

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PREFERRED NUTRITION INC., et al.,

Plaintiffs,

v.

LORNA VANDERHAEGHE, et al.,

Defendants.

CASE NO. C10-907RAJ

ORDER

This order resolves five pending motions. One is Defendants' motion for a protective order with respect to certain discovery requests. Dkt. # 51. Three are motions to seal from Plaintiffs. Dkt. # 28, 35, 55. One is Plaintiffs' motion for leave to file a surreply. Dkt. # 36. For the reasons stated herein, the court DENIES all five motions.

In a separate order issued today, the court has denied Plaintiffs' motion for a preliminary injunction and denied Defendants' motion to dismiss for lack of personal jurisdiction. That order resolves many of the disputes the parties raise in the pending motion for a protective order, and should have a substantial effect on their other disputes.

Building on issues addressed in that order, the court makes the following rulings regarding the scope of discovery. First, the court has ruled that Defendants are subject to personal jurisdiction in Washington. To the extent that Plaintiffs have targeted discovery solely for the purpose of establishing personal jurisdiction, that discovery would seem to be moot. If Defendants wish to continue to dispute personal jurisdiction, they shall

1 inform Plaintiffs, and the parties shall meet and confer regarding the scope of
2 jurisdictional discovery. The court rules, however, that Plaintiffs may not request any
3 further discovery to support their claim that Defendants are subject to general jurisdiction
4 either in Washington or in the United States. The court finds that claim far too
5 speculative to justify the burden of discovery, especially where the court has accepted
6 their claim to specific jurisdiction.

7 Today's order also makes clear that disputes regarding Defendants' sales in
8 Canada to Canadian residents are beyond the scope of this lawsuit. There may well be
9 aspects of those sales that are relevant to Plaintiffs' Lanham Act claims based on
10 Defendants' conduct affecting the United States. The parties shall meet and confer, and
11 the court expects that meet and confer to result in Plaintiffs substantially narrowing the
12 scope of discovery.

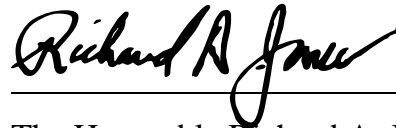
13 For these reasons, the court denies Plaintiffs' motion for a protective order without
14 prejudice to renewing it in some form in the event the parties are unable to resolve their
15 disputes in light of the court's orders today. The court directs the parties to meet and
16 confer again regarding those disputes, keeping in mind the two orders the court issued
17 today. Going forward, the court mandates that the parties use the expedited discovery
18 procedure set forth in Local Rules W.D. Wash. CR 37(a)(1)(B) for all discovery disputes.

19 Plaintiffs filed their motions to seal solely to honor an agreement with Defendants
20 regarding documents that Defendants had designated as confidential. The documents at
21 issue in the motions to seal are excerpts from the deposition of Lorna Vanderhaeghe
22 along with two emails. The court has reviewed those documents and finds no basis to
23 keep them under seal. Defendants, moreover, have offered no response to the motions to
24 seal. Accordingly, the court denies all of them. The court also orders the parties to meet
25 and confer before filing any motion to seal, so that they can avoid filing unnecessary
26 motions.

1 Finally, the court denies Plaintiffs' motion for leave to file a surreply in support of
2 their opposition to Defendants' motion to dismiss. The court strongly discourages
3 surreplies, and finds Plaintiffs' surreply unnecessary.

4 For the reasons stated above, the court DENIES all five pending motions. Dkt.
5 ## 28, 35, 36, 51, 55.

6 DATED this 22nd day of November, 2010.

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10 The Honorable Richard A. Jones
United States District Judge