

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Radu Cojocaru v. Merck Sharp & Dohme LLC

Cojocaru · No. 3:24-cv-01770-W-KSC · Decided November 24, 2025

SUMMARY

The United States District Court for the Southern District of California resolves Merck Sharp & Dohme LLC’s ex parte motion for reconsideration of a prior discovery order. The Court orders Merck to reproduce unredacted business-planning documents, upholds redactions protecting proprietary methodologies, and finds the dispute over a previously unredacted document moot. The motion is therefore granted in part and denied in part.

OPINION

Cojocaru

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 RADU COJOCARU, an Individual, Case No.: 3:24-cv-01770-W-KSC 12 Plaintiff,
ORDER GRANTING IN-PART AND

13 v. DENYING IN-PART DEFENDANT’S

EX PARTE MOTION FOR

14 MERCK SHARP & DOHME LLC,

RECONSIDERATION RE 37 ORDER

15 Defendant. [DKT. NO. 42] 16 17 Before the Court is defendant’s Ex Parte Motion for
Reconsideration re 37 Order 18 (the “Ex Parte Motion”). Dkt. No. 42. The Court received the
parties’ Joint Supplemental 19 Briefing Regarding Defendant’s Ex Parte Motion for
Reconsideration (“Joint Briefing”) 20 on October 24, 2025. Dkt. No. 63. The disputes relating to
all documents at-issue in the Ex 21 Parte Motion were either resolved informally by the parties’
meet and confer efforts or by 22 the present Order. 23 I. Background 24 a. Defendant’s Ex Parte
Motion 25 The subject of defendant’s Ex Parte Motion [Dkt. No. 42] is the Court’s June 30, 26
2025, Order re Joint Discovery Statement (the “June 30 Order”) [Dkt. No. 37] resolving a 27
discovery dispute between the parties. This discovery dispute was first brought to the 28 Court’s
attention on May 13, 2025, when the parties lodged a Joint Discovery Statement 1 wherein
plaintiff alleged that the defendant was improperly withholding documents. Dkt.

2 No. 24. Following arguments presented by both parties at a discovery hearing on May 16,

3 2025, the Court ordered defendant to produce all at-issue trade secret documents subject to 4 the proper confidentiality designation and redactions available under the Operative 5 Protective Order. Dkt. No. 34 at 24. At the conclusion of the hearing, the Court held that 6 defendant was “not obligated to produce information that contains highly sensitive research 7 data. If it includes names, produce that information but not the nature of the [‘]secret 8 formula to Coke[’] documents.” Id. at 24-25. Pursuant to the May 16, 2025, Order, 9 defendant made a supplemental production on May 28. Dkt. No. 31 at 2. 10 On June 26, 2025, the parties filed another joint discovery statement in which 11 plaintiff challenged defendant’s redactions to produced documents. Dkt. No. 31.1 Plaintiff 12 specifically alleged that of the 1,027 pages of documents produced on May 28, 2025, “583 13 [of the documents were] almost entirely redacted.” Id. at 2. Defendant responded that it 14 “made a good faith effort to comply with the Court’s instructions ... [but] Merck’s highly 15 proprietary trade secret information remain[ed] redacted.” Id. 16 On June 30, 2025, the Court ordered “defendant to produce all the discovery at issue, 17 unredacted and designated FOR COUNSEL ONLY, within 15 days of this Order.” Dkt.

