
 - ☐ Ship to Me (240)

SIZE RANGE

- ☐ Petite (15)
- ☐ Plus (41)
- ☐ Regular (187)

- SIZE +
- STYLE +
- LENGTH +
- OCCASION +
- FEATURE +
- MATERIAL +
- COLOR +
- BRAND +
- PRICE +
- CUSTOMER RATING +
- PROMOTIONS +

Women's Skirts



Mini Skirts



Midi Skirts



Maxi Skirts



Denim Skirts



Skorts

All Products (241)

Sort By : Featured Show : 60 items 1 of 5



SALE
\$17.99
Original \$30.00

Women's Croft & Barrow® Extra ...

★★★★★ (131)

FREE Store Pickup Today



SALE
\$24.99
Original \$36.00

Women's Apt. 9® Print Column ...

★★★★★ (52)

FREE Store Pickup Today



SALE
\$17.99
Original \$36.00

Women's Croft & Barrow® ...

★★★★★ (29)

FREE Store Pickup Today

Home / Designer / Women / Designer Clothing / Tops

- Category+
- Style+
- Occasion+
- Sleeve Length+
- Material+
- Neck Style+
- Price+
- Prints+
- Size+
- Color+
- Brand+

Women's Designer Tops

Pick Up in Store: [Set location](#) ☐ OFF 941 items

Sort by featured



New!
Veronica Beard Jaz Leopard Print Silk Chiffon Blouse
\$395.00



New!
Burberry Godwit Monogram Print Silk Shirt
\$1,050.00



New!
Saint Laurent Star Print Silk Chiffon Blouse
\$1,590.00



New!
Jacquemus Enna Belted Shirt
\$640.00
★★★★★ (1)

The wait is over. Shop Anniversary Sale now.

Home / Designer / Women / Designer Clothing / Dresses

- Category +
- Occasion +
- Length +
- Sleeve Length +
- Style +
- Prints +
- Material +
- Neck Style +
- Price +
- Size +
- Color +
- Brand +

Women's Designer Dresses

Pick Up in Store: [Set location](#) ☐ OFF 1093 items

Sort by featured



New!
Veronica Beard Arielle Leopard Print Stretch Silk Midi Dress
\$595.00



New!
Ganni Tiger Stripe Print Sheer Organza Midi Dress
\$360.00



New!
Veronica Beard Armeria Floral Print Long Sleeve Silk Dress
\$595.00



New!
Co Belted V-Neck Caftan Dress
\$825.00

NORDSTROM

Anniversary Sale

Designer

Women

Men

Kids

Home & Gifts

Beauty

Sale

Search Sign In

Home / Designer / Women / Designer Clothing / Skirts

- Category +
- Style +
- Material +
- Length +
- Prints +
- Price +
- Size +
- Color +
- Brand +

Women's Designer Skirts

Pick Up in Store: Set location OFF 227 items

Sort by featured



New!
Veronica Beard Bethel Leopard Jacquard Wool Pencil Skirt
\$350.00



New!
Sies Marjan Asymmetrical Satin Skirt
\$695.00



New!
Balenciaga Pleated Rainbow & Chain Print Twill Skirt
\$1,790.00



New!
MM6 Maison Margiela Silky Circle Skirt
\$485.00

Exhibit O

MH000127

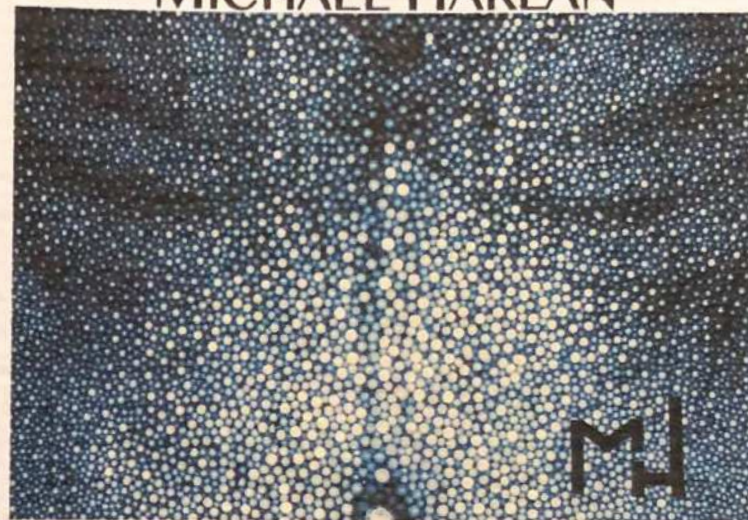


Michael Harlan

contact:

studio@michaelharlan.com

MICHAEL HARLAN



MICHAEL HARLAN

Michael Schwarz
Designer

382 Central Park West # 18X
NYC, NY 10025
917-439-5867

mschwarznyc@gmail.com



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Intent-to-Use Application No. 87/213,550

Mark: MH MARILYN HATTEN (stylized)

Michael Harlan Studio LLC,

Opposer,

v.

Opposition No. 91236083

Kari Vettese DBA Marilyn Hatten,


Applicant.

TESTIMONY DECLARATION OF MICHAEL GRIFFIN

PLEASE TAKE NOTICE that, pursuant to Rule 2.123(a)(1) of the Trademark Rules of Practice, Opposer Michael Harlan Studio LLC hereby submits the Testimony Declaration of Michael Griffin.

I, Michael Griffin, declare as follows:

1. I am over the age of 18, am competent to make this declaration, and make this declaration based on my own personal knowledge. I submit this declaration in support of Opposition No. 91236083 of Opposer Michael Harlan Studio LLC (“**Michael Harlan Studio**”).

2. I have known Michael Schwarz for 17 years, and am familiar with Michael Harlan Studio and its products, as I have assisted, and continue to assist, Michael Harlan Studio in various capacities from time to time since Michael Harlan Studio first started using its  mark in 2007.

3. I have read Michael Schwarz’ declaration carefully and in its entirety and can confirm based on my personal knowledge that Paragraphs 2-5, 7-14, 21, 24, 36-37, & 39 of his declaration are accurate and complete.

4. I have reviewed the exhibits attached to Michael Schwarz' declaration with respect to the Paragraphs referenced above and can confirm based on my personal knowledge that those exhibits represent what Mr. Schwarz has declared they represent.

5. The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

Dated: 8/2/19

Michael Griffin
Michael Griffin

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing document with applicable exhibits has been served on Joshua S. Schoonover, counsel for Applicant, by forwarding said copy on August 5, 2019, via email to: lawgroup@coastalpatent.com.

Signature: /Shaun P. Keough/

Date: August 5, 2019

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Intent-to-Use Application No. 87/213,550

Mark: MH MARILYN HATTEN (stylized)

Michael Harlan Studio LLC,

Opposer,

v.

Kari Vettese DBA Marilyn Hatten,

Applicant.

Opposition No. 91236083

TESTIMONY DECLARATION OF CAROL MUEHLING

PLEASE TAKE NOTICE that, pursuant to Rule 2.123(a)(1) of the Trademark Rules of Practice, Opposer Michael Harlan Studio LLC hereby submits the Testimony Declaration of Carol Muehling.



I, Carol Muehling, declare as follows:

1. I am over the age of 18, am competent to make this declaration, and make this declaration based on my own personal knowledge. I submit this declaration in support of Opposition No. 91236083 of Opposer Michael Harlan Studio LLC (“**Michael Harlan Studio**”).

2. I am the sole owner of a boutique called Patina that sells clothing and related goods, such as jewelry, handbags, luggage, and wallets, and, as such, am authorized to make this declaration on behalf of Patina. I am highly familiar with and directly involved in the operations of Patina, its relationship with Michael Harlan Studio, and the clothing and textiles industry in general. I have worked directly with Michael Schwarz and Michael Harlan Studio since early 2016. Unless otherwise noted, the exhibits to which I refer and which are attached to this declaration are copies of documents and other materials from Patina and Michael Harlan Studio’s business records kept in the ordinary course of business.

3. Patina is located at 23 Centre Street, Nantucket, Massachusetts, 02554, and has been located at this address at all relevant times.

4. Since April of 2016, I have purchased card cases, passport cases, wallets, tote bags, handbags, coats, scarves, shirts, blouses, and vests from Michael Harlan Studio for resale in my store, all of which included, and continue to include, hangtags, product cards, or sewn-in labels bearing Michael

Harlan Studio's  mark or its  mark (collectively, the "**MH Marks**"). I continue to purchase such goods from Michael Harlan Studio under the MH Marks because my customers continue to inquire about and buy the Michael Harlan Studio goods I offer for sale under the MH Marks.


5. Once I purchase items from Michael Harlan Studio, I display the items for sale throughout Patina's show floor under one or both of the MH Marks.


6. Patina is, and has always been, an authorized licensee with respect to the MH Marks for purposes of reselling the goods I purchase from Michael Harlan Studio.



