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**IN THE UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN  
DIVISION**

DIANA TAIT, NANCY  
WENTWORTH, BEVERLY  
GIBSON, SHARON, COBB and  
TRISH ISABELLA individually  
and on behalf of all others  
similarly situated,

Plaintiffs,

vs.

BSH HOME APPLIANCES  
CORPORATION, a Delaware  
Corporation,

Defendant.

) Case No. SACV10-711 CJC  
(ANx)

) **~~PROPOSED~~ PROTECTIVE  
ORDER RE USE OF  
CONFIDENTIAL  
DOCUMENTS AND  
INFORMATION**

) *Assigned to:*  
District Judge: Cormac J. Carney  
Discovery Magistrate Judge:  
Arthur Nakazato

IT IS HEREBY ORDERED, based on the stipulation of the parties,  
and sufficient cause being found therefor, that this Protective Order shall  
be entered on the terms set forth herein and shall govern the handling of

1 documents, answers to interrogatories, responses to requests to admit,  
2 responses to demands for documents, depositions, deposition exhibits,  
3 pleadings, exhibits, and all other information produced or obtained by  
4 any party or non-parties in the course of this action that contains  
5 “Confidential Information” as defined herein.

6 **A. DEFINITION OF CONFIDENTIAL INFORMATION**

7 “Confidential Information,” as used herein, means any type or  
8 classification of information, whether it be a document, information  
9 contained in a document, information revealed during a deposition,  
10 information revealed in an interrogatory answer, or otherwise, which is  
11 designated when it is produced as “Confidential” by the supplying party.  
12 In designating information as Confidential Information, the party so  
13 designating will make such designation only as to that information  
14 which has not been made public by the designating party that it believes  
15 contains trade secret, confidential, private, and/or proprietary  
16 information. By designating a document, thing, material, testimony or  
17 other information “Confidential,” under the terms of this order, the party  
18 making the designation is certifying to the court that there is a good faith  
19 basis both in law and in fact for the designation within the meaning of  
20 the Federal Rule of Civil Procedure 26 (g).

21 If a party claims a document produced by a third party is  
22 Confidential Information (“Confidentiality Claimant”) and its counsel  
23 notifies the other party’s counsel (“Recipient”) that the Confidentiality  
24 Claimant is claiming said information or thing is Confidential  
25 Information, the Recipient will treat said information or thing as  
26 Confidential Information pursuant to the terms of this Protective Order  
27 for thirty days from the date of notice of Confidentiality Claimant’s

1 position. If Recipient disagrees that said 3<sup>rd</sup> party thing or information is  
2 Confidential Information, Confidentiality Claimant will file a motion for  
3 protective order within thirty days of said notice by Recipient. If said  
4 motion is not timely filed, Recipient may use said thing or information  
5 as they chose. If Confidentiality Claimant files a motion for protective  
6 order, the thing or information, produced by a third party shall be  
7 treated as Confidential Information pursuant to the terms of this  
8 Protective Order until the court issues its order on said motion for  
9 Protective Order. The Recipient agrees to treat the third party thing or  
10 information as ordered by said court.

11 **B. PROCEDURE FOR DESIGNATING**  
12 **MATERIAL AS CONFIDENTIAL**  
13 **INFORMATION**

14 1. Confidential Information shall include all documents  
15 provided by a party which have been designated as confidential by  
16 marking the page: "CONFIDENTIAL". In lieu of marking the original  
17 of documents, the party may mark the copies that are produced or  
18 exchanged.

19 2. The identification of information as Confidential by a  
20 supplying party shall be made at a time when an answer to an  
21 interrogatory or an answer to a request for admission is served, when a  
22 copy of a document is provided to the other party, and when an  
23 inspection of premises or tangible things is made.

24 3. Information provided by oral testimony given in a  
25 deposition may be designated as confidential by indicating on the record  
26 at the deposition the testimony which the asserting party claims is  
27 Confidential Information and subject to the provisions of this Order.

1 No Confidential Information may be read by anyone other than a  
2 Qualified Person. The parties will inform the court reporter who is  
3 stenographically recording said testimony to mark those portions of the  
4 testimony they assert is Confidential Information. The party that  
5 requests a portion of the deposition testimony be marked as  
6 "Confidential" shall pay all amounts that the court reporter charges for  
7 marking portions of the deposition transcript as "Confidential  
8 Information."

