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5 Attorneys for Defendant,
 6 COSTCO WHOLESALE CORPORATION

7
 8 **UNITED STATES DISTRICT COURT**
 9 **CENTRAL DISTRICT OF CALIFORNIA**

10
 11 ROBERTO CASTILLO,
 12 Plaintiff,

13 v.

14 COSTCO WHOLESALE
 15 CORPORATION, a Washington
 16 corporation; and DOES 1 to 50,
 17 inclusive,
 Defendants.

Case No. 2:22-cv-03980-SPG (PLAx)

STIPULATED PROTECTIVE ORDER

Complaint Filed: May 18, 2022

18
 19 **I. PURPOSES AND LIMITATIONS**

20 Discovery in this action is likely to involve production of confidential,
 21 proprietary, or private information for which special protection from public
 22 disclosure and from use for any purpose other than prosecuting this litigation may be
 23 warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter
 24 the following Stipulated Protective Order. The parties acknowledge that this Order
 25 does not confer blanket protections on all disclosures or responses to discovery and
 26 that the protection it affords from public disclosure and use extends only to the
 27 limited information or items that are entitled to confidential treatment under the
 28 applicable legal principles. The parties further acknowledge, as set forth in Section

1 XIII(C), below, that this Stipulated Protective Order does not entitle them to file
2 confidential information under seal; Civil Local Rule 79-5 sets forth the procedures
3 that must be followed and the standards that must be followed and the standards that
4 will be applied when a party seeks permission from the Court to file material under
5 seal.

6 **II. GOOD CAUSE STATEMENT**

7 This action is likely to involve trade secrets, commercial, financial, technical
8 and/or proprietary information for which special protection from public disclosure
9 and from use for any purpose other than prosecution of this action is warranted. Such
10 confidential and proprietary materials and information consist of, among other
11 things: (1) confidential business methods and procedures; (2) information
12 implicating third-party privacy rights; and (3) information otherwise generally
13 unavailable to the public, or which may be privileged or otherwise protected from
14 disclosure under state or federal statutes, court rules, case decisions, or common law.

15 Accordingly, to expedite the flow of information, to facilitate the prompt
16 resolution of disputes over confidentiality of discovery materials, to adequately
17 protect information the parties are entitled to keep confidential, to ensure that the
18 parties are permitted reasonable necessary uses of such material in preparation for
19 and in the conduct of trial, to address their handling at the end of the litigation, and
20 serve the ends of justice, a protective order for such information is justified in this
21 matter. It is the intent of the parties that information will not be designated as
22 confidential for tactical reasons and that nothing be so designated without a good
23 faith belief that it has been maintained in a confidential, non-public manner, and
24 there is good cause why it should not be part of the public record of this case.

25 **III. DEFINITIONS**

26 A. Action: The instant action: *Roberto Castillo v. Costco Wholesale*
27 *Corporation*, Case No. 2:22-cv-03980-SPG (PLAx)

28 B. Challenging Party: A Party or Non-Party that challenges the designation

1 of information or items under this Order.

2 C. “CONFIDENTIAL” Information or Items: Information (regardless of
3 how it is generated, stored or maintained) or tangible things that qualify for
4 protection under Federal Rule of Civil Procedure 26(c), and as specified above in the
5 Good Cause Statement.

6 D. Counsel: Outside Counsel of Record and House Counsel (as well as
7 their support staff).

8 E. Designating Party: A Party or Non-Party that designates information or
9 items that it produces in disclosures or in responses to discovery as
10 “CONFIDENTIAL.”

11 F. Disclosure or Discovery Material: All items or information, regardless
12 of the medium or manner in which it is generated, stored, or maintained (including,
13 among other things, testimony, transcripts, and tangible things), that are produced or
14 generated in disclosures or responses to discovery in this matter.

15 G. Expert: A person with specialized knowledge or experience in a matter
16 pertinent to the litigation who has been retained by a Party or its counsel to serve as
17 an expert witness or as a consultant in this Action.

18 H. House Counsel: Attorneys who are employees of a party to this Action.
19 House Counsel does not include Outside Counsel of Record or any other outside
20 counsel.

21 I. Non-Party: Any natural person, partnership, corporation, association, or
22 other legal entity not named as a Party to this action.

