

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

HENDA MEJRI,

Plaintiff,

v.

LOWE'S HOME CENTERS, INC.  
DOES 1-100, AND EACH OF THEM,  
INCLUSIVE.

Defendant.

Case No. EDCV 18-585-MWF(SP~~x~~)

**[PROPOSED] PROTECTIVE ORDER**

[Discovery Matter: Assigned to Magistrate Judge  
Sheri Pym]

1 **[PROPOSED] ORDER**

2 Pursuant to the stipulation by the Parties and good cause appearing therefor, the  
3 Court HEREBY ENTERS the Parties' STIPULATED PROTECTIVE ORDER, the  
4 pertinent elements of which are as follows:

5 1. A. **PURPOSES AND LIMITATIONS**

6 Discovery in this action is likely to involve production of confidential,  
7 proprietary, or private information for which special protection from public disclosure  
8 and from use for any purpose other than prosecuting this litigation may be warranted.  
9 Accordingly, the parties hereby stipulate to and petition the Court to enter the following  
10 Stipulated Protective Order. The parties acknowledge that this Order does not confer  
11 blanket protections on all disclosures or responses to discovery and that the protection  
12 it affords from public disclosure and use extends only to the limited information or items  
13 that are entitled to confidential treatment under the applicable legal principles. The  
14 parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated  
15 Protective Order does not entitle them to file confidential information under seal; Civil  
16 Local Rule 79-5 sets forth the procedures that must be followed and the standards that  
17 will be applied when a party seeks permission from the court to file material under seal.

18 B. **GOOD CAUSE STATEMENT**

19 This action is likely to involve disclosure of non-public information concerning  
20 Plaintiff or non-parties that is personal in nature and/or protected by the right of privacy;

21 Discovery in this matter may involve disclosure of non-public, confidential,  
22 proprietary, commercially sensitive, and/or trade secret information of Defendant  
23 Lowe's Home Centers, LLC. Disclosure of this information to persons who are not  
24 entitled to it carries the danger of compromising the competitive business interests of  
25 Defendant, and also risks the invasion of legitimate personal privacy interests of  
26 Plaintiff and non-parties.

27 Defendant Lowe's Home Centers, LLC anticipates it may need to produce  
28 material that contains proprietary information concerning its business practices and

1 procedures for operation of its facilities that may be of value to a competitor or may  
2 cause harm to its legitimate business interests in the marketplace.

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

13 2. DEFINITIONS

14 2.1 Action: This pending federal lawsuit entitled *Henda Mejri v. Lowe's Home*  
15 *Centers, LLC*, EDCV 18-585-MWF(SPx).

16 2.2 Challenging Party: a Party or Non-Party that challenges the designation of  
17 information or items under this Order.

18 2.3 "CONFIDENTIAL" Information or Items: information (regardless of how  
19 it is generated, stored or maintained) or tangible things that qualify for protection under  
20 Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause  
21 Statement.

22 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their  
23 support staff).

24 2.5 Designating Party: a Party or Non-Party that designates information or  
25 items that it produces in disclosures or in responses to discovery as  
26 "CONFIDENTIAL."

27 2.6 Disclosure or Discovery Material: all items or information, regardless of  
28 the medium or manner in which it is generated, stored, or maintained (including, among

1 other things, testimony, transcripts, and tangible things), that are produced or generated  
2 in disclosures or responses to discovery in this matter.

3 2.7 Expert: a person with specialized knowledge or experience in a matter  
4 pertinent to the litigation who has been retained by a Party or its counsel to serve as an  
5 expert witness or as a consultant in this Action.

6 2.8 House Counsel: attorneys who are employees of a party to this Action.  
7 House Counsel does not include Outside Counsel of Record or any other outside  
8 counsel.

9 2.9 Non-Party: any natural person, partnership, corporation, association, or  
10 other legal entity not named as a Party to this action.

11 2.10 Outside Counsel of Record: attorneys who are not employees of a party to  
12 this Action but are retained to represent or advise a party to this Action and have  
13 appeared in this Action on behalf of that party or are affiliated with a law firm which  
14 has appeared on behalf of that party, and includes support staff.

15 2.11 Party: any party to this Action, including all of its officers, directors,  
16 employees, consultants, retained experts, and Outside Counsel of Record (and their  
17 support staffs).

18 2.12 Producing Party: a Party or Non-Party that produces Disclosure or  
19 Discovery Material in this Action.

20 2.13 Professional Vendors: persons or entities that provide litigation support  
21 services (e.g., photocopying, videotaping, translating, preparing exhibits or  
22 demonstrations, and organizing, storing, or retrieving data in any form or medium) and  
23 their employees and subcontractors.

24 2.14 Protected Material: any Disclosure or Discovery Material that is  
25 designated as “CONFIDENTIAL.”

26 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material  
27 from a Producing Party.  
28

1 3. SCOPE

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

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

9 4. DURATION

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

17 5. DESIGNATING PROTECTED MATERIAL

18 5.1 Exercise of Restraint and Care in Designating Material for Protection.

19 Each Party or Non-Party that designates information or items for protection under this  
20 Order must take care to limit any such designation to specific material that qualifies  
21 under the appropriate standards. The Designating Party must designate for protection  
22 only those parts of material, documents, items, or oral or written communications that  
23 qualify so that other portions of the material, documents, items, or communications for  
24 which protection is not warranted are not swept unjustifiably within the ambit of this  
25 Order.

26 Mass, indiscriminate, or routinized designations are prohibited. Designations that  
27 are shown to be clearly unjustified or that have been made for an improper purpose  
28 (e.g., to unnecessarily encumber the case development process or to impose

1 unnecessary expenses and burdens on other parties) may expose the Designating Party  
2 to sanctions.

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

6 5.2 Manner and Timing of Designations. Except as otherwise provided in this  
7 Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated  
8 or ordered, Disclosure or Discovery Material that qualifies for protection under this  
9 Order must be clearly so designated before the material is disclosed or produced.

10 Designation in conformity with this Order requires:

11 (a) for information in documentary form (e.g., paper or electronic  
12 documents, but excluding transcripts of depositions or other pretrial or trial  
13 proceedings), that the Producing Party affix at a minimum, the legend  
14 "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that  
15 contains protected material. If only a portion or portions of the material on a page  
16 qualifies for protection, the Producing Party also must clearly identify the protected  
17 portion(s) (e.g., by making appropriate markings in the margins).

18 A Party or Non-Party that makes original documents available for inspection  
19 need not designate them for protection until after the inspecting Party has indicated  
20 which documents it would like copied and produced. During the inspection and before  
21 the designation, all of the material made available for inspection shall be deemed  
22 "CONFIDENTIAL." After the inspecting Party has identified the documents it wants  
23 copied and produced, the Producing Party must determine which documents, or portions  
24 thereof, qualify for protection under this Order. Then, before producing the specified  
25 documents, the Producing Party must affix the "CONFIDENTIAL legend" to each page  
26 that contains Protected Material. If only a portion or portions of the material on a page  
27 qualifies for protection, the Producing Party also must clearly identify the protected  
28 portion(s) (e.g., by making appropriate markings in the margins).

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

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

10 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent  
11 failure to designate qualified information or items does not, standing alone, waive the  
12 Designating Party’s right to secure protection under this Order for such material. Upon  
13 timely correction of a designation, the Receiving Party must make reasonable efforts to  
14 assure that the material is treated in accordance with the provisions of this Order.

15 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

16 6.1 Timing of Challenges. Any Party or Non-Party may challenge a  
17 designation of confidentiality at any time that is consistent with the Court’s Scheduling  
18 Order.

19 6.2 Meet and Confer. The Challenging Party shall initiate the dispute  
20 resolution process under Local Rule 37.1 et seq.

21 6.3 The burden of persuasion in any such challenge proceeding shall be on the  
22 Designating Party. Frivolous challenges, and those made for an improper purpose (e.g.,  
23 to harass or impose unnecessary expenses and burdens on other parties) may expose the  
24 Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn  
25 the confidentiality designation, all parties shall continue to afford the material in  
26 question the level of protection to which it is entitled under the Producing Party’s  
27 designation until the Court rules on the challenge.  
28

1 7. ACCESS TO AND USE OF PROTECTED MATERIAL

2 7.1 Basic Principles. A Receiving Party may use Protected Material that is  
3 disclosed or produced by another Party or by a Non-Party in connection with this Action  
4 only for prosecuting, defending, or attempting to settle this Action. Such Protected  
5 Material may be disclosed only to the categories of persons and under the conditions  
6 described in this Order. When the Action has been terminated, a Receiving Party must  
7 comply with the provisions of section 13 below (FINAL DISPOSITION).

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

11 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise  
12 ordered by the court or permitted in writing by the Designating Party, a Receiving Party  
13 may disclose any information or item designated “CONFIDENTIAL” only to:

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

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

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

22 (d) the court and its personnel;

23 (e) court reporters and their staff;

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

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



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

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

12 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN  
13 OTHER LITIGATION

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

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

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

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

25 If the Designating Party timely seeks a protective order, the Party served with the  
26 subpoena or court order shall not produce any information designated in this action as  
27 “CONFIDENTIAL” before a determination by the court from which the subpoena or  
28 order issued, unless the Party has obtained the Designating Party’s permission. The

1 Designating Party shall bear the burden and expense of seeking protection in that court  
2 of its confidential material and nothing in these provisions should be construed as  
3 authorizing or encouraging a Receiving Party in this Action to disobey a lawful directive  
4 from another court.

