

1 Kevin J. McInerney
 Kevin@mcinerneylaw.net
 2 18124 Wedge Parkway, Suite 503
 Reno, Nevada 89511
 3 Telephone: (775) 849-3811
 Facsimile: (775) 849-3866

4 Attorney for Plaintiff,
 5 LILIANA CANELA

SEYFARTH SHAW LLP
 6 Kenwood C. Youmans (SBN 68258)
 kyoumans@seyfarth.com
 7 David D. Kadue (SBN 113578)
 dkadue@seyfarth.com
 8 2029 Century Park East, Suite 3500
 Los Angeles, California 90067-3021
 9 Telephone: (310) 277-7200
 Facsimile: (310) 201-5219

10 SEYFARTH SHAW LLP
 William J. Dritsas (SBN 97523)
 11 wdritsas@seyfarth.com
 560 Mission Street, 31st Floor
 12 San Francisco, California 94105
 Telephone: (415) 397-2823
 13 Facsimile: (415) 397-8549

14 SEYFARTH SHAW LLP
 Emily Schroeder (SBN 274257)
 15 eschroeder@seyfarth.com
 333 S. Hope Street, Suite 3900
 16 Los Angeles, California 90071
 Telephone: (213) 270-9600
 17 Facsimile: (213) 270-9601

18 Attorneys for Defendant,
 COSTCO WHOLESALE CORPORATION

19 UNITED STATES DISTRICT COURT
 20 NORTHERN DISTRICT OF CALIFORNIA - OAKLAND DIVISION

22 LILIANA CANELA, individually and on
 behalf of all others similarly situated,
 23
 Plaintiff,
 24
 v.
 25 COSTCO WHOLESALE CORPORATION
 and DOES 1 through 10, inclusive,
 26
 Defendants.
 27

Case No. 13-cv-03598-CW
~~PROPOSED~~ PROTECTIVE ORDER
 Complaint Filed: July 2, 2013

1 2.7 Protected Material: any Disclosure or Discovery Material that is designated as
2 “Confidential.”

3 2.8 Outside Counsel: attorneys who are not employees of a Party but who are retained
4 to represent or advise a Party in this action.

5 2.9 House Counsel: attorneys who are employees of a Party.

6 2.10 Counsel (without qualifier): Outside Counsel and House Counsel (as well as their
7 support staffs).

8 2.11 Expert: a person or business entity, including its employees and subcontractors,
9 with specialized knowledge or experience in a matter pertinent to the litigation who has been
10 retained by a Party or its counsel to serve as an expert witness or as a consultant in this action
11 and who is not a current employee of a Party’s competitor and who, at the time of retention, has
12 no pending application or offer to become an employee of a Party’s competitor. This definition
13 includes a professional jury or trial consultant retained in connection with this litigation.

14 2.12 Professional Vendors: persons or entities that provide litigation support services
15 (e.g., photocopying; videotaping; translating; preparing exhibits or demonstrations; organizing,
16 storing, retrieving data in any form or medium; etc.) and their employees and subcontractors.

17 3. SCOPE

18 The protections conferred by this Stipulation and Order cover not only Protected Material
19 (as defined above), but also any information copied or extracted therefrom, as well as all copies,
20 excerpts, summaries, or compilations thereof, plus testimony, conversations, or presentations by
21 parties or counsel to or in court or in other settings that might reveal Protected Material.

22 4. DURATION

23 The Court’s jurisdiction to enforce the terms of the Order shall continue for six (6)
24 months after the final conclusion of all aspects of the litigation. Nonetheless, the parties agree to
25 abide by the confidentiality obligations imposed by this Order, which shall remain in effect until
26 a Designating Party agrees otherwise in writing or a court order otherwise directs.

1 (b) for testimony given in deposition or in other pretrial or trial proceedings, that the
2 Party or non-party offering or sponsoring the testimony identify on the record, before the close of
3 the deposition, hearing, or other proceeding that the deposition contains confidential information.

4 (c) for information produced in some form other than documentary, and for any other
5 tangible items, that the Producing Party affix in a prominent place on the exterior of the
6 container or containers in which the information or item is stored the legend
7 “CONFIDENTIAL.”

8 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
9 designate qualified information or items as “Confidential” does not, standing alone, waive the
10 Designating Party’s right to secure protection under this Order for such material. If material is
11 appropriately designated as “Confidential” after the material was initially produced, the
12 Receiving Party, on timely notification of the designation, must make reasonable efforts to
13 assure that the material is treated in accordance with the provisions of this Order.

14 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

15 6.1 Timing of Challenges. Unless a prompt challenge to a Designating Party’s
16 confidentiality designation is necessary to avoid foreseeable substantial unfairness, unnecessary
17 economic burdens, or a later significant disruption or delay of the litigation, a Party does not
18 waive its right to challenge a confidentiality designation by electing not to mount a challenge
19 promptly after the original designation is disclosed.

20 6.2 Meet and Confer. A Party that elects to initiate a challenge to a Designating
21 Party’s confidentiality designation must do so in good faith and must begin the process by
22 conferring directly with counsel for the Designating Party. In conferring, the challenging Party
23 must explain the basis for its belief that the confidentiality designation was not proper and must
24 give the Designating Party an opportunity to review the designated material, to reconsider the
25 circumstances, and, if no change in designation is offered, to explain the basis for the chosen
26 designation. A challenging Party may proceed to the next stage of the challenge process only if it
27 has engaged in this meet and confer process first.