23 J. Outside Counsel of Record: Attorneys who are not employees of a party
24 to this Action but are retained to represent or advise a party to this Action and have
25 appeared in this Action on behalf of that party or are affiliated with a law firm which
26 has appeared on behalf of that party, and includes support staff.

27 K. Party: Any party to this Action, including all of its officers, directors,
28 employees, consultants, retained experts, and Outside Counsel of Record (and their

1 support staffs).

2 L. Producing Party: A Party or Non-Party that produces Disclosure or
3 Discovery Material in this Action.

4 M. Professional Vendors: Persons or entities that provide litigation support
5 services (e.g., photocopying, videotaping, translating, preparing exhibits or
6 demonstrations, and organizing, storing, or retrieving data in any form or medium)
7 and their employees and subcontractors.

8 N. Protected Material: Any Disclosure or Discovery Material that is
9 designated as “CONFIDENTIAL.”

10 O. Receiving Party: A Party that receives Disclosure or Discovery
11 Material from a Producing Party.

12 **IV. SCOPE**

13 A. The protections conferred by this Stipulation and Order cover not only
14 Protected Material (as defined above), but also (1) any information copied or
15 extracted from Protected Material; (2) all copies, excerpts, summaries, or
16 compilations of Protected Material; and (3) any testimony, conversations, or
17 presentations by Parties or their Counsel that might reveal Protected Material.

18 B. Any use of Protected Material at trial shall be governed by the orders of
19 the trial judge. This Order does not govern the use of Protected Material at trial.

20 **V. DURATION**

21 Even after final disposition of this litigation, the confidentiality obligations
22 imposed by this Order shall remain in effect until a Designating Party agrees
23 otherwise in writing or a court order otherwise directs. Final disposition shall be
24 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with
25 or without prejudice; and (2) final judgment herein after the completion and
26 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
27 including the time limits for filing any motions or applications for extension of time
28 pursuant to applicable law.

1 **VI. DESIGNATING PROTECTED MATERIAL**

2 A. Exercise of Restraint and Care in Designating Material for Protection

3 1. Each Party or Non-Party that designates information or items for
4 protection under this Order must take care to limit any such designation to specific
5 material that qualifies under the appropriate standards. The Designating Party must
6 designate for protection only those parts of material, documents, items, or oral or
7 written communications that qualify so that other portions of the material,
8 documents, items, or communications for which protection is not warranted are not
9 swept unjustifiably within the ambit of this Order.

10 2. Mass, indiscriminate, or routinized designations are prohibited.
11 Designations that are shown to be clearly unjustified or that have been made for an
12 improper purpose (e.g., to unnecessarily encumber the case development process or
13 to impose unnecessary expenses and burdens on other parties) may expose the
14 Designating Party to sanctions.

15 3. If it comes to a Designating Party's attention that information or
16 items that it designated for protection do not qualify for protection, that Designating
17 Party must promptly notify all other Parties that it is withdrawing the inapplicable
18 designation.

19 B. Manner and Timing of Designations

20 1. Except as otherwise provided in this Order (*see, e.g.*, Section
21 B(2)(b) below), or as otherwise stipulated or ordered, Disclosure or Discovery
22 Material that qualifies for protection under this Order must be clearly so designated
23 before the material is disclosed or produced.

24 2. Designation in conformity with this Order requires the following:
25 a. For information in documentary form (e.g., paper or
26 electronic documents, but excluding transcripts of depositions or other pretrial or
27 trial proceedings), that the Producing Party affix at a minimum, the legend
28 "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that

1 contains protected material. If only a portion or portions of the material on a page
2 qualifies for protection, the Producing Party also must clearly identify the protected
3 portion(s) (e.g., by making appropriate markings in the margins).

4 b. A Party or Non-Party that makes original documents
5 available for inspection need not designate them for protection until after the
6 inspecting Party has indicated which documents it would like copied and produced.
7 During the inspection and before the designation, all of the material made available
8 for inspection shall be deemed “CONFIDENTIAL.” After the inspecting Party has
9 identified the documents it wants copied and produced, the Producing Party must
10 determine which documents, or portions thereof, qualify for protection under this
11 Order. Then, before producing the specified documents, the Producing Party must
12 affix the “CONFIDENTIAL legend” to each page that contains Protected Material.

