

LAW OFFICE OF ESPERANZA CERVANTES ANDERSON
PASADENA, CALIFORNIA

1 Esperanza Cervantes Anderson | SBN 197953
2 **LAW OFFICE OF ESPERANZA CERVANTES ANDERSON**
3 1037 N. Allen Avenue
4 Pasadena, California 91104
5 Tel.: (626) 486-2477
6 Fax: (626) 389-8911
7 email: esperanza@andersonlitigation.com

8 Attorney for Plaintiff
9 EDUARDO URIBE

10 Cynthia S. Sandoval (SBN 191390)
11 Lina Nasry (SBN 280576)
12 JACKSON LEWIS P.C.
13 5000 Birch Street, Suite 5000
14 Newport Beach, CA 92660
15 Tel: (949) 885-1360
16 Fax: (949) 885-1380
17 Email: sandovac@jacksonlewis.com
18 Email: Lina.Nasry@jacksonlewis.com

19 Attorneys for Defendant
20 BIMBO BAKERIES USA, INC.

21 UNITED STATES DISTRICT COURT
22 CENTRAL DISTRICT OF CALIFORNIA

23 EDUARDO URIBE,
24 Plaintiff,

25 v.

26 BIMBO BAKERIES USA, INC., a
27 Delaware Corporation, and DOES 1
28 through 10, inclusive,
29 Defendants.

Case No. 2:14-cv-05007-ABC-JPR

**JOINT STIPULATION AND
[PROPOSED] PROTECTIVE
ORDER RE:
CONFIDENTIALITY OF
DOCUMENTS AND
INFORMATION**

IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiff
EDUARDO URIBE (“Plaintiff”) and Defendant BIMBO BAKERIES USA, INC.
 (“Defendant”) (collectively, the “Parties”), by and through their respective
undersigned counsel, as follows:

///

1 WHEREAS Plaintiff has commenced an action against Defendant in the
2 Superior Court of the State of California for the County of Los Angeles entitled
3 *Eduardo Uribe v. Bimbo Bakeries USA, Inc.*, Case No. BC546458 (the “Action”).

4 WHEREAS Defendant has removed the Action to the United States District
5 Court for the Central District of the State of California, Case No. 2:14-cv-05007-
6 ABC-JPR.

7 WHEREAS the Parties have served, and will in the future serve, discovery
8 seeking the production of documents and information that they consider to be
9 confidential, sensitive, proprietary business and/or financial information that may
10 also include the proprietary business information of third parties including, but not
11 limited to, confidential customer information, distribution information, and
12 confidential financial information;

13 WHEREAS the Parties have also served, and will in the future serve,
14 discovery seeking the production of documents and information that may implicate
15 the constitutional privacy rights of the defendant, employees of the defendant,
16 and/or third parties to this Action, including, but not limited to, personnel
17 information;

18 WHEREAS the Parties maintain that discovery and pre-trial activities in the
19 above-captioned action may entail the disclosure of business, financial and other
20 information that is confidential, proprietary, commercially sensitive and/or a trade
21 secret;

22 WHEREAS the Parties desire to allow necessary discovery while protecting
23 the confidentiality of appropriate documents, discovery responses, deposition
24 testimony and other information disclosed during the course of this Action.

25 WHEREAS the Parties have agreed to enter into a confidentiality agreement
26 and protective order on the terms herein;

27 ///

28

1 THEREFORE, in light of the foregoing, and in consideration of the terms,
2 conditions, and mutual covenants and promises contained herein, the Parties hereby
3 stipulate as follows:

4 1. This stipulated confidentiality agreement and protective order
5 (“Protective Order”) shall govern the production, use and handling of confidential
6 documents and information produced by any party or non- party in any form in the
7 above-captioned action (collectively “Material”). Any party or non-party may
8 designate as “Confidential” any documents, information or other things that contain
9 proprietary business information which any party or non-party contends should be
10 protected from disclosure pursuant to this Protective Order.

11 2. Any Party or non-party producing or filing a document or thing in the
12 above-captioned action (hereinafter, “Action”) may designate it at the time of its
13 production as subject to this Protective Order by designating the Material as
14 Confidential by typing or stamping on each page so designated (without obscuring
15 or defacing the Material) “Confidential,” “Confidential Subject to Protective Order”
16 or words of similar import (“Basic Confidential Material”). If a Party reasonably
17 believes that the particular material to be produced or disclosed is of such a highly
18 sensitive nature that its disclosure should be limited only to those persons identified
19 in Paragraph 8, below, that party shall stamp on or otherwise permanently affix to
20 such Material (without obscuring or defacing the Material) the designation
21 “Confidential -- Counsel's Possession Only -- Subject to Protective Order” or words
22 of similar import (“Counsel's Possession Only Confidential Material”). On rare
23 occasion, if a Party reasonably believes that the particular material to be produced
24 or disclosed is of such a highly sensitive nature that its disclosure should be limited
25 only to those persons identified in Paragraph 9, below, that party shall stamp on or
26 otherwise permanently affix to such Material (without obscuring or defacing the
27 Material) the designation “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
28 ONLY” or words of similar import (“Attorneys’ Eyes Only Confidential

1 Material”). Basic Confidential Material, Counsel's Possession Only Confidential
2 Material and Attorneys’ Eyes Only Confidential Material shall hereinafter
3 collectively be referred to as “Confidential Material.” The Parties agree to exercise
4 good faith in evaluating whether materials should receive any Confidential Material
5 designation pursuant to this Protective Order.

6 a. Should any Party, counsel for any Party, or any person or entity
7 not a party to the Action who obtains access to any Confidential Material make
8 copies or duplicates of any Confidential Material, or any portion thereof, and if the
9 Confidential Material designation is not clearly reproduced on the copies or
10 duplicates as a result of the copying process, then the appropriate designation, Basic
11 Confidential Material or Counsel's Possession Only Confidential Material, as the
12 case may be, shall in that event also be stamped or affixed to such copies or
13 duplicates, and the references in this Protective Order to Confidential Material shall
14 be deemed to include and to apply to such copies or duplicates.

15 b. Should any Party, counsel for any Party, or any person or entity
16 not a party to this action who obtains access to Confidential Material make extracts
17 or summaries of such Confidential Material, such extracts or summaries shall also
18 be stamped with the appropriate designation. Such extracts or summaries shall also
19 constitute Confidential Material even if the extracts or summaries are not marked
20 with a Confidential designation, and the references in this Protective Order to
21 Confidential Material shall apply to such extracts or summaries. This provision
22 shall not include the notes of counsel.

23 c. If it comes to a Party’s or a non-party’s attention that
24 information or items that it designated as “Confidential” in fact do not qualify as
25 “Confidential” pursuant to this Order, or do not qualify for the level of
26 Confidentiality initially asserted, that Party or non-party must promptly notify all
27 other parties that it is withdrawing the mistaken designation.
28

1 d. If timely corrected, an inadvertent failure to designate qualified
2 information or items as “Confidential,” “Highly Confidential – Attorney’s Eyes
3 Only,” or “Highly Confidential – Counsel’s Possession Only” does not, alone,
4 waive the designating party’s right to secure protection under this Order for such
5 material. If material is appropriately designated as “Confidential,” “Highly
6 Confidential – Attorney’s Eyes Only,” or “Highly Confidential – Counsel’s
7 Possession Only” after the material was initially produced, all Parties, on timely
8 notification of the designation, must make reasonable efforts to assure that the
9 material is treated in accordance with the provisions of this Order.

10 e. This Protective Order shall apply to all Confidential Material so
11 designated whether produced informally or in response to formal discovery
12 requests, subpoenas or at deposition.

13 3. The parties also agree that documents or other records produced by
14 third parties pursuant to subpoena may be designated as Confidential Material by
15 any party by that party giving written notice to the other parties within thirty (30)
16 days after the documents are produced that he or it considers them Confidential
17 Material.

18 4. All Confidential Material subject to this Protective Order shall be used
19 by the persons to whom it is disclosed solely for the prosecution and/or defense
20 and/or settlement of the Action; it shall not be used by such persons for any other
21 purpose not directly related to the Action, and at no time shall any Confidential
22 Material be provided to any representative of the electronic, digital or print media,
23 excluding those persons designated as experts and consultants pursuant to
24 Paragraphs 7(c) and 8(b). The Confidential Material shall not be used by any
25 persons to whom disclosures are made, other than by the Party that produced it, for
26 business or competitive purposes or in any other Action. This paragraph shall not
27 apply to the Court or his personnel.
28

1 b. The Parties, officers and current employees of the Parties only to
2 the extent that they are responsible for the prosecution and/or defense of the Action,
3 are actual or potential witnesses, or their knowledge of such information is
4 otherwise necessary to enable the Parties to prepare for the hearing, to try the
5 hearing, or to engage in appellate proceedings herein;

6 c. Independent experts and consultants retained in the Action by a
7 Party or the attorneys for a Party, provided, however, that the experts or consultants
8 to whom such access is permitted shall, prior to such access or disclosure, be
9 advised of the provisions of this Protective Order and shall be instructed to comply
10 with it;

11 d. Deposition reporters and their support personnel for purposes of
12 preparing deposition transcripts;

13 e. Any witness in a deposition in the Action, where Basic
14 Confidential Material is relevant to the subject matter the deponent would be likely
15 to have knowledge, provided, however, that any such witness, shall, prior to any
16 disclosure, prior to such access or disclosure, be advised of the provisions of this
17 Protective Order and shall be instructed to comply with it;

18 f. The author(s), sender(s), addressee(s) and copy recipient(s) of
19 the Basic Confidential Material;

20 g. The person(s) mentioned in any document or tangible material
21 designated as Basic Confidential Material, provided, however, that only that portion
22 of the Basic Confidential Material that directly pertains to such person(s) shall be
23 disclosed to them;

24 h. The Court, case manager, reporters, or other personnel assigned
25 to the Action;

26 i. Any discovery referee that may be assigned to the Action;

27
28

1 j. Percipient witnesses called to testify at the hearing, but only for
2 purposes of such hearing testimony.

3 8. Counsel's Possession Only Confidential Material, or copies thereof,
4 may be reviewed by the Parties, officers and current employees of the Parties to this
5 Action (only to the extent that they are responsible for the prosecution and/or
6 defense of this lawsuit, are actual or potential witnesses, or their whose knowledge
7 of such information is otherwise necessary to enable the Parties to prepare for the
8 hearing, to try the hearing, or to engage in appellate proceedings herein) to whom it
9 is produced, but may not be held in the possession of the Party to whom it is
10 produced.

11 a. Counsel's Possession Only Confidential Material may only be
12 held in the possession of the following persons and is subject to the following
13 conditions:

14 i. Counsel of record for the Parties to the Action, now or in
15 the future, their respective associates, partners, law clerks, paralegals, legal
16 assistants, secretaries, and other support staff who are actively engaged in assisting
17 such attorneys in the prosecution or defense of the Action; provided, however, that
18 the employees of such counsel to whom such access is permitted shall, prior to such
19 access or disclosure, be advised of the provisions of this Protective Order and shall
20 be instructed to comply with it;

21 ii. Independent experts and consultants employed, consulted
22 or retained in the Action by a Party or the attorneys for a Party to perform
23 investigative work, research, analysis, expert testimony and other services
24 specifically related to the prosecution, defense or settlement of the Action;
25 provided, however, that the experts or consultants to whom such possession is
26 permitted shall, prior to such access or disclosure, be advised of the provisions of
27 this Protective Order and shall be instructed to comply with it;

28

1 iii. Deposition reporters and their support personnel for
2 purposes of preparing deposition transcripts provided, however, that those to whom
3 such possession is permitted shall, prior to such possession, be advised of the
4 provisions of this Protective Order and shall be instructed to comply with it;

5 iv. The Court, case manager, reporters, or other personnel
6 assigned to the Action;

7 v. Any discovery referee that may be assigned to the Action;

8 b. Including Parties as defined above, the following persons may
9 be *shown* but *not given possession* of Counsel's Possession Only Confidential
10 Materials, subject to the following conditions:

11 i. Any witness in a deposition in the Action, where
12 Counsel's Possession Only Confidential Material is relevant to the subject matter
13 the deponent would be likely to have knowledge; provided, however, that any such
14 witness, shall, prior to any disclosure, prior to such access or disclosure, be advised
15 of the provisions of this Protective Order and shall be instructed to comply with it;

16 ii. The author(s), sender(s), addressee(s) and copy
17 recipient(s) of the Counsel's Possession Only Confidential Material;

18 iii. Percipient witnesses called to testify at trial, but only for
19 purposes of such trial testimony.

20 9. Attorneys' Eyes Only Confidential Material. Unless otherwise ordered
21 by the Court or permitted in writing by the designating party, a party receiving
22 Attorneys' Eyes Only Confidential Material may disclose any information or item
23 designated "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" to:

24 a. Outside counsel of record in this Action for the party receiving
25 the materials, as well as employees of said counsel to whom it is reasonably
26 necessary to disclose the information for this Action and who have signed the
27 "Agreement to Be Bound by Protective Order" that is attached hereto as Exhibit A;
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

b. The Court and his personnel;

c. Court reporters, their staff, and professional vendors to whom disclosure is reasonably necessary for this Action and who have signed the “Agreement to Be Bound by Protective Order” (Exhibit A); and

d. Any other person(s) only with the *express written permission of the producing/designating party*, which shall not be unreasonably withheld (1) to whom disclosure is reasonably necessary for this Action, and (2) who have signed the “Agreement to Be Bound by Protective Order”;

