UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	SACV 10-1333 JVS (MLGx)	Date	March 31, 2011
Title	FTC v. Lights of America Inc., et al.		

Present: The Honorable	James V. Selna	
Karla J. Tunis		Not Present
Deputy Clerk		Court Reporter
Attorneys Present for Plaintiffs:		Attorneys Present for Defendants:
Not Present		Not Present

Proceedings: (In Chambers) Order Denying Defendants' Motion to Dismiss Complaint (Fld 2-28-11) and Denying Defendants' Application to Retain Redacted Amended Complaint

Defendants Usman Vakil and Farooq Vakil (collectively, "the Vakils") move to dismiss the Amended Complaint ("AC") pursuant to Federal Rules of Civil Procedure 12(b)(6), 8(a), and 9(b). Plaintiff Federal Trade Commission ("FTC") opposes the motion.

Defendant Lights of America, Inc. ("LOA") requests that the Court issue an order retaining the Redacted Amended Complaint ("RAC") that was filed on February 8, 2011[1] pursuant to section 6(f) of the Federal Trade Commission Act ("FTC Act"), 16 C.F.R. § 4.10(g), Federal Rule of Civil Procedure 5.2(d) & (e), and Local Rule 79-5.1. The FTC opposes the application.

For the following reasons, the motion and application are DENIED.

I. Background

The Vakils are the sole shareholders of LOA. Usman Vakil is the Chairman of the Board of Directors and President and has a fifty-one percent ownership interest in LOA. (AC ¶ 8.) Farooq Vakil is the Secretary and Executive Vice President and has a forty-nine percent ownership interest in LOA. (Id. ¶ 9.) The FTC contends that, at all times relevant

[1] The Application states that the RAC was filed on February 9, 2011. (App. 1.) The Court's records indicate that the RAC was filed on February 8, 2011. (See Docket No. 42.)

to this action, the Vakils "formulated, directed, controlled, had authority to control, or participated in" the allegedly deceptive acts. (Id. ¶¶ 54,69.)

The FTC filed this action against LOA and the Vakils (collectively, "Defendants") on September 7, 2010, alleging violations of section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and seeking relief pursuant to section 13(b) of the FTC Act, 15 U.S.C. § 53(b). (Id. ¶¶ 1, 98.) The FTC Act prohibits "unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce." 15 U.S.C. § 45(a)(1). The FTC asserts that Defendants violated this Act by distributing promotional materials claiming that their Light Emitting Diode ("LED") lamps possessed particular watt equivalency, lumen output, and life spans, despite the fact that these representations were "false or were not substantiated." (Id. ¶¶ 90-95.)

On November 4, 2010, the Vakils filed a motion to dismiss the original Complaint. (Docket No. 20.) The Court granted the motion without prejudice on the grounds that the Complaint did not meet the heightened pleading standard of Federal Rule of Civil Procedure 9(b). (Docket No. 33, pp. 12-13.) The FTC filed the RAC, along with the unredacted AC under temporary seal, on February 8, 2011. (Docket Nos. 42, 49.)

II. Motion to Dismiss

A. Legal Standards

Rule 8(a)[2] requires that a Complaint include "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). Under Rule 12(b)(6), a defendant may move to dismiss for failure to state a claim upon which relief can be granted. A plaintiff must state "enough facts to state a claim to relief that is plausible on its face." Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007). A claim has "facial plausibility" if the plaintiff pleads facts that "allow[] the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." Ashcroft v. Iqbal, --- U.S. ----, 129 S. Ct. 1937, 1949 (May 18, 2009).

In resolving a 12(b)(6) motion under Twombly, the Court must follow a two-pronged approach. First, the Court must accept all well-pleaded factual allegations as

[2] For the purpose of this Order, Rules refer to the Federal Rules of Civil Procedure.

true, but "[t]hread-bare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." Id. Nor must the Court "accept as true a legal conclusion couched as a factual allegation." Id. at 1949-50 (quoting Twombly, 550 U.S. at 555). Second, assuming the veracity of well-pleaded factual allegations, the Court must "determine whether they plausibly give rise to an entitlement to relief." Id. at 1950. This determination is context-specific, requiring the Court to draw on its experience and common sense, but there is no plausibility "where the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct." Id.

Under Rule 9(b), a plaintiff must plead each of the elements of a fraud claim with particularity, i.e., a plaintiff "must set forth *more* than the neutral facts necessary to identify the transaction." Cooper v. Pickett, F.3d 616, 625 (9th Cir. 1997) (emphasis in original). In other words, fraud claims must be accompanied by the "who, what, when, where, and how" of the fraudulent conduct charged. Vess v. Ciba-Geigy Corp., USA, 317 F.3d 1097, 1106 (9th Cir. 2003). The Ninth Circuit has mandated that this heightened pleading requirement applies to claims that "sound in fraud" and to "averments" of fraud as well. Id. at 1103-04. "A pleading is sufficient under [R]ule 9(b) if it identifies the circumstances constituting fraud so that a defendant can prepare an adequate answer from the allegations." Moore v. Kayport Package Express, Inc., 885 F.2d 531, 540 (9th Cir. 1989). "While statements of the time, place, and nature of the alleged fraudulent activities are sufficient, mere conclusory allegations of fraud are insufficient." Id.

B. Discussion

To state a claim against an individual for violation of the FTC Act, the FTC must allege (a) misrepresentations or omissions (b) of material fact (c) of a kind usually relied upon by reasonably prudent persons, (d) that consumer injury resulted, and (e) that the individual participated directly in the acts or had the authority to control them. See FTC v. Swish Mktg., Case No. C 09-03814 RS, 2010 WL 653486, at *3 (N.D. Cal. Feb. 22, 2010). The Vakils argue that the FTC also must allege that the Vakils had knowledge of the misrepresentations. (Mot. Br. 11; Reply Br. 3.) The Court disagrees.

The Vakils' confusion appears to result from the showing of knowledge that is required for the FTC to obtain restitutionary relief, as opposed to injunctive relief, against individuals for violations of the Act. "In FTC v. Publishing Clearing House, Inc., 104 F.3d 1168 (9th Cir. 1997), [the Ninth Circuit] held that an individual may be subject to

injunctive relief if the FTC can prove that an individual participated directly in the acts in question or had authority to control them. [The Ninth Circuit] concluded that, to hold an individual liable for restitution, the FTC must also show that the individual had actual knowledge of the material misrepresentations, was recklessly indifferent to the truth or falsity of a misrepresentation, or had an awareness of a high probability of fraud along with an intentional avoidance of the truth." FTC v. Garvey, 383 F.3d 891, 900 (9th Cir. 2004) (emphases added) (internal quotations and citations omitted). Likewise, in FTC v. Network Services Depot, Inc., the Ninth Circuit noted that "[i]ndividual liability for injunctive relief under the [FTC] Act has no mental state requirement . . . ." 617 F.3d 1127, 1138 n. 9 (9th Cir. 2010). Accordingly, the FTC does not need to allege that the Vakils had knowledge of the misrepresentations in order to state a claim against them for violation of section 5 of the FTC Act.

Instead, the central issue in determining whether the AC states a claim against the Vakils for injunctive relief is whether the AC adequately alleges that the Vakils had the authority to control the allegedly deceptive practices of LOA. The Court finds that the AC adequately alleges the requisite authority to control. "Authority to control the company can be evidenced by active involvement in business affairs and the making of corporate policy." FTC v. American Standard Credit Sys., Inc., 874 F. Supp. 1080, 1089 (citing FTC v. Amy Travel Serv., Inc., 875 F.2d 564, 573-74 (7th Cir. 1989)). Multiple allegations demonstrate the Vakils' active involvement in LOA's business affairs. (See, e.g., AC ¶¶ 57, 59, 74, 79, 81.) Additionally, "[a]n individual's status as a corporate officer and/or the authority of that individual to sign documents on behalf of a corporate defendant is sufficient to show the requisite control." FTC v. Dinamica Financiera, LLC, Case No. CV 09-03554 MMM (PJWx), 2010 U.S. Dist. LEXIS 88000, at *40 (C.D. Cal. Aug. 19, 2010) 40 (citing Publishing Clearing House, 104 F.3d at 1170 ("Martin's assumption of the role of president of PCH and her authority to sign documents on behalf of the corporation demonstrate that she had the requisite control over the corporation.")). The FTC alleges that Usman Vakil is LOA's Chairman and President and has a fifty-one percent ownership interest in LOA. (AC ¶ 8.) Farooq Vakil is LOA's Secretary and Executive Vice President and has a forty-nine percent ownership interest in LOA. (Id. ¶ 9.) Both Usman and Farooq Vahil communicated with the Department of Energy ("DOE") on behalf of LOA. (Id. ¶¶ 57, 81.) In September 2008, Usman Vakil sent a letter to the DOE in response to the DOE's test results of LOA's LED lamps. (Id. ¶¶ 56-57.) On July 16, 2010, Farooq Vakil emailed LOA employees that he was the "central spokesman for all matters relating to EnergyStar, DOE, and EPA" and that "[a]ll information relating

to these agencies is to be directed to [him]." (Id. ¶ 72.) Considering these allegations, the Court finds that the FTC has adequately alleged the requisite authority to control. Accordingly, the FTC has stated a claim against the Vakils for violation of section 5(a) of the FTC Act.[3] The Vakils' protestations at oral argument that knowledge of the falsity of the representations is required for injunctive relief is simply not the law in the Ninth Circuit. Publishing Clearing House, 104 F.3d at 1170.