- 1 (d) the Court and its personnel;
- 2 (e) court reporters, their staffs, and Professional Vendors to whom disclosure is
- 3 reasonably necessary for this litigation;
- 4 (f) during their depositions and in preparation for their depositions, witnesses in the
- 5 action to whom disclosure is reasonably necessary. Pages of transcribed deposition testimony or
- 6 exhibits to depositions that reveal Protected Material must be separately bound by the court
- 7 reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective
- 8 Order;
- 9 (g) the author or any recipient of the document or the original source of the
- 10 information; and
- 11 (h) any Party, who then shall have all the rights and duties of a Receiving Party.

12 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER

13 LITIGATION

14 If a Receiving Party is served with a subpoena or an order issued in other litigation that

15 would compel disclosure of any information or items designated in this action as

16 “CONFIDENTIAL,” the Receiving Party must so notify the Designating Party, in writing (by

17 fax, if possible) immediately and in no event more than three court days after receiving the

18 subpoena or order. Such notification must include a copy of the subpoena or court order.

19 The Receiving Party also must immediately inform in writing the Party who caused the subpoena

20 or order to issue in the other litigation that some or all the material covered by the subpoena or

21 order is the subject of this Protective Order. In addition, the Receiving Party must deliver a copy

22 of this Stipulated Protective Order promptly to the Party in the other action that caused the

23 subpoena or order to issue.

24 The purpose of imposing these duties is to alert the interested parties to the existence of

25 this Protective Order and to afford the Designating Party in this case an opportunity to try to

26 protect its confidentiality interests in the court from which the subpoena or order issued. The

27 Designating Party shall bear the burdens and the expenses of seeking protection in that court of

28

1 its confidential material – and nothing in these provisions should be construed as authorizing or
2 encouraging a Receiving Party in this action to disobey a lawful directive from another court.

3 9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

4 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected
5 Material to any person or in any circumstance not authorized under this Stipulated Protective
6 Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the
7 unauthorized disclosures, (b) use its best efforts to retrieve all copies of the Protected Material,
8 and (c) inform the person or persons to whom unauthorized disclosures were made of all the
9 terms of this Order.

10 10. FILING PROTECTED MATERIAL

11 Without written permission from the Designating Party or a court order secured after a
12 joint conference call with the magistrate judge, a Party may not file in the public record in this
13 action any Protected Material. A Party that seeks to file under seal any Protected Material must
14 comply with the Local Rules. In addition to placing documents in a sealed envelope with
15 instructions that the document is filed pursuant to the Stipulated Protective Order and that the
16 envelope is not to be opened absent further order of the court, the envelope should be labeled to
17 identify the title of the case, the case number, and the title of the document.

18 11. FINAL DISPOSITION

19 Unless otherwise ordered or agreed in writing by the Producing Party, within sixty days
20 after the final termination of this action, each Receiving Party must return all Protected Material
21 to the Producing Party. As used in this subdivision, “all Protected Material” includes all copies,
22 abstracts, compilations, summaries or any other form of reproducing or capturing any of the
23 Protected Material. With permission in writing from the Designating Party, the Receiving Party
24 may destroy some or all of the Protected Material instead of returning it. Whether the Protected
25 Material is returned or destroyed, the Receiving Party must submit a written certification to the
26 Producing Party (and, if not the same person or entity, to the Designating Party) by the sixty day
27 deadline that identifies (by category, where appropriate) all the Protected Material that was
28

1 returned or destroyed and that affirms that the Receiving Party has not retained any copies,
2 abstracts, compilations, summaries or other forms of reproducing or capturing any of the
3 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival
4 copy of all pleadings, motion papers, transcripts, legal memoranda, correspondence or attorney
5 work product, even if such materials contain Protected Material. Any such archival copies that
6 contain or constitute Protected Material remain subject to this Protective Order as set forth in
7 Section 4 (DURATION), above. The Court's jurisdiction to enforce the terms of the Order shall
8 continue for six (6) months after the final conclusion of all aspects of the litigation.

9 12. MISCELLANEOUS

10 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to
11 seek its modification by the Court in the future.

12 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective
13 Order no Party waives any right it otherwise would have to object to disclosing or producing any
14 information or item on any ground not addressed in this Stipulated Protective Order. Similarly,
15 no Party waives any right to object on any ground to use in evidence of any of the material
16 covered by this Protective Order.

17 **IT IS SO ORDERED.**

18
19 Dated: 12/31/2013

20 
21 _____
22 JUDGE CLAUDIA WILKEN
23 UNITED STATES DISTRICT COURT JUDGE
24
25
26
27
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

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I 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 Northern District of California in the case of *Liliana Canela v. Costco Wholesale Corporation*, Case No. Case No. 13-cv-03598-CW. I agree to comply with and be bound by all the terms of this Stipulated Protective Order. I 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 Northern District of California for the purpose of enforcing the terms of the Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action. I hereby appoint Kevin McInerney, 18124 Wedge Parkway, Suite 503, Reno, Nevada 89511, telephone (775) 849-3811, as my agent for service of process in connection with this action or any proceeding related to enforcement of this Stipulated Protective Order.

Date: _____
City and State where sworn and signed: _____
Printed name: _____
Signature: _____