10. Unless the Court orders otherwise, Confidential Material may be filed with the Court in the Action, or offered as evidence at trial in the Action, only in accordance with the provisions of Local Rule 79-5.1, the rules and requirements of Honorable Andre Birotte, Jr., Honorable Jean Rosenbluth, and the Central District’s Pilot Program for the filing of Documents under Seal. Specifically, the procedures set forth in Local Rule 79-5.1, the rules and requirements of Honorable Andre Birotte, Jr., Honorable Jean Rosenbluth, and the Central District’s Pilot Program for the filing of Documents under Seal shall govern the manner in which Confidential Material must be lodged conditionally under seal, subject to an order directing the Confidential Material be filed under seal.

11. If any Confidential Material or its contents is presented at, or is the subject of inquiry during a deposition, counsel for the Party whose Confidential Material is to be disclosed or inquired into shall notify the deposition reporter to separately transcribe the portion of the deposition testimony during which Confidential Material is discussed. That portion of the deposition that may reveal Confidential Material or its contents shall be conducted (unless otherwise agreed to by counsel for all Parties in writing or upon the record of the deposition) under circumstances such that only the deposition reporter and persons duly authorized under Paragraphs 7 and 8 herein to have access to such Confidential Material, as the

1 case may be, shall be present. The transcript of such portion of the deposition itself
2 shall be deemed, as appropriate, Basic Confidential Material, Counsel's Possession
3 Only Confidential Material, or Attorneys' Eyes Only Confidential Material, and
4 such portion of the deposition transcript shall be separately transcribed and stamped
5 with the appropriate legal legend as specified in Paragraph 2, above. This
6 Protective Order does not preclude presenting the original of the transcript in its
7 entirety to the deponent for review, correction and signing, nor does it preclude
8 delivery by the reporter of copies of deposition transcripts containing or annexing
9 Confidential Material, in their entirety and marked with the legend or legends
10 provided above, to outside counsel for the Parties to this Protective Order, which
11 transcripts shall then be maintained by such outside counsel in accordance with the
12 provisions of this Protective Order.

13 12. Any Party's attorney of record may use Confidential Information in
14 document requests, written interrogatories, and requests for admission served upon
15 the opposing party, or for any other purpose in this Action. Such document
16 requests, interrogatories, and requests for admission, and responses thereto, to the
17 extent that they contain or disclose Confidential Information, shall be marked with
18 the appropriate designation, and shall be delivered only to Counsel, to the Parties as
19 appropriate or to other persons designated in paragraphs 7 or 8 above, and only
20 under the conditions therein described.

21 13. Before disclosing Confidential Material to any persons (other than
22 pursuant to Paragraphs 7(f),(g) and (h) or 8 (a)(i), a(iv), (b(ii), or 9(a), (b) hereof)
23 authorized to receive it under Paragraphs 7 and 8 of this Protective Order, counsel
24 for the Party seeking to disclose such Confidential Material shall provide a copy of
25 this Protective Order to such persons, shall advise them that they are governed by
26 its provisions and shall instruct them not to use the Confidential Material in any
27 manner contrary to the terms of this Protective Order. Counsel seeking to disclose
28

1 such Confidential Material shall cause each such person(s) to execute the “Consent
2 to be Bound,” the form of which is attached hereto as Exhibit “A.”

3
4 14. This Protective Order shall be without prejudice to the rights of the
5 Parties to apply to the Court for additional, different or removal of protection if they
6 deem it necessary to do so. The terms of this Protective Order shall not affect the
7 right of any person to seek and secure greater protection for particularly sensitive
8 information or to seek whatever further relief is available under the Federal Rules
9 of Civil Procedure and Evidence, or other Federal law. Any motion seeking
10 additional, different or removal of protection shall be filed in compliance with
11 Local Rule 37.

12 15. This Protective Order shall continue in full force and effect with
13 respect to all Confidential Material throughout the discovery proceedings in this
14 case. The parties shall discuss the use of any Confidential Material during pretrial
15 and trial proceedings with Honorable Andre Birotte, Jr. All Confidential Material
16 not allowed during pretrial or trial proceedings shall be returned to the Party who
17 produced it and no Party, expert, consultant or any other person or entity to whom
18 such Confidential Material was produced shall retain any copies or any such
19 Confidential Material. At the conclusion of the Action (including appeal), all such
20 Confidential Material not previously returned shall be returned to the Party who
21 produced it and no Party, expert, consultant or any other person or entity to whom
22 such Confidential Material was produced shall retain any copies or any such
23 Confidential Material.