13 If only a portion or portions of the material on a page qualifies for protection, the
14 Producing Party also must clearly identify the protected portion(s) (e.g., by making
15 appropriate markings in the margins).

16 c. For testimony given in depositions, that the Designating
17 Party identify the Disclosure or Discovery Material on the record, before the close of
18 the deposition all protected testimony.

19 d. For information produced in form other than document and
20 for any other tangible items, that the Producing Party affix in a prominent place on
21 the exterior of the container or containers in which the information is stored the
22 legend “CONFIDENTIAL.” If only a portion or portions of the information warrants
23 protection, the Producing Party, to the extent practicable, shall identify the protected
24 portion(s).

25 C. Inadvertent Failure to Designate

26 1. If timely corrected, an inadvertent failure to designate qualified
27 information or items does not, standing alone, waive the Designating Party’s right to
28 secure protection under this Order for such material. Upon timely correction of a

1 designation, the Receiving Party must make reasonable efforts to assure that the
2 material is treated in accordance with the provisions of this Order.

3 **VII. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

4 A. Timing of Challenges

5 1. Any party or Non-Party may challenge a designation of
6 confidentiality at any time that is consistent with the Court's Scheduling Order.

7 B. Meet and Confer

8 1. The Challenging Party shall initiate the dispute resolution process
9 under Local Rule 37.1 et seq.

10 C. The burden of persuasion in any such challenge proceeding shall be on
11 the Designating Party. Frivolous challenges, and those made for an improper purpose
12 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
13 expose the Challenging Party to sanctions. Unless the Designating Party has waived
14 or withdrawn the confidentiality designation, all parties shall continue to afford the
15 material in question the level of protection to which it is entitled under the Producing
16 Party's designation until the Court rules on the challenge.

17 **VIII. ACCESS TO AND USE OF PROTECTED MATERIAL**

18 A. Basic Principles

19 1. A Receiving Party may use Protected Material that is disclosed or
20 produced by another Party or by a Non-Party in connection with this Action only for
21 prosecuting, defending, or attempting to settle this Action. Such Protected Material
22 may be disclosed only to the categories of persons and under the conditions
23 described in this Order. When the Action has been terminated, a Receiving Party
24 must comply with the provisions of Section XIV below.

25 2. Protected Material must be stored and maintained by a
26 Receiving Party at a location and in a secure manner that ensures that access is
27 limited to the persons authorized under this Order.

28 B. Disclosure of "CONFIDENTIAL" Information or Items

1 1. Unless otherwise ordered by the Court or permitted in writing by
2 the Designating Party, a Receiving Party may disclose any information or item
3 designated “CONFIDENTIAL” only to:

4 a. The Receiving Party’s Outside Counsel of Record in this
5 Action, as well as employees of said Outside Counsel of Record to whom it is
6 reasonably necessary to disclose the information for this Action;

7 b. The officers, directors, and employees (including House
8 Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this
9 Action;

10 c. Experts (as defined in this Order) of the Receiving Party to
11 whom disclosure is reasonably necessary for this Action and who have signed
12 the “Acknowledgment and Agreement to Be Bound” (Exhibit A); d. The Court and
13 its personnel;

14 e. Court reporters and their staff;

15 f. Professional jury or trial consultants, mock jurors, and
16 Professional Vendors to whom disclosure is reasonably necessary or this Action and
17 who have signed the “Acknowledgment and Agreement to be Bound” attached as
18 Exhibit A hereto;

19 g. The author or recipient of a document containing the
20 information or a custodian or other person who otherwise possessed or knew the
21 information;

22 h. During their depositions, witnesses, and attorneys for
23 witnesses, in the Action to whom disclosure is reasonably necessary provided: (i) the
24 deposing party requests that the witness sign the “Acknowledgment and Agreement
25 to Be Bound;” and (ii) they will not be permitted to keep any confidential
26 information unless they sign the “Acknowledgment and Agreement to Be Bound,”
27 unless otherwise agreed by the Designating Party or ordered by the
28 Court. Pages of transcribed deposition testimony or exhibits to depositions that

1 reveal Protected Material may be separately bound by the court reporter and may not
2 be disclosed to anyone except as permitted under this Stipulated Protective Order;
3 and

4 i. Any mediator or settlement officer, and their supporting
5 personnel, mutually agreed upon by any of the parties engaged in settlement
6 discussions.

