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7 **CARGILL MEAT SOLUTIONS CORPORATION**

10 **UNITED STATES DISTRICT COURT**
11 **EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION**

11 **LORENZO MARTINEZ CHAGOLLA,**
12 **an individual,**

13 **Plaintiff,**

14 **vs.**

15 **CARGILL MEAT SOLUTIONS**
16 **CORPORATION, a Delaware**
17 **Corporation, and DOES 1 through 100,**
18 **inclusive,**

19 **Defendant.**

Case No.: 1:18-cv-00706-EPG

STIPULATED PROTECTIVE ORDER

Judge: Hon. Erica P. Grosjean

Complaint Filed: April 20, 2018
Removed: May 23, 2018

(ECF No. 12)

1 1. PURPOSES, LIMITATIONS, AND COMPLIANCE WITH EASTERN
2 DISTRICT LOCAL RULE 141.1.

3 Disclosure and discovery activity in this action involve production of
4 confidential, proprietary, or private information, or information which constitutes
5 trade secrets, for which special protection from public disclosure and from use for
6 any purpose other than prosecuting this litigation may be warranted. Accordingly,
7 the parties hereby stipulate to and petition the court to enter the following Stipulated
8 Protective Order. The parties acknowledge that this Order does not confer blanket
9 protections on all disclosures or responses to discovery and that the protection it
10 affords from public disclosure and use extends only to the limited information or
11 items that are entitled to confidential treatment under the applicable legal principles.
12 The parties further acknowledge, as set forth in Section 10.3, below, that this
13 Stipulated Protective Order does not entitle them to file confidential information
14 under seal; Eastern District Local Rule 141.1 sets forth the procedures that must be
15 followed and the standards that will be applied when a party seeks permission from
16 the court to file material under seal.

17 1.1 Types of Information Eligible for Protection. Pursuant to Local Rule
18 141.1(c)(1), the types of information eligible for protection include a party's trade
19 secret, confidential, competitive, or proprietary information pertaining to the party's
20 business, which the party takes appropriate efforts to keep confidential, or
21 information which the party is otherwise required to keep confidential by agreement
22 or law, including the following: financial information; internal policies and
23 procedures; proprietary processes and production methods, and personal employee
24 information of non-parties.

25 1.2 The Need for Protection. Pursuant to Local Rule 141.1(c)(2), there is a
26 need to protect this type of evidence. A party's trade secret, confidential,
27 competitive, or proprietary information could be abused if its use were not limited to
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1 this lawsuit. For example, third party competitors could exploit the following types
2 of confidential information to their advantage were it made public: (1) a party's
3 financial information; (2) internal policies and procedures; (3) employee financial
4 and confidential personal information; and (4) proprietary processes and production
5 methods. In some cases, disclosure of this type of evidence could breach
6 confidentiality agreements or violate privacy or consumer protection laws.

7 1.3 The Need for Protection by this Court. Pursuant to Local Rule
8 141.1(c)(3), the parties seek a Protective Order, as opposed to entering into a private
9 agreement, because the proposed Order provides mechanisms for the resolution of
10 disputes and the handling of designated evidence that involve the Court. Moreover,
11 both the California statute and federal trade secrets statute expressly contemplate the
12 entry of such orders in a trade secrets case. CUTSA, Cal Civ. Code § 3426.5;
13 DTSA, 18 USC § 1835(a).

14 2. DEFINITIONS

15 2.1 Challenging Party: A Party or Non-Party that challenges the
16 designation of information or items under this Order.

17 2.2 "CONFIDENTIAL" Information or Items: Information (regardless of
18 how it is generated, stored or maintained) or tangible things that qualify for
19 protection under Federal Rule of Civil Procedure 26(c).

20 2.3 Counsel (without qualifier): Outside Counsel of Record and In-house
21 Counsel (as well as their support staff).

22 2.4 Designating Party: A Party or Non-Party that designates information or
23 items that it produces in disclosures or in responses to discovery as
24 "CONFIDENTIAL".

25 2.5 Disclosure or Discovery Material: All items or information, regardless
26 of the medium or manner in which it is generated, stored, or maintained (including,
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1 among other things, testimony, transcripts, and tangible things), that are produced or
2 generated in disclosures or responses to discovery in this matter.

3 2.6 Expert: A person with specialized knowledge or experience in a matter
4 pertinent to the litigation who has been retained by a Party or its counsel to serve as
5 an expert witness or as a consultant in this action.

