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The Home Depot U.S.A, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

WILLIAM J. PASIECZNIK,

Plaintiff,

v.

HOME DEPOT U.S.A., INC.; a foreign Corporation authorized to conduct business in Nevada; DOE PROPERTY OWNER; ROE PROPERTY OWNER; DOHOME DEPOT U.S.A., INC.; a foreign Corporation authorized to conduct business in Nevada; DOE PROPERTY OWNER; ROE PROPERTY OWNER; DOE PROPERTY MANAGER; ROE PROPERTY MANAGEMENT COMPANY; DOE SECURITY EMPLOYEE; ROE SECURITY COMPANY; DOES I through X; and ROE CORPORATIONS XI through XX, inclusive, jointly and severally,

Defendants.

CASE NO.: 2:20-CV-02202 RFB-BNW

CONFIDENTIALITY STIPULATION AND PROTECTIVE ORDER

The discovery sought by the parties in the above-styled case is likely to involve production of documents and things containing business, competitive, proprietary, trade secret or other information of a sensitive nature about the party (or of another person which information the party is under a duty to maintain in confidence), hereafter referred to as "Confidential Information," and witness testimony containing Confidential Information.

1 Accordingly, the parties having agreed to enter into this Confidentiality Stipulation and
2 Protective Order (“the Order”) to govern the production of documents and testimony that
3 contains Confidential Information, and for good cause shown, the Court hereby ORDERS as
4 follows:

5 **Designation of Confidential Information.**

6 1. Designation of Material. Documents and other things claimed to be or to contain
7 Confidential Information shall, prior to production, be marked by the producing party as
8 “Confidential.” Placement of the “Confidential” designation on each protected page or on the
9 initial page of a protected document when it is produced shall constitute notice and shall
10 designate the document as Confidential material. Copies, extracts, summaries, notes, and other
11 derivatives of Confidential material also shall be deemed Confidential material and shall be
12 subject to the provisions of this Order.

13 2. Subsequent Designation. Documents and/or materials produced in the litigation
14 that are not identified as Confidential Information when they were initially produced may
15 within a reasonable time thereafter be designated as Confidential by the producing party, or by
16 the party or parties receiving the production, or by a person, by providing written notice to
17 counsel for all other parties and to any person who may be involved. Each party or person who
18 receives such written notice shall endeavor to retrieve any Confidential Information that may
19 have been disseminated, shall affix a “Confidential” designation to it, and shall thereafter
20 distribute it only as allowed by this Order. No distribution prior to the receipt of such written
21 notice shall be deemed a violation of this Order.

22 3. Designation of Depositions. Depositions or portions thereof upon oral or written
23 questions may be classified as Confidential Information either by an examining party's attorney
24 or by an attorney defending or attending the deposition. A party claiming that a deposition or
25 any portion thereof is Confidential Information shall give notice of such claim to the other
26 affected parties and persons either prior to or during the deposition, or within twenty-eight (28)
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1 days after receipt of the deposition transcript, and the testimony taken and the transcript of such
2 deposition or portion thereof shall be designated as Confidential.

3 4. Modification of Designation. The designation of Confidential Information by
4 the producing party shall not be determinative and may be modified or eliminated at any time in
5 one of two ways, as explained below.

6 (a) The producing party may agree in writing to downgrade or eliminate the
7 Confidential designation concerning any material it produced.

8 (b) If the parties cannot agree as to the designation of any particular
9 information or material after good faith discussion, the receiving party may move the
10 Court to downgrade or eliminate the "Confidential" designation. The burden of proving
11 that the information has been properly designated as protected shall be on the party who
12 made the original designation.

13 **Access to Confidential Information**

14 1. General Access. Except as otherwise expressly provided herein or ordered by
15 the Court, Confidential Information may be revealed only as follows:

16 (a) To outside counsel for a party hereto (and secretaries, paralegals, and
17 other staff employed in the offices of such outside counsel who are working on the
18 litigation), provided that outside counsel who are not of record must first sign and
19 deliver to counsel of record for each other party or parties a letter in the form of Exhibit
20 A hereto.

21 (b) To the parties after they have been given a copy of this Confidentiality
22 Stipulation by their outside counsel and signed a letter in the form of Exhibit A.

23 (c) To court reporters transcribing a deposition, hearing, or other proceeding
24 in this matter who sign Exhibit A attached hereto (excluding court-appointed court
25 reporters).

26 (d) To independent experts and independent consultants (meaning a person
27 who is not an employee, officer, director, or owner in any capacity of a party and who is
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1 retained by a party or a party's outside counsel in good faith for the purpose of assisting
2 in this litigation) who sign Exhibit A attached hereto.

3 Nothing herein shall prevent the producing party from showing the documents or
4 information to an employee of that party.

5 2. No Copies/Notes. Except for internal use by outside counsel for the parties
6 hereto, for Court and deposition copies, and for such use as is expressly permitted under the
7 terms hereof, no person granted access to Confidential Information shall make copies,
8 reproductions, transcripts, or facsimiles of the same or any portion thereof or shall take notes or
9 otherwise summarize the contents of such Confidential Information.

10 3. Disputes over Access. If a dispute arises as to whether a particular person should
11 be granted access to Confidential Information, the party seeking disclosure may move the Court
12 to permit the disclosure and must obtain an order of the Court before disclosing the information.