18 No. 37 at 3. Shortly after, defendant filed its Ex Parte Motion seeking reconsideration of 19 the Court’s June 30, 2025, Order. Dkt. No. 42. In light of the Ex Parte Motion, on July 14, 20 2025, the Court stayed the June 30, 2025, Order, and directed the parties to meet and confer 21 to determine whether the existing Protective Order was sufficient, or if modification was 22 needed to “mollify defendant’s concerns about potential misappropriation of its purported 23 trade secrets.” Dkt. No. 43. Shortly thereafter, the Court granted the parties’ Joint Motion 24 to Amend the Protective Order. Dkt. No. 51. 25 / / / 26 27 1 The Court accepted this filing despite the fact that Judge Crawford’s Chamber Rules 28 1 On August 8, 2025, the Court held another discovery hearing on the documents still 2 in dispute following the parties’ July meet and confer conference. Dkt. No. 54. After the 3 hearing, the Court ordered defendant to “make the at-issue ‘CONFIDENTIAL FOR 4 COUNSEL ONLY’ designated documents—which were the subject of the Court’s June 5 30, 2025, Order re Joint Discovery Statement [Doc. No. 37]—available for plaintiff’s 6 counsel’s review on August 12, 2025.” Id. Pursuant to the Court’s Order and subsequent 7 instruction, the parties lodged joint statements with the Court providing updates on the 8 status of the discovery dispute. 9 b. The Three Remaining Disputed Documents 10 After nearly six months of disputes related to more than a thousand pages of 11 documents, only five pages from three documents remain in dispute. Defendant lodged the 12 documents containing the at-issue pages with the Court for in-camera review on October 13 10, 2025. Dkt. No. 62. The disputed pages bear the following bates numbers: 14 MERCK005251-5252, MERCK005370-5371, and MERCK005368.2 15 i. MERCK005251-5252 16 MERCK005251-5252 consists of two pages from a 29-page PowerPoint 17 presentation dated February 2024. While plaintiff’s name is included once in the 18 PowerPoint on MERCK005269, the redactions on that page are not disputed. On the 19 disputed pages, MERCK005251-5252, defendant redacted as “Trade Secret Information” 20 all text except the titles of each PowerPoint slide. “The redacted slides contain

projected 21 headcount, budgets, and forecasts for programs Merck acquired from Prometheus for 22 2023–2025.” Dkt. No. 63 at 73. 23 / / / 24 25 26 2 The disputed documents have been produced multiple times. The bates numbers 27 indicated here reflect the most recent production of the documents. 3 All citations to pages numbers are to the docket page number, not the document’s 28 1 Plaintiff describes the redacted text in MERCK005251-5252 as “information 2 discussing business planning” that can be used to explain why he was “wrongfully” 3 terminated by defendant. Id. at 4. Further, plaintiff states that the disputed pages do not 4 constitute trade secret information because they contain no “scientific or technical 5 information”. Id. 4. 6 Defendant labels the redacted text as trade secret information because “[t]his non- 7 public information reflects Defendant’s internal strategic planning and business priorities 8 and, if disclosed, would give competitors insight into Defendant’s future initiatives based 9 on its projected allocation of resources, allowing them to anticipate Defendant’s 10 development strategies, adjust their own plans, and capture market share before 11 Defendant’s initiatives are realized.” Id. at 7. 12 ii. MERCK005370-5371 13 MERCK005370-5371 is a two-page email from plaintiff to his supervisors that 14 contains four discrete and limited redactions. The email was sent during plaintiff’s 15 employment and relates to “his alleged conflict of interest, his past accomplishments, and 16 his search for work on a new project.” Id. at 5. In discussing his “past accomplishments”, 17 plaintiff also briefly mentions specific methodologies and outcomes from work he had 18 and/or planned to perform as an employee of defendant. 19 Plaintiff argues that he is entitled to production of an unredacted version of this email 20 because “[n]othing in the email remotely approaches ‘the Coke formula’ ... [and] the 21 continued redactions by Merck make the email difficult to understand.” Id. 22 Defendant represents that the redactions are limited to the “proprietary methodology 23 that Plaintiff worked on during his employment.” Id. at 8. Defendant further states that 24 “[t]he redactions are [] consistent with the Court’s order, and do not affect the readability 25 or substance of the email, which has otherwise been produced in full.” Id. 26 iii. MERCK005368 27 MERCK005368 is one page from a 9-page PowerPoint presentation. Plaintiff’s 28 name appears on MERCK005363, which is not in dispute, entirely unredacted, and 1 designated as confidential. MERCK005368 “contains a list of roles that were displaced 2 within the company. Although the list does not include employee names, it identifies each 3 displaced role by job site and includes additional details such as job level and role 4 description.” Id. at 9. While designated as “Confidential – For Counsel Only,” 5 MERCK005368 contains no redactions. 6 Plaintiff argues he is entitled to the production of MERCK005368 in its unredacted 7 form. However, MERCK005368 has no redactions, thus, plaintiff already possesses that 8 which he seeks. Plaintiff makes no additional arguments contesting defendant’s 9 confidentiality designation of MERCK005368. See id. at 2-5. 10 II. Legal Standard 11 The Court has broad discretion to manage discovery. See U.S. Fidelity & Guar. Co. 12 v. Lee Inv. LLC, 641 F.3d 1126, 1136 n.10 (9th Cir. 2011) (“District courts have wide 13 latitude in controlling discovery, and their rulings will not be overturned in the absence of 14 a clear abuse of discretion.”); Hallett v.

Morgan, 296 F.3d 732, 751 (9th Cir. 2002). Under 15 Federal Rule of Civil Procedure 26(b)(1), “[p]arties may obtain discovery regarding any 16 nonprivileged matter that is relevant to any party’s claim or defense and proportional to the 17 needs of the case.” Information need not be admissible to be discoverable. *Id.* In the 18 discovery context, information is relevant if it relates to “any matter that bears on, or that 19 reasonably could lead to other matters that could bear on, any issue that is or may be in the 20 case.” *In re Williams-Sonoma, Inc.*, 947 F.3d 535, 539 (9th Cir. 2020) (quoting 21 *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 350-51 (1978)). 22 While broad, the scope of discovery is not unlimited. See *ATS Prods., Inc. v. 23 Champion Fiberglass, Inc.*, 309 F.R.D. 527, 531 (N.D. Cal. 2015) (“Relevancy, for the 24 purposes of discovery, is defined broadly, although it is not without ultimate and necessary 25 boundaries.”) Relevant discovery must also be “proportional to the needs of the case” 26 Fed. R. Civ. P. 26(b)(1). To determine whether discovery is proportional, the Court 27 evaluates “the importance of the issues at stake in the action, the amount in controversy, 28 the parties’ relative access to relevant information, the parties’ resources, the importance 1 of the discovery in resolving the issues, and whether the burden or expense of the proposed 2 discovery outweighs its likely benefit.” Fed. R. Civ. P. 26(b)(1). 3 “The party seeking to compel discovery has the burden of establishing that its request 4 satisfies the relevance requirement of Rule 26.” *Sanchez Y Martin, S.A. de C.V. v. Dos 5 Amigos, Inc.*, No. 17CV1943-LAB (LL), 2019 WL 581715 at *3 (S.D. Cal. Feb. 13, 2019). 6 In turn, the party resisting the discovery has the burden to show that the discovery is 7 objectionable by “clarifying, explaining, and supporting [their] objections based on 8 relevance and privilege.” *Mahil v. Option Care Enters., Inc.*, No. 20CV1559-BEN-MDD, 9 2021 WL 2550084 (S.D. Cal. June 21, 2021) (internal quotations omitted) (citing 10 *DIRECTV, Inc. v. Trone*, 209 F.R.D. 455, 458 (C.D. Cal 2002); *Blankenship v. Hearst 11 Corp.*, 519 F.2d 418, 429 (9th Cir. 1975)). 12 III. Analysis 13 In the Joint Briefing, plaintiff seeks to compel defendant to produce the unredacted 14 versions of MERCK005251-5252, MERCK005370-5371, and MERCK005368. The Court 15 will analyze the merits of plaintiff’s arguments and defendant’s responses below. 16 a. Plaintiff is Entitled to Unredacted Versions of MERCK005251-5252 17 Plaintiff is entitled to discovery of defendant’s business planning information 18 because it is relevant to his claim of alleged wrongful termination. Plaintiff alleges that the 19 redacted business planning information—defendant’s plans to “reduce headcount”—in 20 MERCK005251-5252 shows that defendant no longer had a need for plaintiff as an 21 employee which explains the real reason why plaintiff was “wrongfully” terminated. Dkt.

