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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

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11 ROSEMARIE WALLACE,

12 Plaintiff,

13 v.

14 TARGET CORPORATION and DOES 1-50,  
15 inclusive,

16 Defendants.

Case No.: 22CV1513-MMA(BLM)

**ORDER GRANTING JOINT MOTION  
FOR PROTECTIVE ORDER WITH  
MODIFICATION**

**[ECF NO. 11]**

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18 On November 30, 2022, the parties filed a joint motion requesting that the Court enter  
19 the parties' Protective Order ECF No. 11. The Court has considered the attached Proposed  
20 Protective Order and, good cause shown, the joint motion is **GRANTED** with the following  
21 modification:

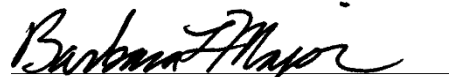
22 Paragraph 13 should read:

23 13. At any stage of these proceedings, any party may object to a designation of  
24 the materials as confidential information. The party objecting to confidentiality  
25 must notify, in writing, counsel for the designating party of the objected-to  
26 materials and the grounds for the objection. Thereafter, lead counsel (or attorneys  
27 with full authority to make decisions and bind the client without later seeking  
28 approval from a supervising attorney) must promptly meet and confer, pursuant  
to Local rule 26.1.a. If the dispute is not resolved within seven (7) days of receipt  
of the objections, and after counsel have thoroughly and completely met and  
conferred, the parties must place a joint call to the assigned magistrate judge's

1 chambers to explain the dispute and the parties' respective positions in accordance  
2 with Judge Major's Chambers Rules.<sup>1</sup> The materials at issue must be treated as  
3 confidential information, as designated by the designating party, until the Court  
has ruled on the objection or the matter has been otherwise resolved.

4 **IT IS SO ORDERED.**

5 Dated: 12/2/2022

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7 Hon. Barbara L. Major  
8 United States Magistrate Judge  
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27 <sup>1</sup> See Honorable Barbara Lynn Major U.S. Magistrate Judge, Chambers Rules-Civil Cases §  
28 V(A)-(F).

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**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

ROSEMARIE WALLACE, an individual,

Plaintiff,

v.

TARGET CORPORATION, a corporation,

Defendants.

Case No.: 3:22-cv-01513-MMA-BLM

**PROTECTIVE ORDER**

The Court recognizes that at least some of the documents and information (“materials”) being sought through discovery in the above-captioned action are, for competitive reasons, normally kept confidential by the parties. The parties have agreed to be bound by the terms of this Protective Order (“Order”) in this action.

The materials to be exchanged throughout the course of the litigation between the parties

1 may contain trade secret or other confidential research, technical, cost, price, marketing or other  
2 commercial information, as is contemplated by Federal Rule of Civil Procedure 26(c)(1)(G). The  
3 purpose of this Order is to protect the confidentiality of such materials as much as practical  
4 during the litigation. THEREFORE:

5 DEFINITIONS

6 1. The term "confidential information" will mean and include information contained  
7 or disclosed in any materials, including documents, portions of documents, answers to  
8 interrogatories, responses to requests for admissions, trial testimony, deposition testimony, and  
9 transcripts of trial testimony and depositions, including data, summaries, and compilations  
10 derived therefrom that is deemed to be confidential information by any party to which it belongs.

11 2. The term "materials" will include, but is not be limited to: documents;  
12 correspondence; memoranda; bulletins; blueprints; specifications; customer lists or other  
13 material that identify customers or potential customers; price lists or schedules or other matter  
14 identifying pricing; minutes; telegrams; letters; statements; cancelled checks; contracts;  
15 invoices; drafts; books of account; worksheets; notes of conversations; desk diaries;  
16 appointment books; expense accounts; recordings; photographs; motion pictures; compilations  
17 from which information can be obtained and translated into reasonably usable form through  
18 detection devices; sketches; drawings; notes (including laboratory notebooks and records);  
19 reports; instructions; disclosures; other writings; models and prototypes and other physical  
20 objects.

21 3. The term "counsel" will mean outside counsel of record, and other attorneys,  
22 paralegals, secretaries, and other support staff employed in the law firms identified below:

- 23 • SCHULZ BRICK & ROGASKI
- 24 • THE CLENDENIN FIRM, APC
- 25 • LAW OFFICES OF HOWARD ALAN KITAY

26 GENERAL RULES

27 4. Each party to this litigation that produces or discloses any materials, answers to  
28 interrogatories, responses to requests for admission, trial testimony, deposition testimony, and

1 transcripts of trial testimony and depositions, or information that the producing party believes  
2 should be subject to this Protective Order may designate the same as "CONFIDENTIAL" or  
3 "CONFIDENTIAL – FOR COUNSEL ONLY."

4 a. Designation as "CONFIDENTIAL": Any party may designate information as  
5 "CONFIDENTIAL" only if, in the good faith belief of such party and its counsel, the unrestricted  
6 disclosure of such information could be potentially prejudicial to the business or operations of  
7 such party.

8 b. Designation as "CONFIDENTIAL – FOR COUNSEL ONLY": Any party may designate  
9 information as "CONFIDENTIAL – FOR COUNSEL ONLY" only if, in the good faith belief of such  
10 party and its counsel, the information is among that considered to be most sensitive by the  
11 party, including but not limited to trade secret or other confidential research, development,  
12 financial or other commercial information.

13 5. In the event the producing party elects to produce materials for inspection, no  
14 marking need be made by the producing party in advance of the initial inspection. For purposes  
15 of the initial inspection, all materials produced will be considered as "CONFIDENTIAL – FOR  
16 COUNSEL ONLY," and must be treated as such pursuant to the terms of this Order. Thereafter,  
17 upon selection of specified materials for copying by the inspecting party, the producing party  
18 must, within a reasonable time prior to producing those materials to the inspecting party, mark  
19 the copies of those materials that contain confidential information with the appropriate  
20 confidentiality marking.

21 6. Whenever a deposition taken on behalf of any party involves a disclosure of  
22 confidential information of any party:

23 a. the deposition or portions of the deposition must be designated as  
24 containing confidential information subject to the provisions of this Order; such designation must  
25 be made on the record whenever possible, but a party may designate portions of depositions as  
26 containing confidential information after transcription of the proceedings; [A] party will have  
27 until fourteen (14) days after receipt of the deposition transcript to inform the other party or  
28 parties to the action of the portions of the transcript to be designated "CONFIDENTIAL" or

1 "CONFIDENTIAL – FOR COUNSEL ONLY."

2 b. the disclosing party will have the right to exclude from attendance at the  
3 deposition, during such time as the confidential information is to be disclosed, any person other  
4 than the deponent, counsel (including their staff and associates), the court reporter, and the  
5 person(s) agreed upon pursuant to paragraph 8 below; and

6 c. the originals of the deposition transcripts and all copies of the deposition  
7 must bear the legend "CONFIDENTIAL" or "CONFIDENTIAL – FOR COUNSEL ONLY," as  
8 appropriate, and the original or any copy ultimately presented to a court for filing must not be  
9 filed unless it can be accomplished under seal, identified as being subject to this Order, and  
10 protected from being opened except by order of this Court.

11 7. All confidential information designated as "CONFIDENTIAL" or "CONFIDENTIAL  
12 FOR COUNSEL ONLY" must not be disclosed by the receiving party to anyone other than those  
13 persons designated within this order and must be handled in the manner set forth below and,  
14 in any event, must not be used for any purpose other than in connection with this litigation,  
15 unless and until such designation is removed either by agreement of the parties, or by order of  
16 the Court.

17 8. Information designated "CONFIDENTIAL – FOR COUNSEL ONLY" must be viewed  
18 only by counsel (as defined in paragraph 3) of the receiving party, and by independent experts  
19 under the conditions set forth in this Paragraph. The right of any independent expert to receive  
20 any confidential information will be subject to the advance approval of such expert by the  
21 producing party or by permission of the Court. The party seeking approval of an independent  
22 expert must provide the producing party with the name and curriculum vitae of the proposed  
23 independent expert, and an executed copy of the form attached hereto as Exhibit A, in advance  
24 of providing any confidential information of the producing party to the expert. Any objection by  
25 the producing party to an independent expert receiving confidential information must be made  
26 in writing within fourteen (14) days following receipt of the identification of the proposed expert.  
27 Confidential information may be disclosed to an independent expert if the fourteen (14) day  
28 period has passed and no objection has been made. The approval of independent experts must

1 not be unreasonably withheld.

2 9. Information designated "confidential" must be viewed only by counsel (as defined  
3 in paragraph 3) of the receiving party, by independent experts (pursuant to the terms of  
4 paragraph 8), by court personnel, and by the additional individuals listed below, provided each  
5 such individual has read this Order in advance of disclosure and has agreed in writing to be  
6 bound by its terms:

7 a. Executives who are required to participate in policy decisions with reference  
8 to this action;

9 b. Technical personnel of the parties with whom Counsel for the parties find it  
10 necessary to consult, in the discretion of such counsel, in preparation for trial of this action; and

11 c. Stenographic and clerical employees associated with the individuals  
12 identified above.

13 10. With respect to material designated "CONFIDENTIAL" or "CONFIDENTIAL – FOR  
14 COUNSEL ONLY," any person indicated on the face of the document to be its originator, author  
15 or a recipient of a copy of the document, may be shown the same.

16 11. All information which has been designated as "CONFIDENTIAL" or "CONFIDENTIAL  
17 -FOR COUNSEL ONLY" by the producing or disclosing party, and any and all reproductions of  
18 that information, must be retained in the custody of the counsel for the receiving party identified  
19 in paragraph 3, except that independent experts authorized to view such information under the  
20 terms of this Order may retain custody of copies such as are necessary for their participation in  
21 this litigation.

22 12. Before any materials produced in discovery, answers to interrogatories, responses  
23 to requests for admissions, deposition transcripts, or other documents which are designated as  
24 confidential information are filed with the Court for any purpose, the party seeking to file such  
25 material must seek permission of the Court to file the material under seal. No party may file any  
26 document under seal, except pursuant to a court order that authorizes the filing of the document  
27 under seal, except pursuant to a court order that authorizes the filing of the document, or portion  
28 of the document, under seal. A sealing order will issue only upon a showing that the information

1 is privileged or protectable under the law. The party seeking to file under seal must limit its  
2 sealing request to the specific portion of the document that contains the confidential or privileged  
3 material.

4 13. At any stage of these proceedings, any party may object to a designation of the  
5 materials as confidential information. The party objecting to confidentiality must notify, in  
6 writing, counsel for the designating party of the objected-to materials and the grounds for the  
7 objection. Thereafter, lead counsel (or attorneys with full authority to make decisions and bind  
8 the client without later seeking approval from a supervising attorney) must promptly meet and  
9 confer, pursuant to Local rule 26.1.a. If the dispute is not resolved within seven (7) days of  
10 receipt the objections, and after counsel have thoroughly and completely met and conferred,  
11 the parties must place a joint call to the assigned magistrate judge's chambers to explain the  
12 dispute and the parties' respective positions. The materials at issue must be treated as  
13 confidential information, as designated by the designating party, until the Court has ruled on  
14 the objection or the matter has been otherwise resolved.

15 14. All confidential information must be held in confidence by those inspecting or  
16 receiving it and must be used only for purposes of this action. Counsel for each party, and each  
17 person receiving confidential information must take reasonable precautions to prevent the  
18 unauthorized or inadvertent disclosure of such information. If confidential information is  
19 disclosed to any person other than a person authorized by this Order, the party responsible for  
20 the unauthorized disclosure must immediately bring all pertinent facts relating to the  
21 unauthorized disclosure to the attention of the other parties and, without prejudice to any rights  
22 and remedies of the other parties, make every effort to prevent further disclosure by the party  
23 and by the person(s) receiving the unauthorized disclosure.

24 15. No party will be responsible to another party for disclosure of confidential  
25 information under this Order if the information in question is not labeled or otherwise identified  
26 as such in accordance with this Order.

27 16. If a party, through inadvertence, produces any confidential information without  
28 labeling or marking or otherwise designating it as such in accordance with this Order, the



1 designating party may give written notice to the receiving party that the document or thing  
2 produced is deemed confidential information, and that the document or thing produced should  
3 be treated as such in accordance with that designation under this Order. The receiving party  
4 must treat the materials as confidential, once the designating party so notifies the receiving  
5 party. If the receiving party has disclosed the materials before receiving the designation, the  
6 receiving party must notify the designating party in writing of each such disclosure. Counsel for  
7 the parties will agree on a mutually acceptable manner of labeling or marking the inadvertently  
8 produced materials as "CONFIDENTIAL" or "CONFIDENTIAL – FOR COUNSEL ONLY" – SUBJECT  
9 TO PROTECTIVE ORDER.

10 17. Nothing within this order will prejudice the right of any party to object to the  
11 production of any discovery material on the grounds that the material is protected as privileged  
12 or as attorney work product.

13 18. Nothing in this Order will bar counsel from rendering advice to their clients with  
14 respect to this litigation and, in the course thereof, relying upon any information designated as  
15 confidential information, provided that the contents of the information must not be disclosed.

16 19. This Order will be without prejudice to the right of any party to oppose production  
17 of any information for lack of relevance or any other ground other than the mere presence of  
18 confidential information. The existence of this Order must not be used by either party as a basis  
19 for discovery that is otherwise improper under the Federal Rules of Civil Procedure.

20 20. Nothing within this order will be construed to prevent disclosure of confidential  
21 information if such disclosure is required by law or by order of the Court.

22 21. Upon final termination of this action, including any and all appeals, counsel for  
23 each party must, upon request of the producing party, return all confidential information to the  
24 party that produced the information, including any copies, excerpts, and summaries of that  
25 information, or must destroy same at the option of the receiving party, and must purge all such  
26 information from all machine-readable media on which it resides. Notwithstanding the foregoing,  
27 counsel for each party may retain all pleadings, briefs, memoranda, motions, and other  
28 documents filed with the Court that refer to or incorporate confidential information, and will

1 continue to be bound by this Order with respect to all such retained information. Further,  
2 attorney work product materials that contain confidential information need not be destroyed,  
3 but, if they are not destroyed, the person in possession of the attorney work product will  
4 continue to be bound by this Order with respect to all such retained information.

5 22. The restrictions and obligations set forth within this order will not apply to any  
6 information that: (a) the parties agree should not be designated confidential information; (b)  
7 the parties agree, or the Court rules, is already public knowledge; (c) the parties agree, or the  
8 Court rules, has become public knowledge other than as a result of disclosure by the receiving  
9 party, its employees, or its agents in violation of this Order; or (d) has come or will come into  
10 the receiving party's legitimate knowledge independently of the production by the designating  
11 party. Prior knowledge must be established by pre-production documentation.

12 23. The restrictions and obligations within this order will not be deemed to prohibit  
13 discussions of any confidential information with anyone if that person already has or obtains  
14 legitimate possession of that information.

15 24. Transmission by email or some other currently utilized method of transmission is  
16 acceptable for all notification purposes within this Order.

17 25. This Order may be modified by agreement of the parties, subject to approval by  
18 the Court.

19 26. The Court may modify the terms and conditions of this Order for good cause, for  
20 public policy reasons, or in the interest of justice, or on its own order at any time in these  
21 proceedings. The parties prefer that the Court provide them with notice of the Court's intent to  
22 modify the Order and the content of those modifications, prior to entry of such an order.

23 27. Before any materials produced in discovery, answers to interrogatories, responses  
24 to requests for admissions, deposition transcripts, or other documents which are designated as  
25 Confidential Information are filed with the Court for any purpose, the party seeking to file such  
26 material must seek permission of the Court to file the material under seal. No document may be  
27 filed under seal, i.e., closed to inspection by the public except pursuant to a Court order that  
28 authorizes the sealing of the particular document, or portions of it. A sealing order may issue

1 only upon a showing that the information is privileged or protectable under the law. The request  
2 must be narrowly tailored to seek sealing only of the confidential or privileged material. To file  
3 a document under seal, the parties must comply with the procedures explained in Section 2.j of  
4 the Electronic Case Filing Administrative Policies and Procedures Manual for the United States  
5 District Court for the Southern District of California and Civil Local Rule 79.2. In addition, in  
6 accordance with Judge Major's preferences, a party must file a 'public' version of any document  
7 that it seeks to file under seal. In the public version, the party may redact only that information  
8 that is deemed 'Confidential.' The party should file the redacted document(s) simultaneously  
9 with a joint motion or ex parte application requesting that the confidential portions of the  
10 document(s) be filed under seal and setting forth good cause for the request."

11           28. The Court may modify the terms and conditions of the Order for good cause, or in  
12 the interest of justice, or on its own order at any time during these proceedings.

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