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11 Attorneys for Plaintiff Margot Lockwood

12 **IN THE UNITED STATES DISTRICT COURT**
 13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
 14 **SAN FRANCISCO DIVISION**

15 MARGOT LOCKWOOD, individually and on
 16 behalf of all others similarly situated,

17 Plaintiff,

18 vs.

19 CONAGRA FOODS, INC., DOE
 20 CORPORATION, and DOES 1 through 50,
 inclusive,

21 Defendants.

CASE NO. CV 08-4151 (CRB)

CLASS ACTION

~~[PROPOSED]~~ CONSENT
 CONFIDENTIALITY ORDER

Dept.: Courtroom 8, 19th Floor
 Judge: Hon. Charles R. Breyer

1 Appearing that discovery in the above-captioned action is likely to involve the disclosure
2 of confidential information, it is ORDERED as follows:

3 1. Any party to this litigation and any third-party shall have the right to designate as
4 “Confidential” and subject to this Order any information, document, or thing, or portion of any
5 document or thing: (a) that contains trade secrets, competitively sensitive technical, marketing,
6 financial, sales or other confidential business information, or (b) that contains private or
7 confidential personal information, or (c) that contains information received in confidence from
8 third parties, or (d) which the producing party otherwise believes in good faith to be entitled to
9 protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure and Local Civil Rule
10 79-5. Any party to this litigation or any third party covered by this Order, who produces or
11 discloses any Confidential Material, including without limitation any information, document,
12 thing, interrogatory answer, admission, pleading, or testimony, shall mark the same with the
13 foregoing or similar legend: “CONFIDENTIAL” or “CONFIDENTIAL – SUBJECT TO
14 DISCOVERY CONFIDENTIALITY ORDER” (hereinafter “Confidential Material”).

15 2. Any party to this litigation and any third-party shall have the right to designate as
16 “Attorneys’ Eyes Only” and subject to this Order any information, document, or thing, or portion
17 of any document or thing that contains extremely sensitive business or personal information, the
18 disclosure of which is extremely likely to cause significant harm to an individual or to the business
19 or competitive position of the designating party. Any party to this litigation or any third party who
20 is covered by this Order, who produces or discloses any Attorneys’ Eyes Only material, including
21 without limitation any information, document, thing, interrogatory answer, admission, pleading, or
22 testimony, shall mark the same with the foregoing or similar legend: “ATTORNEYS’ EYES
23 ONLY” or “ATTORNEYS’ EYES ONLY – SUBJECT TO DISCOVERY CONFIDENTIALITY
24 ORDER” (hereinafter “Attorneys’ Eyes Only Material”).

25 3. All Confidential Material shall be used by the receiving party solely for purposes of
26 the prosecution or defense of this action, shall not be used by the receiving party for any business,
27 commercial, competitive, personal or other purpose, and shall not be disclosed by the receiving
28 party to anyone other than those set forth in Paragraph 4, unless and until the restrictions herein

1 are removed either by written agreement of counsel for the parties, or by Order of the Court. It is,
2 however, understood that counsel for a party may give advice and opinions to his or her client
3 solely relating to the above-captioned action based on his or her evaluation of Confidential
4 Material, provided that such advice and opinions shall not reveal the content of such Confidential
5 Material except by prior written agreement of counsel for the parties, or by Order of the Court.

6 4. Confidential Material and the contents of Confidential Material may be disclosed
7 only to the following individuals under the following conditions:

- 8 a. Outside counsel (herein defined as any attorney at the parties' outside law
9 firms) and relevant in-house counsel for the parties;
- 10 b. Outside experts or consultants retained by outside counsel for purposes of
11 this action, provided they have signed a non-disclosure agreement in the
12 form attached hereto as Exhibit A;
- 13 c. Secretarial, paralegal, clerical, duplicating and data processing personnel of
14 the foregoing;
- 15 d. The Court and court personnel;
- 16 e. Any deponent may be shown or examined on any information, document or
17 thing designated Confidential if it appears that the witness authored or
18 received a copy of it, was involved in the subject matter described therein or
19 is employed by the party who produced the information, document or thing,
20 or if the producing party consents to such disclosure;
- 21 f. Vendors retained by or for the parties to assist in preparing for pretrial
22 discovery, trial and/or hearings including, but not limited to, court reporters,
23 litigation support personnel, jury consultants, individuals to prepare
24 demonstrative and audiovisual aids for use in the courtroom or in
25 depositions or mock jury sessions, as well as their staff, stenographic, and
26 clerical employees whose duties and responsibilities require access to such
27 materials; and
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1 g. The parties. In the case of parties that are corporations or other business
2 entities, "party" shall mean executives who are required to participate in
3 decisions with reference to this lawsuit.

