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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHRISTINA MITCHELL, et al.,

Plaintiffs,

No. CIV S-09-2241 GGH (TEMP)

vs.

SKYLINE HOMES,

Defendant.

ORDER

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Defendant’s motion to compel and plaintiffs’ motion to compel came on regularly for hearing July 21, 2011. Shana Scarlett appeared for plaintiffs and Samantha Tisdale appeared for defendant. Upon review of the documents in support and opposition, upon hearing the arguments of counsel, and good cause appearing, THE COURT ORDERS AS FOLLOWS:

1. Defendant’s motion to compel (dkt. No. 112) is granted. Within fourteen days from the date of this order, plaintiff shall produce the photographs at issue in the native JPEG (.jpg) format. Said production shall be accompanied by an index correlating the JPEG files with the PDF files previously produced.

2. Plaintiffs’ motion to compel (dkt. no. 111) is granted in part and denied in part. Under Rule 34, “[c]ontrol is defined as the legal right to obtain documents upon demand. [Citation.] The party seeking production of the documents . . . bears the burden of proving that the opposing party has such control.” U.S. Int’l Union of Petroleum and Indus. Workers, AFL-

1 CIO, 870 F.2d 1450, 1452 (9th Cir. 1989). Plaintiffs have failed to meet their burden with  
2 respect to documents retained by defendant's sister subsidiary corporations in Washington and  
3 Oregon. The motion is accordingly denied with respect to those documents. However, with  
4 respect to documents in the possession, custody or control of the parent corporation, Skyline  
5 Corporation, the court finds plaintiff has demonstrated the necessary control. Accordingly,  
6 within twenty-one days, defendant shall produce, without redaction, documents responsive to  
7 plaintiffs' request for production of documents, number eighteen. Documents relating to exterior  
8 siding used to build manufactured homes sold to Washington and Oregon residents, limited to  
9 installation manuals, design specifications and quality assurance manuals, shall be produced.  
10 Said production shall be in the manner the documents are ordinarily maintained in the course of  
11 business. If documents are maintained in electronic format, the documents shall be produced in  
12 in a format searchable by plaintiffs. The production shall be accompanied by a statement, under  
13 penalty of perjury, specifying the method of search for responsive documents, and stating that all  
14 responsive documents have been produced or that no responsive documents could be found. The  
15 motion to compel unredacted versions of documents Bates-numbered Skyline 2777-2780, 2782-  
16 2784, 2793 is granted.

17 3. Plaintiff's motion to seal Exhibit 4, Skyline 2780, is granted.

18 DATED: July 28, 2011

19 /s/ Gregory G. Hollows  
20 UNITED STATES MAGISTRATE JUDGE

21 JMM  
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