

DOCKET NO.: UWY-CV-15-6025912-S : SUPERIOR COURT  
JAMES GRECHKA : J.D. OF WATERBURY  
V. : AT WATERBURY  
WHOLE FOODS MARKET GROUP, INC. : OCTOBER 28, 2016

**STIPULATED PROTECTIVE ORDER OF CONFIDENTIALITY**

WHEREAS, Connecticut Practice Book § 13 -5 provides for the issuance of protective orders limiting the disclosure of discovered information in appropriate circumstances.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. This Order applies to the Contract and Lease between WFM Properties Cheshire, LLC and Whole Foods Market Group, Inc., and all information derived therefrom which are designated as Confidential Material. This Order includes, but is not limited to, all copies, excerpts or summaries thereof, obtained by the Plaintiff or produced by the Defendants pursuant to the requirements of any court order, the requirements of self-executing discovery, requests under Connecticut Practice Book § 13-9, *et. seq.*, documents subpoenaed under Connecticut Practice Book § 13-28, *et. seq.*, and transcripts of depositions containing Confidential Material. (hereafter "Discovery Material").

2. "Confidential Material" as used in this Stipulated Protective Order of Confidentiality, shall refer to Contract and Lease and/or things of Defendant WFM Properties Cheshire, LLC hereinafter referred to as "WFM Properties" protected as trade secrets, confidential information, personnel records and information and customer names pursuant to state and federal law. All confidential material is the exclusive, inalienable property of WFM Properties.

3. The parties have agreed that the Confidential Material contained in the Discovery Material will be used only for the purposes of James Grechka v Whole Foods Market Group, Inc. & WFM Properties Cheshire LLC, brought in the Superior Court for the Judicial District of Waterbury (the "Litigation") and any appeals of the Litigation and for no other purpose.

4. Scope. This Stipulated Protective Order of Confidentiality shall govern Confidential Material produced or disclosed by WFM Properties in Discovery Material. Nothing in this Stipulated Protective Order of Confidentiality shall be deemed to preclude WFM Properties right to: (a) oppose discovery on grounds not addressed under the terms of this Stipulated Protective Order of Confidentiality, or (b) object on any ground to the admission of any Confidential Material into evidence at trial. Further, nothing contained in this Stipulated Protective Order of Confidentiality shall prejudice the right of any party to contest the alleged relevancy, admissibility, or discoverability of the Confidential Material sought.

5. Designation of Confidential Material. WFM Properties may designate all or any portion of Contract and Lease and/or things it produces formally or informally to other parties to this litigation as Confidential Material. The designation of Confidential Material shall be made by any practicable means, including placing on the thing so designated, such that it will not interfere with its legibility, an appropriate notice such as the following: "Confidential" or "Confidential Material." Confidential Material will be Bates stamped, if appropriate. All Records and things designated as Confidential Material shall be treated as such pursuant to the terms of this Stipulated Protective Order of Confidentiality until further order by the Court.

6. In the event that the producing person inadvertently fails to designate Confidential Material produced in Discovery Material as confidential in this litigation, it may make such a

designation subsequently by notifying all parties to whom such Confidential Material was produced, in writing as soon as practicable. In the case of deposition testimony, confidential designation shall be made within thirty (30) days after the transcript has been received by counsel for the deponent, and shall specify the testimony being designated as confidential by page and line number(s). Until the expiration of such thirty (30) day period, the entire text of the deposition, including all testimony therein, shall be treated as confidential under this Order. The time period of thirty (30) days within which to make a confidentiality designation can be extended by Order of the Court or by written agreement of the parties. After receipt of such notification, the parties to whom production has been made will treat the designated Confidential Material as confidential submitted to the Court within thirty (30) days thereafter.

7. Access to Confidential Material. Access to Confidential Material shall be limited to Authorized Persons, solely in the performance of their duties in connection with trial preparation of this case. Authorized Persons are:

(a) Counsel of record for Plaintiff, Co-Defendants, and Intervenors (if any) to this civil action;

(b) Paralegal, secretarial, administrative, and legal personnel working under the direction and control of those counsel of record for Plaintiff, Co-Defendants, and/or Intervenors (if any) and who have consented to this Protective Order of Confidentiality and have signed the Promise of Confidentiality;

(c) Independent professional engineers, accident reconstructionists, or other independent, forensic experts retained by counsel for Plaintiff, Co-Defendants, and/or

Intervenors (if any) in this civil action, and who have consented to this Protective Order of Confidentiality and signed the Promise of Confidentiality; and

(d) The Court hearing this matter, the Court's personnel, mediators, other persons appointed by the Court, court reporters and jurors at the time of trial

Counsel of record for the party who grants access to Confidential Material to an Authorized Person identified in subparagraphs (b) or (c) of this paragraph shall be solely responsible for ensuring full compliance by said Authorized Person with this Stipulated Protective Order of Confidentiality.