7. Customers from Massachusetts and elsewhere, including from New York, Connecticut, New Jersey, Vermont, Pennsylvania, Minnesota, Virginia, Washington, D.C., Florida, Texas, Ohio, California, Michigan, and Tennessee, have purchased Michael Harlan Studio goods from me since April of 2016. All of these purchased goods were displayed throughout the Patina show floor with hangtags, product cards, or sewn-in labels bearing one or both of the MH Marks.

8. I have had customers inquire about my Michael Harlan Studio collection, including asking when I will receive my next shipment of Michael Harlan Studio goods. These customers understand that the goods in my store that bear one or both of the MH Marks are manufactured by and come from Michael Harlan Studio.

9. Attached hereto as **Exhibit A** are true and accurate photographs of the following: (a) a

Michael Harlan Studio scarf bearing the  mark that I purchased from Michael Harlan Studio on or around October 3, 2016 (MH00038); (b) an example representative of a Michael Harlan Studio coat

bearing the  mark that I purchased from Michael Harlan Studio on or around July 6, 2016 (MH00039 & MH00044); (c) Michael Harlan Studio wallets bearing the MH Marks I purchased from Michael Harlan Studio on or around April 26, 2016 (MH00055-56); (d) an example of the Michael Harlan

Studio scarves bearing the  mark I purchased from Michael Harlan Studio in or around October and September of 2016 (MH00057); (e) Michael Harlan Studio shirts bearing the MH Marks I began custom ordering from Michael Harlan Studio starting in or around September of 2016 (MH00073-74, MH00119-120 & MH00122) – photographs MH00073-74 are representative of how Michael Harlan Studio clothing is displayed for sale throughout the Patina show floor; (f) a piece of Michael Harlan Studio luggage bearing the MH Marks I purchased from Michael Harlan Studio on or around April 26, 2016 (MH00090); and (g) a Michael Harlan Studio coat bearing the  mark I purchased from Michael Harlan Studio on or around July 6, 2016 (MH00092).

10. Attached hereto as **Exhibit B** are true and accurate invoices I received from Michael Harlan Studio for the orders I placed for Michael Harlan Studio goods before October 24, 2016. **Exhibit B** includes the following: (a) an April 26, 2016 invoice for card cases, passport holders, wallets, and tote bags (MH00062-63); (b) a July 6, 2016 invoice for coats (MH00065); (c) an October 3, 2016 invoice for scarves (MH00067-68); (d) an October 11, 2016 invoice for scarves (MH00070-71); (e) a September 1, 2016 invoice for scarves (MH00087-88); (f) a March 7, 2017 invoice for shirts whose purchase I negotiated with Michael Harlan Studio before October 24, 2016 (MH00112); and (g) a July 17, 2017 invoice for shirts whose purchase I negotiated with Michael Harlan Studio before October 24, 2016

(MH00114-16). All of the goods identified in these invoices bore one or both of the MH Marks by way of hangtags, product cards, or sewn-in labels when I received them from Michael Harlan Studio.

11. Michael Harlan Studio and I discussed and negotiated the terms of a custom shirt order before October 24, 2016 through email, phone conversations, and in-person meetings (*see, e.g.*, a true and accurate copy of email correspondence between myself and Michael Schwarz of Michael Harlan Studio, Bates numbered MH00104-110, attached hereto as **Exhibit C**, discussing, in part, the custom Patina shirt order). It was understood during these discussions that the shirts manufactured pursuant to the custom shirt order were to be sold and distributed to Patina under one or both of the MH Marks and then offered for resale by Patina throughout its show floor under one or both of the MH Marks. Michael Harlan Studio made it clear that each Michael Harlan Studio item, including any shirts, offered for resale by Patina would include, at the very least, a product card bearing one of the MH Marks (*see* a true and accurate copy of an email I received from Michael Schwarz of Michael Harlan Studio discussing a product card, Bates numbered MH00095, and a copy of the product card attachment, Bates numbered MH00111, both of which are attached hereto as **Exhibit D**). As contemplated by Michael Harlan Studio and myself during the pre-October 24, 2016 custom shirt order discussions, I received the shirts created pursuant to the custom shirt order under one or both of the MH Marks and then displayed them for resale throughout Patina's show floor under one or both of the MH Marks. *See Exhibits A & B*. All of these shirts were ultimately sold to my customers. I continue to purchase shirts and blouses from Michael Harlan Studio under the MH Marks which are then offered for resale throughout Patina's show floor under said marks.

12. Patina paid for each of the invoices referenced herein as evidenced by the bank deposit receipts attached to Michael Schwarz's declaration (which I reviewed before signing this declaration) and true and accurate copies of checks attached hereto as **Exhibit E**.

13. Women's clothing, namely, shirts, dresses, skirts, and blouses are substantially related to, and in fact complementary with, pants, vests, jackets, coats, scarves, wallets, handbags, tote bags, and luggage in the minds of consumers for such goods in that such consumers would mistakenly think these

goods came from a single source if offered for sale under the same or a substantially similar mark. It is not uncommon for these goods to sit next to each other in the same department store or boutique or to be purchased together by the same consumer during a single shopping trip. Indeed, women's shirts and blouses are frequently placed in close proximity to vests, coats, scarves, wallets, handbags, tote bags, and luggage in my store, and the same consumer frequently purchases such items in combination during a single shopping trip to Patina. This class of consumers includes consumers of all sophistication levels.

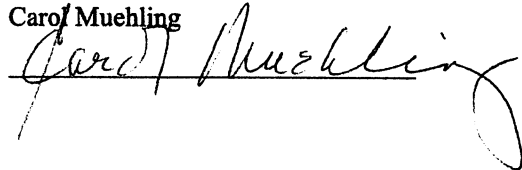
14. The normal trade channels for shirts (including women's shirts), dresses, skirts, blouses, pants, vests, jackets, coats, scarves, wallets, handbags, tote bags, and luggage include boutiques and similar retailers, such as Patina, and online retail websites.

15. Patina routinely and frequently purchases shirts (including women's shirts), dresses, skirts, blouses, pants, vests, jackets, coats, scarves, wallets, handbags, tote bags, and luggage.

16. The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

Dated: 8/1/19

Carol Muehling

A handwritten signature in cursive script, appearing to read "Carol Muehling", written over a horizontal line.

CERTIFICATE OF SERVICE

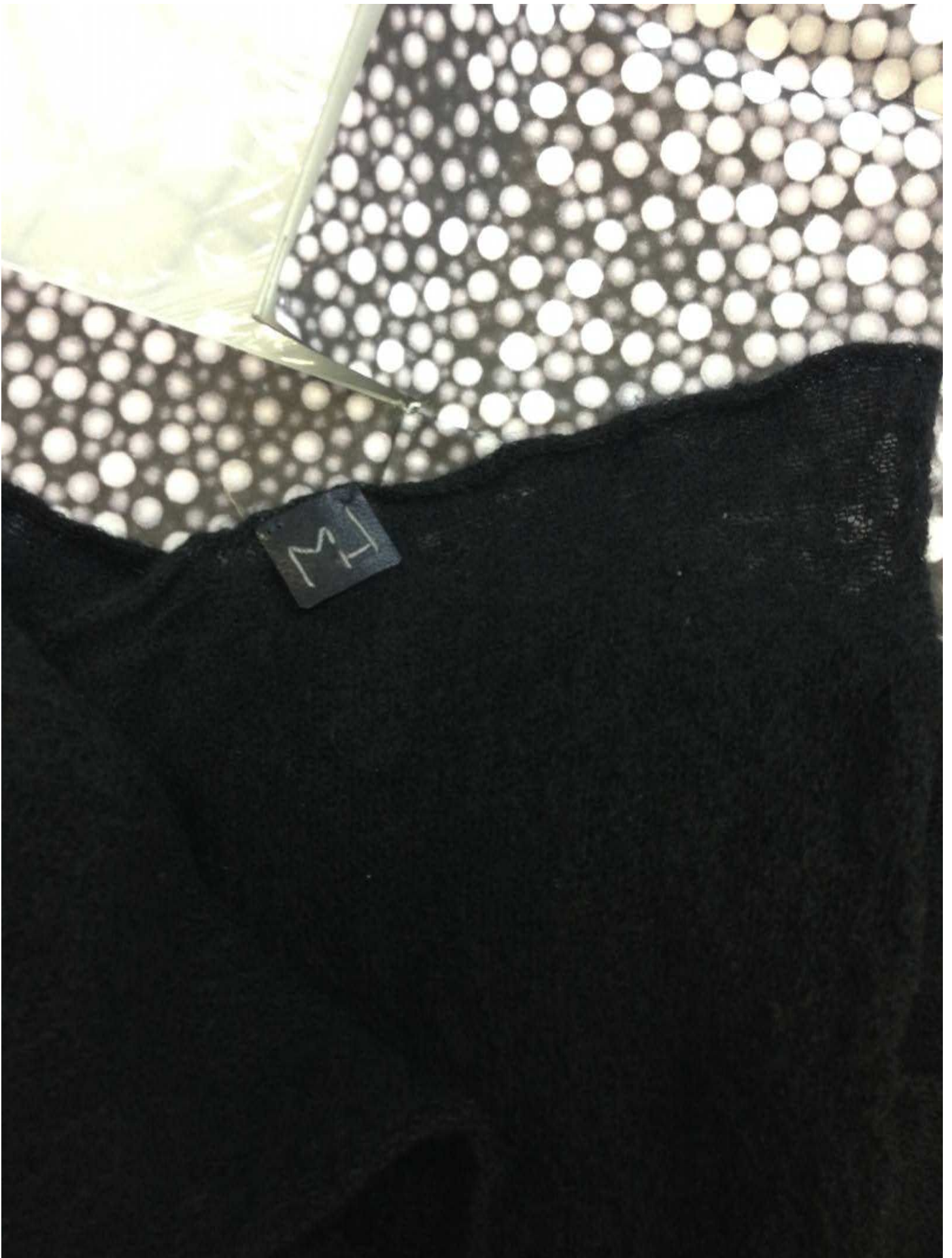
I hereby certify that a true and complete copy of the foregoing document with applicable exhibits has been served on Joshua S. Schoonover, counsel for Applicant, by forwarding said copy on August 5, 2019, via email to: lawgroup@coastalpatent.com.

Signature: /Shaun P. Keough/

Date: August 5, 2019

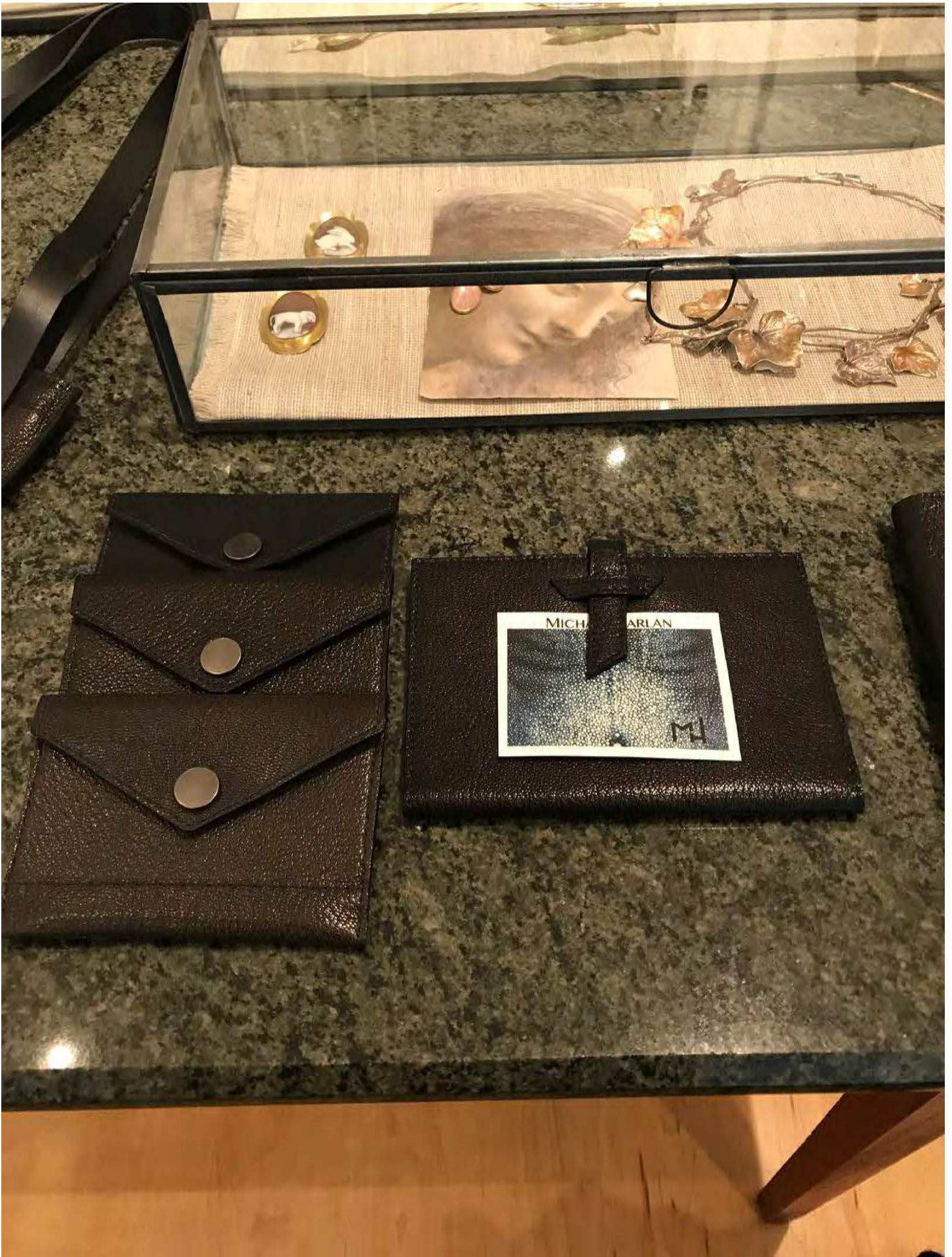
Exhibit A

MH00038











MH00057



MH00073





MH00090



MH00092



MH00119



MH00122





Exhibit B

INVOICE #160426

PATINA
Carol Muehling
23 Centre Street
Nantucket, MA 02554
508-228-7188

April 26, 2016

Re: Merchandise Invoice

4	Card cases_____	@ \$100_____	\$400
4	Passports_____	@ \$150_____	\$600
2	Wallets_____	@ \$225_____	\$450
2	Linen Totes_____	@ \$800_____	\$1600
2	Leather totes_____	@ \$950_____	\$1900

Amount Due_____ \$4,950.00

Remit to:

Michael Harlan Studio
382 Central Park West
#18 X
New York City, NY 10025

MICHAEL HARLAN STUDIO 382 Central Park West #18X NYC, NY 10025
212-222-2094

INVOICE #160706

PATINA
Carol Muehling
23 Centre Street
Nantucket, MA 02554
508-228-7188

July 6, 2016

Re: Merchandise Invoice

2	Cashmere cocoon zip coats	@ \$1200	\$2400
2	Wool cocoon zip coats	@ \$1150	\$2300
<u>Amount Due</u>			<u>\$4,700.00</u>

Remit to:

Michael Harlan Studio
382 Central Park West
#18 X
New York City, NY 10025

INVOICE #161003

PATINA
Carol Muehling
23 Centre Street
Nantucket, MA 02554
508-228-7188

October 3, 2016

Re: Merchandise Invoice

3	Black knitted cashmere scarves_____	@ \$220_____	\$660
3	charcoal knitted cashmere scarves_____	@ \$220_____	\$660
3	Mushroom knitted cashmere scarves_____	@ \$220_____	\$660

Amount Due \$1980.00

Remit to:

Michael Harlan Studio
382 Central Park West
#18 X
New York City, NY 10025

MICHAEL HARLAN STUDIO 382 Central Park West #18X NYC, NY 10025
212-222-2094

INVOICE #161011

PATINA
Carol Muehling
23 Centre Street
Nantucket, MA 02554
508-228-7188

October 11, 2016

Re: Merchandise Invoice

1	Black knitted cashmere scarf_____	@ \$220_____	\$220
2	charcoal knitted cashmere scarves_____	@ \$220_____	\$440
4	Mushroom knitted cashmere scarves_____	@ \$220_____	\$880
4	Navy knitted cashmere scarves_____	@ \$220_____	\$880
4	Loden knitted cashmere scarves_____	@ \$220_____	\$880

Shipping_____ \$70

Amount Due_____ \$3,370.00

Remit to:

Michael Harlan Studio
382 Central Park West
#18 X
New York City, NY 10025

MICHAEL HARLAN STUDIO 382 Central Park West #18X NYC, NY 10025
212-222-2094

INVOICE #160901

PATINA
Carol Muehling
23 Centre Street
Nantucket, MA 02554
508-228-7188

September 1, 2016

Re: Merchandise Invoice

3 Black 100% cashmere scarves_____ \$210.00

Amount Due_____ \$630.00

Remit to:

Michael Harlan Studio
382 Central Park West
#18 X
New York City, NY 10025

MICHAEL HARLAN STUDIO 382 Central Park West #18X NYC, NY 10025
212-222-2094

**INVOICE #170307**

PATINA
 Carol Muehling
 23 Centre Street
 Nantucket, MA 02554
 508-228-7188

March 7, 2017

Re: Merchandise Invoice

9	Chrysanthemum Yoke Shirt/Jac	@ \$225	\$2,025
9	Navy Polka Dot Pleat Shirt	@ \$225	\$2,025
9	Chambray Long Shirt	@ \$235	\$2,115
9	Cotton/Ramie Kimono-Tux Shirt	@ \$235	\$2,115
3	Navy Polka Dot Long Shirt	@ \$235	\$705
3	Chambray Pleat Shirt	@ \$225	\$675
3	Cotton/Ramie yoke shirt	@ \$ 235	\$705
4	Small Tote	@ \$350	\$1,400
	2 black, 1 navy, 1 stone		
4	Cross Shoulder Tote	@ \$425	\$1,700
	2 black, 1 navy, 1 stone		
4	Large Shopper	@ \$950	\$3,800
	2 black, 1 navy, 1 stone		
6	Clutch	@ \$300	\$1,800
	2 back, 2 navy, 2 stone		

PRODUCT TOTAL \$19,065.00
 SHIPPING \$270.00

Amount Due \$19,335.00

Remit to:

Michael Harlan Studio
 382 Central Park West
 #18 X
 New York City, NY 10025

MICHAEL HARLAN STUDIO 382 Central Park West #18X NYC, NY 10025 212-222-2094

**INVOICE #170717**

PATINA
 Carol Muehling
 23 Centre Street
 Nantucket, MA 02554
 508-228-7188

July 17, 2017

Re: Merchandise Invoice

9	Plaid shirts	3 per size	@ \$220	\$1,980
9	Corduroy Shirts	3 per size	@ \$235	\$ 2,115
9	Chambray Floral shirts	3 per size	@ \$225	\$2,025
9	Clipped Dot Shirts	3 per size	@ \$235	\$2,115
8	Swing sweater vests	4 per size	@ \$175	\$1400
8	Tunics with belt	4 per size	@ \$195	\$1560
4	Sweater-knit zip vest	2 per size	@ \$230	\$920
4	Loden Cocoon Zip Coats	2 per size	@ \$1150	\$4,600
4	Double face Kimono Coats	2 per size	@ \$1100	\$4,400
22	Cashmere scarves	5 colors	@ \$220	\$4,840
3 Navy, 2 Loden, 3 Mushroom, 4 black, 5 Sky, 5 cloud				

PRODUCT TOTAL \$25,950.00
 SHIPPING \$430.00

Amount Due \$26,380.00

Remit to:

Michael Harlan Studio
 382 Central Park West
 #18 X
 New York City, NY 10025

MICHAEL HARLAN STUDIO 382 Central Park West #18X NYC, NY 10025 212-222-2094



INVOICE #170716

PACKING LIST

BOX 1

4 Zip Vests
4 Kimono coats
8 swing sweater vests
9 Corduroy shirts
9 Floral Shirts
9 Plaid Shirts
9 Clipped Dot shirts
3 Navy Scarves
2 Loden Scarves
2 Spring shirts

BOX 2

4 Loden Coats

BOX 3

8 Tunics with belts
4 Black scarves
3 mushroom scarves

BOX 4

5 Cloud Scarves
5 Sky Scarves

MICHAEL HARLAN STUDIO 382 Central Park West #18X NYC, NY 10025 212-222-2094

Exhibit C

[Fwd: Re: HELLO!]

mharlan@michaelharlan.com

Thu 9/1/2016 12:06 PM

To: mwgriffin10@hotmail.com <mwgriffin10@hotmail.com>;

 1 attachments (19 KB)

untitled-[2];

Original Message

Subject: Re: HELLO!

From: "Carol Muehling" <carolmuehling@hotmail.com>

Date: Thu, September 1, 2016 10:38 am

To: "mharlan@michaelharlan.com" <mharlan@michaelharlan.com>

Hi! Here now...a bit quiet so maybe a good time if it works for you.
I'll have to re read your email from yesterday...too crazy to do much
yesterday. The last hurrah!!

From: mharlan@michaelharlan.com <mharlan@michaelharlan.com>

Sent: Thursday, September 1, 2016 8:32 AM

To: Carol Muehling

Subject: Re: HELLO!

Good morning!
raining morning... actually perfect because I'll have a little time to
label the scarves...

My unchangeable schedule at the moment is as follows:

Picking up family this afternoon at 5 then dinner,
and then we have a flight tomorrow :(at 4.

Beyond that i'm flexible to what works for you.

let me know!

M

> Thank yew!!

>

>

>

> From: mharlan@michaelharlan.com <mharlan@michaelharlan.com>

> Sent: Wednesday, August 31, 2016 11:26 AM
 > To: Carol Muehling
 > Subject: Re: HELLO!
 >
 > Sorry! I know its a lot....
 > Yes we can wait till tomorrow... I should have some scarves fro you then!
 > (adding to that list we'll talk retail of that too..... :)
 > I'll drop you a not in the morning
 >
 >
 >> YIKES!! A lot to digest.....but necessary of course. Wondering if you
 >> could come by tomorrow or friday instead? I'm a bit overwhelmed by a
 >> couple of things that I desperately need to attend to. Could even do
 >> tomorrow end of day at the house if that works any better for you. I
 >> also
 >> need some time to go over your questions so I'm prepared!
 >>
 >> hope you're enjoying your last bit of quiet before family descends!
 >>
 >> C
 >>
 >>
 >>
 >> From: mharlan@michaelharlan.com <mharlan@michaelharlan.com>
 >> Sent: Wednesday, August 31, 2016 8:30 AM
 >> To: Carol Muehling
 >> Subject: Re: HELLO!
 >>
 >> Hey there!
 >> I am hoping to stop by for a few minutes today and chat if you have a
 >> little time.
 >>
 >> In the mean time just a recap of what you saw and then some questions.
 >> sorry for the barrage, its train of thought so i don't forget. We can
 >> discuss it all when I see you.
 >>
 >> Bags
 >>
 >> I will be looking at the same leather as before, but will also see what
 >> else they have
 >> to mix it up a bit. Are you opposed to them being all black if thats
 >> what
 >> seams to work best?
 >>
 >> 2 styles of small totes: you would want 3 of each
 >>
 >> large scallop bag how many? do you see this in just black?
 >>
 >> Are you thinking of any of this years bags or versions of them as a
 >> reorder
 >>
 >> I am thinking of doing a small zip clutch like the ones you sell... if
 >> interested
 >>
 >>
 >> SHIRTS
 >>

>> I want to discuss the price point as we narrow in on fabric
 >> take a look at the breakdown and let me know if you agree.
 >> Let me know which, if any, you were thinking you would want in multiple
 >> fabrics
 >> (you've mentioned this it at least twice but i have spaced out)
 >> Let me know what your wish list is and we'll see how fabric availability
 >> works out. What is your thought if there is not enough to complete a
 >> full
 >> order per shirt?
 >>
 >>
 >> Pleated print or solid
 >> 3 of each size
 >>
 >> ball button ?
 >> 3 of each size
 >>
 >> rolled sleeve print, ?possible multiple, or linen
 >> 3 of each size
 >>
 >> long shirt solid fine linen or cotton?
 >> ?
 >>
 >> all for now .
 >> See you soon.
 >>
 >> M
 >>
 >>
 >>
 >>
 >>
 >>
 >>> Great! I get in at 9
 >>> Katie at 10
 >>> We're there so come when its good for you. Hopefully won't be crazy.
 >> It's
 >>> been nuts!
 >>>
 >>> Sent from my iPhone
 >>>
 >>>> On Aug 28, 2016, at 6:34 PM, "mharlan@michaelharlan.com"
 >>>> <mharlan@michaelharlan.com> wrote:
 >>>> Hey there!
 >>>> So, I will see you in the morning... (monday)
 >>>> what time would you like me to be there?
 >>>> looking forward to it!
 >>>> M
 >>>>> Perfect!
 >>>>> Sent from my iPhone
 >>>>> On Aug 26, 2016, at 3:18 PM, "mharlan@michaelharlan.com"
 >>>>> <mharlan@michaelharlan.com> wrote:
 >>>>> GOOD!
 >>>>> the sea is too wild but for that reason the beach is beautiful.
 >>>>> let's
 >> shoot for Monday as a work session, but we will stop by if we find
 >>>>> ourselves downtown before.
 >>>>> See you soon!

>>>>>> Hi! This is the first chance I've had to check emails! Sorry! But
 >> the
 >>>>>> good
 >>>>>> news is, we are busy!!
 >>>>>> Not sure about my schedule tomorrow. Might be in after 1 until 6
 >>>>>> but
 >> not
 >>>>>> sure. Otherwise maybe Monday when Katie is here? She's a good judge
 >>>>>> of
 >>>>>> proportion.
 >>>>>> Can we touch base tomorrow??
 >>>>>> Or if you're in town I'm here until 6.
 >>>>>> Hope you're floating in the sea!
 >>>>>> Sent from my iPhone
 >>>>>> On Aug 26, 2016, at 10:55 AM, "mharlan@michaelharlan.com"
 >>>>>> <mharlan@michaelharlan.com> wrote:
 >>>>>> Good morning!
 >>>>>> I hope everything went well yesterday. Seemed like it was a good
 >>>>>> day
 >>>>>> for
 >>>>>> anything!
 >>>>>> Let me know what works with your schedule.
 >>>>>> see you soon,
 >>>>>> M
 >>>>>>> HI!! Thought I might hear from you today. I'm volunteering most
 >>>>>>> of
 >>>>>>> tomorrow for Swim Across America so won't be around. Let's touch
 >> base
 >>>>>>> friday.
 >>>>>>> Only one lonely coat left.....not bad for starters and some
 >> very
 >>>>>>> warm
 >>>>>>> days! You rock!!
 >>>>>>> soon....
 >>>>>>>
 >>>>>>>> From: mharlan@michaelharlan.com <mharlan@michaelharlan.com> Sent:
 >> Wednesday, August 24, 2016 5:01 PM
 >>>>>>>> To: Carol Muehling
 >>>>>>>> Subject: HELLO!
 >>>>>>>> Hey there!!
 >>>>>>>> We made it and of course it's beautiful...
 >>>>>>>> Looking forward to seeing you!
 >>>>>>>> We also have a little work to do so I'll need you to let me know
 >>>>>>>> what
 >>>>>>>> day
 >>>>>>>> is best to take some time from you and try size fits of all shirt
 >> styles,
 >>>>>>>> and a couple bag samples to showetc....
 >>>>>>>> Let me know what works...now on no schedule but yours.
 >>>>>>>> soon
 >>>>>>>> Michael
 >>>>>>>>> Can't wait to see you guys!! Thanks for the warning;))
 >>>>>>>>> Good on shirts.
 >>>>>>>>> I'll take the scarves late and sell what I can and hold the rest
 >>>>>>>>> for
 >>>>>>>>> next
 >>>>>>>>> season.....never hurts to get what you can when you can! And yes

>>>>>>>> to
 >>>>>>>> the
 >>>>>>>> black!!
 >>>>>>>> Been BUSY!!!
 >>>>>>>> See you soon!
 >>>>>>>> Sent from my iPhone
 >>>>>>>> On Aug 10, 2016, at 8:12 AM, "mharlan@michaelharlan.com"
 >> <mharlan@michaelharlan.com> wrote:
 >>>>>>>> Good morning!
 >>>>>>>> quick update.
 >>>>>>>> We'll be there in two weeks... just saying...
 >>>>>>>> Shirts
 >>>>>>>> I'll have fit sizes of all the shirts
 >>>>>>>> (corrected size 3 of first shirt, and then three other styles
 >>>>>>>> one
 >>>>>>>> you
 >>>>>>>> have not seen,
 >>>>>>>> but think you will like)
 >>>>>>>> Scarves
 >>>>>>>> Have had a setback where the maker did not order the yarns as
 >>>>>>>> fast
 >>>>>>>> as
 >>>>>>>> they
 >>>>>>>> said they would. I should have some black ones soon but think
 >>>>>>>> all
 >>>>>>>> the
 >>>>>>>> other colors will
 >>>>>>>> not come until it is passed the time you wanted.
 >>>>>>>> Do you want a few black for this fall?
 >>>>>>>> And then I guess it will be next fall for the full color range?
 >> Let me know your thoughts, sorry for the setback.
 >>>>>>>> see you soon.
 >>>>>>>> Michael
 >>>>>>>> Hi Michael. Sorry for delayed response....I took a time out
 >>>>>>>> this
 >>>>>>>> weekend.
 >>>>>>>> Was on overload and out of fuel.
 >>>>>>>> I think I'm a bit confused by your grading questions. I'm not
 >> sure
 >>>>>>>> about
 >>>>>>>> 1" or 2" from the original. I think I just felt that it would
 >>>>>>>> hit
 >>>>>>>> some
 >>>>>>>> people in the wrong place (widest part of hip) if it weren't
 >> longer.
 >>>>>>>> But
 >>>>>>>> am willing to leave it up to you if you think the proportion
 >>>>>>>> is
 >> wrong
 >>>>>>>> Re peasant shirt....I purchased that from the competition a
 >> few
 >>>>>>>> years
 >>>>>>>> ago....didn't sell them so don't know about grade. I think
 >>>>>>>> for
 >> the
 >>>>>>>> sm/med
 >>>>>>>> which that one is, the length worked because of the drape of

>>>>>>>>> the
 >>>>>>>>> fabric.
 >>>>>>>>> Make sense??
 >>>>>>>>> And.....FYI.....sold the black cashmere jacket this weekend
 >> (sm/med)!!!!
 >>>>>>>>> And Carol Greenwald coming in tomorrow to check out the grey.
 >> Congratulations!!
 >>>>>>>>> Call me if you have any other questions.....I'm here every day
 >> this
 >>>>>>>>> week.
 >>>>>>>>> C
 >>>>>>>>>
 >>>>>>>>> From: mharlan@michaelharlan.com <mharlan@michaelharlan.com>
 >> Sent: Friday, July 29, 2016 11:55 PM
 >>>>>>>>> To: Carol Muehling
 >>>>>>>>> Subject: HOMEWORK :)
 >>>>>>>>> I have started to grade the next shirt style (see attached
 >> photo
 >>>>>>>>> as
 >>>>>>>>> a
 >>>>>>>>> reminder)
 >>>>>>>>> and have a few questions ..
 >>>>>>>>> you said the first size that you tried on needs to be two
 >> inches
 >>>>>>>>> longer ..
 >>>>>>>>> that would make it an inch longer than the first shirt that
 >>>>>>>>> you
 >> tried
 >>>>>>>>> on.
 >>>>>>>>> (to me this shirt shouldn't be longer than the first one-a
 >> proportional
 >>>>>>>>> thing, but your call...)
 >>>>>>>>> I assume I should follow the same grading in the length as the
 >> first
 >>>>>>>>> shirt
 >>>>>>>>> i.e. they are almost 2" LONGER than the size before , and the
 >>>>>>>>> 3rd
 >>>>>>>>> size
 >>>>>>>>> is
 >>>>>>>>> actually
 >>>>>>>>> a 4" grade up (skipping a size) correct?
 >>>>>>>>> For future reference.... That peasant shirt that you like so
 >>>>>>>>> much,
 >>>>>>>>> (that
 >>>>>>>>> got the stain on it) is stylistically a shorter shirt. When
 >>>>>>>>> that
 >>>>>>>>> shirt
 >>>>>>>>> graded up was it still "short" in comparison? was that a
 >> detriment
 >>>>>>>>> to
 >>>>>>>>> that shirt? did it sell and or would you have wanted it
 >>>>>>>>> longer
 >>>>>>>>> ?
 >>>>>>>>> I am trying to understand how different styles can work when
 >> reading
 >>>>>>>>> up
 >>>>>>>>> based on your experience...

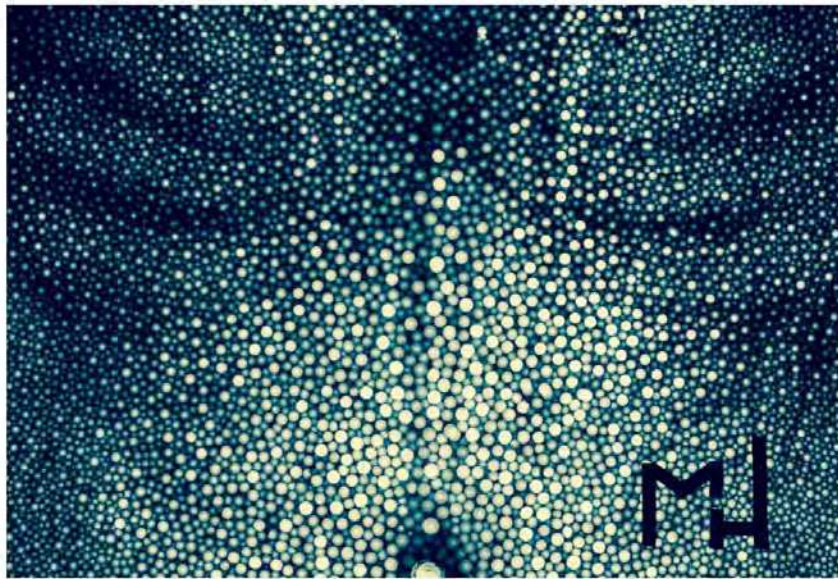
```
>>>>>>>>>> thats it for now....  
>>>>>>>>>> Thanks!  
>>>>>>>>>> You can now return to your weekend : )  
>>>>>>>>>> M  
>>>  
>>  
>>  
>>  
>>  
>>  
>  
>
```

Exhibit D

>>> On Mar 20, 2016, at 4:21 AM, "mharlan@michaelharlan.com"
>>> <mharlan@michaelharlan.com> wrote:
>>>
>>> Carol,
>>> I am not sure when you are getting back from your trip, but I hope you
>>> had
>>> a wonderful time!
>>>
>>> Everything is ready to go- which is exciting!
>>> I am attaching a copy of the card that i am including with each piece
>>> (front and back)
>>> to make sure you are OK with it.
>>> Please let me know your thoughts.
>>>
>>> AND when you get a moment we just need to discuss when you want me to
>>> send
>>> everything/want it to arrive and pricing.
>>> Michael and I went comparison shopping and worked out a spreadsheet of
>>> scenarios to share with you... when you are ready..
>>>
>>> Looking forward to hearing from you.
>>>
>>> Michael
>>>
>>>
>>>
>>>
>>> <product card.docx>
>>
>

FRONT

MICHAEL HARLAN



BACK

MICHAEL HARLAN utilizes the finest leathers and fabrics available while employing the ethics of local sustainable construction. Our design process deftly merges handcraft and material quality with a keen awareness of form and function. Each piece is individually hand cut and hand sewn to create and preserve its unique identity. Women's Wear Daily has lauded the "impeccable construction and quiet luxury" of our work. Our continued pursuit of authentic craftsmanship is unwavering in all we do.