7 **IX. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
8 **PRODUCED IN OTHER LITIGATION**

9 A. If a Party is served with a subpoena or a court order issued in other
10 litigation that compels disclosure of any information or items designated in this
11 Action as “CONFIDENTIAL,” that Party must:

12 1. Promptly notify in writing the Designating Party. Such
13 notification shall include a copy of the subpoena or court order;

14 2. Promptly notify in writing the party who caused the subpoena or
15 order to issue in the other litigation that some or all of the material covered by the
16 subpoena or order is subject to this Protective Order. Such notification shall include
17 a copy of this Stipulated Protective Order; and

18 3. Cooperate with respect to all reasonable procedures sought to be
19 pursued by the Designating Party whose Protected Material may be affected.

20 B. If the Designating Party timely seeks a protective order, the Party served
21 with the subpoena or court order shall not produce any information designated in this
22 action as “CONFIDENTIAL” before a determination by the Court from which the
23 subpoena or order issued, unless the Party has obtained the Designating Party’s
24 permission. The Designating Party shall bear the burden and expense of seeking
25 protection in that court of its confidential material and nothing in these provisions
26 should be construed as authorizing or encouraging a Receiving Party in this Action
27 to disobey a lawful directive from another court.

28 ///

1 **X. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO**
2 **BE PRODUCED IN THIS LITIGATION**

3 A. The terms of this Order are applicable to information produced by a
4 Non-Party in this Action and designated as “CONFIDENTIAL.” Such information
5 produced by Non-Parties in connection with this litigation is protected by the
6 remedies and relief provided by this Order. Nothing in these provisions should be
7 construed as prohibiting a Non-Party from seeking additional protections. B. In the
8 event that a Party is required, by a valid discovery request, to produce a Non-Party’s
9 confidential information in its possession, and the Party is subject to an agreement
10 with the Non-Party not to produce the Non-Party’s confidential information, then the
11 Party shall:

12 1. Promptly notify in writing the Requesting Party and the Non-
13 Party that some or all of the information requested is subject to a confidentiality
14 agreement with a Non-Party;

15 2. Promptly provide the Non-Party with a copy of the Stipulated
16 Protective Order in this Action, the relevant discovery request(s), and a reasonably
17 specific description of the information requested; and

18 3. Make the information requested available for inspection by the
19 Non-Party, if requested.

20 C. If the Non-Party fails to seek a protective order from this court within
21 14 days of receiving the notice and accompanying information, the Receiving Party
22 may produce the Non-Party’s confidential information responsive to the discovery
23 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
24 not produce any information in its possession or control that is subject to the
25 confidentiality agreement with the Non-Party before a determination by the court.
26 Absent a court order to the contrary, the Non-Party shall bear the burden and expense
27 of seeking protection in this court of its Protected Material.

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1 **XI. UNAUTHORIZED DISCLOSURE OF PROTECTED**
2 **MATERIAL**

3 A. If a Receiving Party learns that, by inadvertence or otherwise, it has
4 disclosed Protected Material to any person or in any circumstance not authorized
5 under this Stipulated Protective Order, the Receiving Party must immediately (1)
6 notify in writing the Designating Party of the unauthorized disclosures, (2) use its
7 best efforts to retrieve all unauthorized copies of the Protected Material, (3) inform
8 the person or persons to whom unauthorized disclosures were made of all the terms
9 of this Order, and (4) request such person or persons to execute the
10 “Acknowledgment / and Agreement to be Bound” that is attached hereto as Exhibit

11 A.

12 **XII. INADVERTENT PRODUCTION OF PRIVILEGED OR**
13 **OTHERWISE PROTECTED MATERIAL**

14 A. When a Producing Party gives notice to Receiving Parties that certain
15 inadvertently produced material is subject to a claim of privilege or other protection,
16 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
17 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
18 may be established in an e-discovery order that provides for production without prior
19 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
20 parties reach an agreement on the effect of disclosure of a communication or
21 information covered by the attorney-client privilege or work product protection, the
22 parties may incorporate their agreement in the Stipulated Protective Order submitted
23 to the Court.

24 **XIII. MISCELLANEOUS**

25 A. Right to Further Relief

26 Nothing in this Order abridges the right of any person to seek its modification by
27 the Court in the future.

28 B. Right to Assert Other Objections

1 By stipulating to the entry of this Protective Order, no Party waives any right
2 it otherwise would have to object to disclosing or producing any information or item
3 on any ground not addressed in this Stipulated Protective Order. Similarly, no Party
4 waives any right to object on any ground to use in evidence of any of the material
5 covered by this Protective Order.

6 C. Filing Protected Material

7 A Party that seeks to file under seal any Protected Material must comply with
8 Civil Local Rule 79-5. Protected Material may only be filed under seal pursuant to a
9 court order authorizing the sealing of the specific Protected Material at issue. If a
10 Party's request to file Protected Material under seal is denied by the Court, then the
11 Receiving Party may file the information in the public record unless otherwise
12 instructed by the Court.

13 **XIV. FINAL DISPOSITION**

14 A. After the final disposition of this Action, as defined in Section V, within
15 sixty (60) days of a written request by the Designating Party, each Receiving Party
16 must return all Protected Material to the Producing Party or destroy such material.
17 As used in this subdivision, "all Protected Material" includes all copies, abstracts,
18 compilations, summaries, and any other format reproducing or capturing any of the
19 Protected Material. Whether the Protected Material is returned or destroyed, the
20 Receiving Party must submit a written certification to the Producing Party (and, if
21 not the same person or entity, to the Designating Party) by the 60 day deadline that
22 (1) identifies (by category, where appropriate) all the Protected Material that was
23 returned or destroyed and (2) affirms that the Receiving Party has not retained any
24 copies, abstracts, compilations, summaries or any other format reproducing or
25 capturing any of the Protected Material. Notwithstanding this provision, Counsel are
26 entitled to retain an archival copy of all pleadings, motion papers, trial, deposition,
27 and hearing transcripts, legal memoranda, correspondence, deposition and trial
28 exhibits, expert reports, attorney work product, and consultant and expert work

1 product, even if such materials contain Protected Material. Any such archival copies
2 that contain or constitute Protected Material remain subject to this Protective Order
3 as set forth in Section V.

4 B. Any violation of this Order may be punished by any and all appropriate
5 measures including, without limitation, contempt proceedings and/or monetary
6 sanctions.

7 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

8
9 Dated: ~~August~~ ^{September} 14, 2022 BROCK & GONZALES, LLP

11 BY: Zachary Price
12 ZACHARY A. PRICE
13 Attorneys for Plaintiff
14 ROBERTO CASTILLO

15 Dated: ~~August~~ ^{September} 16, 2022 THARPE & HOWELL, LLP

16
17 BY: J. K. Flock
18 JOHN K. FLOCK
19 Attorneys for Defendants
20 COSTCO WHOLESALE CORPORATION

21
22 **FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

23
24 DATED: September 16, 2022

25 Paul L. Abrams
26 HON. PAUL L. ABRAMS
27 United States Magistrate Judge

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EXHIBIT A
ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address], declare under penalty of perjury
that I have read in its entirety and understand the Stipulated Protective Order that
was issued by the United States District Court for the Central District of California
on [date] in the case of _____ **[insert formal name of the case and the
number and initials assigned to it by the court]**. I agree to comply with and to be
bound by all the terms of this Stipulated Protective Order and I understand and
acknowledge that failure to so comply could expose me to sanctions and punishment
in the nature of contempt. I solemnly promise that I will not disclose in any manner
any information or item that is subject to this Stipulated Protective Order to any
person or entity except in strict compliance with the provisions of this Order. I
further agree to submit to the jurisdiction of the United States District Court for the
Central District of California for enforcing the terms of this Stipulated Protective
Order, even if such enforcement proceedings occur after termination of this action. I
hereby appoint _____ [print or type full name] of
_____ [print or type full address and telephone number]
as my California agent for service of process in connection with this action or any
proceedings related to enforcement of this Stipulated Protective Order.

Date: _____
City and State where sworn and signed: _____

Printed name: _____

Signature: _____