Access to Confidential Material shall not be given to any person or entity not specifically described above, including to members of the general public. However, nothing in this Stipulated Protective Order of Confidentiality shall prohibit WFM Properties, its employees, and its attorneys from confidential use of the Confidential Material as they deem appropriate, and any such confidential use shall not destroy the confidentiality of the Confidential Material in question.

Authorized Persons shall include only those attorneys who are counsel of record for the parties to this civil action. Authorized Persons also shall not include any organization or entity that regularly maintains and/or disseminates documents or information (including abstracts or summaries), or any other Records as a service to its members, subscribers, or others.

Under no circumstances shall access to Confidential Material be granted to any employee of any competitor of WFM Properties or Whole Foods Market Group, Inc., or any person who, within the past two years, has been affiliated with, employed by, or consulted with a competitor of WFM Properties or Whole Foods Market Group, Inc. regarding sales, service

research, development, and production or, over the following two years, expects to be involved in any such employment, affiliation, or consultation.

8. **Storage of Confidential Material.** Authorized Persons shall maintain all Confidential Material in a secure location. Confidential Material may not be entered onto any electronic storage system, other than compact disc, and may not be transmitted via e-mail or other similar media.

9. **Use of Confidential Material.** Authorized persons shall use the Confidential Material for the purpose of this lawsuit only.

(a) Without limiting the generality of the foregoing sentence, Authorized Persons shall not produce, disclose, or otherwise utilize Confidential Material in any other litigation, whether or not that litigation involves parties to this case.

(b) If any subpoenas, requests for production, or other forms of discovery in connection with other litigation are served on any Authorized Person, that Authorized Person will immediately notify WFM Properties' counsel of record, provide WFM Properties' counsel of record with a copy of the subpoena or other discovery request, and will consent to and assist in obtaining an order from the appropriate court protecting the confidential material from being disseminated outside the scope of this Stipulated Protective Order of Confidentiality.

10. **Confidential Material Submitted to the Court.** In the event that any Confidential Material is filed with the Court, including but not limited to any pleading, motion, transcript, videotape, exhibit, photograph, or other material filed with any court which incorporates or includes confidential material, the confidential material shall be submitted in an attached envelope marked "For in camera review only." Additionally, the enclosed envelope shall

include the following label:

Cause No. UWY-CV-15-6025912-S; *James Grechka v. Whole Foods Market Group, Inc. and WFM Properties Cheshire LLC*; In the Superior Court J.D. of Waterbury, Connecticut: CONFIDENTIAL — FILED FOR IN CAMERA REVIEW ONLY.

Such confidential material shall, however, remain available to personnel authorized by the Court and to authorized persons but will not be included in the Court's publicly available file until such time as a hearing is held and the Court rules on a Motion to Seal the Confidential Material pursuant to Practice Book § 11-20A. When practicable, however, only the confidential portion of the pleadings filed with the Court will be submitted to the Court separately and the remaining, non-confidential materials, may be filed via the Court's electronic filing systems with the Confidential Materials removed.

It is agreed that WFM Properties will take possession of all confidential material supplied to the Court for any *in camera* inspection by the Court during the pendency of this action. WFM Properties will retrieve any *in camera* materials from the Court within 21 days of the Court's decision on any matter and shall retain true and correct copies of all confidential material as set forth in the motion, pleading or exhibit until 30 days from the latter of the final conclusion of this matter via final judgment of the Court and exhaustion of all appeals.

11. Depositions. If any confidential material is used or referred to during any deposition, counsel for WFM Properties may require only its representatives, authorized persons, the deponent, the court reporter, and the camera operator (if the deposition is videotaped) shall be present for the portion of the deposition dealing with Confidential Material. Counsel for WFM Properties may also serve a copy of this Stipulated Protective Order of Confidentiality upon the deponent, the court reporter, and camera operator, and require that each sign the Promise of

Confidentiality (Exhibit A) prior to further questioning. Counsel for WFM Properties may state on the record at the deposition that the deposition includes information claimed to be Confidential Material. Within forty-five (45) days of receipt of the completed deposition transcript, counsel for WFM Properties shall designate by page and line the portions for which such claim is made, and give written notice of this designation to the court reporter and all other parties. This designation shall be placed on the first page in the original and all copies of the deposition by the court reporter and by counsel for the parties. The designation shall include the style of the case. Pending such designation, the deposition and all exhibits shall be treated in its entirety as Confidential Material. All exhibits to the deposition transcript previously designated by WFM Properties as Confidential Material shall remain Confidential Material without need for designation. Those portions of the deposition which are designated as Confidential Material shall be bound separately under seal and prominently marked "confidential material subject to Protective Order," The portions of each deposition so designated shall be returned to trial counsel for WFM Properties within thirty (30) day of final termination of this action (the earlier of execution of a settlement agreement or entry of a judgment).

12. Evidence at Trial. Prior to seeking to introduce Confidential Material into evidence, Plaintiffs, Co-Defendants and Intervenors (if any) shall give sufficient advance notice to the Court and to counsel of record for WFM Properties to allow arrangements to be made for *in camera* treatment of the Confidential Material. In the event that a transcript of the trial is prepared, any party may request that certain portions thereof, which contain trade secrets or other Confidential Material, be filed under seal,

13. Improper Disclosure. Should any Confidential Material be disclosed to any

unauthorized person, the unauthorized person (a) shall be informed promptly of the provisions of this Stipulated Protective Order of Confidentiality by the party who first learns of the disclosure, and upon such notice shall be subject to the terms of this Stipulated Protective Order of Confidentiality; (b) shall be identified immediately to counsel of record for WFM Properties; and (c) shall be directed, if within control of a party or his/her/its counsel, or otherwise asked, to sign the Promise of Confidentiality (Exhibit A). At WFM Properties' sole discretion, such unauthorized person may be required to surrender to WFM Properties all copies of Confidential Material in such unauthorized person's possession. The person or entity who caused the unauthorized disclosure shall be responsible for securing the unauthorized person's assent to the Promise of Confidentiality and for all reasonable attorneys' fees, costs, and expenses associated with enforcement of this Stipulated Protective Order of Confidentiality.

14. Return of Confidential Material. Within thirty (30) days of final termination of this action (the earlier of execution of a settlement agreement or entry of a judgment), counsel for record for each party shall assemble and return to counsel of record for WFM Properties all Confidential Material produced, including all copies, notes, direct quotes, descriptions, summaries, indices, transcripts, renderings, photographs, recordings, compact discs, DVDs, other magnetic or electronic media, and physical or electronic reproductions of every kind of such Confidential Material, whether in the possession of said counsel or in the possession of any Authorized Person who gained access to the Confidential Material. Accompanying the return of all Confidential Material, counsel for all parties shall provide to counsel for WFM Properties executed Certifications in the form attached hereto as Exhibit B (executed by each Counsel for Plaintiffs, Co-Defendants, and/or Intervenors) and Exhibit C (executed by each expert and anyone else who had access to such confidential material). If upon the review of the returned confidential

material, counsel of record for WFM Properties concludes that not all Confidential Material has been returned, counsel of record for WFM Properties will provide to counsel of record for the returning party a list of those records by bates stamp number which were not returned. If counsel of record for returning party is unable to provide or locate those missing records, then counsel of record for the returning party shall execute an affidavit which states: (a) the bates numbers of those records that counsel of record for the returning party was unable to return; (b) that a diligent and thorough search was conducted of all authorized person who gained access to the Confidential Material through counsel of record for the returning party and counsel of record for the returning party was unable to find said Confidential Material; and (c) counsel of record for the returning party does not have said Confidential Material in his or her possession. Such affidavit shall not relieve counsel for the returning party from their continuing obligation to return the Confidential Material as set forth in this paragraph.

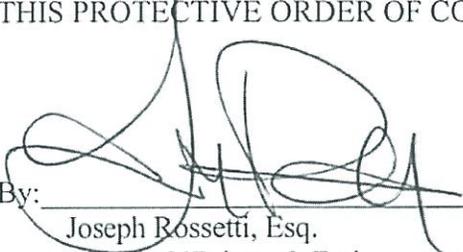
ORDERED by the Court this \_\_\_\_\_ day of \_\_\_\_\_ 2016.

