

1 information---but plaintiff reportedly shut down the meet-and-confer negotiations, stating, “We
2 have met and conferred all that we are going to do. We will let Judge Lloyd have it from here.”
3 (Dkt. 137 at ECF p. 8). Further, defendant says that plaintiff first provided a draft of the instant
4 DDJR on May 29, 2014, just before the parties participated in an all-day mediation; defense
5 counsel did not have time to review the draft before the mediation; and no substantive discussion
6 of any discovery issues took place at the mediation. Those assertions, however, do not refute
7 plaintiff’s claim that the parties discussed these issues during an 8-hour in-person meeting on May
8 28, 2014 (after months of conferring about them beforehand).

9 Plaintiff should have done a much better job of identifying the particular requests at issue
10 in the DDJR. He does, however, quote the text of Request 13, which seeks “[d]ocuments
11 sufficient to show gross sales of your relevant products broken down by quarter and by individual
12 food product. This request seeks sales data beginning four years prior to the placement of the
13 product claims on the particular food product.” (Dkt. 137 at 4; Dkt. 137-1 at 6). He also
14 references Request 14, which asks for production of “[a]n Excel spreadsheet showing data
15 produced in response to Request [13].” (Id.).¹ The text of these requests say what kind of sales
16 information plaintiff wants and his desired format for production. The requested information is
17 relevant or reasonably calculated to lead to the discovery of admissible evidence. Fed. R. Civ. P.
18 26(b)(1). As worded, these requests do not call for any privileged or work product information. If
19 there truly is a legitimate dispute about the kind of sales information plaintiff wants,² the parties
20 are directed to meet-and-confer in good faith to resolve those matters. Reasonable parties dealing
21 with one another in good faith ought to be able to work such matters out. Defendant shall produce
22 documents responsive to Requests 13 and 14 within 14 days from the date of this order. This
23 order will not apply to any other sales-related request(s) that plaintiff may have intended to be
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25 ¹ As drafted by plaintiff, Request 14 asks for sales data produced in response to Request 15. (Dkt.
26 137-1 at 6). Request 15, however, does not ask for sales data. And, based on defendant’s
27 response to Request 14, it appears that plaintiff actually intended for Request 14 to refer back to
28 Request 13. (Dkt. 137-2 at 14).

² Defendant objected to Requests 13 and 14 on the ground that the term “gross sales” is vague and
ambiguous.

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covered by this DDJR, but failed to identify.³ To the extent there are any other such requests, this ruling is without prejudice to plaintiff to bring a DDJR that clearly identifies the requests at issue, if good faith meet-and-confer negotiations do not resolve any disagreement about production.

As for the second category of documents, the request at issue is Request 29, which asks for “All documents supporting your affirmative defenses.” (Dkt. 137-1, DDJR No. 1, Ex. A). The only argument defendant asserts in opposition is the alleged lack of meet-and-confer on the issues. For the reasons discussed above, this court takes that argument with a grain of salt. In any event, unlike the sales information, defendant does not identify any matters re the subject discovery that purportedly require clarification. And, the requested information falls squarely within the scope of permissible discovery under Fed. R. Civ. P. 26(b)(1). Accordingly, plaintiff’s request for an order compelling production in response to Request for Production No. 29 is granted. Defendant shall produce all non-privileged, responsive documents within 14 days from the date of this order.

SO ORDERED.

Dated: July 8, 2014



HOWARD R. LLOYD
UNITED STATES MAGISTRATE JUDGE

³ Although plaintiff initially indicated that he sought an order compelling production of documents responsive to his second set of requests for production (see Dkt. 137 at 3), the only document requests appended to DDJR No. 1 are from his first set of document requests.

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Ben F. Pierce Gore pgore@prattattorneys.com, cotto@prattattorneys.com, dawn@cfbfirm.com, ntmaddux@barrettlawgroup.com, PTaylor@barrettlawgroup.com, rtrazo@prattattorneys.com

Brian K Herrington bherrington@barrettlawgroup.com, bherrington@pacernotice.com

Chant Yedalian chant@chant.mobi, chantyed@aol.com, chantyed@gmail.com

Colin Harvey Dunn chd@cliffordlaw.com, docket@cliffordlaw.com, jg@cliffordlaw.com, jmg@cliffordlaw.com, ksr@cliffordlaw.com

Dewitt Marshall Lovelace , Sr courtdocs@lovelacelaw.com

Gary McKay Yarborough , Jr ylf.garyyarborough@att.net

Geoffrey R. Pittman gpittman@hansonbridgett.com, calendarclerk@hansonbridgett.com, ypete@hansonbridgett.com

Lawrence M. Cirelli lcirelli@hansonbridgett.com, calendarclerk@hansonbridgett.com, rcarrillo@hansonbridgett.com

Megan Oliver-Thompson moliverthompson@hansonbridgett.com, calendarclerk@hansonbridgett.com, nward@hansonbridgett.com