4 5. Confidential Material shall be used only by individuals permitted access to it under
5 Paragraph 4. Confidential Material, copies thereof, and the information contained therein, shall
6 not be disclosed in any manner to any other individual, until and unless (a) outside counsel for the
7 party asserting confidentiality waives the claim of confidentiality, or (b) the Court orders such
8 disclosure.

9 6. With respect to any depositions that involve a disclosure of Confidential Material
10 of a party to this action, such party shall have until thirty (30) days after receipt of the deposition
11 transcript within which to inform all other parties that portions of the transcript are to be
12 designated Confidential, which period may be extended by agreement of the parties. No such
13 deposition transcript shall be disclosed to any individual other than the individuals described in
14 Paragraph 4(a), (b), (c), (d) and (f) above and the deponent during these thirty (30) days, and no
15 individual attending such a deposition shall disclose the contents of the deposition to any
16 individual other than those described in Paragraph 4(a), (b), (c), (d) and (f) above during said
17 thirty (30) days. Upon being informed that certain portions of a deposition are to be designated as
18 Confidential, all parties shall immediately cause each copy of the transcript in its custody or
19 control to be appropriately marked and limit disclosure of that transcript in accordance with
20 Paragraphs 3 and 4.

21 7. Material produced and marked as Attorneys' Eyes Only may be disclosed only to
22 outside counsel for the receiving party and to such other persons as counsel for the producing
23 party agrees in advance or as Ordered by the Court.

24 8. To the extent that any portions of a deposition are to be designated as Attorneys'
25 Eyes Only, all parties shall immediately cause each copy of the transcript in its custody or control
26 to be appropriately marked and limit disclosure of that transcript in accordance with paragraph 7.

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1 9. If counsel for a party receiving documents or information designated as
2 Confidential or Attorneys' Eyes Only hereunder objects to such designation of any or all of such
3 items, the following procedure shall apply:

4 a. Counsel for the objecting party shall serve on the designating party or third
5 party a written objection to such designation, which shall identify the
6 documents or information in question. Counsel for the designating party or
7 third party shall respond in writing to such objection within ten (10) days,
8 and shall state with particularity the grounds for asserting that the document
9 or information is Confidential or Attorneys' Eyes Only. If no timely written
10 response is made to the objection, the challenged designation will be
11 deemed to be void. If the designating party or nonparty makes a timely
12 response to such objection asserting the propriety of the designation,
13 counsel shall then confer in good faith in an effort to resolve the dispute.

14 b. If a dispute as to a Confidential or Attorneys' Eyes Only designation of a
15 document or item of information cannot be resolved by agreement, the
16 proponent of the designation being challenged shall present the dispute in
17 accordance with the procedures relating to resolution of discovery disputes
18 as set forth in the Federal Rules of Civil Procedure, the Local Rules for the
19 United States District Court for the Northern District of California, and the
20 Standing Orders of Judge Charles Breyer. The document or information
21 that is the subject of the filing shall be treated as originally designated
22 pending resolution of the dispute.

23 10. All requests to seal documents filed with the Court shall comply with Local Civil
24 Rule 79-5.

25 11. If the need arises during trial or at any hearing before the Court for any party to
26 disclose Confidential or Attorneys' Eyes Only information, it may do so only after giving notice to
27 the producing party and as directed by the Court.

1 12. To the extent consistent with applicable law, the inadvertent or unintentional
2 disclosure of Confidential Material or of Attorneys' Eyes Only Material that should have been
3 designated as such, regardless of whether the information, document or thing was so designated at
4 the time of disclosure, shall not be deemed a waiver in whole or in part of a party's claim of
5 confidentiality, either as to the specific information, document or thing disclosed or as to any other
6 material or information concerning the same or related subject matter. Such inadvertent or
7 unintentional disclosure may be rectified by notifying in writing counsel for all parties to whom
8 the material was disclosed that the material should have been designated Confidential or
9 Attorneys' Eyes only within a reasonable time after disclosure. Such notice shall constitute a
10 designation of the information, document or thing as Confidential Material or Attorneys' Eyes
11 Only Material under this Discovery Confidentiality Order.

12 13. When the inadvertent or mistaken disclosure of any information, document or thing
13 protected by privilege or work-product immunity is discovered by the producing party and brought
14 to the attention of the receiving party, the receiving party's treatment of such material shall be in
15 accordance with Federal Rule of Civil Procedure 26(b)(5)(B). Such inadvertent or mistaken
16 disclosure of such information, document or thing shall not constitute a waiver by the producing
17 party of any claims of privilege or work-product immunity. However, nothing herein restricts the
18 right of the receiving party to challenge the producing party's claim of privilege if appropriate
19 within a reasonable time after receiving notice of the inadvertent or mistaken disclosure.

20 14. No information that is in the public domain or which is already known by the
21 receiving party through proper means or which is or becomes available to a party from a source
22 other than the party asserting confidentiality, rightfully in possession of such information on a
23 non-confidential basis, shall be deemed or considered to be Confidential Material or Attorneys'
24 Eyes Only Material under this Discovery Confidentiality Order.

25 15. This Consent Confidentiality Order shall not deprive any party of its right to object
26 to discovery by any other party or on any otherwise permitted ground. This Consent
27 Confidentiality Order is being entered without prejudice to the right of any party to move the
28 Court for modification or for relief from any of its terms.

1 16. This Consent Confidentiality Order shall survive the termination of this action and
2 shall remain in full force and effect unless modified by an Order of this Court or by the written
3 stipulation of the parties filed with the Court.

4 17. Upon final conclusion of this litigation, each party or other individual subject to the
5 terms hereof shall be under an obligation to certify, under oath, that they have either returned to
6 opposing counsel or destroyed all originals and unmarked copies of documents and things
7 containing Confidential Material and Attorneys' Eyes only Material and to destroy, should such
8 source so request, all copies of Confidential Material and Attorneys' Eyes only Material that
9 contain and/or constitute attorney work product as well as excerpts, summaries and digests
10 revealing Confidential Material and Attorneys' Eyes Only Information; provided, however, that
11 counsel may retain complete copies of all transcripts and pleadings including any exhibits attached
12 thereto for archival purposes, subject to the provisions of this Consent Confidentiality Order. To
13 the extent a party requests the return of Confidential Material and Attorneys' Eyes Only
14 Information from the Court after the final conclusion of the litigation, including the exhaustion of
15 all appeals therefrom and all related proceedings, the party shall file a motion seeking such relief.

16 IT IS SO ORDERED.

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18 DATED: April 23, 2009

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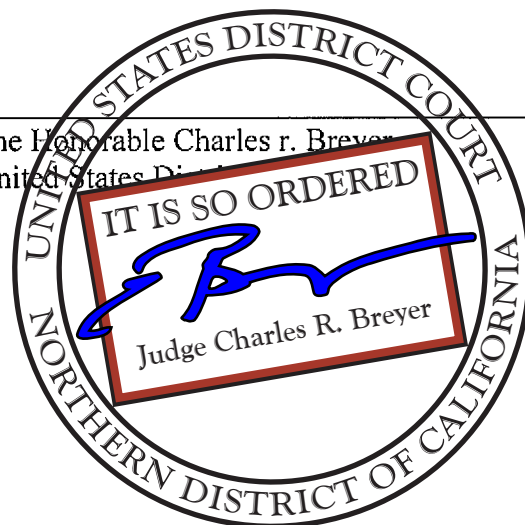
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The Honorable Charles r. Breyer
United States District Court



1 The undersigned consent to the form and entry of the above Order.

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14 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
15 **SAN FRANCISCO DIVISION**

16 MARGOT LOCKWOOD, individually and)
on behalf of all others similarly situated,)

17 Plaintiff,)

18 v.)

19 CONAGRA FOODS, INC., DOE CORPOR-)
20 ATION, and DOES 1 through 50, inclusive,)

21 Defendants.)
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Case No. CV 08-4151 (CRB)

**EXHIBIT A: AGREEMENT TO BE
BOUND BY CONSENT
CONFIDENTIALITY ORDER**

1 I, _____, being duly sworn, state that:

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1. My address is _____.

2. My present employer is _____ and the address
of my present employment is _____.

3. My present occupation or job description is _____.

4. I have carefully read and understood the provisions of the Consent Confidentiality
Order in this case signed by the Court, and I will comply with all provisions of the Consent
Confidentiality Order.

5. I will hold in confidence and not disclose to anyone not qualified under the
Consent Confidentiality Order any Confidential Material or any words, summaries, abstracts, or
indices of Confidential Information disclosed to me:

6. I will limit use of Confidential Material disclosed to me solely for the purposes of
this action.

7. No later than the final conclusion of the case, I will return all Confidential
Material and summaries, abstracts, and indices thereof which come into my possession, and
documents or things which I have prepared relating thereto, to counsel for the party for whom I
was employed or retained.

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

Dated: _____, 2009

Name:
Title: