

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

PB LEGACY, INC. and TB FOODS
USA, LLC, a Texas Corporation,

Plaintiffs,

v.

Case No: 2:17-cv-9-FtM-29CM

AMERICAN MARICULTURE,
INC., AMERICAN PENAEID, INC.
and ROBIN PEARL,

Defendants.

ORDER

This matter comes before the Court upon review of Plaintiff TB Food USA, LLC's ("TB Food") Unopposed Motion to Extend Time for TB Food to Amend or Withdraw its Motion to Compel as to its First Set of Requests for Production Directed to All Defendants and for Sanctions, filed on September 17, 2018. Doc. 121. TB Food also requests that the Court, pursuant to the Protective Order (Doc. 102) entered on April 16, 2018, approve the parties' agreement regarding the designation and treatment of certain documents produced in discovery. *Id.* at 6. Defendants do not oppose the relief sought in the motion. *Id.* at 5. For the reasons stated below, the motion is granted in part and denied in part.

On July 17, 2018, TB Food filed a motion to compel directed to Defendants' allegedly inadequate response to TB Food's request for production of certain documents. Doc. 106. TB Food states that after filing the motion, counsel for the parties continued to confer, and on July 30, 2018, Defendants produced additional

documents in response to the request for production (the “Second Production”). Doc. 121 at 3. The Court previously granted TB Food an extension until September 17, 2018 to amend or withdraw its motion to compel. Doc. 117. TB Food filed the present motion requesting an extension until September 26, 2018 to amend or withdraw the motion to compel. Doc. 121 at 6. TB Food represents that the parties are continuing to attempt to resolve the disputes raised by the motion to compel and have a telephone conference scheduled for September 21, 2018. *Id.* at 5. Thus, the Court finds good cause to extend TB Food’s deadline for amending or withdrawing its motion to compel and will grant the extension.

TB Food also requests that the Court adopt the parties’ agreement regarding treatment of the Second Production documents under the Protective Order. *Id.* The Court entered the Protective Order in this case on April 16, 2018. Doc. 102. TB Food represents that the parties agreed to the following regarding the Second Production documents: (1) the Second Production documents will not be designated Attorney’s Eyes Only (“AEO”) under the Protective Order; (2) Plaintiffs agreed to only use the Second Production documents to prepare for and conduct the litigation; (3) Plaintiffs agreed to give the Second Production documents protection from voluntary disclosure to non-parties, except in examining witnesses and other discovery events; and (4) the parties agreed that the Second Production documents were “not subject to the other limitations of the [Protective Order]” including the requirement of filing under seal, any limits on documents designated AEO, and limits on using confidential information in examining witnesses. Doc. 121 at 3.

First, the parties do not need the Court's approval under the Protective Order to designate documents "Confidential" or "Confidential—Attorney's Eyes Only." Doc. 102 ¶ 9. The parties also do not need the Court's approval, pursuant to the Protective Order, to disclose information designated "Confidential" under paragraph seventeen (filing under seal) or paragraph twenty-two (examining witnesses) if the party disclosing such information obtains the opposing party's agreement and consent in writing. *Id.* ¶ 18(g). Here, TB Food represents the parties agreed on the relevant disclosures of information designated as "Confidential." Doc. 121 at 3. Thus, the Court will deny as moot TB Food's request that the Court approve the parties' agreement.

ACCORDINGLY, it is

ORDERED:

TB Food's Unopposed Motion to Extend Time for TB Food to Amend or Withdraw its Motion to Compel as to its First Set of Requests for Production Directed to All Defendants and for Sanctions (Doc. 121) is **GRANTED in part and DENIED in part**. TB Food's request for an extension of time is **GRANTED**. TB Food's request that the Court approve the parties' agreement under the Protective Order (Doc. 102) is **DENIED as moot**. TB Food shall have up to and including September 26, 2018 to amend or withdraw its motion to compel (Doc. 106).

DONE and **ORDERED** in Fort Myers, Florida on this 20th day of September,
2018.


CAROL MIRANDO
United States Magistrate Judge

Copies:
Counsel of record