24 16. This Protective Order is without prejudice to the right of any party to
25 object to the discovery, production and/or admissibility of any information,
26 document or evidence on grounds other than confidentiality or to bring before the
27 Court at any time the question of whether any particular information is or is not
28 relevant to any issues in, or to the subject matter of, the Action, and such right is

1 hereby expressly reserved. The designation of such information as Confidential
2 Material pursuant to this Protective Order shall not be construed as an admission of
3 the relevance of such Confidential Material in the Action.

4 17. In the event any person or party in the Action receives a court order,
5 process or subpoena seeking the disclosure of Confidential Material, such person or
6 party shall promptly notify each of the Parties through their attorneys of record,
7 shall furnish each of the Parties through their attorneys of record with a copy of the
8 court order, process or subpoena, and shall not interfere with respect to any
9 procedure sought to be pursued by any Party whose interests may be affected by
10 such disclosure. The Party asserting that documents or information subject to the
11 court order, process or subpoena constitute Confidential Material shall have the
12 burden of defending against such court order, process or subpoena. The Party
13 receiving the court order, process, or subpoena shall, once sufficient notice to all
14 other Parties has been given and the Parties have had a reasonable opportunity to
15 object (but in no case less than ten (10) days after notice), be entitled to comply
16 with it except to the extent a Party has filed for or succeeded in obtaining an order
17 modifying or quashing the court order, process, or subpoena.

18 18. In the event Confidential Information is disclosed to any person other
19 than in a manner authorized by this Order, the party or non-party responsible for or
20 with knowledge of the disclosure shall immediately inform the designating party of
21 all known non-privileged facts pertinent to the disclosure, including the name and
22 address of the person to whom the disclosure was made. The disclosing party or
23 non-party shall immediately make all reasonable efforts to prevent further
24 unauthorized disclosure and to retrieve the disclosed Confidential Information.

25 19. Nothing contained herein shall prevent any Party from using or
26 disclosing its own Confidential Material without having to comply with the terms
27 of this Protective Order. The Court shall retain jurisdiction to make such
28

1 amendments, modifications, deletions and additions to this Protective Order as the
2 Court may from time to time deem necessary or appropriate.

3 20. This Protective Order shall remain in full force and effect until another
4 order, if any, modifies, supersedes or terminates it, and shall be enforceable as any
5 other order of the Court. This Order shall survive the final termination of this
6 Action, to the extent that the documents or records designated as Confidential
7 material is not or does not become known to the public, and the court shall retain
8 jurisdiction to resolve any dispute concerning the use of Confidential Material.

9 21. Notwithstanding whether this Protective Order becomes an order of
10 the Court, or is modified by the Court, the Parties hereto agree to be bound by the
11 terms of the Protective Order until such time as it is superseded by order of the
12 Court.

13 It is so stipulated.

14
15
16
17 DATED: 3/5/2015

LAW OFFICE OF ESPERANZA CERVANTES ANDERSON

18
19 By: _____/s/_____
20 Esperanza Cervantes Anderson, Esq.
21 Attorney for Plaintiff
EDUARDO URIBE

22 DATED: 3/5/2015

JACKSON LEWIS LLP

23
24 By: _____/s/_____
25 Cynthia S. Sandoval, Esq.
26 Lina Nasry, Esq.
27 Attorney for Defendant
BIMBO BAKERIES USA, INC.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

[PROPOSED] ORDER

Based upon the foregoing Revised Stipulation and [Proposed] Protective Order Re: Confidentiality of Documents and Information, and for good cause shown, IT IS SO ORDERED.

Dated: March 20, 2015



Hon. Jean P. Rosenbluth
United States Magistrate Judge

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT "A"

FORM OF CONSENT TO BE BOUND

I, _____, declare as follows:

1. I have been provided with a copy of the Stipulation and Order Re: Confidentiality of Documents and Information issued in *Eduardo Uribe v. Bimbo Bakeries USA, Inc.*, United States District Court for the Central District of the State of California, Case No. 2:14-cv-05007-ABC-JPR., and have read and understand its terms.

2. I hereby consent to be bound by the terms of the Stipulation and Order. I further consent to the jurisdiction of the United States District Court for the Central District of California, for the purposes of any proceeding to enforce the terms of the Stipulation and Order or to punish the breach thereof.

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

Executed on _____, 2015 at _____.
(date) (city and state)