

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

MEMPHIS DENTAL MANUFACTURING CO., INC.,
Plaintiff/Counter-Defendant,
v.
BASE PLATE WAX DIRECT, INC.,
TERRANCE MARMINO, and
FRANK BOWMAN,
Defendants/Counter-Plaintiffs.)
No. 22-cv-02790-TLP-tmp

ORDER GRANTING DEFENDANT/COUNTER-PLAINTIFFS' MOTION TO COMPEL

On May 17, 2024, Defendants/Counter-Plaintiffs Base Plate Wax Direct, Inc. ("Base Plate"), Terrance Marmino, and Frank Bowman (collectively "Defendants") filed a Motion to Compel full and complete discovery responses to the requests served on Plaintiff/Counter-Defendant Memphis Dental Manufacturing Co., Inc. ("Memphis Dental"). (ECF No. 65.) A response to that motion was due on May 28, 2024. This motion was referred to the undersigned on May 20, 2024. (ECF No. 66.) To date, no response has been filed. Under the Local Rules, "[f]ailure to respond timely to any motion, other than one requesting dismissal of a claim or action, may be deemed good grounds for granting the motion." L.R. 7.2(a)(2). Therefore, Defendants' Motion to Compel is GRANTED in full, and

Memphis Dental is hereby ORDERED to respond to the discovery requests by Tuesday, June 25, 2024.

Regarding Interrogatory No. 16 and Requests for Production Nos. 7, 20, and 27 of Base Plate's discovery requests, Base Plate asked Memphis Dental to identify and produce the secret wax formula and the batch list for the wax products that Memphis Dental sells. (ECF No. 65-1 at PageID 317, 321-323.) Memphis Dental is ORDERED to produce discovery responses, including the unredacted weights/measurements of the mixtures, but may do so according to the attorneys-eyes-only provision in the First Amended Protective Order and consistent with the April 19, 2024 order. (ECF Nos. 59 & 63.)

Regarding Interrogatory Nos. 4, 7, 8, 11, 12, and 17-19, and Requests for Production Nos. 2, 3, 11, 12, 14, 29, and 31, Base Plate asked for the identities and production of documents related to Memphis Dental's customers, including the customer list, purchase orders, and invoices. (ECF No. 65-1 at PageID 316-18, 321, 324.) Memphis Dental is ORDERED to produce discovery responses, but may do so according to the attorneys-eyes-only provision in the First Amended Protective Order and consistent with the April 19, 2024 order. (ECF Nos. 59 & 63.)

Regarding Interrogatory Nos. 6, 9, 10, and 23, and Requests for Production Nos. 4, 5, and 6, Base Plate requested information regarding the proprietary information that Memphis Dental alleges

that Base Plate has used in its business. (ECF No. 65-1 at PageID 316, 319-20.) Memphis Dental is ORDERED to produce discovery responses, but may do so according to the attorneys-eyes-only provision in the First Amended Protective Order and consistent with the April 19, 2024 order. (ECF Nos. 59 & 63.)

Regarding Request for Production No. 24, Base Plate asked for "a copy of all financial information, including balance sheets, tax returns, profit and loss statements, or otherwise, showing all financial information of yours for the years 2020, 2021, 2022 and 2023." (ECF No. 65-1 at PageID 323.) Memphis Dental is ORDERED to produce this information but may do so according to the confidential designation provisions found in paragraphs four and five of the First Amended Protective Order. (ECF No. 59, p. 2.)

Finally, regarding Request for Production No. 22, Base Plate requested that Memphis Dental "[p]roduce a copy of any reports which have been made by you, your attorney or anyone acting on your behalf concerning relevant issues of this suit." (ECF No. 65-1 at PageID 323.) This request appears to potentially include confidential work product. The undersigned declines to rule on whether any privilege applies to documents responsive to this request. Therefore, in producing responsive documents, Memphis Dental is not prohibited from asserting any privileges that may apply.

IT IS SO ORDERED.

s/Tu M. Pham

---

TU M. PHAM

Chief United States Magistrate Judge

June 5, 2024

---

Date