5 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED  
6 IN THIS LITIGATION

7 (a) The terms of this Order are applicable to information produced by a  
8 Non-Party in this Action and designated as “CONFIDENTIAL.” Such information  
9 produced by Non-Parties in connection with this litigation is protected by the remedies  
10 and relief provided by this Order. Nothing in these provisions should be construed as  
11 prohibiting a Non-Party from seeking additional protections.

12 (b) In the event that a Party is required, by a valid discovery request, to  
13 produce a Non-Party’s confidential information in its possession, and the Party is  
14 subject to an agreement with the Non-Party not to produce the Non-Party’s confidential  
15 information, then the Party shall:

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

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

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

24 (c) If the Non-Party fails to seek a protective order from this court  
25 within 14 days of receiving the notice and accompanying information, the Receiving  
26 Party may produce the Non-Party’s confidential information responsive to the discovery  
27 request. If the Non-Party timely seeks a protective order, the Receiving Party shall not  
28 produce any information in its possession or control that is subject to the confidentiality

1 agreement with the Non-Party before a determination by the court. Absent a court order  
2 to the contrary, the Non-Party shall bear the burden and expense of seeking protection  
3 in this court of its Protected Material.

4 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

5 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
6 Protected Material to any person or in any circumstance not authorized under this  
7 Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing  
8 the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve  
9 all unauthorized copies of the Protected Material, (c) inform the person or persons to  
10 whom unauthorized disclosures were made of all the terms of this Order, and (d) request  
11 such person or persons to execute the “Acknowledgment and Agreement to Be Bound”  
12 that is attached hereto as Exhibit A.

13 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE  
14 PROTECTED MATERIAL

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

25 12. MISCELLANEOUS

26 12.1 Right to Further Relief. Nothing in this Order abridges the right of any  
27 person to seek its modification by the Court in the future.  
28

1           12.2 Right to Assert Other Objections. By stipulating to the entry of this  
2 Protective Order no Party waives any right it otherwise would have to object to  
3 disclosing or producing any information or item on any ground not addressed in this  
4 Stipulated Protective Order. Similarly, no Party waives any right to object on any  
5 ground to use in evidence of any of the material covered by this Protective Order.

6           12.3 Filing Protected Material. A Party that seeks to file under seal any  
7 Protected Material must comply with Civil Local Rule 79-5. Protected Material may  
8 only be filed under seal pursuant to a court order authorizing the sealing of the specific  
9 Protected Material at issue. If a Party’s request to file Protected Material under seal is  
10 denied by the court, then the Receiving Party may file the information in the public  
11 record unless otherwise instructed by the court.

12 13. FINAL DISPOSITION

13           After the final disposition of this Action, as defined in paragraph 4, within 60  
14 days of a written request by the Designating Party, each Receiving Party must return all  
15 Protected Material to the Producing Party or destroy such material. As used in this  
16 subdivision, “all Protected Material” includes all copies, abstracts, compilations,  
17 summaries, and any other format reproducing or capturing any of the Protected  
18 Material. Whether the Protected Material is returned or destroyed, the Receiving Party  
19 must submit a written certification to the Producing Party (and, if not the same person  
20 or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by  
21 category, where appropriate) all the Protected Material that was returned or destroyed  
22 and (2) affirms that the Receiving Party has not retained any copies, abstracts,  
23 compilations, summaries or any other format reproducing or capturing any of the  
24 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an  
25 archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts,  
26 legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney  
27 work product, and consultant and expert work product, even if such materials contain  
28

1 Protected Material. Any such archival copies that contain or constitute Protected  
2 Material remain subject to this Protective Order as set forth in Section 4 (DURATION).  
3 14. Any violation of this Order may be punished by any and all appropriate measures  
4 including, without limitation, contempt proceedings and/or monetary sanctions.  
5

6 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

7  
8 DATED: October 25, 2018



9  
10 The Honorable Sheri Pym  
11 United States District/Magistrate Judge  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [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 Central District of California on \_\_\_\_\_ [date] in the case of  
*Henda Mejri v. Lowe's Home Centers, LLC*, EDCV 18-585-MWF(SP~~x~~). 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  
Central District of California for the purpose of enforcing the terms of this Stipulated  
Protective Order, even if such enforcement proceedings occur after termination of this  
action. I hereby appoint \_\_\_\_\_ [print or type full name] of  
\_\_\_\_\_ [print or type full address and telephone number] as my  
California agent for service of process in connection with this action or any proceedings  
related to enforcement of this Stipulated Protective Order.

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

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

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