6 2.7 In-house Counsel: Attorneys who are employees of a party to this
7 action. In-house Counsel does not include Outside Counsel of Record or any other
8 outside counsel.

9 2.8 Non-Party: Any natural person, partnership, corporation, association,
10 or other legal entity not named as a Party to this action.

11 2.9 Outside Counsel of Record: Attorneys who are not employees of a
12 party to this action but are retained to represent or advise a party to this action and
13 have appeared in this action on behalf of that party or are affiliated with a law firm
14 which has appeared on behalf of that party.

15 2.10 Party: Any party to this action, including all of its officers, directors,
16 employees, consultants, retained experts, and Outside Counsel of Record (and their
17 support staffs).

18 2.11 Producing Party: A Party or Non-Party that produces Disclosure or
19 Discovery Material in this action.

20 2.12 Professional Vendors: Persons or entities that provide litigation
21 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
22 demonstrations, and organizing, storing, or retrieving data in any form or medium)
23 and their employees and subcontractors.

24 2.13 Protected Material: Any Disclosure or Discovery Material that is
25 designated as CONFIDENTIAL”.

26 2.14 Receiving Party: A Party that receives Disclosure or Discovery
27 Material from a Producing Party.

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1 3. SCOPE

2 The protections conferred by this Stipulation and Order cover not only
3 Protected Material (as defined above), but also (1) any information copied or
4 extracted from Protected Material; (2) all copies, excerpts, summaries, or
5 compilations of Protected Material; and (3) any testimony, conversations, or
6 presentations by Parties or their Counsel that might reveal Protected Material.
7 However, the protections conferred by this Stipulation and Order do not cover the
8 following information: (a) any information that is in the public domain at the time of
9 disclosure to a Receiving Party or becomes part of the public domain after its
10 disclosure to a Receiving Party as a result of publication not involving a violation of
11 this Order, including becoming part of the public record through trial or otherwise;
12 and (b) any information known to the Receiving Party prior to the disclosure or
13 obtained by the Receiving Party after the disclosure from a source who obtained the
14 information lawfully and under no obligation of confidentiality to the Designating
15 Party. Any use of Protected Material at trial shall be governed by a separate
16 agreement or order.

17 4. DURATION

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

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1 5. DESIGNATING PROTECTED MATERIAL

2 5.1 Exercise of Restraint and Care in Designating Material for Protection.

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

10 Mass, indiscriminate, or routinized designations are prohibited. Designations
11 that are shown to be clearly unjustified or that have been made for an improper
12 purpose (e.g., to unnecessarily encumber or retard the case development process or
13 to impose unnecessary expenses and burdens on other parties) expose the
14 Designating Party to sanctions. If it comes to a Designating Party's attention that
15 information or items that it designated for protection do not qualify for protection,
16 that Designating Party must promptly notify all other Parties that it is withdrawing
17 the mistaken designation.

18 5.2 Manner and Timing of Designations. Except as otherwise provided in
19 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
20 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
21 under this Order must be clearly so designated before the material is disclosed or
22 produced.

23 Designation in conformity with this Order requires:

24 (a) for information in documentary form (e.g., paper or electronic
25 documents, but excluding transcripts of depositions or other pretrial or trial
26 proceedings), that the Producing Party affix the legend "CONFIDENTIAL" to each
27 page that contains protected material. If only a portion or portions of the material on
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1 a page qualifies for protection, the Producing Party also must clearly identify the
2 protected portion(s) (e.g., by making appropriate markings in the margins).

3 A Party or Non-Party that makes original documents or materials available for
4 inspection need not designate them for protection until after the inspecting Party has
5 indicated which material it would like copied and produced. During the inspection
6 and before the designation, all of the material made available for inspection shall be
7 deemed “CONFIDENTIAL”. After the inspecting Party has identified the
8 documents it wants copied and produced, the Producing Party must determine which
9 documents, or portions thereof, qualify for protection under this Order. Then, before
10 producing the specified documents, the Producing Party must affix the
11 “CONFIDENTIAL.” legend to each page that contains Protected Material. If only a
12 portion or portions of the material on a page qualifies for protection, the Producing
13 Party also must clearly identify the protected portion(s) (e.g., by making appropriate
14 markings in the margins).

15 (b) for testimony given in deposition or in other pretrial or trial
16 proceedings, that the Designating Party identify on the record, either during the
17 deposition, hearing, or other proceeding, or within 30 days of receipt of the
18 transcript of same all protected testimony.

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

25 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
26 failure to designate qualified information or items does not, standing alone, waive
27 the Designating Party’s right to secure protection under this Order for such material.

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

4 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

5 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
6 designation of confidentiality and/or trade secrets at any time.

7 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
8 resolution process by providing written notice of each designation it is challenging
9 and describing the basis for each challenge. To avoid ambiguity as to whether a
10 challenge has been made, the written notice must recite that the challenge to
11 confidentiality is being made in accordance with this specific paragraph of the
12 Protective Order. The parties shall attempt to resolve each challenge in good faith
13 and must begin the process by conferring directly (in voice to voice dialogue; other
14 forms of communication are not sufficient) within 14 days of the date of service of
15 notice. In conferring, the Challenging Party must explain the basis for its belief that
16 the confidentiality designation was not proper and must give the Designating Party
17 an opportunity to review the designated material, to reconsider the circumstances,
18 and, if no change in designation is offered, to explain the basis for the chosen
19 designation. A Challenging Party may proceed to the next stage of the challenge
20 process only if it has engaged in this meet and confer process first or establishes that
21 the Designating Party is unwilling to participate in the meet and confer process in a
22 timely manner.

23 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without
24 court intervention, the Designating Party shall file and serve a motion to retain
25 confidentiality within 21 days of the initial notice of challenge or within 14 days of
26 the parties agreeing that the meet and confer process will not resolve their dispute,
27 whichever is earlier. Each such motion must be accompanied by a competent
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1 declaration affirming that the movant has complied with the meet and confer
2 requirements imposed in the preceding paragraph. Failure by the Designating Party
3 to make such a motion including the required declaration within 21 days (or 14
4 days, if applicable) shall automatically waive the confidentiality designation for
5 each challenged designation. In addition, the Challenging Party may file a motion
6 challenging a confidentiality designation at any time if there is good cause for doing
7 so, including a challenge to the designation of a deposition transcript or any portions
8 thereof. Any motion brought pursuant to this provision must be accompanied by a
9 competent declaration affirming that the movant has complied with the meet and
10 confer requirements imposed by the preceding paragraph.

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

19 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

20 7.1 **Basic Principles.** A Receiving Party may use Protected Material that is
21 disclosed or produced by another Party or by a Non-Party in connection with this
22 case only for prosecuting, defending, or attempting to settle this litigation. Such
23 Protected Material may be disclosed only to the categories of persons and under the
24 conditions described in this Order. When the litigation has been terminated, a
25 Receiving Party must comply with the provisions of section 11 below (FINAL
26 DISPOSITION).

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

4 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Subject to the
5 provisions of Section 7.3, and unless otherwise ordered by the court or permitted in
6 writing by the Designating Party, a Receiving Party may disclose any information or
7 item designated “CONFIDENTIAL” only to:

8 (a) a Receiving Party, the Receiving Party’s Outside Counsel of
9 Record in this action, as well as employees of said Outside Counsel of Record to
10 whom it is reasonably necessary to disclose the information for this litigation and
11 who have signed the “Acknowledgment and Agreement to Be Bound” that is
12 attached hereto as Exhibit A;

13 (b) the officers, directors, and employees (including In-House
14 Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this
15 litigation and who have signed the “Acknowledgment and Agreement to Be Bound”
16 (Exhibit A);

17 (c) Experts (as defined in this Order) of the Receiving Party to
18 whom disclosure is reasonably necessary for this litigation and who have signed the
19 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

20 (d) the court and its personnel;

21 (e) court reporters and their staff, professional jury or trial
22 consultants, mock jurors, and Professional Vendors to whom disclosure is
23 reasonably necessary for this litigation and who have signed the “Acknowledgment
24 and Agreement to Be Bound” (Exhibit A);

25 (f) during their depositions, witnesses in the action to whom
26 disclosure is reasonably necessary and who have signed the “Acknowledgment and
27 Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating
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1 Party or ordered by the court. Pages of transcribed deposition testimony or exhibits
2 to depositions that reveal Protected Material must be separately bound by the court
3 reporter and may not be disclosed to anyone except as permitted under this
4 Stipulated Protective Order.

5 (g) the author or recipient of a document containing the information
6 or a custodian or other person who otherwise possessed or knew the information.

7 8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

8 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
9 Protected Material to any person or in any circumstance not authorized under this
10 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
11 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
12 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or
13 persons to whom unauthorized disclosures were made of all the terms of this Order,
14 and (d) request such person or persons to execute the “Acknowledgment and
15 Agreement to Be Bound” that is attached hereto as Exhibit A.

