

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

BEATRIZ AMEZCUA GODINEZ,

Plaintiff,

vs.

CUSTOM APPLE PACKERS, INC., and
STARR RANCH GROWERS, LLC,

Defendants.

Case No. 2:22-CV-0011-TOR

**STIPULATED
CONFIDENTIALITY
AGREEMENT AND
PROTECTIVE ORDER**

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential and private information for which special protection may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this agreement is consistent with Federal Rule of Civil Procedure (“FRCP”) 26(c). It does not confer blanket protection on all disclosures or responses to discovery and the protection it affords from public disclosure and use extends only to the limited information or

1 items that are entitled to confidential treatment under the applicable legal principles.

2 2. “CONFIDENTIAL” MATERIAL

3 “Confidential” material refers to any record, document, tangible thing,
4 discovery response, testimony, information, or other material disclosed or to be
5 disclosed through formal or informal discovery or otherwise in the course of this
6 litigation that contains:
7

- 8 (a) Physical and mental health information;
- 9 (b) Personal demographic and identifying information, including but not
10 limited to, social security numbers, birthdate, immigration information
11 or status, passport numbers, and non-citizen registration numbers;
- 12 (c) Information and identity of plaintiff’s current employer; and
- 13 (d) Identifying information of an individual known to be a minor.

14 3. SCOPE

15 The protections conferred by this agreement cover not only confidential
16 material (as defined above), but also: (a) any information copied or extracted from
17 confidential materials; (b) all copies, excerpts, summaries, or compilations of
18 confidential material; and (c) any testimony, conversations, or presentations by
19 parties or their counsel that might reveal confidential material.
20
21
22
23
24

1 If non-confidential information is contained in or otherwise derived from
2 confidential materials, any portion that consists solely of non-confidential
3 information shall not be confidential for purposes of this Order.

4 However, the protections conferred by this agreement do not cover
5 information that is in the public domain or becomes part of the public domain
6 through trial or otherwise.

8 4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

9 4.1 Basic Principles. A receiving party may use confidential material that
10 is disclosed or produced by another party or by a non-party in connection with this
11 case only for prosecuting, defending, or attempting to settle this litigation.
12 Confidential material may be disclosed only to the categories of persons and under
13 the conditions described in this agreement. Confidential material must be stored and
14 maintained by a receiving party at a location and in a secure manner that ensures that
15 access is limited to the persons authorized under this agreement.

17 4.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
18 otherwise ordered by the court or permitted in writing by the designating party, a
19 receiving party may disclose any confidential material only to:

- 21 (a) The Plaintiff;
- 22 (b) The Defendants;
- 23 (c) The receiving party’s counsel of record in this action, as well as

24

1 employees of counsel to whom it is reasonably necessary to disclose
2 the information for this litigation;

3 (d) The officers, directors, and employees (including in-house counsel) of
4 the receiving party to whom disclosure is reasonably necessary for this
5 litigation;

6
7 (e) The Court and its officers;

8 (f) Court reporters, their assistants, and administrative staff;

9 (g) Any mediator or other third-party neutral used to attempt to resolve this
10 litigation;

11 (h) Copy or imaging services retained by counsel to assist in the duplication
12 of confidential material, provided that counsel for the party retaining
13 the copy or imaging service instructs the service not to disclose any
14 confidential material to third parties and to immediately return all
15 originals and copies of any confidential material;

16
17 (i) Experts and consultants who are employed, retained, or otherwise
18 consulted by counsel or any party for the purpose of providing
19 information or opinions to assist in this litigation to whom disclosure is
20 reasonably necessary for such purposes;

21
22 (j) Witnesses, potential witnesses, and their counsel to the extent
23 necessary in preparation for or during the course of depositions,
24

1 hearings, interviews, or trial in this action; and

2 (k) The author or recipient of a document containing the information or a
3 custodian or other person who otherwise possessed or knew the
4 information.

5 4.3 Acknowledgment and Agreements to Be Bound. All individuals who fall
6 within categories 4.2 (i)-(j) above who review confidential information must first
7 execute the Acknowledgment and Agreement to Be Bound, appended hereto as
8 Exhibit A, stating that they will abide by the terms of this Order. Copies of all
9 Acknowledgments and Agreements to Be Bound executed pursuant to this paragraph
10 shall be kept by counsel who provided the confidential information for review.

