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 17 STARBUCKS CORPORATION

18 UNITED STATES DISTRICT COURT
 19 EASTERN DISTRICT OF CALIFORNIA

20 SCOTT JOHNSON,

21 Plaintiff,

22 v.

23 STARBUCKS CORPORATION, a
 24 Washington Corporation; and DOES 1-10,

25 Defendants.

No. 2:16-cv-02489-MCE-EFB

**CONFIDENTIALITY STIPULATION
 AND PROTECTIVE ORDER**

Complaint Filed: October 18, 2016

26 The discovery sought by the parties in the above-styled case is likely to involve
 27 production of documents and things containing business, competitive, proprietary, trade secret or
 28 other information of a sensitive nature about the party (or of another person which information
 the party is under a duty to maintain in confidence), hereafter referred to as “Confidential
 Information,” and witness testimony containing Confidential Information. Accordingly, the
 parties having agreed to enter into this Confidentiality Stipulation and Protective Order (“the
 Order”) to govern the production of documents and testimony that contains Confidential
 Information, and for good cause shown, the Court hereby ORDERS as follows:

Designation of Confidential Information.

1. Designation of Material. Documents and other things claimed to be or to contain

1 Confidential Information shall, prior to production, be marked by the producing party as
2 “Confidential.” Placement of the “Confidential” designation on each protected page or on the
3 initial page of a protected document when it is produced shall constitute notice and shall
4 designate the document as Confidential material. Copies, extracts, summaries, notes, and other
5 derivatives of Confidential material also shall be deemed Confidential material and shall be
6 subject to the provisions of this Order.

7 2. Subsequent Designation. Documents and/or materials produced in the litigation
8 that are not identified as Confidential Information when they were initially produced may within
9 a reasonable time thereafter be designated as Confidential by the producing party, or by the party
10 or parties receiving the production, or by a person, by providing written notice to counsel for all
11 other parties and to any person who may be involved. Each party or person who receives such
12 written notice shall endeavor to retrieve any Confidential Information that may have been
13 disseminated, shall affix a “Confidential” designation to it, and shall thereafter distribute it only
14 as allowed by this Order. No distribution prior to the receipt of such written notice shall be
15 deemed a violation of this Order.

16 3. Designation of Depositions. Depositions or portions thereof upon oral or written
17 questions may be classified as Confidential Information either by an examining party's attorney
18 or by an attorney defending or attending the deposition. A party claiming that a deposition or
19 any portion thereof is Confidential Information shall give notice of such claim to the other
20 affected parties and persons either prior to or during the deposition, or within twenty-eight (28)
21 days after receipt of the deposition transcript, and the testimony taken and the transcript of such
22 deposition or portion thereof shall be designated as Confidential.

23 4. Modification of Designation. The designation of Confidential Information by the
24 producing party shall not be determinative and may be modified or eliminated at any time in one
25 of two ways, as explained below.

26 (a) The producing party may agree in writing to downgrade or eliminate the
27 Confidential designation concerning any material it produced.

28 (b) If the parties cannot agree as to the designation of any particular

1 information or material after good faith discussion, the receiving party may move the
2 Court to downgrade or eliminate the “Confidential” designation. The burden of proving
3 that the information has been properly designated as protected shall be on the party who
4 made the original designation.

5 **Access to Confidential Information**

6 1. General Access. Except as otherwise expressly provided herein or ordered by the
7 Court, Confidential Information may be revealed only as follows:

8 (a) To outside counsel for a party hereto (and secretaries, paralegals, and
9 other staff employed in the offices of such outside counsel who are working on the
10 litigation), provided that outside counsel who are not of record must first sign and deliver
11 to counsel of record for each other party or parties a letter in the form of Exhibit A
12 hereto.

13 (b) To the parties after they have been given a copy of this Confidentiality
14 Stipulation by their outside counsel and signed a letter in the form of Exhibit A.

15 (c) To court reporters transcribing a deposition, hearing, or other proceeding
16 in this matter who sign Exhibit A attached hereto (excluding court-appointed court
17 reporters).

18 (d) To independent experts and independent consultants (meaning a person
19 who is not an employee, officer, director, or owner in any capacity of a party and who is
20 retained by a party or a party’s outside counsel in good faith for the purpose of assisting
21 in this litigation) who sign Exhibit A attached hereto.

22 Nothing herein shall prevent the producing party from showing the documents or
23 information to an employee of that party.

24 2. No Copies/Notes. Except for internal use by outside counsel for the parties
25 hereto, for Court and deposition copies, and for such use as is expressly permitted under the
26 terms hereof, no person granted access to Confidential Information shall make copies,
27 reproductions, transcripts, or facsimiles of the same or any portion thereof or shall take notes or
28 otherwise summarize the contents of such Confidential Information.

1 3. Disputes over Access. If a dispute arises as to whether a particular person should
2 be granted access to Confidential Information, the party seeking disclosure may move the Court
3 to permit the disclosure and must obtain an order of the Court before disclosing the information.

4 **Use of Confidential Information**

5 1. Use in this Litigation Only. Confidential Information may be used only for
6 purposes of this litigation. Each person to whom the disclosure of any Confidential Information
7 is made shall not, directly or indirectly, use, disclose, or disseminate, or attempt to use, disclose,
8 or disseminate, any of the same except as expressly provided herein.

9 2. Use at Depositions. If Confidential Information is to be discussed or disclosed
10 during a deposition, the producing party shall have the right to exclude from attendance at the
11 deposition, during the time the Confidential Information is to be discussed, any person not
12 entitled under this Order to receive the Confidential Information.

