

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

JENNIFER REITMAN and **CAROL SHOAFF**, individually and on behalf of a class of similarly situated individuals,

PLAINTIFFS,

V.

CHAMPION PETFOODS USA, INC. and **CHAMPION PETFOODS LP,**

DEFENDANTS.

) Case No. 2:18-cv-01736-DOC (JPRx)

) CLASS ACTION

) **ORDER REGARDING AUTHENTICITY AND ADMISSIBILITY**
) [108]

) Mag. Judge: Jean P. Rosenbluth
) Judge: David O. Carter

1 The Court having considered the Stipulation Regarding Authenticity and
2 Admissibility;

3 IS HEREBY ORDERED:
4

- 5 1. Each document produced from the files of a stipulating Party bearing that
6 Party's bates numbers and produced in response to any other Party's discovery
7 requests will be deemed to be an authentic and genuine copy of a document
8 found in the producing Party's files in satisfaction of authentication and
9 identification requirements of Rules 901 and 902 of the Federal Rules of
10 Evidence.
11
12 2. Any Party seeking a stipulation that particular documents created by a Party
13 to the litigation (including but not limited to memoranda, newsletters,
14 agendas, meeting minutes, and reports) satisfy the "business record"
15 requirements of Rule 803(6) or the "residual exception" of Rule 807, will
16 identify those documents to the relevant Party. The Parties will then meet and
17 confer within 14 days of such notice to determine if agreement can be reached
18 that all such documents so identified qualify as authentic and further are
19 admissible as a business record or residual exception. The Parties may raise
20 unresolved disputes with respect to the foregoing with the Court as needed.
21
22 3. No later than 60 days before the deadline for pretrial submissions of exhibit
23 lists in a final pretrial order, the Parties shall exchange a particularized list of
24 any additional documents for which a stipulation is sought regarding
25
26
27
28

1 authenticity and identification requirements of Rule 901 and 902 and
2 admissibility, whether as a business record under Rule 803(6), the residual
3 exception of Rule 807 or otherwise. Within 30 days of receiving such a list,
4 the receiving Party will notify the requesting Party of those documents to
5 which the receiving Party will stipulate. For documents on the list to which
6 the receiving Party declines to stipulate, the Parties will negotiate in good faith
7 in an effort to resolve any remaining disputes within 14 days of the receiving
8 Party's response.
9

- 10
- 11 4. In the event that the Parties are unable to agree whether particular documents
12 will be stipulated as business records pursuant to Rule 803(6), each Party shall
13 have the right to conduct a deposition of an appropriately designated custodian
14 or other qualified witness from the producing Party¹, pursuant to Fed. R. Civ.
15 P. 30(b)(6), limited to the status of the document admissibility as a business
16 record under Rule 803(6) including: (a) whether the record was made at or
17 near the time by — or from information transmitted by — someone with
18 knowledge; (b) whether the record was kept in the course of a regularly
19 conducted activity of a business, organization, occupation, or calling, whether
20 or not for profit; and (c) whether making the record was a regular practice of
21 that activity. or the residual exception of Rule 807. Such depositions shall
22
23
24
25
26

27 ¹ The parties anticipate that a single deposition will suffice, but will not so limit the
28 producing party to a single person testifying as a designee.

1 occur notwithstanding any limit ordered by the Court on the number of
2 depositions and without regard to the length of depositions provided by the
3 Federal Rules of Civil Procedure. Such depositions shall be scheduled at a
4 mutually agreeable time and place within 45 days of the request for deposition
5 or five days before the deadline for pretrial submissions of exhibit lists,
6 whichever is sooner. Such depositions may take place after the close of
7
8 discovery.

9
10 5. The provision of Federal Rule of Civil Procedure 26(c) relating to protective
11 orders shall apply to this Stipulation, and all Parties reserve all rights to seek
12 judicial relief if negotiations in good faith to limit the number of documents
13 at issue are not successful or any Party is presented with what it believes to be
14 an excessive or burdensome list of documents to be negotiated.
15

16
17 6. No Party shall be precluded from including on an exhibit list submitted
18 pursuant to a pretrial order any document for which authenticity or
19 admissibility pursuant to Rule 803(6) or Rule 807 was not stipulated to by the
20 Parties. A lack of stipulation pursuant to this Stipulation shall not render a
21 document inadmissible for any reason subject to the Court's determination.
22

23
24 7. That a document is stipulated to as authentic and/or a business record/residual
25 exception does not waive any objections to the admission of the document in
26 evidence at trial on grounds of relevance, Rule 403 or any other appropriate
27 objection.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

8. No Party is bound by any characterization of any document or type of document other than those to which that Party has agreed to pursuant to this Stipulation.

9. The Parties shall make good faith, cooperative efforts, through the meet and confer process or otherwise, to resolve any issues or disputes concerning this Order and the authenticity and/or admissibility of documents as to minimize the time and resources of the Parties and of the Court devoted to such matters.

IT IS SO ORDERED.

David O. Carter

Hon. David O. Carter
U.S. District Judge

Dated: November 28, 2018