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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

HOMOZASE HAYRAPETIAN,

Plaintiff,

v.

THE HOME DEPOT U.S.A., INC. and
DOES 1-50.

Defendants.

Case No: 2:16-CV-09654-DSF(AJWx)

[LOS ANGELES SUPERIOR COURT
ACTION NO. BC641672]
(Complaint filed on November 22, 2016)

**~~[PROPOSED]~~ ORDER RE:
STIPULATED PROTECTIVE ORDER**

ORDER

The Parties to the above-referenced action filed a joint Stipulated Protective Order. The Court having reviewed Stipulated Protective Order, and good cause appearing, orders as follows:

1. PURPOSES AND LIMITATIONS

Discovery in this action 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 may be warranted.

1 Accordingly, the parties hereby stipulate to and petition the Court to enter the following
2 Stipulated Protective Order. The parties acknowledge that this Order does not confer
3 blanket protections on all disclosures or responses to discovery and that the protection it
4 affords from public disclosure and use extends only to the limited information or items
5 that are entitled to confidential treatment under the applicable legal principles. The
6 parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated
7 Protective Order does not entitle them to file confidential information under seal; Civil
8 Local Rule 79-5 sets forth the procedures that must be followed and the standards that
9 will be applied when a party seeks permission from the court to file material under seal.

10
11 **GOOD CAUSE STATEMENT**

12 Defendant HOME DEPOT U.S.A., INC.'s ("Home Depot") procedures,
13 operations and training materials are confidential, proprietary, commercial information
14 pertaining to the internal operations of Home Depot. Home Depot maintains that
15 dissemination of any information learned throughout the pendency of this action could
16 have the same negative effect on the company as dissemination of the above-referenced
17 materials. To allow the dissemination of confidential and/or proprietary information
18 would compromise Home Depot's market position and business interests by exposing its
19 confidential business information to competitors and individuals outside the Home
20 Depot corporation. Dissemination of these materials to outside parties exposes the
21 Company's methodologies and could subject Home Depot to unwarranted criticism from
22 competitors or other third parties. Such unwarranted criticism could have potentially
23 damaging effects on the company's public image and affect its relationship with
24 consumers. Further, allowing distribution of Home Depot's policies, procedures and
25 training materials could provide potential plaintiffs and attorneys with unfair and
26 unwarranted insight into the company's internal practices which, in turn, could hinder
27 the company in subsequent litigation.

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1 As such, this action is likely to involve trade secrets, customer and pricing lists
2 and other valuable research, development, commercial, financial, technical and/or
3 proprietary information for which special protection from public disclosure and from use
4 for any purpose other than prosecution of this action is warranted. Such confidential and
5 proprietary materials and information consist of, among other things, confidential
6 business or financial information, information regarding confidential business practices,
7 or other confidential research, development, or commercial information (including
8 information implicating privacy rights of third parties), information otherwise generally
9 unavailable to the public, or which may be privileged or otherwise protected from
10 disclosure under state or federal statutes, court rules, case decisions, or common law.

11 Accordingly, to expedite the flow of information, to facilitate the prompt
12 resolution of disputes over confidentiality of discovery materials, to adequately protect
13 information the parties are entitled to keep confidential, to ensure that the parties are
14 permitted reasonable necessary uses of such material in preparation for and in the
15 conduct of trial, to address their handling at the end of the litigation, and serve the ends
16 of justice, a protective order for such information is justified in this matter. It is the
17 intent of the parties that information will not be designated as confidential for tactical
18 reasons and that nothing be so designated without a good faith belief that it has been
19 maintained in a confidential, non-public manner, and there is good cause why it should
20 not be part of the public record of this case.

21 **2. DEFINITIONS**

22 2.1 Action: Homozase Hayrapetian v. Home Depot U.S.A., Inc., Case
23 No. 2:16-CV-09654-DSF(AJWX) (Los Angeles County Superior Court Case No.
24 BC641672)
25

26 2.2 Challenging Party: a Party or Non-Party that challenges the
27 designation of information or items under this Order.

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1 2.3 “CONFIDENTIAL” Information or Items: information (regardless of how it
2 is generated, stored or maintained) or tangible things that qualify for protection under
3 Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause
4 Statement.

5 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their
6 support staff).

7 2.5 Designating Party: a Party or Non-Party that designates information or
8 items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

9 2.6 Disclosure or Discovery Material: all items or information, regardless of the
10 medium or manner in which it is generated, stored, or maintained (including, among
11 other things, testimony, transcripts, and tangible things), that are produced or generated
12 in disclosures or responses to discovery in this matter.

13 2.7 Expert: a person with specialized knowledge or experience in a matter
14 pertinent to the litigation who has been retained by a Party or its counsel to serve as an
15 expert witness or as a consultant in this Action.

16 2.8 House Counsel: attorneys who are employees of a party to this Action.
17 House Counsel does not include Outside Counsel of Record or any other outside
18 counsel.

19 2.9 Non-Party: any natural person, partnership, corporation, association, or
20 other legal entity not named as a Party to this action.

21 2.10 Outside Counsel of Record: attorneys who are not employees of a party to
22 this Action but are retained to represent or advise a party to this Action and have
23 appeared in this Action on behalf of that party or are affiliated with a law firm which has
24 appeared on behalf of that party, and includes support staff.

25 2.11 Party: any party to this Action, including all of its officers, directors,
26 employees, consultants, retained experts, and Outside Counsel of Record (and their
27 support staffs).

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1 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
2 Discovery Material in this Action.

3 2.13 Professional Vendors: persons or entities that provide litigation support
4 services (e.g., photocopying, videotaping, translating, preparing exhibits or
5 demonstrations, and organizing, storing, or retrieving data in any form or medium) and
6 their employees and subcontractors.

7 2.14 Protected Material: any Disclosure or Discovery Material that is designated
8 as “CONFIDENTIAL.”

9 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material
10 from a Producing Party.

11 12 **3. SCOPE**

13 The protections conferred by this Stipulation and Order cover not only Protected
14 Material (as defined above), but also (1) any information copied or extracted from
15 Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected
16 Material; and (3) any testimony, conversations, or presentations by Parties or their
17 Counsel that might reveal Protected Material.

18 Any use of Protected Material at trial shall be governed by the orders of the trial
19 judge. This Order does not govern the use of Protected Material at trial.

20 21 **4. DURATION**

22 Even after final disposition of this litigation, the confidentiality obligations
23 imposed by this Order shall remain in effect until a Designating Party agrees otherwise
24 in writing or a court order otherwise directs. Final disposition shall be deemed to be the
25 later of (1) dismissal of all claims and defenses in this Action, with or without
26 prejudice; and (2) final judgment herein after the completion and exhaustion of all
27 appeals, rehearings, remands, trials, or reviews of this Action, including the time limits
28 for filing any motions or applications for extension of time pursuant to applicable law.

1 **5. DESIGNATING PROTECTED MATERIAL**

2 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each
3 Party or Non-Party that designates information or items for protection under this Order
4 must take care to limit any such designation to specific material that qualifies under the
5 appropriate standards. The Designating Party must designate for protection only those
6 parts of material, documents, items, or oral or written communications that qualify so
7 that other portions of the material, documents, items, or communications for which
8 protection is not warranted are not swept unjustifiably within the ambit of this Order.

9 Mass, indiscriminate, or routinized designations are prohibited. Designations that
10 are shown to be clearly unjustified or that have been made for an improper purpose (e.g.,
11 to unnecessarily encumber the case development process or to impose unnecessary
12 expenses and burdens on other parties) may expose the Designating Party to sanctions.

13 If it comes to a Designating Party’s attention that information or items that it
14 designated for protection do not qualify for protection, that Designating Party must
15 promptly notify all other Parties that it is withdrawing the inapplicable designation.

16 5.2 Manner and Timing of Designations. Except as otherwise provided in this
17 Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or
18 ordered, Disclosure or Discovery Material that qualifies for protection under this Order
19 must be clearly so designated before the material is disclosed or produced.

20 Designation in conformity with this Order requires:

21 (a) for information in documentary form (e.g., paper or electronic
22 documents, but excluding transcripts of depositions or other pretrial or trial
23 proceedings), that the Producing Party affix at a minimum, the legend
24 “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that contains
25 protected material. If only a portion or portions of the material on a page qualifies for
26 protection, the Producing Party also must clearly identify the protected portion(s) (e.g.,
27 by making appropriate markings in the margins).

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1 A Party or Non-Party that makes original documents available for inspection need
2 not designate them for protection until after the inspecting Party has indicated which
3 documents it would like copied and produced. During the inspection and before the
4 designation, all of the material made available for inspection shall be deemed
5 “CONFIDENTIAL.” After the inspecting Party has identified the documents it wants
6 copied and produced, the Producing Party must determine which documents, or portions
7 thereof, qualify for protection under this Order. Then, before producing the specified
8 documents, the Producing Party must affix the “CONFIDENTIAL legend” to each page
9 that contains Protected Material. If only a portion or portions of the material on a page
10 qualifies for protection, the Producing Party also must clearly identify the protected
11 portion(s) (e.g., by making appropriate markings in the margins).

12 (b) for testimony given in depositions that the Designating Party identify the
13 Disclosure or Discovery Material on the record, before the close of the deposition all
14 protected testimony.

15 (c) for information produced in some form other than documentary and for
16 any other tangible items, that the Producing Party affix in a prominent place on the
17 exterior of the container or containers in which the information is stored the legend
18 “CONFIDENTIAL.” If only a portion or portions of the information warrants protection,
19 the Producing Party, to the extent practicable, shall identify the protected portion(s).

20 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure
21 to designate qualified information or items does not, standing alone, waive the
22 Designating Party’s right to secure protection under this Order for such material. Upon
23 timely correction of a designation, the Receiving Party must make reasonable efforts to
24 assure that the material is treated in accordance with the provisions of this Order.

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1 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

2 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
3 designation of confidentiality at any time that is consistent with the Court’s Scheduling
4 Order.

5 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
6 resolution process under Local Rule 37.1 et seq.

7 6.3 The burden of persuasion in any such challenge proceeding shall be on the
8 Designating Party. Frivolous challenges, and those made for an improper purpose (e.g.,
9 to harass or impose unnecessary expenses and burdens on other parties) may expose
10 the Challenging Party to sanctions. Unless the Designating Party has waived or
11 withdrawn the confidentiality designation, all parties shall continue to afford the
12 material in question the level of protection to which it is entitled under the Producing
13 Party’s designation until the Court rules on the challenge.

14
15 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

16 7.1 Basic Principles. A Receiving Party may use Protected Material that is
17 disclosed or produced by another Party or by a Non-Party in connection with this
18 Action only for prosecuting, defending, or attempting to settle this Action. Such
19 Protected Material may be disclosed only to the categories of persons and under the
20 conditions described in this Order. When the Action has been terminated, a Receiving
21 Party must comply with the provisions of section 13 below (FINAL DISPOSITION).

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

25 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
26 otherwise ordered by the court or permitted in writing by the Designating Party, a
27 Receiving Party may disclose any information or item designated “CONFIDENTIAL”
28 only to:

1 (a) the Receiving Party’s Outside Counsel of Record in this Action, as well as
2 employees of said Outside Counsel of Record to whom it is reasonably necessary to
3 disclose the information for this Action;

4 (b) the officers, directors, and employees (including House Counsel) of the
5 Receiving Party to whom disclosure is reasonably necessary for this Action;

6 (c) Experts (as defined in this Order) of the Receiving Party to whom
7 disclosure is reasonably necessary for this Action and who have signed the
8 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

9 (d) the court and its personnel;

10 (e) court reporters and their staff;

11 (f) professional jury or trial consultants, mock jurors, and Professional
12 Vendors to whom disclosure is reasonably necessary for this Action and who have
13 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

14 (g) the author or recipient of a document containing the information or a
15 custodian or other person who otherwise possessed or knew the information;

16 (h) during their depositions, witnesses, and attorneys for witnesses, in the
17 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
18 requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they will not
19 be permitted to keep any confidential information unless they sign the
20 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed
21 by the Designating Party or ordered by the court. Pages of transcribed deposition
22 testimony or exhibits to depositions that reveal Protected Material may be separately
23 bound by the court reporter and may not be disclosed to anyone except as permitted
24 under this Stipulated Protective Order; and

25 (i) any mediator or settlement officer, and their supporting personnel,
26 mutually agreed upon by any of the parties engaged in settlement discussions.

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1 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
2 **PRODUCED IN OTHER LITIGATION**

3 If a Party is served with a subpoena or a court order issued in other litigation that
4 compels disclosure of any information or items designated in this Action as
5 “CONFIDENTIAL,” that Party must:

6 (a) promptly notify in writing the Designating Party. Such notification shall
7 include a copy of the subpoena or court order;

8 (b) promptly notify in writing the party who caused the subpoena or order to
9 issue in the other litigation that some or all of the material covered by the subpoena or
10 order is subject to this Protective Order. Such notification shall include a copy of this
11 Stipulated Protective Order; and

12 (c) cooperate with respect to all reasonable procedures sought to be pursued
13 by the Designating Party whose Protected Material may be affected.

14 If the Designating Party timely seeks a protective order, the Party served with the
15 subpoena or court order shall not produce any information designated in this action as
16 “CONFIDENTIAL” before a determination by the court from which the subpoena or
17 order issued, unless the Party has obtained the Designating Party’s permission. The
18 Designating Party shall bear the burden and expense of seeking protection in that court
19 of its confidential material and nothing in these provisions should be construed as
20 authorizing or encouraging a Receiving Party in this Action to disobey a lawful directive
21 from another court.