All products are made in New York City.

Please enjoy.

Care instructions: Please store in the cloth pouch provided.
Wipe clean with a soft, dry cloth.

For more information please contact us at: studio@michaelharlan.com

Exhibit E

THIS CHECK IS VOID WITHOUT A COLORED BACKGROUND AND AN ARTIFICIAL WATERMARK ON THE BACK - HOLD AT ANGLE TO VIEW

CAROL A. MUEHLING
PATINA
23 CENTRE STREET
NANTUCKET, MA 02554
(508) 228-7118

CAPE COD FIVE
ZERO MAIN PO BOX 2840
NANTUCKET, MA 02554
53-7107/2113

1746

DATE 4/30/2016

PAY TO THE ORDER OF Michael Harlan Studio

\$ **4,950.00

Four Thousand Nine Hundred Fifty and 00/100***** DOLLARS

Michael Harlan Studio

MEMO INV 100426

Carol A. Muehling

⑈001746⑈

citibank

1065 6th Avenue, New York, NY, 10018

DATE
03-13-2017

TIME
11:29

Maximize your efforts.

Earn bonus interest when
you maintain a qualifying
deposit in a new or existing
Savings Plus Account.

Speak with a Banker or
call us at 1-866-524-8640.

Citibank, N.A. Member FDIC.

CHECK DEPOSIT \$ 19,335.00
To: Business Checking -

CHECK AMOUNT: \$ 19,335.00

CAROL A. BROWN, INC.		1000	
1000 6TH AVE.		DATE 3/13/17	
NEW YORK, NY 10018		AMOUNT \$ 19,335.00	
MY <u>Michael Horton</u> <u>\$ 19,335.00</u> <u>Nineteen thousand three hundred thirty five and 00/100</u> <u>for</u>			
- 321 170207		<u>Carol A. Brown, Inc.</u>	



2560 BROADWAY, NY, NY

DATE
07-29-2017

TIME
13:24

CITI PRIORITY

More than just a checking account.

Upgrade the way you bank with
Priority Pricing, Priority Protection
and Priority Service.
Open and enroll an account today
and complete required banking
activities to earn a bonus offer.

Ask a banker how to get started.

Citibank, N.A. Member FDIC.

CHECK DEPOSIT \$ 26,380.00
To: Business Checking -

CHECK AMOUNT: \$ 26,380.00

CAROL A. M. TELLING		MICHAEL J. TELLING	
CITIBANK, N.A.		CITIBANK, N.A.	
NEW YORK, NY		NEW YORK, NY	
DATE 07/29/17		DATE 07/29/17	
AMOUNT \$ 26,380.00		AMOUNT \$ 26,380.00	
TO: Business Checking -		TO: Business Checking -	
FROM: Michael Jordan Studio		FROM: Michael Jordan Studio	
Signature: [Signature]		Signature: [Signature]	
Date: 07/29/17		Date: 07/29/17	
Banker: [Signature]		Banker: [Signature]	

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Intent-to-Use Application No. 87/213,550

Mark: MH MARILYN HATTEN (stylized)

Michael Harlan Studio LLC,

Opposer,

v.

Opposition No. 91236083

Kari Vettese DBA Marilyn Hatten,

Applicant.

TESTIMONY DECLARATION OF STAN HERMAN

PLEASE TAKE NOTICE that, pursuant to Rule 2.123(a)(1) of the Trademark Rules of Practice, Opposer Michael Harlan Studio LLC hereby submits the Testimony Declaration of Stan Herman.

I, Stan Herman, declare as follows:

1. I am over the age of 18, am competent to make this declaration, and make this declaration based on my own personal knowledge. I submit this declaration in support of Opposition No. 91236083 of Opposer Michael Harlan Studio LLC ("**Michael Harlan Studio**").


2. I am the owner of Stan Herman Studio, a clothing design studio. I am highly familiar with Michael Harlan Studio's goods and directly involved in the clothing industry in general. I have managed Stan Herman Studio for over 40 years and have been actively involved in the clothing industry throughout that time. I have designed and manufactured uniforms for Avis, TWA, McDonald's, Jet Blue, United Airlines, U.S. Airways, Amtrak, Avis, Humana, MGM Grand, FedEx, Loews Hotels, and many more. I am also a designer of robes and loungewear.


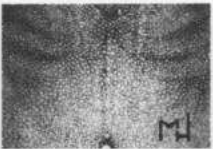
3. I am a three-time Coty award winner, a prestigious award given to the best clothing designers in the United States. I was the president of the Council of Fashion Designers of America

("CFDA") for 16 years. For this work, I received the CFDA's prestigious lifetime achievement award. I also founded and oversaw New York City Fashion week for seven years and currently sit on the boards of both The Garment District Bid and the Bryant Park Corporation.

4. My clothing has been offered for sale and sold on QVC, QVCUK, and QVCItaly. I have a customer base of 300,000 people and have sold over \$100 million worth of robes alone.

5. I have known Michael Schwarz for 20 years and understand what goods Michael Harlan Studio manufactures and how such goods are offered for sale and sold to consumers.

6. Michael Schwarz and Michael Harlan Studio have been growing the recognition of the  mark for over 10 years and have maintained a consistency in it that is needed to build recognition, and has gained such recognition with articles in and a cover of WWD – the fashion industry's leading publication. Mr. Schwarz has gained the respect of other designers for his designs, particularly designers in the New York City Fashion community. Based on my understanding of the relevant sector of the fashion industry, I am familiar with the importance of mark recognition and I know that potential

consumers, including retailers, recognize that goods bearing the  and  marks are manufactured by Michael Harlan Studio.

7. Items of women's clothing — including shirts, dresses, skirts, and blouses — are substantially related to, and in fact complementary to, pants, vests, jackets, coats, scarves, wallets, handbags, tote bags, and luggage in the minds of consumers for such goods in that such consumers would mistakenly think these goods came from a single source if offered for sale under the same or a substantially similar mark. It is not uncommon for these goods to be offered for sale as a collection next to one another in the same department store or boutique or to be purchased together by the same consumer during a single shopping trip.

8. The consumers who purchase items of women's clothing, such as shirts, dresses, skirts, and blouses, are part of the same class of consumers who purchase women's pants, vests, jackets, coats, scarves, wallets, handbags, tote bags, and luggage.

9. The consumers who purchase Michael Harlan Studio's shirts, blouses, pants, vests, jackets, coats, scarves, wallets, handbags, tote bags, and luggage under one or both of the MH Marks are the ordinary and typical consumers of such goods and are part of the same class of consumers who purchase items of women's clothing generally, including women's shirts, dresses, skirts, and blouses. This class of consumers includes consumers of all sophistication levels.

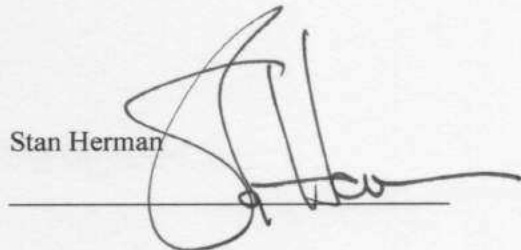
10. The normal trade channels for shirts (including women's shirts), dresses, skirts, blouses, pants, vests, jackets, coats, scarves, wallets, handbags, tote bags, and luggage include department stores, boutiques and similar retailers, and online retail websites.

11. The clothing listed in the subject Application No. 87/213,550 includes low-priced and high-priced women's clothing, including shirts, dresses, skirts, and blouses.

12. The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

Dated: 7/31/19

Stan Herman

A handwritten signature in black ink, appearing to be 'Stan Herman', written over a horizontal line.

