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 VICTOR FADAYEL

14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA

17 VICTOR FADAYEL,
 18 Plaintiff,
 19 vs.
 20 HOME DEPOT U.S.A., INC.; and
 DOES 1 to 10, inclusive,
 21 Defendants.

Case No. 4:24-cv-03679-HSG
STIPULATED PROTECTIVE ORDER
 Action Filed: April 8, 2024 Trial
 Date: December 8, 2025

23 1. PURPOSES AND LIMITATIONS

24 Disclosure and discovery activity in this action are likely to involve production of
 25 confidential, proprietary, or private information for which special protection from public
 26 disclosure and from use for any purpose other than prosecuting this litigation may be
 27 warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the
 28 following Stipulated Protective Order. The parties acknowledge that this Order does not

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

9 2. DEFINITIONS

10 2.1 Challenging Party: a Party or Non-Party that challenges the designation of
11 information or items under this Order.

12 2.2 “CONFIDENTIAL” Information or Items: information (regardless of how
13 it is generated, stored or maintained) or tangible things that qualify for protection under
14 Federal Rule of Civil Procedure 26(c).

15 2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel
16 (as well as their support staff).

17 2.4 Designating Party: a Party or Non-Party that designates information or
18 items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

19 2.5 Disclosure or Discovery Material: all items or information, regardless of
20 the medium or manner in which it is generated, stored, or maintained (including, among
21 other things, testimony, transcripts, and tangible things), that are produced or generated in
22 disclosures or responses to discovery in this matter.

23 2.6 Expert: a person with specialized knowledge or experience in a matter
24 pertinent to the litigation who has been retained by a Party or its counsel to serve as an
25 expert witness or as a consultant in this action.

26 2.7 House Counsel: attorneys who are employees of a party to this action.
27 House Counsel does not include Outside Counsel of Record or any other outside counsel.

28 2.8 Non-Party: any natural person, partnership, corporation, association, or

1 other legal entity not named as a Party to this action.

2 2.9 Outside Counsel of Record: attorneys who are not employees of a party to
3 this action but are retained to represent or advise a party to this action and have appeared
4 in this action on behalf of that party or are affiliated with a law firm which has appeared
5 on behalf of that party.

6 2.10 Party: any party to this action, including all of its officers, directors,
7 employees, consultants, retained experts, and Outside Counsel of Record (and their
8 support staffs).

9 2.11 Producing Party: a Party or Non-Party that produces Disclosure or
10 Discovery Material in this action.

11 2.12 Professional Vendors: persons or entities that provide litigation support
12 services (e.g., photocopying, videotaping, translating, preparing exhibits or
13 demonstrations, and organizing, storing, or retrieving data in any form or medium) and
14 their employees and subcontractors.

15 2.13 Protected Material: any Disclosure or Discovery Material that is designated
16 as “CONFIDENTIAL.”

17 2.14 Receiving Party: a Party that receives Disclosure or Discovery Material
18 from a Producing Party.

19 3. SCOPE

20 The protections conferred by this Stipulation and Order cover not only Protected
21 Material (as defined above), but also (1) any information copied or extracted from
22 Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected
23 Material; and (3) any testimony, conversations, or presentations by Parties or their
24 Counsel that might reveal Protected Material. However, the protections conferred by this
25 Stipulation and Order do not cover the following information: (a) any information that is
26 in the public domain at the time of disclosure to a Receiving Party or becomes part of the
27 public domain after its disclosure to a Receiving Party as a result of publication not
28 involving a violation of this Order, including becoming part of the public record through

1 trial or otherwise; and (b) any information known to the Receiving Party prior to the
2 disclosure or obtained by the Receiving Party after the disclosure from a source who
3 obtained the information lawfully and under no obligation of confidentiality to the
4 Designating Party. Any use of Protected Material at trial shall be governed by a separate
5 agreement or order.

6 4. DURATION

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

14 5. DESIGNATING PROTECTED MATERIAL

15 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each
16 Party or Non-Party that designates information or items for protection under this Order
17 must take care to limit any such designation to specific material that qualifies under the
18 appropriate standards. The Designating Party must designate for protection only those
19 parts of material, documents, items, or oral or written communications that qualify – so
20 that other portions of the material, documents, items, or communications for which
21 protection is not warranted are not swept unjustifiably within the ambit of this Order.

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

27 If it comes to a Designating Party's attention that information or items that it
28 designated for protection do not qualify for protection, that Designating Party must

1 promptly notify all other Parties that it is withdrawing the mistaken designation.

2 5.2 Manner and Timing of Designations. Except as otherwise provided in this
3 Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or
4 ordered, Disclosure or Discovery Material that qualifies for protection under this Order
5 must be clearly so designated before the material is disclosed or produced.

6 Designation in conformity with this Order requires:

7 (a) For information in documentary form (e.g., paper or electronic documents, but
8 excluding transcripts of depositions or other pretrial or trial proceedings), that the
9 Producing Party affix the legend “CONFIDENTIAL” to each page that contains
10 protected material. If only a portion or portions of the material on a page qualifies for
11 protection, the Producing Party also must clearly identify the protected portion(s) (e.g.,
12 by making appropriate markings in the margins).

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

24 (b) for testimony given in deposition or in other pretrial or trial proceedings, that
25 the Designating Party identify on the record, before the close of the deposition, hearing,
26 or other proceeding, all protected testimony.

27 (c) for information produced in some form other than documentary and for any
28 other tangible items, that the Producing Party affix in a prominent place on the exterior of

1 the container or containers in which the information or item is stored the legend
2 “CONFIDENTIAL.” If only a portion or portions of the information or item warrant
3 protection, the Producing Party, to the extent practicable, shall identify the protected
4 portion(s).

5 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure
6 to designate qualified information or items does not, standing alone, waive the
7 Designating Party’s right to secure protection under this Order for such material. Upon
8 timely correction of a designation, the Receiving Party must make reasonable efforts to
9 assure that the material is treated in accordance with the provisions of this Order.

10 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

11 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation
12 of confidentiality at any time. Unless a prompt challenge to a Designating Party’s
13 confidentiality designation is necessary to avoid foreseeable, substantial unfairness,
14 unnecessary economic burdens, or a significant disruption or delay of the litigation, a
15 Party does not waive its right to challenge a confidentiality designation by electing not to
16 mount a challenge promptly after the original designation is disclosed.

17 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution
18 process by providing written notice of each designation it is challenging and describing
19 the basis for each challenge. To avoid ambiguity as to whether a challenge has been
20 made, the written notice must recite that the challenge to confidentiality is being made in
21 accordance with this specific paragraph of the Protective Order. The parties shall attempt
22 to resolve each challenge in good faith and must begin the process by conferring directly
23 (in voice to voice dialogue; other forms of communication are not sufficient) within 14
24 days of the date of service of notice. In conferring, the Challenging Party must explain
25 the basis for its belief that the confidentiality designation was not proper and must give
26 the Designating Party an opportunity to review the designated material, to reconsider the
27 circumstances, and, if no change in designation is offered, to explain the basis for the
28 chosen designation. A Challenging Party may proceed to the next stage of the challenge

1 process only if it has engaged in this meet and confer process first or establishes that the
2 Designating Party is unwilling to participate in the meet and confer process in a timely
3 manner.

4 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court
5 intervention, the Designating Party shall file and serve a motion to retain confidentiality
6 under Civil Local Rule 7 (and in compliance with Civil Local Rule 79-5, if applicable)
7 within 21 days of the initial notice of challenge or within 14 days of the parties agreeing
8 that the meet and confer process will not resolve their dispute, whichever is earlier. Each
9 such motion must be accompanied by a competent declaration affirming that the movant
10 has complied with the meet and confer requirements imposed in the preceding paragraph.
11 Failure by the Designating Party to make such a motion including the required
12 declaration within 21 days (or 14 days, if applicable) shall automatically waive the
13 confidentiality designation for each challenged designation. In addition, the Challenging
14 Party may file a motion challenging a confidentiality designation at any time if there is
15 good cause for doing so, including a challenge to the designation of a deposition
16 transcript or any portions thereof. Any motion brought pursuant to this provision must be
17 accompanied by a competent declaration affirming that the movant has complied with the
18 meet and confer requirements imposed by the preceding paragraph.

19 The burden of persuasion in any such challenge proceeding shall be on the
20 Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to
21 harass or impose unnecessary expenses and burdens on other parties) may expose the
22 Challenging Party to sanctions. Unless the Designating Party has waived the
23 confidentiality designation by failing to file a motion to retain confidentiality as described
24 above, all parties shall continue to afford the material in question the level of protection
25 to which it is entitled under the Producing Party's designation until the court rules on the
26 challenge.

27 7. ACCESS TO AND USE OF PROTECTED MATERIAL

28 7.1 Basic Principles. A Receiving Party may use Protected Material that is

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

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

9 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise
10 ordered by the court or permitted in writing by the Designating Party, a Receiving Party
11 may disclose any information or item designated “CONFIDENTIAL” only to:

12 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as
13 employees of said Outside Counsel of Record to whom it is reasonably necessary to
14 disclose the information for this litigation and who have signed the “Acknowledgment
15 and Agreement to Be Bound” that is attached hereto as Exhibit A;

16 (b) the officers, directors, and employees (including House Counsel) of the
17 Receiving Party to whom disclosure is reasonably necessary for this litigation and who
18 have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

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

22 (d) the court and its personnel;

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

27 (f) during their depositions, witnesses in the action to whom disclosure is
28 reasonably necessary and who have signed the “Acknowledgment and Agreement to Be

1 Bound” (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the
2 court. Pages of transcribed deposition testimony or exhibits to depositions that reveal
3 Protected Material must be separately bound by the court reporter and may not be
4 disclosed to anyone except as permitted under this Stipulated Protective Order.

5 (g) the author or recipient of a document containing the information or a custodian
6 or other person who otherwise possessed or knew the information.

7 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
8 OTHER LITIGATION

9 If a Party is served with a subpoena or a court order issued in other litigation that
10 compels disclosure of any information or items designated in this action as
11 “CONFIDENTIAL,” that Party must:

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

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

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

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

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

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

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

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

15 (2) promptly provide the Non-Party with a copy of the Stipulated Protective Order
16 in this litigation, the relevant discovery request(s), and a reasonably specific description
17 of the information requested; and

18 (3) make the information requested available for inspection by the Non-Party.

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

27 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

28 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed

1 Protected Material to any person or in any circumstance not authorized under this
2 Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing
3 the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve
4 all unauthorized copies of the Protected Material, (c) inform the person or persons to
5 whom unauthorized disclosures were made of all the terms of this Order, and (d) request
6 such person or persons to execute the “Acknowledgment and Agreement to Be Bound”
7 that is attached hereto as Exhibit A.

8 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
9 PROTECTED MATERIAL

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

19 12. MISCELLANEOUS

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

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

27 12.3 Filing Protected Material. Without written permission from the Designating
28 Party or a court order secured after appropriate notice to all interested persons, a Party

1 may not file in the public record in this action any Protected Material. A Party that seeks
2 to file under seal any Protected Material must comply with Civil Local Rule 79-5.
3 Protected Material may only be filed under seal pursuant to a court order authorizing the
4 sealing of the specific Protected Material at issue. Pursuant to Civil Local Rule 79-5, a
5 sealing order will issue only upon a request establishing that the Protected Material at
6 issue is privileged, protectable as a trade secret, or otherwise entitled to protection under
7 the law. If a Receiving Party's request to file Protected Material under seal pursuant to
8 Civil Local Rule 79-5 is denied by the court, then the Receiving Party may file the
9 information in the public record pursuant to Civil Local Rule 79-5 unless otherwise
10 instructed by the court.

11 13. FINAL DISPOSITION

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

28 //

1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

2 **ECF CERTIFICATION**

3 I, Issa J. Michael, certify that the content of this document is acceptable to the
4 undersigned counsel of record to affix my electronic signature hereto.

5 Dated: January 24, 2025

THE MICHAEL LAW FIRM

6
7 By 

ISSA J. MICHAEL

8 Attorney for Plaintiff VICTOR FADAYEL
9

10 **ECF CERTIFICATION**

11 I, Ganette M. Genetti, certify that the content of this document is acceptable to the
12 undersigned counsel of record to affix my electronic signature hereto.

13 Dated: January 24, 2025

GOODMAN NEUMAN HAMILTON LLP

14
15 By 

ZACHARY S. TOLSON

GANETTE M. GENETTI

17 Attorneys for Defendant Home Depot U.S.A., Inc.
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19 PURSUANT TO STIPULATION, IT IS SO ORDERED.

20
21 DATED: 1/27/2025


United States District Judge

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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 Northern District of California on [date] in the case of _____ [insert
formal name of the case and the number and initials assigned to it by the court]. 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
Northern 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: _____