13 3. Use at Court Hearings and Trial. Subject to California's ~~the~~ **Federal** Rules of
14 Evidence, Confidential Information may be offered into evidence at trial or at any hearing or oral
15 argument, provided that the proponent of the evidence containing Confidential Information gives
16 reasonable advance notice to the Court and counsel for the producing or designating party. Any
17 party may move the Court for an order that the evidence be received in camera or under other
18 conditions to prevent unnecessary disclosure. If presented at trial, the status of evidence as
19 Confidential Information shall not be disclosed to the finder of fact.

20 4. Filing Under Seal. ~~Each document filed with the Court that contains any~~
21 ~~Confidential Information shall be filed in a sealed envelope or other appropriate sealed container~~
22 ~~on which shall be set forth the title and number of this action, a general description or title of the~~
23 ~~contents of the envelope, and a statement that the contents are Confidential and subject to a~~
24 ~~Protective Order and that the envelope is not to be opened nor the contents thereof revealed~~
25 ~~except to counsel of record in the litigation or court personnel, or pursuant to order of the Court.~~
26 ~~Copies of such documents served on counsel for other parties shall be marked as Confidential.~~

27 **Without written permission from the Designating Party or a court order secured after appropriate**
28 **notice to all interested persons, a Party may not file in the public record in this action any**

1 Protected Material. Protected Material may only be filed under seal pursuant to a court order
2 authorizing the sealing of the specific Protected Material at issue. However, the designation of
3 material as confidential, without more, is insufficient to obtain a sealing order. Any party that
4 seeks to file Protected Material under seal must comply with Local Rule 141, which governs
5 motions for a sealing order. As provided in Local Rule 141, a sealing order will issue only upon
6 a request establishing that the Protected Material at issue is privileged, protectable as a trade
7 secret, or otherwise entitled to protection under the law. Further, the briefing on the motion for a
8 sealing order shall address U.S. Supreme Court and Ninth Circuit standards for whether the
9 material may be filed under seal. Regardless of which party files the motion for a sealing order,
10 the party that designated the material as confidential shall file a brief addressing those standards,
11 and shall have the burden of establishing that the Protected Material should be filed but not made
12 publicly available.

13 5. Reasonable Precautions. Counsel for each party shall take all reasonable
14 precautions to prevent unauthorized or inadvertent disclosure of any Confidential Information.

15 6. Return After Litigation. Within thirty (30) days of the final termination of this
16 litigation by judgment, appeal, settlement, or otherwise, or sooner if so ordered by the Court,
17 counsel for each party shall return to counsel for the party who furnished the same all items
18 constituting, containing, or reflecting the other party's Confidential Information, or in the
19 alternative, destroy all Confidential Documents. In addition, within thirty (30) days of the final
20 termination of this litigation by judgment, appeal, settlement, or otherwise, or sooner if so
21 ordered by the Court, all Confidential Electronic Documents shall be destroyed and deleted.

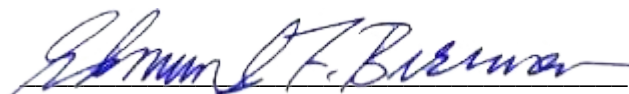
22 Other Provisions

23 1. Not an Admission. Nothing in this Order shall constitute an admission by the
24 party that information designated as Confidential is actually Confidential Information.
25 Furthermore, nothing contained herein shall preclude the parties or a person from raising any
26 available objection, or seeking any available protection with respect to any Confidential
27 Information, including but not limited to the grounds of admissibility of evidence, materiality,
28 trial preparation materials and privilege.

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2. Miscellaneous. This Order shall apply to the production of all materials whether or not such materials are informally produced or produced in response to a formal discovery request or a Court order in this litigation. This Order may be used to protect the confidentiality of the residential addresses and social security numbers of the parties and of any and all current or former employees of either of the parties or their affiliates.

PURSUANT TO STIPULATION, IT IS SO ORDERED, this 24th day of January, 2019.



EDMUND F. BRENNAN
U.S. MAGISTRATE JUDGE

SO STIPULATED AND AGREED:

DATED: January 17, 2019

BURNHAM BROWN

/s/ Michelle D. Jew

CATHY L. ARIAS
MICHELLE D. JEW
ARTHUR S. GAUS
Attorneys for Defendant
STARBUCKS CORPORATION

DATED: January 17, 2019

CENTER FOR DISABILITY ACCESS

/s/ Elliot Montgomery

RAY G. BALLISTER, JR.
PHYL GRACE
ELLIOTT MONTGOMERY
Attorneys for Plaintiff
SCOTT JOHNSON

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EXHIBIT A
AGREEMENT CONCERNING INFORMATION COVERED BY CONFIDENTIALITY
STIPULATION AND PROTECTIVE ORDER

I have been designated by _____ as a person who may have access to Confidential Information as that term is defined in the Confidentiality Stipulation and Protective Order (the “Order”) entered in the above-entitled case.

Having read the Order, I agree to comply fully with it and to be bound by its terms with respect to all documents and information designated as “Confidential” under the Order. I agree not to copy any documents or information that have been designated as “Confidential” and disclosed to me and not to disclose such documents or information to any person or entity not authorized under the Order to view Confidential Information.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this _____ day of _____, 2019.

Name

Address

Employer

Job Title

4819-7998-9637, v. 1