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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WILLIAM RUSHING,
Plaintiff,
v.
WILLIAMS-SONOMA, INC., et al.,
Defendants.

Case No. [16-cv-01421-WHO](#)

**ORDER ON MOTION FOR RELIEF
FROM DISCOVERY ORDER**

Re: Dkt. Nos. 110, 111

Plaintiff seeks relief from the discovery Order of Magistrate Judge Kim overruling plaintiff’s work-product and consulting expert privilege objections on the basis of waiver and requiring plaintiff to produce expert-generated information regarding tests of defendants’ bedding that plaintiff cited to and relied on in his Seventh Amended Complaint. Dkt. No. 108.

Specifically, Judge Kim ordered plaintiff to produce: the “actual tests and comments by the consulting expert(s), documents upon which the consulting expert(s) relied, documents which the consulting expert(s) created, and the bedding itself” for the products at issue in the suit. *Id.*

Having reviewed Judge Kim’s Order, and the parties’ briefing on the motion for relief, I DENY the motion for relief. Judge Kim’s Order is not clearly erroneous and is consistent with case law from this and other districts, including *Zeiger et al v. WellPet LLC et al.*, No. C 17-4056 WHO, Dkt. No. 72 (N.D. Cal., April 10, 2018), a decision I filed yesterday on the same issue raised here. *See also Fin. Guar. Ins. Co. v. Putnam Advisory Co., LLC*, 314 F.R.D. 85, 89–90 (S.D.N.Y. 2016); *Worley v. Avanquest N. Am. Inc.*, No. C 12-04391 WHO (LB), 2013 WL 6576732, at *5 (N.D. Cal. Dec. 13, 2013); *In re iPhone/iPad Application Privacy Litig.*, No. 11-

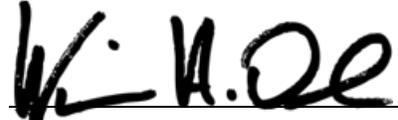
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MD-2250-LHK (PSG), 2012 WL 5897351, at *8 (N.D. Cal. Nov. 21, 2012).¹

Plaintiff shall produce the discovery ordered by Judge Kim on or before April 25, 2018.

IT IS SO ORDERED.

Dated: April 11, 2018



William H. Orrick
United States District Judge

¹ Defendants submit the declaration of Tod Cole, Williams-Sonoma, Inc.’s Vice President of Quality Assurance, in support of the sealing of Footnote 4 in Plaintiff’s Motion for Relief as well as Exhibits A – H filed by plaintiff in support of that motion. Dkt. No. 113-1. The information sought to be sealed is testing information and reports produced by defendants. Cole declares that this information is treated as highly confidential by WSI and disclosure of this information could cause it competitive harm. *Id.* ¶ 7. Based upon Cole’s showing of good cause, the motion to seal is GRANTED as to Exhibits A-H. However, it is DENIED as to the general reference to testing results in Footnote 4 of the Motion. The Clerk shall UNSEAL Dkt. No. 110-4.