---

HON. PRESIDING JUDGE

THIS PROTECTIVE ORDER OF CONFIDENTIALITY AGREED TO BY:

By: \_\_\_\_\_



Joseph Rossetti, Esq.  
Moore, O'Brien, & Foti  
891 Straits Turnpike  
Middlebury, CT 06762  
Ph: 203-272-5881  
Fax: 203-272-9273  
[jrossetti@mojylaw.com](mailto:jrossetti@mojylaw.com)  
Counsel for the Plaintiff

By: \_\_\_\_\_



Janice D. Lai, Esq.  
Ryan Ryan Deluca LLP  
CityPlace II  
185 Asylum Street, 6<sup>th</sup> Floor  
Hartford, CT 06103  
Counsel for WFM Properties Cheshire, LLC and  
Whole Foods Market Group, Inc.

# EXHIBIT A

**EXHIBIT A**  
**PROMISE OF CONFIDENTIALITY**

State of \_\_\_\_\_  
County of \_\_\_\_\_

1. My name is \_\_\_\_\_ I live at \_\_\_\_\_.  
I am employed as \_\_\_\_\_ by \_\_\_\_\_.

2. I am aware that a Stipulated Protective Order of Confidentiality has been entered in the lawsuit styled; *James Grechka v. Whole Foods Market Group, Inc. and WFM Properties Cheshire LLC*; In the Superior Court for the Judicial District of Waterbury, Connecticut bearing Docket Number UWY-CV-15-6025912-S and a copy of that Stipulated Protective Order of Confidentiality has been given to me.

3. I promise that I will use the Confidential Material as defined under that Stipulated Protective Order of Confidentiality only in connection with assisting counsel of record for Plaintiff, Co-Defendants, and/or Intervenors in preparing for litigation of this matter.

4. I promise that I will not disclose or discuss such Confidential Material with any person other than counsel of record for the parties or members of their staff who are actively engaged in the preparation of this case.

5. I understand that I am prohibited by the terms of the Stipulated Protective Order of Confidentiality from entering any Confidential Material onto any electronic storage system, other than a compact disc. Specifically, I am prohibited from entering any Confidential Material onto any computer database and/or computer hard drive. I am also prohibited from transmitting Confidential Material via e-mail or other similar media.

6. I promise that I will not attempt or assist in any attempt to seek permission from any other court to access the Confidential Material produced in this matter for use in other litigation or for any other purpose.

7. I understand that any use of the Confidential Material I obtain, in any manner contrary to the provisions of the Stipulated Protective Order of Confidentiality or this Promise of Confidentiality may subject me to sanctions by this Court, and I agree to the jurisdiction of this Court to enforce any such Order.

8. I expressly consent to the jurisdiction of this Court with respect to matters within the scope of the Stipulated Protective Order of Confidentiality.

9. I understand that violating the terms of the Stipulated Protective Order of Confidentiality or this Promise of Confidentiality could result in civil sanctions levied by the Court, as well as criminal penalties under state or federal law.

10. Within twenty (20) days of final termination of this action (the earlier of execution of a settlement agreement or entry of a judgment), I will return to WFM Properties Cheshire LLC, through delivery to counsel of record representing Plaintiff, Co-Defendants, and Intervenor from whom I received the Confidential Material in this case, all Confidential Material, including all copies, notes, direct quotes, descriptions, summaries, indices, transcripts, renderings, photographs, recordings, compact discs, DVDs, other magnetic or electronic media, and physical or electronic reproductions of every kind thereof, along with my executed Certification of Confidential Document Return confirming the return of said Confidential Material. I promise that under no circumstance will I retain any originals or duplicate of any such Confidential Material. I assume all responsibility for returning the Confidential Material to WFM Properties Cheshire LLC as set forth herein, and I bear all risks associated with the purported loss, destruction, or inadvertent disclosure of such Confidential Material that has been entrusted to my care. My failure to return all such Confidential Material and/or to provide the notarized affidavit described above will be deemed a disclosure of the confidential information in violation of the Stipulated Protective Order of Confidentiality and this Promise of Confidentiality, which may subject me to sanctions. I expressly agree to pay all reasonable attorneys' fees, costs, and expenses associated with enforcement of this paragraph in order to obtain my compliance with it, in addition to any sanctions the Court may impose.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

# EXHIBIT B

## EXHIBIT B

### Attorney's Certification of Confidential Document Return

I am counsel of record for the Plaintiff in the case styled *James Grechka v. Whole Foods Market Group, Inc. and WFM Properties Cheshire LLC*; In the Superior Court for the Judicial District of Waterbury, Connecticut bearing Docket Number UWY-CV-15-6025912-S (the "Lawsuit").