16 9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
17 PROTECTED MATERIAL

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

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1 10. MISCELLANEOUS

2 10.1 Right to Further Relief. Nothing in this Order abridges the right of any
3 person to seek its modification by the court in the future.

4 10.2 Right to Assert Other Objections. By stipulating to the entry of this
5 Protective Order no Party waives any right it otherwise would have to object to
6 disclosing or producing any information or item on any ground not addressed in this
7 Stipulated Protective Order. Similarly, no Party waives any right to object on any
8 ground to use in evidence of any of the material covered by this Protective Order.

9 10.3 Filing Protected Material. Without written permission from the
10 Designating Party or a court order secured after appropriate notice to all interested
11 persons, a Party may not file in the public record in this action any Protected
12 Material. A Party that seeks to file under seal any Protected Material must comply
13 with Eastern District Local Rule 141.1. Protected Material may only be filed under
14 seal pursuant to a court order authorizing the sealing of the specific Protected
15 Material at issue.

16 11. FINAL DISPOSITION

17 Within 60 days after the final disposition of this action, as defined in
18 paragraph 4, each Receiving Party must return all Protected Material to the
19 Producing Party or destroy such material. As used in this subdivision, “all Protected
20 Material” includes all copies, abstracts, compilations, summaries, and any other
21 format reproducing or capturing any of the Protected Material. Whether the
22 Protected Material is returned or destroyed, the Receiving Party must submit a
23 written certification to the Producing Party (and, if not the same person or entity, to
24 the Designating Party) by the 60 day deadline that (1) identifies (by category, where
25 appropriate) all the Protected Material that was returned or destroyed and (2) affirms
26 that the Receiving Party has not retained any copies, abstracts, compilations,
27 summaries or any other format reproducing or capturing any of the Protected
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1 Material. Notwithstanding this provision, Counsel are entitled to retain an archival
2 copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal
3 memoranda, correspondence, deposition and trial exhibits, expert reports, attorney
4 work product, and consultant and expert work product, even if such materials
5 contain Protected Material. Any such archival copies that contain or constitute
6 Protected Material remain subject to this Protective Order as set forth in Section 4
7 (DURATION).

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

9 Dated: April 1, 2019 COZEN O'CONNOR

11 By: /s/ Jason E. Barsanti
12 Jason E. Barsanti
13 Aimee Axelrod Parker
14 Attorneys for Defendant
CARGILL MEAT SOLUTIONS
CORPORATION

15 Dated: April 1, 2019 LIPELES LAW GROUP, APC

17 By: /s/ Thomas H. Schelly
18 Kevin A. Lipeles
19 Thomas H. Schelly
Attorneys for Plaintiff
LORENZO MARTINEZ CHAGOLLA

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ORDER

Pursuant to the stipulation of the parties (ECF No. 12),

IT IS SO ORDERED.

Dated: April 1, 2019

/s/ Eric P. Groj
UNITED STATES MAGISTRATE JUDGE

1 **EXHIBIT A**

2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

3 I, _____ [print or type full name], of
4 _____ [print or type full address], declare under
5 penalty of perjury that I have read in its entirety and understand the Stipulated
6 Protective Order that was issued by the United States District Court for the Eastern
7 District of California on _____ [date] in the case of *LORENZO MARTINEZ*
8 *CHAGOLLA v. CARGILL MEAT SOLUTIONS CORPORATION*, Case No. 1:18-cv-
9 00706-EPG. I agree to comply with and to be bound by all the terms of this
10 Stipulated Protective Order and I understand and acknowledge that failure to so
11 comply could expose me to sanctions and punishment in the nature of contempt. I
12 solemnly promise that I will not disclose in any manner any information or item that
13 is subject to this Stipulated Protective Order to any person or entity except in strict
14 compliance with the provisions of this Order.

15 I further agree to submit to the jurisdiction of the United States District Court for the
16 Eastern District of California for the purpose of enforcing the terms of this
17 Stipulated Protective Order, even if such enforcement proceedings occur after
18 termination of this action.

19 I hereby appoint _____ [print or type full name] of
20 _____ [print or type full address and telephone
21 number] as my California agent for service of process in connection with this action
22 or any proceedings related to enforcement of this Stipulated Protective Order.

23 Date: _____

24 City and State where sworn and signed: _____

25 Printed name: _____

26 Signature: _____