22 No. 63 at 3.

23 Defendant argues its redactions were proper because this information is not relevant 24 to any theory of termination that plaintiff alleges in the operative complaint. *Id.* at 6-7 25 (“Only recently has Plaintiff shifted his position, asserting a new theory” of wrongful 26 termination “not alleged in the operative complaint”) *Id.* at 6. The Court does not find 27 defendant’s argument persuasive because it was on notice of plaintiff’s general claim of 28 wrongful termination. See

Stephenson v. California, 761 F. Supp. 3d 1242, 1264 (C.D. Cal. 1 2025) (“A party need not plead specific legal theories in the complaint, so long as the other 2 side receives notice as to what is at issue in the case.”) (quoting *Am. Timber & Trading Co. 3 v. First Nat. Bank of Oregon*, 690 F.2d 781, 786 (9th Cir. 1982)). Plaintiff is entitled to 4 discover whether defendant’s efforts to reduce headcount drove their decision to terminate 5 him. Thus, plaintiff is entitled to discovery of defendant’s business planning information 6 because it is relevant to why plaintiff was terminated. Moreover, this discovery is 7 proportional to the needs of the case. The information relates directly to plaintiff’s claim 8 of wrongful termination, is only available to defendant, and the burden on defendant to 9 produce the information without redactions is minimal. 10 Defendant also attempted to justify these redactions by arguing that the information 11 shows “internal strategic planning and business priorities [that], if disclosed[,] ...” could 12 lead to competitive harm. *Id.* at 6. While this argument might make sense in the absence of 13 a protective order, it ignores the fact the parties entered into a Protective Order that governs 14 the production of all information exchanged in this litigation. Dkt. No. 51. The Court will 15 not assume the plaintiff will disseminate information marked as confidential in violation 16 of the Protective Order. Defendant is free to designate documents as “Confidential” or 17 “Confidential – For Counsel Only” as it sees fit, and in accordance with the Protective 18 Order. Defendant is ordered to re-produce MERCK005251-5252 with new Bates numbers 19 without redactions. 20 b. Defendant’s Redactions of MERCK005370-5371 Are Limited and Comply 21 with the Court’s Order 22 Defendant’s redactions of an email between plaintiff and his former bosses are 23 limited to information primarily detailing the methodology that he used on projects while 24 employed at Merck. Plaintiff suggests that the redacted information in MERCK005370- 25 5371 is relevant to his claims and defenses because the email relates to “his alleged conflict 26 of interest, his past accomplishments, and his search for work on a new project.” Dkt. No. 27 64 at 4. Plaintiff goes on to argue that the redacted information does not show the secret 28 1 “Coke Formula” and that the redactions make the email difficult to read. *Id.* The Court 2 disagrees. 3 After lengthy discussion with the parties during the May 16, 2025, discovery 4 hearing, the Court held that defendant’s “methodology is not subject to production[.]” 5 because it is not relevant to any claims or defenses asserted. Dkt. No. 34 at 27. In plaintiff’s 6 counsel’s own words, “we’re only talking about did he work on Coke? Did he work on 7 Diet Coke? Was it Mountain Dew? It’s not like: Working on Coke, he did this, he did that, 8 he put this in the formula.” *Id.* at 28. In other words, discovery related to the substance of 9 plaintiff’s work—the methodologies and ideas he implemented—is not relevant to 10 plaintiff’s claims and defenses. Here, defendant’s redactions are limited to information that 11 amounts to “methodology”. In a declaration signed under penalty of perjury, Merck’s Vice 12 President and Head of Data, AI Genome Sciences Iya Khalil explained that “[t]he limited 13 redactions applied to this email protect highly sensitive information describing Merck’s 14 scientific approach, specific research results, and potential future applications of the same 15 methodology.” Dkt. No. 63-1 at 2-3. After conducting an in-camera review, the Court 16 arrives at

