

1 IT IS FURTHER ORDERED that Defendant's privilege and common-interest doctrine
2 objections to producing to Plaintiff the documents submitted for in camera review on June 30, 2009,
3 are SUSTAINED, and Plaintiff's second motion to compel is DENIED as to those documents.
4 Under California law the documents are protected because Plaintiff has not shown¹ that sharing the
5 information with WaCA and Jarod Turner Communications was "not reasonably necessary to
6 accomplish the purpose for which attorneys were consulted." See *OXY Resources California LLC v.*
7 *Superior Court*, 115 Cal.App.4th 874, 900-901 (2004); see also, CAL. EVID. CODE § 952. The case
8 relied on by Plaintiff, *Berger v. Seyfarth Shaw LLP.*, 2008 U.S. Dist. LEXIS 88811, at 7 (N.D. Cal.
9 2008), is not to the contrary. There the court noted that "There is no waiver when disclosure is in the
10 presence of or to a business associate when 'made to further the interest of the client or when
11 reasonably necessary for the transmission or accomplishment of the purpose of the consultation.'" *Id.*
12 quoting *Ins. Co. of N. Am. v. Superior Court*, 108 Cal.App.3d 758, 771(1980).

13 IT IS FURTHER ORDERED that Plaintiff's second motion to compel is DENIED as to
14 Document Request No. 2. As worded it is too vague to inform Defendant what kind of documents
15 are sought.

16 IT IS FURTHER ORDERED that, except to the extent otherwise ordered herein, Plaintiff's
17 second motion to compel is GRANTED as to Document Request Nos. 1, 3, 4, 6, 7, 8, 9, 10, 14, 15 &
18 16. If it has not yet done so, Defendant shall complete its production of all non-privileged
19 documents responsive to these requests no later than August 3, 2009.

20 IT IS FURTHER ORDERED that Plaintiff's Motion for an Order to Show Cause Why Office
21 Depot Should Not Be Held in Contempt is DENIED.

22 Dated: 7/17/09

23 
24 PATRICIA V. TRUMBULL
25 United States Magistrate Judge
26

27 _____
28 ¹ Under California law, Plaintiff had the burden to show the communications were not
privileged or that the privilege had been waived. See CAL. EVID. CODE, § 917(a); see also *Titmas v.*
Superior Court, 87 Cal.App.4th 738, 745 (2001).