

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

GREGORY P. BARNES, ET AL.,

No. 3:12-cv-01334-CRB

Plaintiffs,

**ORDER DENYING MOTION FOR  
RELIEF FROM NONDISPOSITIVE  
PRETRIAL ORDER OF MAGISTRATE  
JUDGE**

v.

THE HERSHEY COMPANY,

Defendant.

---

Now pending is Plaintiffs' Motion for Relief of Nondispositive Pretrial Order of Magistrate Judge (dkt. 190), in which Plaintiffs seek relief from Magistrate Judge Cousins' September 5, 2014, Order Resolving Discovery Disputes (dkt. 182). Specifically, Plaintiffs object to Cousins' denial of three depositions, certain Rule 30(b)(6) topics, and two document requests. Plaintiffs claim that the discovery sought is highly relevant to whether Hershey engaged in a group termination of Customer Sales Executives and Category Development Managers, the subject of Hershey's pending summary judgment motion.

This Court concludes that the challenged aspects of Judge Cousins' Order are neither clearly erroneous nor contrary to law. Magistrate Judge Cousins recognized that in general, "[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense." Fed. R. Civ. P. 26(b)(1). However, even when the information sought by the parties in a civil lawsuit is relevant, the Court must limit the scope of discovery


1 if it determines that (1) “the discovery sought is unreasonably cumulative or duplicative, or  
2 can be obtained from some other source that is more convenient, less burdensome, or less  
3 expensive”; (2) “the party seeking discovery has had ample opportunity to obtain the  
4 information by discovery in the action”; or (3) “the burden or expense of the proposed  
5 discovery outweighs its likely benefit, considering the needs of the case, the amount in  
6 controversy, the parties’ resources, the importance of the issues at stake in the action, and the  
7 importance of the discovery in resolving the issues.” Fed. R. Civ. P. 26(b)(2)(C).

8 In other words, Magistrate Judge Cousins’ task was to “strike[] the proper balance  
9 between permitting relevant discovery and limiting the scope and burdens of the discovery to  
10 what is proportional to the case,” Kaiser v. BMW of N. Am., LLC, No. 12-cv-01311 DMR,  
11 2013 WL 1856578, at \*3 (N.D. Cal. May 2, 2013), and that is precisely what he did. As to  
12 the Vucovich deposition, Magistrate Judge Cousins reasonably determined that Plaintiffs  
13 may renew their request if future discovery shows the deposition to be relevant and  
14 necessary. Likewise, the Court sees no error in Magistrate Judge Cousins’ determination that  
15 Plaintiffs failed to show why the Fanelli and Smuda depositions were warranted. Nor does  
16 the Court see error in Magistrate Judge Cousins’ determination that the challenged topics  
17 could be more appropriately addressed by interrogatories or document requests, or that they  
18 are vague and unreasonably cumulative. As for Plaintiffs’ challenge to the denial of two  
19 document requests, we agree with Magistrate Judge Cousins that the requests appear  
20 unreasonably duplicative at this time.

21 Accordingly, Plaintiffs’ motion for relief is DENIED.

22 **IT IS SO ORDERED.**

23  
24 Dated: October 7, 2014

  
\_\_\_\_\_  
CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE