

Mark R. Cuker, Esquire
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Attorneys for Plaintiff Linda Franulovic and the Class

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

Linda Franulovic, individually and on behalf
of a class of persons,

Plaintiff,

v.

The Coca-Cola Company,
Defendant.

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Civil Action No. 1:07-cv-00539-RMB-JS

**NOTICE OF LOCAL RULE 5.3 MOTION FOR LEAVE
TO FILE DISCOVERY DOCUMENTS UNDER SEAL**


TO: Gita F. Rothschild, Esquire
Peter J. Boyer, Esquire
McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
P.O. Box 652
Newark, NJ 07102-0652

PLEASE TAKE NOTICE that on February 4, 2008, the undersigned, Mark R. Cuker, Esquire, of the law firm of WILLIAMS CUKER BEREZOFSKY, co-counsel for Plaintiff Linda Franulovic and the Class, shall make application before the United States District Court for the District of New Jersey pursuant to Local Court Rule 5.3 for an Order granting Plaintiff leave to file under seal discovery documents submitted in support of her Reply Memorandum in Support of Rule 59(e) Motion. In support of this Motion, the undersigned shall rely upon the attached Affidavit submitted by Mark R. Cuker and appended exhibits. A proposed form of Order is attached.

PLEASE TAKE FURTHER NOTICE that the within application is made upon the papers, and unless counsel for Defendant otherwise object, no oral argument is requested.

WILLIAMS CUKER BEREZOFSKY

Counsel for Plaintiff Linda Franulovic and the Class

By: 

Mark R. Cuker

Dated: January 4, 2008

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Notice of Local Rule 5.3 Motion For Leave to File
Discovery Documents Under Seal and all papers submitted in support thereof have been served
via ECF upon the following counsel for Defendant:

Gita F. Rothschild
Peter J. Boyer
McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
P.O. Box 652
Newark, NJ 07102-0652



Mark R. Cuker

Dated: January 4, 2008

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FOR THE DISTRICT OF NEW JERSEY**

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Civil Action No. 1:07-cv-00539-RMB-JS

**ORDER GRANTING LEAVE TO FILE
DISCOVERY DOCUMENTS UNDER SEAL**

THIS MATTER having come before the Court on the motion of Mark R. Cuker,
Counsel for Plaintiff Linda Franulovic, and the Court having considered the motion papers and
having found for good cause shown.

IT IS on this _____ day of _____, 200_;

ORDERED that Plaintiff is hereby GRANTED leave pursuant to Local Court Rule 5.3 to
file under seal the discovery documents submitted as **Exhibit B** to Plaintiff's January 4, 2008
Motion.

U.S.D.C.J.

() Opposed

() Unopposed

Mark R. Cuker, Esquire
WILLIAMS CUKER BEREZOFSKY
Woodland Falls Corporate Center
210 Lake Shore Drive East, Suite 101
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Attorneys for Plaintiff Linda Franulovic and the Class

**IN THE UNITED STATES DISTRICT COURT
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Linda Franulovic, individually and on behalf
of a class of persons,

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v.

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Defendant.

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Civil Action No. 1:07-cv-00539-RMB-JS

**AFFIDAVIT OF MARK R. CUKER IN SUPPORT OF LOCAL RULE 5.3
MOTION FOR LEAVE TO FILE DISCOVERY DOCUMENTS UNDER SEAL**

MARK R. CUKER, ESQUIRE, in lieu of oath or certification, hereby certifies and says:

1. I am a partner at the law firm of Williams Cuker Berezofsky, attorneys for Plaintiffs Linda Franulovic and the Class in the above captioned matter. I submit this Affidavit in support of Plaintiff's Local Rule 5.3 Motion for Leave to File Discovery Documents Under Seal. I am personally familiar with the facts set forth herein.

2. Attached as **Exhibit A** is the Stipulated Discovery Confidentiality Order entered in the consolidated case of *Melfi v. The Coca-Cola Company, et al.*, No. 07-828 (Melfi Docket No. 23), signed by Magistrate Judge Schneider on June 4, 2007. Paragraph 7.4 of this Order provides in relevant part that documents marked “CONFIDENTIAL” may only be disclosed to designated parties, and therefore not to the general public.

3. Attached as **Exhibit B** are 16 pages of documents that Plaintiff obtained from Defendant through discovery that Plaintiff believes demonstrate the bad faith of Defendant’s arguments that are addressed in Section D of her Reply Memorandum filed January 4, 2008 in support of her Rule 59(e) Motion. Defendant has designated these pages as “Confidential.”

4. Before filing this Motion, counsel for Plaintiff requested that counsel for Defendant remove the confidentiality designation so these documents could be filed electronically with her Reply Memorandum. Counsel for Defendant refused this request.

5. Accordingly, and pursuant to the Court’s Discovery Confidentiality Order, Plaintiff hereby files these discovery documents under seal. In doing so, Plaintiff takes no position as to whether these documents meet the requirements of Local Rule 5.3(c)(2). Instead, Plaintiff submits these documents under seal to afford Defendant an opportunity to justify its designation of these documents as confidential in light of Local Rule 5.3(c)(2)’s criteria for filing under seal, and to submit a proposed Order setting forth in good faith the required findings under Local Rule 5.3(c)(5).

I hereby certify that all of the foregoing statements are true and accurate. I further certify that I am aware that if any of the statements made by me herein are willfully false, I am subject to punishment.



Mark R. Cuker

Dated: January 4, 2008

Exhibit A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

_____)	
CATHERINE MELFI, on behalf of herself)	
and all others similarly situated,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.: 07-828 (NLH/JS)
)	CLASS ACTION
THE COCA-COLA COMPANY, NESTLE)	
USA, INC., and BEVERAGE PARTNERS)	
WORLDWIDE (NORTH AMERICA))	
)	
Defendants.)	
_____)	

STIPULATED DISCOVERY CONFIDENTIALITY ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned as follows:

1. PURPOSES AND LIMITATIONS

This Litigation is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this Litigation is warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Proposed Discovery Confidentiality Order.

The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords extends only to the limited information or items that are entitled under the applicable legal principles to treatment as confidential.

The parties further acknowledge, as set forth in Section 10, below, that this Discovery Confidentiality Order creates no entitlement to file confidential information under seal; Civil Local Rule 5.3 sets forth the procedures that must be followed and reflects the standards that will be applied when a party seeks permission from the court to file material under seal.

2. DEFINITIONS

2.1. Party: any party to this action and its commonly-controlled entities, and their officers, directors, employees, consultants, retained experts, and outside counsel (and their support staff).

2.2. Discovery Material: all items or information, regardless of the medium or manner generated, stored or maintained (including, among other things, testimony, transcripts, documents, electronic files, or tangible things) that are produced or generated in disclosures or responses to discovery in this matter.

2.3. Confidential Information or Items: information (regardless of how generated, stored or maintained) or tangible things that qualify for protection under standards developed pursuant to Fed. R. Civ. P. 26(c). This definition includes information or material produced or disclosed that has been designated or marked as "Trade Secret(s)" within the meaning of N.J. Stat. Ann. §§ 47:1A-1 et seq. (New Jersey Open Public Records Act).

2.4. Highly Confidential - Outside Counsel Eyes Only Information or Items: any information or material produced or disclosed in this Litigation that is of a highly competitively sensitive nature including, but not limited to, information contained in non-public strategic and marketing plans and proprietary scientific studies, the disclosure of which to another Party or non-Party would create a substantial risk of competitive injury to that Party that could not be avoided by less restrictive means.

2.5. Litigation: the above-captioned litigation, including any appeals therefrom and any ancillary proceedings thereto.

2.6. Receiving Party: a Party or non-Party that receives Discovery Material whether directly from the Producing Party or otherwise.

2.7. Producing Party: a Party or non-Party that produces Discovery Material in this action.

2.8. Designating Party: a Party or non-Party that designates information or items as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL EYES ONLY," whether or not the Designating Party produced the information in the Litigation.

2.9. Protected Material: any Discovery Material that is designated as "CONFIDENTIAL" or as "HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL EYES ONLY," and all other material containing information from Confidential or Highly Confidential material, including but not limited to copies, abstracts, compilations, or summaries of such material.

2.10. Outside Counsel: attorneys who are not employees of a Party or of any commonly-controlled entity but who are members of or employed by the law firm retained to represent or advise a Party in this action, and their clerical employees who are assisting in the Litigation.

2.11. House Counsel: attorneys who are employees of a Party or to any commonly-controlled entity, and their employees who are assisting in the Litigation.

2.12. Counsel (without qualifier): Outside Counsel and House Counsel (as well as their support staffs).

2.13. Expert: a person with specialized knowledge or experience in a matter pertinent to the Litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this action and who is not a current employee of a Party or of a competitor of a Party and who, at the time of retention, is not anticipated to become an employee of a Party or a competitor of a Party. This definition includes a jury or trial consultant retained in connection with this Litigation.

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

3. SCOPE

The protections conferred by this Order cover not only Protected Material, but also any information copied or extracted therefrom; copies, excerpts, summaries, or compilations that reveal the contents of Protected Material; and testimony, depositions, discovery responses, conversations, or presentations by Parties, Counsel, or anyone else who has received Protected Material, in court or in other settings that might reveal Protected Material.

4. DURATION

Even after the termination of this Litigation, the confidentiality obligations imposed by this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order otherwise directs.

5. DESIGNATING PROTECTED MATERIAL

5.1. Exercise of Restraint and Care in Designating Material for Protection. Each Designating Party must take care to limit any designation to that portion of material that qualifies under the appropriate standards, so that other portions of the material to which protection is not warranted are not swept unjustifiably within the ambit of this Order. Mass, indiscriminate, or routinized designations are prohibited.

If it comes to a Designating Party's attention that Protected Material it designated does not qualify for protection at all, or does not qualify for the level of protection initially asserted, that Designating Party must promptly notify all Parties that it is withdrawing the original designation.

5.2. Manner and Timing of Designations. In order to designate a material as Confidential or Highly Confidential, the Designating Party shall, prior to production (except as otherwise provided (see, e.g., second paragraph of section 5.2(a) or as otherwise stipulated or ordered):

(a) for hard copy documents (apart from transcripts of depositions or other pretrial or trial proceedings), affix the legend "CONFIDENTIAL" or "HIGHLY

CONFIDENTIAL - OUTSIDE COUNSEL EYES ONLY" prominently on each page that contains protected material.

A Party or non-Party that makes original documents or materials available for inspection need not designate them for protection until after the inspecting Party has indicated which material it would like copied and produced. During the inspection and before the designation, all of the material made available for inspection shall be deemed "HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL EYES ONLY." After the inspecting Party has identified the documents it wants copied and produced, the Producing Party must determine which documents, or portions thereof, qualify for protection under this Order, then, before producing the specified documents, the Producing Party must affix the appropriate legend ("CONFIDENTIAL" or "HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL EYES ONLY") on each page that contains Protected Material.

(b) for testimony given in deposition or in other pretrial or trial proceedings, identify the protected portions as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL EYES ONLY" either (i) on the record before close of the deposition, hearing, or other proceeding, or (ii) in the alternative, within fifteen (15) calendar days after counsel has received the final transcript. All information disclosed during the testimony shall be deemed "HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL EYES ONLY" until the expiration of that fifteen (15) day period, whether or not any portion of the transcript has been so designated previously.

The Court Reporter shall bind transcript pages containing Protected Material separately and shall prominently affix the legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL EYES ONLY," to each appropriate page, as instructed by the Designating Party.

(c) For material produced electronically: The parties agree to produce most documents in .tiff/OCR format, and each .tiff page will be labeled either "CONFIDENTIAL" or

"HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL EYES ONLY," as appropriate; if not technologically practical, then as provided in paragraph (d) below.

(d) For information produced in some form other than documentary, and for any other tangible items (e.g. native format electronic documents): The Producing Party shall affix in a prominent place on the exterior of the container or containers in which the information or item is stored the legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL EYES ONLY" and shall write a letter to the other Parties stating the material and its level of designation.