13 **Use of Confidential Information**

14 1. Use in this Litigation Only. Confidential Information may be used only for
15 purposes of this litigation. Each person to whom the disclosure of any Confidential Information
16 is made shall not, directly or indirectly, use, disclose, or disseminate, or attempt to use, disclose,
17 or disseminate, any of the same except as expressly provided herein.

18 2. Use at Depositions. If Confidential Information is to be discussed or disclosed
19 during a deposition, the producing party shall have the right to exclude from attendance at the
20 deposition, during the time the Confidential Information is to be discussed, any person not
21 entitled under this Order to receive the Confidential Information.

22 3. Use at Court Hearings and Trial. Subject to Nevada Rules of Civil Procedure
23 and Nevada Rules of Evidence, Confidential Information may be offered into evidence at trial
24 or at any hearing or oral argument, provided that the proponent of the evidence containing
25 Confidential Information gives reasonable advance notice to the Court and counsel for the
26 producing or designating party. Any party may move the Court for an order that the evidence
27 be received in camera or under other conditions to prevent unnecessary disclosure. If presented
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1 at trial, the status of evidence as Confidential Information shall not be disclosed to the finder of
2 fact.

3 4. Filing Under Seal. Each document filed with the Court that contains any
4 Confidential Information shall be filed in a sealed envelope or other appropriate sealed
5 container on which shall be set forth the title and number of this action, a general description or
6 title of the contents of the envelope, and a statement that the contents are Confidential and
7 subject to a Protective Order and that the envelope is not to be opened nor the contents thereof
8 revealed except to counsel of record in the litigation or court personnel, or pursuant to order of
9 the Court. Copies of such documents served on counsel for other parties shall be marked as
10 Confidential.

11 5. Reasonable Precautions. Counsel for each party shall take all reasonable
12 precautions to prevent unauthorized or inadvertent disclosure of any Confidential Information.

13 6. Return After Litigation. Within thirty (30) days of the final termination of this
14 litigation by judgment, appeal, settlement, or otherwise, or sooner if so ordered by the Court,
15 counsel for each party shall return to counsel for the party who furnished the same all items
16 constituting, containing, or reflecting the other party's Confidential Information. In lieu or
17 returning the Confidential Information, Plaintiff may destroy the records upon completion of
18 litigation, with written confirmation to Home Depot that the destruction took place.

19 **Other Provisions**

20 1. Not an Admission. Nothing in this Order shall constitute an admission by the
21 party that information designated as Confidential is actually Confidential Information.
22 Furthermore, nothing contained herein shall preclude the parties or a person from raising any
23 available objection, or seeking any available protection with respect to any Confidential
24 Information, including but not limited to the grounds of admissibility of evidence, materiality,
25 trial preparation materials and privilege.

26 2. Miscellaneous. This Order shall apply to the production of all materials whether
27 or not such materials are informally produced or produced in response to a formal discovery
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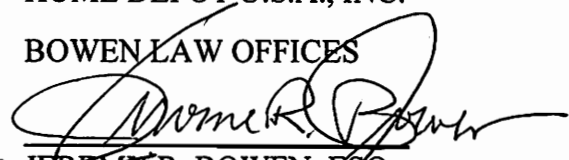
1 request or a Court order in this litigation. This Order may be used to protect the confidentiality
2 of the residential addresses and social security numbers of the parties and of any and all current
3 or former employees of either of the parties or their affiliates.

4 SO STIPULATED AND AGREED:

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6 DATED: December 3, 2021 RESNICK & LOUIS, P.C.

7 /s/ Lynn Rivera
8 LYNN RIVERA, ESQ.
9 Attorneys for Defendant
HOME DEPOT U.S.A., INC.


10 DATED: Nov. 30, 2021 BOWEN LAW OFFICES

11 
12 Jeremy R. Bowen
13 JEREMY R. BOWEN, ESQ.
14 Attorneys for Plaintiff
15 WILLIAM J. PASIECZNIK

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21 **Order**

22 IT IS ORDERED that ECF No. 41 is DENIED without
23 prejudice. The parties may refile a proposed stipulated
24 protective order that is consistent with federal law (including
25 but not limited to *Kamakana v. City & Cnty. of Honolulu*, 447
F.3d 1172 (9th Cir. 2006) and *Ctr. for Auto Safety v. Chrysler
Grp., LLC*, 809 F.3d 1092 (9th Cir. 2016). Additionally, all future
filings must comply with LR IA 10-1(b).

26 IT IS SO ORDERED
27 DATED: 10:52 am, December 06, 2021

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BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE

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EXHIBIT A
AGREEMENT CONCERNING INFORMATION COVERED BY CONFIDENTIALITY
STIPULATION AND PROTECTIVE ORDER

I have been designated by _____ as a person who may have access to Confidential Information as that term is defined in the Confidentiality Stipulation and Protective Order (the "Order") entered in the above-entitled case.

Having read the Order, I agree to comply fully with it and to be bound by its terms with respect to all documents and information designated as "Confidential" under the Order. I agree not to copy any documents or information that have been designated as "Confidential" and disclosed to me and not to disclose such documents or information to any person or entity not authorized under the Order to view Confidential Information.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this _____ day of _____, 2021.

Name

Address

Employer

Job Title