9 4. If any party believes that a document or other information,  
10 which has been designated as Confidential Information is not  
11 Confidential Information, that party will notify the party asserting the  
12 information is Confidential Information and the parties shall resolve  
13 their dispute as provided by FRCP and Local Rules. If no agreement  
14 can be reached, the party seeking to challenge the designation of the  
15 document shall file a Motion for Relief. Until the Court resolves the  
16 motion, the document will be treated as Confidential subject to the terms  
17 of this Protective Order.

18 **C. QUALIFIED PERSONS WITH ACCESS TO**  
19 **CONFIDENTIAL INFORMATION**

20 1. Information or material designated as Confidential  
21 Information, or copies or extracts therefrom and compilations and  
22 summaries thereof, may be disclosed, summarized, described,  
23 characterized, or otherwise communicated or made available in whole or  
24 in part only to the following Qualified Persons:

25 (a) counsel of record of parties in this action  
26 and their related entities and regular and temporary  
27 employees of such counsel to whom it is necessary that the  
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1 information or material be shown for the purposes of this  
2 litigation, and defendant's in-house counsel;

3 (b) a named party, or a present or former  
4 officer, director, employee, of a party deemed necessary by  
5 counsel to aid in the prosecution, defense, or settlement of  
6 this action;

7 (c) consultants and experts retained or  
8 employed to assist the attorneys of named parties in the  
9 prosecution, defense, or settlement of this action;

10 (d) court reporters and videographers employed  
11 in connection with this action;

12 (e) graphics or design services retained by  
13 counsel for a party for the sole purposes of preparing  
14 demonstrative or other exhibits for deposition, trial, or other  
15 court proceedings in this action, subject to and conditioned  
16 upon compliance with Section D herein;

17 (f) non-technical jury or trial consulting  
18 services retained by counsel for a party, subject to and  
19 conditioned upon compliance with Section D herein; and

20 (g) any other person only upon Order of the  
21 Court or upon prior written consent of the party who  
22 designated the information or material confidential, subject to  
23 and conditioned upon compliance with Section D herein.

24 2. All persons listed in Section C(1)(c), (e), (f) and (g)  
25 above may be given access to information or material designated as  
26 "Confidential Information provided that they first confirm their  
27 understanding and agreement to abide by the terms of this Protective  
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1 Order by completing and signing a copy of an undertaking in the form  
2 attached hereto as *Exhibit A*. However, as to deposition witnesses, a  
3 party's attorney may show a witness, who comes within the description  
4 of Section C(1)(b) above, this Protective Order and Exhibit A thereto  
5 and have them orally agree on the record to Exhibit A and sign Exhibit  
6 A.

7           3. Any person may be examined as a witness during a  
8 deposition concerning any information or material designated as  
9 "Confidential Information" to which that person had lawfully received  
10 or authored prior to and apart from this action. During examination, any  
11 such witness may be shown information or material designated as  
12 "Confidential Information" by a party which appears on its face or from  
13 other documents or testimony to have been received or authored by that  
14 witness from, or communicated to that witness by, that same party or  
15 otherwise appears on its face to contain information about which it  
16 appears reasonably likely that the witness has discoverable information,  
17 provided that the examining party's attorney may show a witness, who  
18 comes within the description of Section C(1)(b) above, this Protective  
19 Order and Exhibit A thereto and have them orally agree to Exhibit A.

20           **D. RESTRICTIONS ON THE USE AND**  
21           **DISCLOSURE OF CONFIDENTIAL**  
22           **INFORMATION**

23           1. Any information designated as Confidential  
24 Information shall not be made available or disclosed to any person other  
25 than the Qualified Persons identified in Section C. Persons who, by  
26 virtue of the conduct of this litigation, have knowledge of the designated  
27 Confidential Information shall not suffer or permit its disclosure or that



1 that agreement cannot be reached, the party seeking to show the  
2 Confidential Information shall apply to the Court for relief from this  
3 Protective Order.

4 **E. NON-APPLICABILITY TO THE TRIAL OF THIS**  
5 **ACTION**

6 The terms of this Order shall continue to apply during the  
7 time period in which the trial of this action occurs, but shall not apply to  
8 the trial itself. Any party may, at or before the time of trial, seek an  
9 Order of the Court to restrict access to particular documents or testimony  
10 in the trial.

11 **F. NO ADMISSION OR WAIVERS**

12 The execution of this Order shall not:

13 1. constitute a waiver of any party's right to seek from the  
14 Court at a future time an order which provides greater, lesser or no  
15 restriction of access to Confidential documents or information; or

16 2. be construed as an admission or agreement that any  
17 document or information designated as Confidential is, in fact,  
18 confidential or otherwise entitled to any protective relief whatsoever.

19 **G. INADVERTENT DISCLOSURE**

20 Inadvertent disclosure of documents or information claimed  
21 to be privileged or protected by the producing party shall be treated  
22 according to the requirements of FRCP 26(b)(5)(B).

23 **H. RETURN OF DOCUMENTS**

24 1. The parties shall destroy any such documents produced  
25 to it by the other party within sixty (60) days of final termination of this  
26 litigation. Nothing in this paragraph would require a party to destroy its  
27 own documents.

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**IT IS SO ORDERED.**

DATED: March 28, 2011

**ARTHUR NAKAZATO**

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Hon. Arthur Nakazato  
Magistrate Judge, U.S. District Court

1 **EXHIBIT A**

2  
3 JAMES M. HANSEN, ESQ. (SBN 180177)  
4 THOMAS M. RUTHERFORD, JR., ESQ. (SBN 192242)  
5 **WILLIS DEPASQUALE, LLP**  
6 725 W. Town & Country Road, Suite 550  
7 Orange, California 92868  
8 Tel : (714) 544-6000  
9 Fax : (714) 544-6202  
10 Email : [jhansen@wdlegal.net](mailto:jhansen@wdlegal.net)  
11 Email : [trutherford@wdlegal.net](mailto:trutherford@wdlegal.net)

12 Attorneys for Defendant,  
13 **BSH HOME APPLIANCES CORPORATION**

14  
15 **IN THE UNITED STATES DISTRICT COURT**  
16 **CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**  
17

18 DIANA TAIT and NANCY  
19 WENTWORTH, individually and on  
20 behalf of all others similarly situated,

21 Plaintiffs,

22 vs.

23 BSH HOME APPLIANCES  
24 CORPORATION, a Delaware  
25 Corporation,

26 Defendant.

27 ) Case No. SACV10-711 CJC (ANx)  
28 ) **STIPULATION AND PROTECTIVE  
ORDER RE USE OF  
CONFIDENTIAL DOCUMENTS  
AND INFORMATION**

Assigned to:  
District Judge: Cormac J. Carney  
Discovery Magistrate Judge: Arthur  
Nakazato

29 I hereby certify that I have carefully read the Stipulation and Protective  
30 Order Re Use of Confidential Documents and Information in the above-captioned  
31 case, and that I fully understand the terms of the Court's Order. I recognize that I

1 am bound by the terms of that Order, and I agree to comply with those terms. I  
2 hereby consent to be subject to the personal jurisdiction of the United States  
3 District Court for the Central District of California in respect to any proceedings  
4 relative to the enforcement of that Order, including any proceeding related to  
5 contempt of Court.

6 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2011. Executed at  
7 \_\_\_\_\_ (city and state).

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\_\_\_\_\_ Print Name

\_\_\_\_\_ Signature

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**PROOF OF SERVICE**

STATE OF CALIFORNIA     }  
  }  
COUNTY OF ORANGE

I am employed in the County of Orange, State of California, I am over the age of 18 years and not a party to the within action; my business address is 725 W. Town & Country Road, Suite 550 Orange, California.

On this date, I served the foregoing document described as:

**[PROPOSED] PROTECTIVE ORDER RE USE OF CONFIDENTIAL DOCUMENTS AND INFORMATION**

Said document was served on the interested party or parties in this action by placing a true copy thereof, enclosed in a sealed envelope, and addressed as noted below.

I am familiar with our firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Orange, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one working day after the date of deposit for mailing in this declaration.

\_\_\_ (By Mail) I deposited such envelope in the mail at Orange, California. The envelope was mailed with postage thereon fully prepaid.

\_\_\_ (By Facsimile) In addition to regular mail, I sent this document via facsimile, number(s) as listed on the attached mailing list.

XX (By ECF) (E-Service) I caused said document(s) to be transmitted electronically to the interested parties pursuant to the ECF Service List.

\_\_\_ (By Personal Service) Such envelope was delivered by hand to the below addressee.

\_\_\_ (By Overnight Mail) I arranged for such envelope was delivered to the following addresses by overnight mail.

Executed on March 28, 2011, at Orange, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. I further declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

/s/ Donnal J. Hunt

1 **MAILING LIST**

2 Case Name : TAIT and WENTWORTH v. BSH HOME APPLIANCES  
3 CORPORATION  
4 Court : USDC – SOUTHERN DIVISION  
5 Case No. : SACV10-711 CJC (ANx)

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