5.3. Any Receiving Party (whether or not that Party demanded the documents) may designate, or counterdesignate with a higher designation, information produced by any other Party or a non-Party that contains or is derived from information that the Receiving Party could have designated had it been producing the material. Each such Receiving Party is a "Designating Party" for purposes of this Order.

5.4. Inadvertent Failures to Designate. An inadvertent failure to designate qualified information or items as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL EYES ONLY" does not waive the Designating Party's right thereafter to designate Discovery Material as Protected Material under this Order. Upon receipt of such a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order. The Designating Party shall promptly produce new copies of the material at issue, with the proper designation. Upon receiving those copies, the Receiving Party shall promptly destroy any copies that do not include the proper designation and shall request all persons to whom the Receiving Party has provided copies to do likewise. The Receiving Party will inform the Designating Party when destruction of the copies has been completed.

5.5. Inadvertent Production of Privileged Materials. If a Producing Party produces information that it later concludes should have been withheld from production as privileged or otherwise protected from disclosure, the production of that information will not be presumed to

constitute a waiver of any applicable privileges or other protection. In these circumstances, the Producing Party must promptly notify all Parties in writing of the inadvertent production and the basis for the privilege or other protection from production, and request in writing the return or confirmed destruction of the privileged or protected information. Within (5) business days of receiving such notification, and in compliance with the Receiving Parties' ethical obligations under the law, all Receiving Parties who have not already reviewed such materials or who have reviewed the materials but do not contest the applicability of the privilege asserted must return or confirm destruction of all such materials, including copies and/or summaries thereof. However, should a Receiving Party contest the applicability of a privilege asserted with respect to an inadvertently produced document which the receiving Party has already reviewed, the Receiving Party may temporarily retain the document or documents at issue for the sole purpose of contesting the applicability of the privilege asserted. Within (5) business days of the issuance of a court order deeming the contested documents at issue privileged or otherwise protected, however, the Receiving Party must return or confirm destruction of all such materials, including copies and/or summaries thereof.

5.6. Preliminary Designation of Documents Produced by Third Parties. In order to provide the parties an adequate opportunity to designate Discovery Materials as Protected Materials, all Discovery Materials produced in this case by third parties shall be deemed "HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL EYES ONLY," whether or not stamped with that legend, for a period of fifteen (15) days following production to each Party.

6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1. Timing of Challenges. A Party does not waive its right to challenge a confidentiality designation by electing not to mount a challenge promptly after the original designation is disclosed.

6.2. Meet and Confer. A Party that elects to initiate a challenge to a Designating Party's confidentiality designation must do so in good faith and must begin the process by

conferring directly with counsel for the Designating Party. In conferring, the challenging Party must explain the basis for its belief that the confidentiality designation was not proper and must give the Designating Party an opportunity to review the designated material, to reconsider the circumstances, and, if no change in designation is offered, to explain the basis for the chosen designation. A challenging Party may proceed to the next stage of the challenge process only if it has engaged in this meet and confer process first.

6.3. Judicial Intervention. A Party that elects to press a challenge to a confidentiality designation after considering the justification offered by the Designating Party may file and serve a motion under Civil Local Rules 7.1 and 37.1 (and in compliance with Civil Local Rule 5.3, if applicable) that identifies the challenged material and sets forth a basis for the challenge. Each such motion must be accompanied by an affidavit that affirms that the movant has complied with the meet and confer requirements imposed in the preceding paragraph (and Civil Local Rule 37.1) and sets forth a brief description of the justification for the confidentiality designation that was given by the Designating Party in the meet and confer dialogue. The Designating Party seeking to maintain the confidentiality designation where it has been challenged shall bear the burden of proving that the confidentiality designation should be maintained. Until the court rules on the challenge, all parties shall continue to afford the material in question the level of protection under the Producing Party's designation.

7. ACCESS TO AND USE OF PROTECTED MATERIAL

7.1. Restriction On Use of Protected Material. A Receiving Party may use Protected Material only for prosecuting, defending, or attempting to settle this Litigation. Persons receiving Protected Materials must not disclose that information to any person except as set forth in this Order.

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

7.3. No Restrictions on Use of Own Information. Notwithstanding any other provision of this Order, this Order does not restrict in any way a Party or non-Party's use of any Discovery Materials that they produced and/or designated or their right to provide such information to any person, even if others have designated similar information as Protected Material. A person's use or disclosure of its own information will not waive the protections of this Order (provided that such disclosure is not so widespread as to make the material ineligible for protection), and shall not entitle any other party, non-Party, or their attorneys to use or disclose such Discovery Materials, or the contents thereof, in violation of this Order.

7.4. Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered by the Court or permitted in writing by the Designating Party and except as permitted by Section 7.3 ("No Restrictions on Use of Own Information"), a Receiving Party may disclose any information designated CONFIDENTIAL only to:

- (a) the Receiving Party's Outside Counsel in this Litigation, as well as employees of said Counsel, to whom it is reasonably necessary to disclose the information for this Litigation;
- (b) the officers, directors, and employees (including House Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this Litigation;
- (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this Litigation only if he or she has agreed in writing by executing the Confidentiality Agreement attached hereto as Appendix A, or on the record during a deposition, to be bound by this Discovery Confidentiality Order;
- (d) the Court and its personnel;
- (e) court reporters and their staffs, who have agreed to be bound by this Confidentiality Agreement by executing Appendix A;
- (f) Professional Vendors to whom disclosure is reasonably necessary for this Litigation, provided they are informed that the material is Protected Material and have agreed to protect the confidentiality of the material;

(g) during a deposition or other testimony, witnesses in the action to whom disclosure is reasonably necessary, after having provided to the witness this Stipulation and Order, which shall thereafter be binding on the witness;

(h) former employees of the Receiving Party or other persons whom counsel reasonably believes may be witnesses in this Litigation, during interviews by counsel or in preparation for testimony, provided that (a) such persons have signed the Agreement to Be Bound substantially in the form of Appendix A, and (b) such persons are not permitted to copy or retain the Protected Material;

(i) any person who is shown on a document as having authored, sent, or received the document to whom it is reasonably necessary to disclose the information for this Litigation, provided that such persons are not permitted to copy or retain the Protected Material.

7.5. Disclosure of "HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL EYES ONLY" Information or Items. Unless otherwise ordered by the Court or permitted in writing by the Designating Party and except as permitted by Section 7.3 ("No Restrictions on Use of Own Information"), a Receiving Party may disclose any information or item designated "HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL EYES ONLY" only to:

(a) the Receiving Party's Outside Counsel in this Litigation, as well as employees of said Counsel, to whom it is reasonably necessary to disclose the information for this Litigation;

(b) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this Litigation only if he or she has agreed in writing by executing the Confidentiality Agreement attached hereto as Appendix A, or has agreed on the record during a deposition to be bound by this Discovery Confidentiality Order;

(c) the Court and its personnel;

(d) court reporters and their staffs who have agreed to be bound by this Discovery Confidentiality Order by executing Appendix A;

(e) Professional Vendors to whom disclosure is reasonably necessary for this Litigation, provided they are informed that the material is Protected Material and have agreed to protect the confidentiality of the material;

(f) Employees of the Producing Party to whom it is reasonably necessary to disclose the information for this Litigation;

(g) any person who is shown on a document as having authored, sent, or received the document to whom it is reasonably necessary to disclose the information for this Litigation, provided that such persons are not permitted to copy or retain the Protected Material.

8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

If a Receiving Party is served with a subpoena or an order that would compel disclosure of Protected Materials, the Receiving Party must so notify the Designating Party, in writing (by fax, if possible) as promptly as practical and in no event more than (3) court days after receiving the subpoena or order. Such notification must include a copy of the subpoena or court order.

The Receiving Party also must immediately inform in writing the person who caused the subpoena or order to be issued that some or all the material covered by the subpoena or order is the subject of this Discovery Confidentiality Order. In addition, the Receiving Party must deliver a copy of this Discovery Confidentiality Order promptly to the Party in the other action that caused the subpoena or order to issue.

