

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

JAY GORDON, JAMES LOMAX in his
own right , and as successor in interest, to
DEBBIE LOMAX,

Plaintiffs,

vs.

THE HOME DEPOT, INC.,

Defendant.

**MEMORANDUM DECISION AND
ORDER**

Case No. 2:13-cv-00855-JNP-EJF

District Judge Jill Parrish

Magistrate Judge Evelyn J. Furse

The Court has reviewed the filings on the Motion for Attorney Fees remaining on ECF No. 63. When the Court grants a motion for discovery it must award reasonable expenses, including attorney fees, to the prevailing party. Fed. R. Civ. 37(a)(5)(A). The only times the Court will not award these expenses are when the movant failed to meet and confer prior to filing, the opposing party's position was substantially justified, or "other circumstances make an award of expenses unjust." *Id.* The documentation submitted with the Motion demonstrates a good faith meet and confer process. The Court does not find the opposing party's position substantially justified because the Complaint in this case puts these matters squarely in issue, and the answers given previously were too vague to answer the question posed. The Court does not find any other circumstances making the award unjust. Therefore, the Court GRANTS the Plaintiff the reasonable expenses incurred in making its Motion to Compel, ECF No. 63.

At the time the Plaintiff made the Motion, this case was joined with another case. Plaintiff's counsel should submit a motion with an affidavit as to the total expenses of the Motion to Compel and request half of the total expenses in each case. Briefing on the motion should follow the standard schedule provided by the local rules.

DATED this 28th day of March, 2016.

BY THE COURT:


EVELYN J. FORSE
United States Magistrate Judge