

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Chambers of
Joseph A. Dickson
United States Magistrate Judge

Martin Luther King, Jr. Federal Bldg.
& U.S. Courthouse
50 Walnut Street
Newark, New Jersey 07102
(973-645-2580)

LETTER ORDER

August 20, 2012

All counsel of record

**Re: Deborah Fellner v. Tri-Union Seafoods, L.L.C., d/t 'a Chicken of the Sea
Civil Action No. 2:06-cv-688-DMC-JAD**

Dear Counsel:

This will resolve the current discovery dispute regarding the Plaintiff's request for production of documents related to Proposition 65 and *Renshaw* cases. The Court will address:

Renshaw

No. 31 and 32

While the Court believes there may be nothing of significance in the motion papers at issue, especially where the underlying documents have already been produced, it is possible that certain statements (either made in support or in opposition to the underlying motion) made therein may be relevant to the issues in this case. Moreover, it does not appear to be unduly burdensome for Defendant to produce these documents. The Court does not rule that judicial estoppel compels their production or that that doctrine is even applicable. The documents shall be produced.

No. 42

The fact that the deposition took place outside the relevant time period does not render the transcript irrelevant. On the other hand, the Court is not ruling on the status of Dr. Hightower or the admissibility of her testimony. The transcript shall be produced.

No. 44

The Court's reasoning is the same as above. The motion papers shall be produced.

No. 48

The document in question seems innocuous and, as Defendant argues, probably contains no information. At this stage in the proceedings, however, it should be produced to clear up any lingering questions.¹

Proposition 65

All of the documents in this category can be dealt with as follows: Defendant is generally correct that financial information can be produced at a later stage. Moreover, there is no viable reason at this stage of the proceeding for Defendant to produce its tax returns. Similarly, Defendant is not required to produce financial information of other companies. However, Defendant's financial data that contains a breakdown of expenses which demonstrate Defendant's budget for testing of, or otherwise addresses the issues of methylmercury found in tuna, should be produced, if it exists.² Additionally, the number of cans sold may be relevant to the number of cans tested. Under any test of relevance to discovery, that information should be produced.

¹ Plaintiff should not take this ruling as a license to fish; the Court's purpose is to close down questions rather than open new avenues. For instance, it is unclear why Plaintiff believes it needs to find another "party that may be liable to pay damages."


² The Defendant is not ordered to prepare such information. If it exists in a form regularly maintained in the ordinary course of business, (which this Court presumes it does), then it should be produced.

Other Co-Defendants' responses to substantive discovery requests in the possession of Defendant are discoverable unless otherwise protected. However, the financial information of others is not discoverable.

Finally, Court notices regarding Court dates need not be produced.

Any discovery production required by the foregoing shall be served no later than September 14, 2012.

SO ORDERED

A handwritten signature in black ink, appearing to read "Joseph A. Dickson", written over a horizontal line.

Joseph A. Dickson, U.S.M.J.

cc: Honorable Dennis M. Cavanaugh, U.S.D.J.