

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MEREDITH and JACK MILLS

PLAINTIFFS

vs.

Case No. 4:12-cv-04091

FREE FLOW SPAS, *et al*

DEFENDANT

ORDER

BEFORE the Court is the Plaintiffs' Motion to Compel (ECF No. 25) and Defendant Balboa Water Group's Motion to Amend Protective Order. ECF No. 27. Pursuant to the provisions of 28 U.S.C. § 636(b)(1) and (3) (2005), United States District Judge Susan O. Hickey referred these Motions to the undersigned for decision. On August 26, 2013, the Court conducted a hearing on these Motions. The Court having reviewed the pleadings and arguments of counsel finds the Plaintiffs' Motion to Compel (ECF No. 25) should be **GRANTED** and Defendant Balboa Water Group's Motion to Amend Protective Order (ECF No. 27) should be **DENIED**.

1. Plaintiffs' Motion to Compel:

Plaintiffs have requested in discovery that Defendant Balboa Water Group ("Balboa") produce and allow copying of schematics and other engineering drawings and technical information for distribution in this litigation. ECF No. 25. Balboa has agreed to allow Plaintiffs and their experts to review schematics and other engineering drawings and technical information, but will not allow any copying of these documents. ECF No. 26. Balboa argues Defendant Free Flow Spas, ("Free Flow") subsequent to the incident, was purchased by Watkins Manufacturing, which is a direct market competitor of Balboa. *Id.* Watkins Manufacturing is not a defendant in this lawsuit.

Balboa argues Plaintiffs desire for them to produce such proprietary information and allow that it be copied and disseminated would include placing the highly sensitive proprietary information directly into the hands of Watkins Manufacturing thereby potentially causing severe financial consequences for Balboa. *Id.*

Plaintiffs and Free Flow both oppose Balboa's attempts to limit access to these documents. As Free Flow points out, their expert will be required to travel from California to the offices of Defendant Balboa's counsel to view the documents in question and make no copies. ECF No. 28. Then the expert will have to perform an analysis and inspection based upon memory. *Id.* According to Free Flow, Watkins Manufacturing has no relationship with Free Flow in this litigation; is not a party in this litigation; counsel for Free Flow does not report to Watkins Manufacturing; nor is there any circumstance in which counsel for Free Flow would provide documents to Watkins Manufacturing. *Id.* Further, the parties already have in place a Protective Order which contains language about designating documents as "confidential" and that such documents can only be disseminated to parties, counsel in the lawsuit, experts and the court. ECF No. 24.

Based upon the forgoing, Plaintiffs' Motion to Compel is **GRANTED**, Balboa's objections to Interrogatories No. 23 and 32 are overruled, and Balboa shall fully respond with adequate answers and produce responsive documents in response to Plaintiffs' Interrogatories No. 23 and 32.

2. Defendant Balboa Water Group's Motion to Amend Protective Order:

In an attempt to facilitate discovery, Balboa has filed a Motion to Amend Protective Order which contains language that provides "confidential" documents can only be viewed at counsel's office. ECF No. 27. Balboa's Motion to Amend Protective Order is opposed by Plaintiffs and Free Flow. ECF Nos. 28, 29.

Based upon this Court's granting of Plaintiffs' Motion to Compel (ECF No. 25), Balboa's Motion to Amend Protective Order (ECF No. 27) is **DENIED**.

IT IS THEREFORE ORDERED that Plaintiffs' Motion to Compel (ECF No. 25) should be **GRANTED**, Balboa's objections to Interrogatories No. 23 and 32 are overruled, and Balboa shall within fourteen (14) days of this Order fully respond with adequate answers and produce responsive documents in responses to Plaintiffs' Interrogatories No. 23 and 32. Additionally, Defendant Balboa Water Group's Motion to Amend Protective Order (ECF No. 27) should be **DENIED**.

DATED this **27th day of August, 2013**.

/s/ Barry A. Bryant
HON. BARRY A. BRYANT
U.S. MAGISTRATE JUDGE