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing document with applicable exhibits has been served on Joshua S. Schoonover, counsel for Applicant, by forwarding said copy on August 5, 2019, via email to: lawgroup@coastalpatent.com.

Signature: /Shaun P. Keough/

Date: August 5, 2019

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Intent-to-Use Application No. 87/213,550

Mark: MH MARILYN HATTEN (stylized)

Michael Harlan Studio LLC,

Opposer,

v.

Opposition No. 91236083

Kari Vettese DBA Marilyn Hatten,

Applicant.

TESTIMONY DECLARATION OF BILL KERCH

PLEASE TAKE NOTICE that, pursuant to Rule 2.123(a)(1) of the Trademark Rules of Practice, Opposer Michael Harlan Studio LLC hereby submits the Testimony Declaration of Bill Kerch.


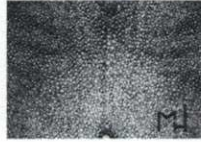
I, Bill Kerch, declare as follows:

1. I am over the age of 18, am competent to make this declaration, and make this declaration based on my own personal knowledge. I submit this declaration in support of Opposition No. 91236083 of Opposer Michael Harlan Studio LLC ("**Michael Harlan Studio**").

2. I have been in the clothing and fashion industry for 40 years. I have extensive experience with all aspects of the clothing business, including retail, wholesale, design, and manufacturing. I have worked for Dillard's, managed accessory manufacturing, and manufactured unique, high-end products for the likes of Neiman Marcus, Bergdorf Goodman, and Bloomingdales.

3. I have known Michael Schwarz for 20 years and understand what goods Michael Harlan Studio manufactures and how such goods are offered for sale and sold to consumers. I have helped Michael Harlan Studio expand its network of retail partners through consultation and referrals.



4. Michael Harlan Studio's  and  marks (collectively, the "MH Marks") are important to Michael Harlan Studio in establishing its identity and brand both to retailers to whom Michael Harlan Studio sells clothing and to individual consumers wishing to purchase goods designed by Michael Harlan Studio. Specifically, retailers and individual consumers alike rely on the MH Marks to identify women's clothing and related goods as custom-crafted, high quality goods designed and manufactured by Michael Harlan Studio. These marks are the identity and signature by which Michael Harlan Studio has become known. I know this based on my work connecting third-party retailers in general and specifically as it applies to Michael Harlan Studio.

5. Items of women's clothing are substantially related to other items of women's clothing and to accessories. Specifically, women's shirts, dresses, skirts, and blouses, are substantially related to, and in fact complementary to, pants, vests, jackets, coats, scarves, wallets, handbags, tote bags, and luggage in the minds of consumers of such goods in that such consumers would mistakenly think these goods came from a single source if offered for sale under the same or a substantially similar mark. It is not uncommon for any of these items to be located next to or near each other in the same department store or boutique or to be purchased together by the same consumer during a single shopping trip.

6. The consumers who purchase women's shirts, dresses, skirts, and blouses are part of the same class of consumers who purchase women's pants, vests, jackets, coats, scarves, wallets, handbags, tote bags, and luggage.

7. The consumers who purchase Michael Harlan Studio's shirts, blouses, pants, vests, jackets, coats, scarves, wallets, handbags, tote bags, and luggage under one or both of the MH Marks are the ordinary and typical consumers of such goods and are part of the same class of consumers who purchase women's clothing generally, including women's shirts, dresses, skirts, and blouses. This class of consumers includes consumers of all sophistication levels.

8. The normal trade channels for shirts (including women's shirts), dresses, skirts, blouses, pants, vests, jackets, coats, scarves, wallets, handbags, tote bags, and luggage include department stores, boutiques and similar retailers, and online retail websites.

9. The clothing listed in the subject Application No. 87/213,550 includes low-priced and high-priced women's clothing, including shirts, dresses, skirts, and blouses.

10. The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

Dated: 8/1/19

Bill Kerch


CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing document with applicable exhibits has been served on Joshua S. Schoonover, counsel for Applicant, by forwarding said copy on August 5, 2019, via email to: lawgroup@coastalpatent.com.

Signature: /Shaun P. Keough/

Date: August 5, 2019

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Intent-to-Use Application No. 87/213,550

Mark: MH MARILYN HATTEN (stylized)

Michael Harlan Studio LLC,

Opposer,

v.

Kari Vettese DBA Marilyn Hatten,

Applicant.

Opposition No. 91236083

TESTIMONY DECLARATION OF SHAUN KEOUGH

PLEASE TAKE NOTICE that, pursuant to Rule 2.123(a)(1) of the Trademark Rules of Practice, Opposer Michael Harlan Studio LLC hereby submits the Testimony Declaration of Shaun Keough.

I, Shaun Keough, declare as follows:

1. I am over the age of 18, am competent to make this declaration, and make this declaration based on my own personal knowledge. I submit this declaration in support of Opposition No. 91236083 of Opposer Michael Harlan Studio LLC (“**Michael Harlan Studio**”).

2. I am counsel of record for Michael Harlan Studio with respect to Opposition No. 91236083. I attended the discovery and settlement conference in this matter on October 17, 2017.

3. During the discovery and settlement conference the parties stipulated that “the parties[’] goods in International Class 25 are similar and overlap.” *See* a true and accurate copy of the Board’s discovery conference order (Dkt. #7) attached hereto as **Exhibit A** at pg. 6.

4. The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom,

declares that all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

Dated: August 5, 2019

Shaun Keough

/Shaun Keough/

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing document with applicable exhibits has been served on Joshua S. Schoonover, counsel for Applicant, by forwarding said copy on August 5, 2019, via email to: lawgroup@coastalpatent.com.

Signature: /Shaun P. Keough/

Date: August 5, 2019

Exhibit A

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

Mailed: October 18, 2017

Opposition No. 91236083

Michael Harlan Studio LLC

v.

Kari Vettese dba Marilyn Hatten

Michael Webster, Interlocutory Attorney:

Pursuant to Fed. R. Civ. P. 26(f) and Trademark Rules 2.120(a)(1) and (2), the parties held a timely discovery and settlement conference on October 17, 2017. *See* TBMP § 401.01. At Opposer's request, and with the consent of Applicant, a member of the Board participated in the conference. *See* Trademark Rule 2.120(2)(i). Participating were Ken Parker, Attorney for Opposer, Joshua Schoonover, Attorney for Applicant, and Michael Webster, the assigned interlocutory attorney.¹

Related Proceedings

Initially, the parties informed the Board that they are not involved in any other Board proceeding or civil litigation proceeding concerning the issues related to the current Board proceeding. As set forth in the institution order, the parties must notify the Board promptly in writing if they become parties to another Board proceeding, or

¹ Also attending the teleconference were Shaun Keough, Attorney for Opposer and Tom Hemnes, Attorney for Opposer.

a civil action which involves related marks or issues of law or fact which overlap with this case.

Settlement

During the discovery and settlement conference, the parties stated that they have had several discussions regarding settlement, but have not been able to come to a final agreement.

The Board advised the parties that the Board does not get involved in settlement discussions. In addition, although the Board is liberal in granting motions to suspend for settlement, the Board may require a detailed status report once proceedings have been suspended for over a year in order to show good cause for continued suspension. TBMP § 605.02 (2017).

The Pleadings

The Board next reviewed the pleadings in this matter and found that Opposer had sufficiently pleaded its standing and its claim of likelihood of confusion, the sole ground for opposition. The Board noted, however, that priority is at issue in this proceeding and that Opposer must demonstrate ownership rights in its mark that are prior to any date of first use on which defendant can rely, including use analogous to trademark or service mark use. *See Fair Indigo LLC v. Style Conscience*, 85 USPQ2d 1536, 1539 (TTAB 2007) (quoting *Corporate Document Svcs. Inc. v. I.C.E.D. Mgmt. Inc.*, 48 USPQ2d 1477, 1479 (TTAB 1998) (“an intent-to-use applicant is entitled to

rely upon actual use, or use analogous to trademark use, prior to the constructive use date of the intent-to-use application.”)).²

The Board then reviewed Applicant’s answer and noted that Applicant has denied the salient allegations in the notice of opposition and asserted, as an affirmative defense, that the notice of opposition fails to state a claim for relief. Because the Board has found that Opposer has pleaded a legally sufficient claim of likelihood of confusion, the Board struck Applicant’s affirmative defense. *See NSM Resources Corp. v. Microsoft Corp.*, 113 USPQ2d 1029, 1039 n.19 (TTAB 2014) (Board may *sua sponte* dismiss any insufficiently pleaded pleading). In addition, the Board struck the first paragraph after Applicant’s affirmative defenses. The Board noted that, under the Federal Rules, a party may not reserve a right to set forth additional affirmative defenses. *See FDIC v. Mahajan*, 923, F. Supp. 2d 1133, 1141 (N.D.Ill.2013) (reservation of right to add affirmative defenses at a later date is improper reservation under the Federal Rules). The proper way to plead additional affirmative defenses or counterclaims is to file a motion under Federal Rule of Civil Procedure 15. *Id.*

Board’s Standard Protective Order

The Board then advised the parties of the automatic imposition of the Board’s two-tier standard protective order pursuant to Trademark Rule 2.116(g), and further indicated that the parties would control which tier of confidentiality applies. Additionally, the Board stated that if the parties wished to modify the Board’s

² See stipulations regarding Applicant’s priority date.

standard protective order, they could do so by filing a motion for Board approval.³ Although they are not required to do so, the parties may elect to exchange executed copies of the order. If the parties wish to modify the order in any manner, they must file a motion for the Board's approval of the modification(s).

