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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

APPLE HILL GROWERS,

Plaintiff/Counter-
Defendant,

v.

EL DORADO ORCHARDS, INC., et al.,

Defendants/Counter-
Claimants.

No. 2:17-cv-02085-TLN-CKD

ORDER
(ECF Nos. 57, 61)

Upon reviewing the Joint Statement regarding defendant El Dorado Orchards Inc. (“EDO”)’s Motion to Compel (ECF No. 61), see ECF No. 57, the court finds it necessary to ORDER as follows:

- 1. Based on plaintiff’s counsel’s representation that she had insufficient time to contribute to the Joint Statement, and the indication that the parties are close to independently resolving many of the discovery disputes at issue in EDO’s motion to compel, the parties SHALL file an Amended Joint Statement for EDO’s Motion to Compel (ECF No. 57) by 5/4/2022.
 - a. By 5:00 PM on 5/2/2022, plaintiff’s counsel shall provide defense counsel with her portion of the Amended Joint Statement – which should comprise at least plaintiff’s complete position statements for each discovery dispute addressed in the existing Joint Statement.

1 b. By 5/4/2022, defendant EDO shall file the Amended Joint Statement, in which it
2 may revise its contentions regarding the discovery disputes based on plaintiff's
3 position statements.

4 c. The court encourages plaintiff and EDO to continue their meet and confer efforts
5 regarding these disputes. If in the process of preparing the Amended Joint
6 Statement, the parties are able to resolve or narrow certain disputes (as is hoped),
7 the Amended Joint Statement shall clearly identify which discovery requests have
8 been resolved or narrowed.

9 2. Further, based on the court's preliminary review of the existing Joint Statement, the
10 Amended Joint Statement shall address the following matters (in the event these discovery
11 requests are not independently resolved):

12 a. Regarding EDO's Interrogatory No. 5, plaintiff must clarify whether it is solely
13 seeking recovery of defendant's profits, or whether it is also seeking recovery of
14 any damages, i.e., losses, suffered by plaintiff.

15 b. The parties appear to be approaching independent resolution of EDO's Request for
16 Production ("RPD") Nos. 8, 14-15, and 29. The Amended Joint Statement shall
17 clarify what, if anything, remains for the court to address regarding these RPDs.

18 i. For RPD Nos. 14-15, plaintiff must clarify whether it will produce all non-
19 privileged responsive documents, going back to the more limited time
20 frame of July 23, 2011.

21 c. Regarding RPD Nos. 27-28, defendant EDO must explain why plaintiff should be
22 required to download and produce the contents of its websites and social media
23 platforms if those materials are, as plaintiff argues, equally accessible to EDO.

24 d. Whether RPD No. 40 has now been resolved.

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e. Based on defense counsel’s expressed willingness, the court preliminarily agrees that any physical inspection of documents responsive to EDO’s RPDs should take place at plaintiff’s counsel’s law offices in Sacramento, CA. Plaintiff must identify a range of dates in the near future when such physical inspection may occur. This physical inspection is not necessarily to the exclusion of electronic production of the same materials.

Dated: April 28, 2022



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

19, appl.2085