the same conclusion: the redacted phrases describe methodology. What is more, 17 defendant left the names of projects discussed in the email unredacted, providing plaintiff 18 with exactly what he asked for during the May 16, 2025, discovery hearing. Thus, plaintiff 19 failed to meet his burden of establishing relevance under FRCP 26. 20 The Court finds defendants redactions proper and in compliance with this Court's 21 previous Order. *Sanchez Y Martin, S.A. de C.V.*, 2019 WL 581715 at *3; see also, *De 22 Portillo v. Cnty. of San Diego*, No. 3:23-CV-00978-WQH-VET, 2024 WL 5048901 at *9 23 (S.D. Cal. Dec. 9, 2024) ("Based on an in-camera review of the County's proposed 24 redactions, the Court finds such redactions properly redact limited, sensitive, and/or 25 irrelevant information.") 26 The Court further concludes that the redactions do not make the email difficult to 27 read or understand as they are extremely limited and should have minimal, if any, impact 28 on plaintiff's ability to comprehend the document. The case law plaintiff appears to rely 1 on to support his argument is unpersuasive and distinguishable. For example, plaintiff 2 quotes the court's analysis in *Doe v. Trump*, which analyzes defendant's decision to redact 3 information it unilaterally deemed to be irrelevant. 329 F.R.D. 262, 276 (W.D. Wash. 4 2018). The court therein also held that "Defendants have not identified any prejudice that 5 might result from the production of the redacted material here." *Id.* As applied to the current 6 case, the parties agreed that the methodologies plaintiff used on his projects are not within 7 the scope of the discovery and defendant outlined the harm that could result from the 8 production of the redacted material. Dkt. No. 63-1 at 2-3. Plaintiff's rhetoric that 9 defendant's redactions would "breed suspicion" are baseless because plaintiff's counsel 10 conducted an in-person review of all documents in their unredacted form and is otherwise 11 aware of the content of the redacted phrases. Dkt. No. 63 at 4 (remarking that defendant's 12 earlier production of the document contained lesser redactions.) 13 Accordingly, the Court finds that defendant's redactions of MERCK005370-5371 14 are limited to methodology, which is not subject to production, and therefore are valid. 15 c. Plaintiff Does Not Dispute Defendant's Confidentiality Designation of 16 MERCK005368

17 Lastly, the Court need not conduct any analysis on MERCK005368 because 18 defendant already produced the document in its unredacted form. Plaintiff does not dispute 19 the "Confidential – For Counsel Only" confidentiality designation in the papers presented 20 and defendant's provided reasoning for this designation is persuasive. Thus, the Court finds 21 defendant's confidentiality designation of MERCK005368 is valid. 22 IV. Conclusion 23 The Court issues the following Order: 24 1. The Court DENIES defendant's request with regards to MERCK005251-5252. 25 Defendant must reproduce MERCK005251-5252 without redactions and with 26 new bates numbers. Defendant is free to designate the confidentiality of the at- 27 issue documents as it sees fit and in accordance with the operative Protective 28 Order. 1 2. The Court GRANTS defendant's request with regards to MERCK005370-5371. 2 Defendant does not need to reproduce MERCK005370-5371 because its 3 redactions are valid. 4 3. Defendant's request with regards to MERCK005368 is moot because it was 5 already produced without

redactions. Defendant does not need to reproduce 6 MERCK005368. 7 Defendant's Ex Parte Motion for Reconsideration [Dkt. No. 42] is therefore resolved 8 its entirety.

9 IT IS SO ORDERED

10 || Dated: November 24, 2025 A /;)

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Hori. Karen S. Crawford United States Magistrate Judge 13 14 15 16 17 18 19 20 21 22 23 24 25
26 27 28