11
12
13 5. DESIGNATING PROTECTED MATERIAL

14 5.1 Designations. Any party may designate any record, document, tangible
15 thing, discovery response, testimony, information, or other material as
16 “CONFIDENTIAL.” Such designation shall, without more, subject the information
17 produced or provided under such designation to the provisions of this Confidentiality
18 Agreement and Protective Order.

19
20 5.2 Exercise of Restraint and Care in Designating Material for Protection.

21 Each party or non-party that designates information or items for protection under
22 this agreement must take care to limit any such designation to specific material that
23 qualifies under the appropriate standards. The designating party must designate for
24

1 protection only those parts of material, documents, items, or oral or written
2 communications that qualify, so that other portions of the material, documents,
3 items, or communications for which protection is not warranted are not swept
4 unjustifiably within the ambit of this agreement. Mass, indiscriminate, or routinized
5 designations are prohibited. Designations that are shown to be clearly unjustified or
6 that have been made for an improper purpose (e.g., to unnecessarily encumber or
7 delay the case development process or to impose unnecessary expenses and burdens
8 on other parties) expose the designating party to sanctions. If it comes to a
9 designating party's attention that information or items that it designated for
10 protection do not qualify for protection, the designating party must promptly notify
11 all other parties that it is withdrawing the mistaken designation.
12

13
14 5.3 Manner and Timing of Designations. Except as otherwise provided in this
15 agreement (see, e.g., section 5.3(a) below), or as otherwise stipulated or ordered,
16 disclosure or discovery material that qualifies for protection under this agreement
17 must be clearly so designated before or when the material is disclosed or produced.
18 Designation must meet the following guidelines:

19
20 (a) Information in documentary form: (e.g., paper or electronic documents and
21 deposition exhibits, but excluding transcripts of depositions or other pretrial or trial
22 proceedings), the designating party must affix the word "CONFIDENTIAL" or to
23 each page that contains confidential material. If only a portion or portions of the
24

1 material on a page qualifies for protection, the producing party also must clearly
2 identify the protected portion(s) (e.g., by making appropriate markings in the
3 margins);

4 (b) Testimony given in deposition or in other pretrial proceedings: the parties
5 and any participating non-parties must identify on the record, during the deposition
6 or other pretrial proceeding, all protected testimony, without prejudice to their right
7 to so designate other testimony after reviewing the transcript. Any party or non-party
8 may, within thirty days after receiving the transcript of the deposition or other
9 pretrial proceeding, designate portions of the transcript, or exhibits thereto, as
10 confidential. Pages of transcribed deposition testimony or exhibits to depositions that
11 reveal confidential material must be separately bound by the court reporter. If a party
12 or non-party desires to protect confidential information at trial, the issue should be
13 addressed during the pre-trial conference; and

14 (c) Other tangible items: the producing party must affix in a prominent place
15 on the exterior of the container or containers in which the information or item is
16 stored the word “CONFIDENTIAL.” If only a portion or portions of the information
17 or item warrant protection, the producing party, to the extent practicable, shall
18 identify the protected portion(s).

19 5.4 Inadvertent Failures to Designate. If timely corrected, an inadvertent
20 failure to designate qualified information or items does not, standing alone, waive
21

1 the designating party’s right to secure protection under this agreement for such
2 material. Upon timely correction of a designation, the receiving party must make
3 reasonable efforts to ensure that the material is treated in accordance with the
4 provisions of this agreement.

5
6 6. TREATMENT OF CONFIDENTIAL MATERIAL

7 6.1 Written Submissions. In any judicial proceeding in which the
8 confidential information may become part of a written submission to the Court, the
9 party making the submission will provide reasonable notice of the submission to the
10 opposing counsel so that the parties may confer regarding removing the designation,
11 redacting the document, or so that opposing counsel can seek, if necessary, an order
12 from the Court protecting the confidentiality of the document—including an order
13 that the document be redacted or filed under seal—subject to the Court’s review on
14 a document-by-document basis.

15
16 6.2 Information under Seal. If confidential testimony is filed under seal,
17 the entire filing or submission containing the confidential information shall be made
18 under seal.

19
20 6.3 Public Disclosures. Except as provided herein, no party having access
21 to confidential information shall make public disclosures of that material without
22 further order of this Court. Information designated as confidential shall be held in
23 the strictest confidence and maintained securely.

1 6.4 Protected Material Subpoenaed or Produced in Other Litigation. If a
2 party is served with a subpoena or a court order issued in other litigation that compels
3 disclosure of any information or items designated in this action as
4 “CONFIDENTIAL” that party must: (a) promptly notify the designating party in
5 writing and include a copy of the subpoena or court order; (b) promptly notify in
6 writing the party who caused the subpoena or order to issue in the other litigation
7 that some or all of the material covered by the subpoena or order is subject to this
8 agreement. Such notification shall include a copy of this agreement; and (c)
9 cooperate with respect to all reasonable procedures sought to be pursued by the
10 designating party whose confidential material may be affected.
11

12 6.5 Disclosure by Party. If a party learns that, by inadvertence or otherwise,
13 it has disclosed confidential material to any person or in any circumstance not
14 authorized by this Order, that party must immediately: (a) notify the other parties in
15 writing of the unauthorized disclosure; (b) inform the person or persons to whom
16 unauthorized disclosures were made of all the terms of this Order; (c) use best efforts
17 to retrieve all copies of the confidential material; and (d) request that such person to
18 which information was disclosed execute the Acknowledgment and Agreement to
19 Be Bound (Exhibit A).
20

21 6.6 At Conclusion of Case. Upon conclusion of this case, including any
22 appeals, all originals and copies of confidential materials, including all summaries
23
24

1 thereof, shall be returned to the producing party’s counsel or representative or
2 destroyed within sixty (60) days, unless: (a) otherwise ordered by the Court for good
3 cause shown; (b) the return or destruction of such materials is prohibited by law; or
4 (c) the document has been filed with the Court in unredacted form or used as an
5 exhibit.
6

7 **7. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

8 7.1 Timing of Challenges. Any party or non-party may challenge a
9 designation of confidentiality at any time. Unless a prompt challenge to a
10 designating party’s confidentiality designation is necessary to avoid foreseeable,
11 substantial unfairness, unnecessary economic burdens, or a significant disruption or
12 delay of the litigation, a party does not waive its right to challenge a confidentiality
13 designation by electing not to mount a challenge promptly after the original
14 designation is disclosed.
15

16 7.2 Meet and Confer. The parties must make every attempt to resolve any
17 dispute regarding confidential designations without court involvement. Any motion
18 regarding confidential designations or for a protective order must include a
19 certification, in the motion or in a declaration or affidavit, that the movant has
20 engaged in a good faith meet and confer conference with other affected parties in an
21 effort to resolve the dispute without court action, pursuant to FRCP 26(c).
22

23 7.3 Judicial Intervention. If the parties cannot resolve a challenge without
24

1 court intervention, the designating party may file and serve a motion to retain
2 confidentiality. The burden of persuasion in any such motion shall be on the
3 designating party. Frivolous challenges, and those made for an improper purpose
4 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
5 expose the challenging party to sanctions. All parties shall continue to maintain the
6 material in question as confidential until the court rules on the challenge.
7

8 PURSUANT TO STIPULATION, IT IS SO ORDERED

9 IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the
10 production of any documents in this proceeding shall not, for the purposes of this
11 proceeding or any other federal or state proceeding, constitute a waiver by the
12 producing party of any privilege applicable to those documents, including the
13 attorney-client privilege, attorney work-product protection, or any other privilege or
14 protection recognized by law.
15

16 DATED: April 26, 2022.



Thomas O. Rice

Thomas O. Rice
United States District Court Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

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 Stipulated
Protective Order that was issued by the United States District Court for the Eastern
District of Washington in the case of *Godinez v. Custom Apple Packers Inc. et al.*,
Case No. 2:22-cv-00011-TOR. I agree to comply with and to be bound by all the
terms of this Stipulated Protective 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 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 Eastern District of Washington for the purpose of enforcing the terms of this
Stipulated Protective Order, even if such enforcement proceedings occur after
termination of this action.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24