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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 IN RE: PACKAGED SEAFOOD  
12 PRODUCTS ANTITRUST  
13 LITIGATION

Case No.: 15-md-2670-JLS-MDD

14 **ORDER ON JOINT MOTION FOR**  
15 **DETERMINATION OF**  
16 **DISCOVERY DISPUTE ON CFPS'**  
17 **MOTION TO COMPEL**  
18 **PRODUCTION OF ATTORNEY-**  
19 **CLIENT COMMUNICATIONS AND**  
20 **ATTORNEY WORK-PRODUCT,**  
21 **AND DPPS', DAPS', AND EPPS'**  
22 **MOTION TO COMPEL**  
23 **TESTIMONY**

24 **[ECF NO. 1882]**

25 In this multi-district litigation, Plaintiffs allege a price-fixing  
26 conspiracy conducted by the major manufacturers of packaged seafood  
27 products and their parent companies. Before the Court is a Joint Motion for  
Determination of Discovery Dispute filed on April 3, 2019. (ECF No. 1882).  
The Joint Motion presents two motions by certain groups of Plaintiffs, as  
follows: 1. Plaintiff CFPS' motion to compel production of attorney-client

1 communications and attorney work product; and 2. Plaintiffs DPPS', DAPS',  
 2 and EPPS' motion to compel additional testimony. Both sets of motions are  
 3 based upon deposition testimony provided by Robert Meece, General Counsel  
 4 of Defendant StarKist. Defendant opposes on the merits and also asserts  
 5 that the motion is untimely under this Court's Civil Chambers Rules.

## 6 DISCUSSION

### 7 A. Timeliness

8 Plaintiffs deposed Mr. Meece on February 12, 2019. On February 15,  
 9 2019, the court reporter notified the parties that the transcript was complete.  
 10 Counsel for Defendant, prior to the deposition being concluded, apparently  
 11 requested the opportunity to review and make changes to the transcript  
 12 under Rule 30(e)(1), Fed. R. Civ. P., which allows a witness up to 30 days to  
 13 review the transcript and make changes to the witness's answers. The  
 14 parties later agreed to a two-week extension. On March 19, 2019, counsel for  
 15 Defendant advised counsel for Plaintiffs that there would be no changes to  
 16 the relevant portions of the transcript.

17 Section IV.C.2 of the Court's Civil Chambers Rules provides:

18 Any motion related to discovery disputes must be filed  
 19 no later than thirty (30) days after the date upon which the  
 20 event giving rise to the dispute occurred. For oral discovery,  
 21 the event giving rise to the dispute is the completion of the  
 transcript of the relevant portion of the deposition.

22 Hence the question: When is a deposition transcript "completed" for purposes  
 23 of this Rule?

24 The Court finds that a deposition transcript is completed, for purposes  
 25 of the Court's Civil Chambers Rules when the time to make substantive  
 26 changes has expired. If a party requests the opportunity to review the  
 27 transcript and make changes under Rule 30(e)(1), the transcript is complete

1 when either the 30-day period expires or counsel reports that no changes will  
2 be made, whichever is earlier. The 30-day review period under Rule 30(e)(1)  
3 cannot be used as a shield and sword. The Court will not force a party  
4 disputing certain deposition answers to undertake the time and expense of  
5 bringing forward a motion, when the challenged answers are subject to  
6 revision.

7 In this case, the dispute became ripe on March 19, 2019, when counsel  
8 for Defendant advised counsel for Plaintiffs that the witness would not be  
9 changing any of his disputed answers. This motion was filed within 30 days  
10 of March 19, 2019. It is timely.

11 B. Waiver of Privilege

12 The Court has carefully reviewed the deposition transcript and finds  
13 Mr. Meece did not waive attorney-client privilege in responding as he did to  
14 the questions posed. In essence, Mr. Meece stated that the discovery in this  
15 case was reviewed by outside counsel who opined that that there was no  
16 evidence of price-fixing other than regarding the 5-ounce cans. This is  
17 insufficient to constitute a waiver of privilege regarding the analysis  
18 undertaken by outside counsel.

19 C. Work-Product Confidentiality

20 Similarly, Plaintiffs have not demonstrated a substantial need for these  
21 materials – after all, according to the witness, outside counsel’s analysis was  
22 based upon the discovery provided in this case. And, in the end, outside  
23 counsel’s analysis and opinion is irrelevant; the trier of fact will determine  
24 whether or not the price-fixing conspiracy extended beyond the 5-ounce cans,  
25 based upon the evidence.

26 D. Request for Additional Witnesses

27 The Court also finds, based upon the review of the transcript and the

1 parties' arguments, that the witness was adequately prepared and provided  
2 sufficient answers to the questions posed.

3 **CONCLUSION**

4 As presented in this Joint Motion, Plaintiff CFPS' motion to compel  
5 production of attorney-client communications and work-product is **DENIED**.  
6 Plaintiffs DPPS', DAPS', and EPPS' motion to compel additional testimony  
7 also is **DENIED**.

8 **SO ORDERED.**

9 Dated: May 6, 2019

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11 Hon. Mitchell D. Dembin  
12 United States Magistrate Judge  
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