The purpose of imposing these duties is to alert the interested parties to the existence of this Discovery Confidentiality Order and to afford the Designating Party in this case an opportunity to try to protect its confidentiality interests in the court from which the subpoena or order issued. The Designating Party shall bear the burdens and the expenses of seeking protection in that court of its confidential material – and nothing in these provisions should be construed as authorizing or encouraging a Receiving Party in this action to disobey a lawful directive from another court or regulatory authority.

9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Discovery Confidentiality Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the "Acknowledgment and Agreement to Be Bound" that is attached hereto as Appendix A.

10. FILING PROTECTED MATERIAL

Without written permission from the Designating Party or a court order secured after appropriate notice to all interested persons, a Party may not file in the public record in this action any Protected Material unless it is sealed or otherwise restricted from public access. A Party that seeks to file under seal any Protected Material must comply with Civil Local Rule 5.3. For purposes of compliance with filing deadlines, it shall be sufficient for a Party to serve on the other Parties a copy of the paper containing the Protected Material and to ^{contemporaneously} promptly seek Court approval for the filing of a redacted ^{or sealed} version that excludes Protected Material. *The parties shall comply with L.Civ.R. 5.3 with regard to the filing of any paper(s) that contain Protected Material.*

11. FINAL DISPOSITION

Unless otherwise ordered or agreed in writing by the Producing Party, within (90) days after the final termination of this Litigation (including all appeals and the expiration of time to file such appeals), each Receiving Party ^{except the Court and its personnel,} must return to the Producing Party or destroy all Protected Material, and so certify in writing to the Producing Party (or if not the same entity, the Designating Party). Receiving Parties shall also instruct Experts and others to whom they provided Protected Materials to destroy or return those materials. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, transcripts, legal memoranda, correspondence, or attorney work product that incorporates small amounts of Protected Material as part of a legal analysis (but not to retain databases or other

substantial collections of Protected Material). Any such archival copies that contain Protected Material remain subject to this Discovery Confidentiality Order.

12. MISCELLANEOUS

12.1. Right to Further or Different Relief. Nothing in this Order abridges the right of any person to seek its modification by the Court in the future, nor does the Order prevent any party from seeking additional or different protections from the Court with respect to Discovery Materials in this case.

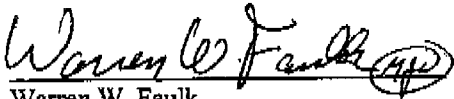
12.2. Right to Assert other Objections. By stipulating to the entry of this Discovery Confidentiality Order, no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Discovery Confidentiality Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered in this Discovery Confidentiality Order.

13. Pursuant to L.Civ. R. 5.3 (b)(3), this Discovery Confidentiality Order shall be subject to modification by a Judge or Magistrate Judge at any time. *J*

It is so stipulated, through counsel of record:

Sune
Dated: *May 1*, 2007

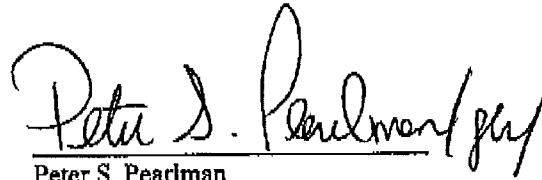
Respectfully submitted,



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Attorneys for Catherine Melfi

IT IS SO ORDERED

Date: June 4, 2007

Joel Schneider, U.S.M. J.
The Honorable Joel Schneider,
United States Magistrate Judge

**APPENDIX A
ACKNOWLEDGEMENT AND AGREEMENT
TO BE BOUND BY DISCOVERY CONFIDENTIALITY ORDER**

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 Discovery Confidentiality Order that was issued by the United States District Court for the District of New Jersey on _____ in the case of *Melfi v. The Coca-Cola Company, et al.* Civil Action No.: 07-828 (NLH/JS). I agree to comply with and to be bound by all the terms of this Discovery Confidentiality 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 Discovery Confidentiality 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 District of New Jersey for the purpose of enforcing the terms of this Discovery Confidentiality Order, even if such enforcement proceedings occur after termination of this action.

Date: _____

City and State where sworn and signed: _____

Printed name: _____
[printed name]

Signature: _____
[signature]