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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JUDY DAYTON,  
Plaintiff,  
v.  
SEARS, ROEBUCK AND CO., et al.,  
Defendants.

No. 2:12-cv-1945 TLN CKD

ORDER

Defendants’ motion to compel deposition testimony and production of documents came on regularly for hearing on August 28, 2013. Jenet Zapata appeared for plaintiff. Gary Basham appeared for defendants. Upon review of the documents in support and opposition, upon hearing the arguments of counsel, and good cause appearing therefor, THE COURT FINDS AND ORDERS AS FOLLOWS:

1. Objections to the deposition of plaintiff’s attorney Galen Shimoda have not been waived. Defendants have failed to show that no other means exist to obtain the information, the information sought is relevant and unprivileged, and the information is crucial to the preparation of the case. See Spectra-Physics, Inc. v. Super. Ct. (Teledyne, Inc.), 198 Cal. App. 3d 1487 (1988); see also Shelton v. American Motors Corp., 805 F.2d 1323, 1327 (8th Cir. 1986) (information sought via deposition of opposing counsel would reveal mental impressions and thus protected by work product doctrine). Depositions of plaintiff’s law firm and counselor will

1 therefore not be allowed. Plaintiff's counsel has provided an affidavit that all documents  
2 responsive to the deposition subpoenas have been produced. The motion to compel (ECF No. 21)  
3 is accordingly denied. In light of plaintiff's deposition testimony and the requests for admission  
4 which have previously been propounded by defendants, expanding the presumptive limit on the  
5 number of interrogatories under Federal Rule of Civil Procedure 33 is not merited.

6 2. The court finds an award of expenses is not warranted considering all of the  
7 circumstances reflected in the record before it on this motion. Fed. R. Civ. P. 37 (a)(5).

8 Dated: August 29, 2013

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11 CAROLYN K. DELANEY  
12 UNITED STATES MAGISTRATE JUDGE

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