The parties agreed that they would proceed under the Board's standard protective order.

Discussion of Disclosures and Discovery

The Board apprised the parties of the general procedural rules and guidelines that govern inter partes proceedings, including the Board's liberal granting of motions to suspend for settlement efforts, the requirement that a party serve its initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1)(A)(i) and (ii) prior to serving discovery requests (*see* Trademark Rule 2.120(a)(3)). The Board further noted that the exchange of discovery requests could not occur until the parties made their initial disclosures as required by Fed. R. Civ. P. 26(f).

In addition, the Board provided the parties instruction as to what the required initial disclosures entail under Fed. R. Civ. P. 26(a). In such disclosures, the parties should provide to each other

³ Under the Board's standard protective order, once a proceeding before the Board has been finally determined, the Board has no further jurisdiction over the parties thereto. According to the terms of the Board's protective order, within thirty days following termination of a proceeding, the parties and their attorneys must return to each disclosing party the protected information disclosed during the proceeding, including any briefs, memoranda, summaries, and the like, which discuss or in any way refer to such information. Alternatively, the disclosing party or its attorney may make a written request that such materials be destroyed rather than returned.

the name and, if known, the address and telephone number of each individual likely to have discoverable information — along with the subjects of that information — that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment [and] a copy — or a description by category and location — of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.

Fed. R. Civ. P. 26(a)(1)(A)(i) and (ii). The parties should not file their respective initial disclosures with the Board.

The Board further apprised the parties of the following Board rules relating to disclosure and discovery:

- (1) The parties are limited to seventy-five (75) interrogatories, including subparts, seventy-five (75) requests for admission, and seventy-five (75) requests for production of documents and things, with the option to move for additional requests upon a showing of good cause;⁴
- (2) Service of all documents, including discovery documents, must be provided by email unless otherwise stipulated;⁵
- (3) All discovery requests must be served early enough in the discovery period so that responses will be due no later than the close of discovery;⁶
- (4) A motion to compel initial disclosures must be filed within 30 days after the deadline for initial disclosures, and a motion to compel discovery must be filed prior to the deadline for pretrial disclosures for the first testimony period;⁷
- (5) A motion for summary judgment must be filed before the deadline for plaintiffs pretrial disclosures (the first testimony period);⁸
- (6) Testimony evidence may be submitted by affidavit or declaration with the right to cross-examination.⁹

⁴ Trademark Rules 2.120(d), (e) and (i).

⁵ Trademark Rule 2.119(b)(1).

⁶ Trademark Rule 2.120(a)(3).

⁷ Trademark Rule 2.120(f)(1) and (2).

⁸ Trademark Rule 2.127(e)(1).

⁹ Trademark Rule 2.123(a)(1) and (2).

With respect to responses to discovery requests, the Board reminded the parties that responses to interrogatories and requests for admission must be signed. In responding to requests for admission, a party should admit or deny the request, or state why that party cannot truthfully admit or deny the matter. In addition, if there are no documents responsive to a document request, the party must state specifically that documents related to the request do not exist. Further, the reason for any objection to a document request must be stated specifically.¹⁰ Fed. R. Civ. P. 34(b)(2)(B), (C).

Discovery Stipulations

After the Board discussed the discovery procedures, Opposer proposed several stipulations regarding the scope of discovery, including that the parties limited discovery to the issue of priority, that the parties stipulate to shortening the discovery period to three months, and that oral depositions would be eliminated. Applicant declined the proposal, but stated it would consider the elimination of oral depositions.

The parties, however, stipulated to the following facts:

- the parties goods in International Class 25 are similar and overlap;
- Applicant will rely on its constructive use date for purposes of priority.

¹⁰ For information regarding responding to requests for production of documents and things, see TBMP § 406.04(c) (June 2017).

Expert Witnesses

With respect to the disclosure of expert witnesses, Opposer stated that it is likely to disclose an expert witness. Applicant stated that it is too early in the proceeding to determine whether an expert would be needed.

To the extent either party retains an expert witness, such party must make their expert witness disclosure by the set deadline, as well as provide the Board with notification that the party will be employing an expert. Depending upon when such notification is made with the Board, the Board, in its discretion, may suspend proceedings for the sole purpose of allowing the parties to take discovery of a designated expert witness.

Pretrial Disclosures

Pretrial disclosures are governed by Fed. R. Civ. P. 26(a)(3) with one exception: the Board does not require pretrial disclosure of each document or other exhibit that a party plans to introduce at trial as provided by Fed. R. Civ. P. 26(a)(3)(A)(iii). Disclosures allow parties to know prior to trial the identity of trial witnesses and the subject(s) to which they will testify, thus avoiding surprise witnesses.

The Board advised the parties that, in making its pretrial disclosures, a party must disclose the name and, if not previously provided, the telephone number and address of each witness from whom it intends to take testimony, or may take testimony if the need arises. The party must disclose general identifying information about the witness, such as relationship to any party, including job title if employed by a party, or, if neither a party nor related to a party, occupation and job title, a

general summary or list of subjects on which the witness is expected to testify, and a general summary or list of the types of documents and things which may be introduced as exhibits during the testimony of the witness.

Pretrial disclosure of a witness under 37 CFR § 2.121(e), however, does not substitute for issuance of a proper notice of examination under 37 CFR § 2.123(c) or 37 CFR § 2.124(b). Further, if a party does not plan to take testimony from any witnesses, it must so state in its pretrial disclosure.¹¹

Service of Papers

With respect to service, the Board reminded the parties that each paper filed with the Board must be served on the opposing party. In addition, the Board advised that all papers must be served electronically and all filings with the Board must be made via ESTTA, the Board's online electronic filing system. If email service is not possible because of technical problems or extraordinary circumstances and there is no stipulation, the serving party must show by written explanation accompanying the submission or paper that email service was attempted but could not be made. Further, the failure to file motions and papers via ESTTA requires a showing of technical difficulty or an explanation of extraordinary circumstances.

The Board further advised that the parties should not file consented motions to extend time prior to the deadline for initial disclosures by employing the "consented motion forms" in ESTTA. Instead, the parties should use the "general filing forms" option.

¹¹ For further information regarding pretrial disclosures, the parties should consult TBMP § 702.01 (June 2017).

Accelerated Case Resolution (ACR)

Finally, the Board briefly explained the availability of the “accelerated case resolution” (“ACR”) process. Under the ACR process, the summary judgment briefs and accompanying evidence encompass both the trial and briefing periods. The parties would agree to create the record for the case by their summary judgment submissions (attached to briefs). Testimony would be presented by affidavit or declaration, and any exhibits attached to the briefs would be referenced by the statements in the affidavits or declarations.

If using summary judgment form of ACR, the parties must provide a stipulation that the Board may resolve any genuine issues of material fact that may be presented by the record or discovered by the Board panel considering the case.

During the discovery conference, Opposer indicated its interest in using a custom form of ACR and, as noted above, proposed shortening the discovery period and eliminating oral depositions. To the extent that the parties agree to proceed under a form of ACR, the parties should file a motion with the Board and contact the Board attorney to schedule a telephone conference.

In addition to the subjects discussed during the conference, the Board also notes the following information regarding Board proceedings. Generally, the Federal Rules of Evidence apply to Board trials. Trial testimony is taken and introduced out of the presence of the Board during the assigned testimony periods. The parties may stipulate to a wide variety of matters, and many requirements relevant to the trial phase of Board proceedings are set forth in Trademark Rules 2.121 through 2.125.

These include pretrial disclosures, matters in evidence, the manner and timing of taking testimony, and the procedures for submitting and serving testimony and other evidence, including affidavits, declarations, deposition transcripts and stipulated evidence. Unless the parties agree to an ACR schedule, trial briefs shall be submitted in accordance with Trademark Rules 2.128(a) and (b). Oral argument at final hearing will be scheduled only upon the timely submission of a separate notice as allowed by Trademark Rule 2.129(a).

At the conclusion of the conference, the Board reminded the parties of their duty to cooperate and make a good faith effort to seek only such discovery as is proper and relevant. TBMP § 408.01 (June 2017).

Finally, the Board thanked the parties for their participation in the conference and their cooperation.