22
23 **9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**
24 **PRODUCED IN THIS LITIGATION**

25 The terms of this Order are applicable to information produced by a Non-Party in
26 this Action and designated as “CONFIDENTIAL.” Such information produced by Non-
27 Parties in connection with this litigation is protected by the remedies and relief provided
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1 by this Order. Nothing in these provisions should be construed as prohibiting a Non-
2 Party from seeking additional protections.

3 (a) In the event that a Party is required, by a valid discovery request, to
4 produce a Non-Party's confidential information in its possession, and the Party is subject
5 to an agreement with the Non-Party not to produce the Non-Party's confidential
6 information, then the Party shall:

7 (1) promptly notify in writing the Requesting Party and the Non-Party
8 that some or all of the information requested is subject to a confidentiality agreement
9 with a Non-Party;

10 (2) promptly provide the Non-Party with a copy of the Stipulated
11 Protective Order in this Action, the relevant discovery request(s), and a reasonably
12 specific description of the information requested; and

13 (3) make the information requested available for inspection by the Non-
14 Party, if requested.

15 (b) If the Non-Party fails to seek a protective order from this court within 14
16 days of receiving the notice and accompanying information, the Receiving Party may
17 produce the Non-Party's confidential information responsive to the discovery request. If
18 the Non-Party timely seeks a protective order, the Receiving Party shall not produce any
19 information in its possession or control that is subject to the confidentiality agreement
20 with the Non-Party before a determination by the court. Absent a court order to the
21 contrary, the Non-Party shall bear the burden and expense of seeking protection in this
22 court of its Protected Material.

23
24 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

25 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
26 Protected Material to any person or in any circumstance not authorized under this
27 Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing
28 the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve

1 all unauthorized copies of the Protected Material, (c) inform the person or persons to
2 whom unauthorized disclosures were made of all the terms of this Order, and (d) request
3 such person or persons to execute the “Acknowledgment and Agreement to Be Bound”
4 that is attached hereto as Exhibit A.

5
6 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR**
7 **OTHERWISE PROTECTED MATERIAL**

8 When a Producing Party gives notice to Receiving Parties that certain
9 inadvertently produced material is subject to a claim of privilege or other protection, the
10 obligations of the Receiving Parties are those set forth in Federal Rule of Civil
11 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
12 may be established in an e-discovery order that provides for production without prior
13 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
14 parties reach an agreement on the effect of disclosure of a communication or information
15 covered by the attorney-client privilege or work product protection, the parties may
16 incorporate their agreement in the stipulated protective order submitted to the court.

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18 **12. MISCELLANEOUS**

19 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
20 person to seek its modification by the Court in the future.

21 12.2 Right to Assert Other Objections. By stipulating to the entry of this
22 Protective Order no Party waives any right it otherwise would have to object to
23 disclosing or producing any information or item on any ground not addressed in this
24 Stipulated Protective Order. Similarly, no Party waives any right to object on any ground
25 to use in evidence of any of the material covered by this Protective Order.

26 12.3 Filing Protected Material. A Party that seeks to file under seal any Protected
27 Material must comply with Civil Local Rule 79-5. Protected Material may only be filed
28 under seal pursuant to a court order authorizing the sealing of the specific Protected

1 Material at issue. If a Party's request to file Protected Material under seal is denied by
2 the court, then the Receiving Party may file the information in the public record unless
3 otherwise instructed by the court.

4
5 **13. FINAL DISPOSITION**

6 After the final disposition of this Action, as defined in paragraph 4, within 60
7 days of a written request by the Designating Party, each Receiving Party must return all
8 Protected Material to the Producing Party or destroy such material. As used in this
9 subdivision, "all Protected Material" includes all copies, abstracts, compilations,
10 summaries, and any other format reproducing or capturing any of the Protected Material.
11 Whether the Protected Material is returned or destroyed, the Receiving Party must
12 submit a written certification to the Producing Party (and, if not the same person or
13 entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category,
14 where appropriate) all the Protected Material that was returned or destroyed and
15 (2)affirms that the Receiving Party has not retained any copies, abstracts, compilations,
16 summaries or any other format reproducing or capturing any of the Protected Material.
17 Notwithstanding this provision, Counsel are entitled to retain an archival copy of all
18 pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda,
19 correspondence, deposition and trial exhibits, expert reports, attorney work product, and
20 consultant and expert work product, even if such materials contain Protected Material.
21 Any such archival copies that contain or constitute Protected Material remain subject to
22 this Protective Order as set forth in Section 4 (DURATION).

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