2 Pursuant to the requirements set forth in the Stipulated Protective Order of Confidentiality, I have fulfilled each of my obligations imposed thereby, specifically:

A. I have returned to counsel of record for WFM Properties Cheshire, LLC ("WFM Properties") all items produced by WFM Properties subject to the Stipulated Protective Order of Confidentiality in the Lawsuit, and all copies, notes, direct quotes, descriptions, summaries, indices, transcripts, renderings, photographs, recordings, compact discs, DVDs, other magnetic or electronic media, and physical or electronic reproductions of every kind thereof (collectively referred to herein as "Confidential Material"), as required by the Stipulated Protective Order of Confidentiality.

B. In compliance with Paragraph 8 of the Stipulated Protective Order of Confidentiality, I have confirmed that no Confidential Material was intentionally or inadvertently entered on portable electronic or magnetic media (other than compact disc), computer databases and/or computer hard drives. If I discovered that Confidential Material was entered on such media, databases, and/or hard drives, I confirmed that such Confidential Material was immediately deleted and written over and destroyed. I have provided to counsel of record for WFM Properties the originals and all copies of any compact disc on which the Confidential Material was produced to us by WFM Properties.

C. As part of our return of Confidential Material, I have gathered from each person to whom I have given access all Confidential Material in such person's possession. Each such person has executed his own certification attesting that (1) all Confidential Material have been returned to us, and that (2) the person in question did not make Confidential Material available to any other person or entity. Those certifications are attached hereto.

D. I have not made any Confidential Material, any copies thereof, or any document or thing that reflects or contains Confidential Material, available to any other person or entity.

3. I understand that I have a continuing obligation under the Stipulated Protective Order of Confidentiality to immediately return any Confidential Material that was produced to us by WFM Properties in this lawsuit that may later be located.

4. I understand that any breach of my obligations under the Stipulated Protective Order of Confidentiality will subject each of us to all common law and statutory remedies, as well as civil sanctions levied by this Court.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Joseph Rossetti, Esq.  
Moore, O'Brien, & Foti  
891 Straits Turnpike  
Middlebury, CT 06762  
Ph: 203-272-5881  
Fax: 203-272-9273  
[jrossetti@mojylaw.com](mailto:jrossetti@mojylaw.com)  
Counsel for the Plaintiff

**EXHIBIT C**

**Expert's/Authorized Person's Certification of Confidential Document Return**

1. My name is \_\_\_\_\_ . I work at \_\_\_\_\_

---

2. I have received access to materials (including documents, transcripts and/or other things) protected by the Stipulated Protective Order of Confidentiality (collectively referred to herein as "Confidential Material") entered in the case styled *James Grechka v. Whole Foods Market Group, Inc. and WFM Properties Cheshire LLC*; In the Superior Court for the Judicial District of Waterbury, Connecticut bearing Docket Number UWY-CV-15-6025912-S (the "Lawsuit").

3. I have returned all Confidential Material and all copies, notes, direct quotes, descriptions, summaries, indices, transcripts, renderings, photographs, recordings, floppy discs, compact discs, DVDs, other magnetic or electronic media, and physical or electronic reproductions thereof to counsel for Plaintiff.

4. In compliance with Paragraph 8 of the Stipulated Protective Order of Confidentiality, I have confirmed that no Confidential Material was intentionally or inadvertently entered on portable electronic or magnetic media (other than a compact disc), computer databases and/or computer hard drives. If I discovered that Confidential Material was entered on such media, databases, and/or hard drives, I confirm that such Confidential Material was immediately deleted and written over and destroyed. I have returned to the individual identified in paragraph 3 above the originals and all copies of any compact disc provided to me containing Confidential Material.

5. I have not made any Confidential Material, any copies thereof, or any document that reflects or contains Confidential Material, available to any other person or entity.

6. I understand that I have a continuing obligation under the Stipulated Protective Order of Confidentiality to locate and immediately return any Confidential Material thereof that was produced by WFM Properties in this lawsuit.

7. I understand that any breach of my obligations under the Stipulated Protective Order of Confidentiality will subject me to all common law and statutory remedies, as well as civil sanctions levied this Court,

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_