

THARPE & HOWELL, LLP  
15250 Ventura Boulevard, Ninth Floor  
Sherman Oaks, California 91403-3221

1 CHARLES D. MAY, ESQ.; STATE BAR NO.: 129663  
DIANA M. RIVERA, ESQ.; STATE BAR NO.: 222025

2 **THARPE & HOWELL, LLP**  
3 **15250 Ventura Blvd., Ninth Floor**  
4 **Sherman Oaks, California 91403**  
5 **(818) 205-9955; (818) 205-9944 fax**  
6 **E-Mail: [cmay@tharpe-howell.com](mailto:cmay@tharpe-howell.com)**  
7 **E-Mail: [drivera@tharpe-howell.com](mailto:drivera@tharpe-howell.com)**

8 Attorneys for Defendants,  
9 LOWE’S HOME CENTERS, LLC

10 UNITED STATES DISTRICT COURT  
11 EASTERN DISTRICT OF CALIFORNIA – FRESNO DIVISION

12 BRANDI DAVIES,  
13 Plaintiff(s),  
14 v.  
15 LOWE’S HOME IMPROVEMENT,  
16 LLC; and DOES 1 through 20,  
17 Inclusive,  
18 Defendant(s).

19 Case No.: 1:16-cv-01219-AWI-MJS  
20 **PROTECTIVE ORDER**

21 Plaintiff BRANDI DAVIES (“Plaintiff”) and Defendant LOWE’S HOME  
22 CENTERS, LLC (“Defendant”) jointly submit this Proposed Order pursuant to  
23 Federal Rules of Civil Procedure, Rule 26(c)(1) limiting the use and disposition of  
24 certain information and documents during litigation of this matter.

25 **Good Cause Statement**

26 Federal Rules of Civil Procedure, Rule 26(c)(1) states in pertinent part, that  
27 the Court, upon a showing of good cause may “issue an order to protect a party from  
28 annoyance, embarrassment, oppression, or undue burden or expense.” Fed.R.Civ.P.  
26(c)(1). In the instant matter, Defendant’s Confidential Documents (as later defined  
herein) contain proprietary and confidential trade secret information relating to

1 Defendant's business practices and its safety protocol. Defendant derives  
2 independent economic value from maintaining the confidentiality of the policies and  
3 procedures set forth in these Confidential Documents.

4 Defendant is a retailer in the home improvement industry and has conducted  
5 business in California since 1998. The home improvement retail industry is very  
6 competitive. As a result of years of investing time and money in research and  
7 investigation, defendant developed the policies contained in the Confidential  
8 Documents for the purposes of maintaining the security and accessibility of its  
9 merchandise, providing quality customer service, and ensuring the safety of its  
10 employees and customers. These policies and procedures, as memorialized in the  
11 Confidential Documents, were created and generated by Lowe's for Lowe's, and are  
12 used for the purposes of maintaining safety at its stores and creating efficient and  
13 organized work environments for its employees. As a result, Defendant is able to  
14 minimize the waste of any resources, which is a key factor in generating profitability  
15 for its business.

16 Defendant derives economic value from maintaining the secrecy of its  
17 Confidential Documents. If disclosed to the public, the trade secret information  
18 contained in Defendant's Confidential Documents would reveal Defendant's internal  
19 operations and could potentially be used by competitors as a means to compete for  
20 its customers, interfere with its business plans and thereby gain unfair business  
21 advantages. If Defendant's safety protocol were revealed to the general public, it  
22 would hinder Defendant's ability to effectively resolve and minimize liability claims,  
23 and its goal of protecting its customers and employees from theft and other crimes.  
24 Unrestricted or unprotected disclosure of such information would result in prejudice  
25 or harm to Defendant by revealing Lowe's competitive confidential information,  
26 which has been developed at the expense of Lowe's and which represents valuable  
27 tangible and intangible assets. An order of the Court is needed in this case to enable  
28 the Court to enforce the stipulated agreement between the parties in the event of

1 violation of such agreement by either party. Accordingly, the parties respectfully  
2 submit that there is good cause for the entry of a Protective Order in this case.

3 The parties having agreed to the following terms governing the treatment of  
4 confidential information, and the Court having found that good cause exists for  
5 issuance of an appropriately-tailored confidentiality order governing the pre-trial  
6 phase of this action, it is HEREBY ORDERED as follows:

7 1. All documents produced or information disclosed and any other  
8 documents or records designated as “CONFIDENTIAL” by the Defendant shall be  
9 revealed only to a settlement officer, Plaintiff, counsel of record in this case,  
10 paralegals and secretarial employees under counsel’s direct supervision, and such  
11 persons as are employed by counsel to act as experts in this action. The information  
12 designated as “CONFIDENTIAL” and disclosed only in accord with the terms of  
13 this paragraph may include, without limitation, documents and information  
14 containing Defendant’s policies and procedures, as well as personnel records,  
15 including disciplinary records, identity, information relating to the processes,  
16 operations, type of work, or apparatus, or the production, sales, shipments, transfers,  
17 identification of customers, inventories, amount or source of income, profits, losses,  
18 expenditures, or any research, development, or any other commercial information  
19 supplied by the Defendant in response to Plaintiff’s Interrogatories or Requests for  
20 Production (collectively, the “Confidential Documents”). Information and  
21 documentation considered “CONFIDENTIAL” are subject to protection under Civil  
22 Local Rule 141.1 of the U.S. District Court – Eastern District of California, Rule 26  
23 of the Federal Rules of Civil Procedure, and under other provisions of Federal law.

24 2. Counsel for Plaintiff shall use all documents and information produced  
25 or disclosed by the Defendant solely for the purposes of preparation for and trial of  
26 this action. Under no circumstances shall information or materials covered by this  
27 Protective Order be disclosed to anyone other than Plaintiff’s counsel of record in  
28 this action, paralegals, secretarial employees under counsel’s direct supervision, and

1 such  
2 persons employed to act as experts in this action. At the conclusion of the  
3 proceedings in this action, all documents and information subject to this Order,  
4 including any copies or extracts or summaries thereof, or documents containing  
5 information taken therefrom, shall be returned to counsel for the Defendant, at  
6 defense counsel's written request.

7 3. Prior to disclosure of any documents designated as "confidential" to  
8 paralegals or secretarial employees of counsel or Plaintiff, counsel for Plaintiff shall  
9 require such employees to read this Protective Order and agree to be bound by its  
10 terms.

11 4. If counsel for Plaintiff determines that for purposes of this action,  
12 documents or information produced by the Defendant and designated as  
13 "confidential" must be revealed to a person employed to act as an expert in this  
14 action, then counsel may reveal the designated documents or information to such  
15 person, after first complying with the following:

16 (a) Counsel for the Plaintiff shall have the expert read this Order and shall  
17 explain the contents thereof to such expert.

18 (b) Counsel for the Plaintiff shall require such expert to sign a copy of this  
19 protective order that states: "I have read and understood the terms of  
20 this protective order. I further agree to be bound by its terms." Nothing  
21 in this paragraph shall be deemed to enlarge the right of Defendant to  
22 conduct discovery of any of Plaintiff's experts, except solely with  
23 respect to the ability of such expert to protect confidential information  
24 and documents from re-disclosure.

25 5. In accordance with Local Rule 141.1, any papers that are the subject of  
26 a protective order may be filed under seal if a sealing order is obtained in compliance  
27 with Local Rule 141.

28 6. The Court's Order is subject to revocation and modification by Order of

1 the Court upon written stipulation of the parties, or upon motion and reasonable  
2 notice, including opportunity for hearing and presentation of evidence.

3 7. Nothing contained in this Order is intended or should be construed as  
4 authorizing a party in this action to disobey a lawful subpoena issued in another  
5 action.

6  
7 **FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

8  
9 IT IS SO ORDERED.

10  
11 Dated: June 1, 2017

/s/ Michael J. Seng  
UNITED STATES 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

I:\27000-000\27759\Discovery\Federal\Proposed Order.docx

## PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**
2. My business address is 15250 Ventura Boulevard, Ninth Floor, Sherman Oaks, CA 91403.
3. I served copies of the following documents (specify the exact title of each document served):

### [PROPOSED] PROTECTIVE ORDER

4. I served the documents listed above in item 3 on the following persons at the addresses listed:

Sally Chenault, Esq. CHENAULT LAW 67 Linoberg Street, Suite #B Sonora, CA 95370 (209) 694-3200; (209) 694-3201 – Fax <a href="mailto:sally@chenaultlaw.com">sally@chenaultlaw.com</a>	Attorneys for Plaintiff, BRANDI DAVIES
Steven L. Rodriguez, Esq. RODRIGUEZ LAW, APC 26565 W. Agoura Road, Suite 200 Calabasas, CA 91302 (818) 925-0054 <a href="mailto:steve@rodriguezlawapc.com">steve@rodriguezlawapc.com</a>	Associated Counsel for Plaintiff, BRANDI DAVIES

5. a.  **By personal service.** I personally delivered the documents on the date shown below to the persons at the addresses listed above in item 4. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an individual in charge of the office. (2) For a party delivery was made to the party or by leaving the documents at the party's residence between the hours of eight in the morning and six in the evening with some person not less than 18 years of age.
- b.  **By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 4 and (*specify one*):
  - (1)  deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid on the date shown below, or

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

(2) X placed the envelope for collection and mailing on the date shown below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Sherman Oaks, California.

- c.        **By overnight delivery.** I enclosed the documents on the date shown below in an envelope or package provided by an overnight delivery carrier and addressed to the person at the addresses in item 4. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- d.        **By messenger service.** I served the documents on the date shown below by placing them in an envelope or package addressed to the person on the addresses listed in item 4 and providing them to a professional messenger service for service.
- e.        **By fax transmission.** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents on the date shown below to the fax numbers of the persons listed in item 4. No error was reported by the fax machine that I used. A copy of the fax transmission, which I printed out, is attached to my file copy.
- f.        **By e-mail or electronic transmission.** Based on an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent on the date shown below to the e-mail addresses of the persons listed in item 4. I did not receive within a reasonable time after the transmission any electronic message or other indication that the transmission was unsuccessful.

6. I served the documents by the means described in item 5 on *(date): 5/26/17*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

5/26/17	Amy Eivazian	
DATE	(TYPE OR PRINT NAME)	(SIGNATURE OF DECLARANT)

I:\27000-000\27759\Discovery\Federal\Proposed Order.docx

THARPE & HOWELL, LLP  
15250 Ventura Boulevard, Ninth Floor  
Sherman Oaks, California 91403-3221

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