In addition to seeking injunctive relief, the FTC seeks restitution from the Vakils. (Id. ¶¶ 1, 98.) As explained above, to hold individuals liable for restitution, the FTC must also show that the individuals had knowledge of the deceptive practices. Am. Standard Credit Sys., Inc., 874 F. Supp. at 1089 (citations omitted). "The knowledge requirement may be fulfilled by showing that the individuals had actual knowledge of material misrepresentations, were recklessly indifferent to the truth or falsity of a misrepresentation, or had an awareness of a high probability of fraud along with an intentional avoidance of the truth." Id. (citations omitted). Allegations of the individuals' knowledge are subject to the general pleading standard of Rule 8(a) rather than the heightened pleading standard of Rule 9(b) because these allegations are relevant to the availability of a particular remedy (*i.e.* restitution), not to the sufficiency of the underlying cause of action. See FTC v. Benning, Case No. C 09-03814 RS, 2010 WL 2605178, *4 (N.D. Cal. June 28, 2010); see also Menjivar v. Trophy Prop. IV DE, LLC, Case No. C 06-03086 SI, 2006 WL 2884396, at *13 (N.D. Cal. Oct. 10, 2006) (unpublished disposition) ("While 9(b) requires pleading the circumstances of fraud with particularity, defendants cite no case law, and the Court finds none, requiring that fraud damages be pled with more specificity than required under normal notice pleading."); Interserve, Inc. v. Fusion Garage PTE Ltd., Case No. C 09-5812 RS (PSG), 2011 WL 500497, at *3 (N.D. Cal. Feb. 9, 2011) ("Rule 9(b) may not apply to the . . . damages elements of a fraud claim.")

The FTC's allegations of the Vakils' knowledge are sufficient to plead entitlement to restitutionary relief. The FTC alleges that the Vakils "formulated, directed, controlled, had authority to control, or participated in the acts or practices set forth" in the AC and

[3] The Vakils have not argued that the AC fails to adequately allege the other elements of a claim for violation of section 5(a), *i.e.*, (a) misrepresentations or omissions (b) of material fact (c) of a kind usually relied upon by reasonably prudent persons, and (d) that consumer injury resulted. Swish Mktg., 2010 WL 653486, at *3.

"knew that the claims for Defendants' LED lamps were false or unsubstantiated." (AC ¶¶ 54, 68, 69, 84.) These allegations are supported by factual allegations demonstrating the Vakils' active involvement in LOA's business affairs, (see, e.g., AC ¶¶ 57, 59, 72, 74, 79, 81), which support a reasonable inference that they were aware of the representations made on the LED promotional materials. FTC also alleges that Usman Vakil received a letter from the DOE in September 2008 informing him of the results of the CALiPER tests conducted on three of LOA's LED lamp models and that these test results differed from LOA's claims.[4] (Id. ¶¶ 25-26, 56.) Usman Vakil sent a letter in response, acknowledging that the DOE had evaluated some of LOA's LED lamps, and Farooq Vakil received this response. (Id. ¶¶ 57, 71.) These allegations permit the reasonable inference that the Vakils were aware of the representations made on the labels and promotional materials for their LED lamps and were aware of the results of the DOE's CALiPER tests. At the pleading stage, these allegations are sufficient to raise the inference that the Vakils knew of the misrepresentations or, at least, were recklessly indifferent to the truth or falsity of the representations made. Thus, the AC adequately pleads entitlement to restitution.

In sum, the FTC has adequately alleged that the Vakils violated section 5(a) of the FTC Act and that the FTC may obtain injunctive relief and restitution from the Vakils. Accordingly, the motion to dismiss is denied.

III. Application to Retain the Redacted Amended Complaint

A. Legal Standard

The Ninth Circuit has "a strong presumption in favor of access to court records." Foltz v. State Farm Mut. Auto. Ins. Co., 331 F.3d 1122, 1135 (9th Cir. 2003). However, the right to access is not absolute. Id. The Court may order redaction of information for good cause. Fed. R. Civ. P. 5.2(e). "A party asserting good cause bears the burden, for each particular document it seeks to protect, of showing that specific prejudice or harm

[4] CALiPER is an "independent testing program that evaluates the performance of LED lamps." (Id. ¶ 24.) Pursuant to this program, the "DOE purchases LED lamps from retail stores, conducts tests, shares the results with the manufacturers and invites them to comment, makes the reports available to the public, and releases Summary Reports on its website." (Id.)

will result if no protective order is granted." Foltz, 331 at 1130.[5] "If a court finds particularized harm will result from disclosure of information to the public, then it balances the public and private interests to decide whether a protective order is necessary." Phillips ex rel. Estates of Byrd v. Gen. Motors Corp., 307 F.3d 1206, 1211 (9th Cir. 2002).

B. Discussion

In late August 2009, the FTC served LOA with a Civil Investigative Demand ("CID") requesting production of documents and information relating to LOA's LED lamps. (Docket No. 61, Declaration of Imran Vakil in Support of Application ("Imran App. Decl.") ¶¶ 2-3.) In response to the CID, LOA produced over one thousand documents to the FTC in September 2009. (Id. ¶ 3.) With this production, LOA's attorney Atul Kumar sent a letter to the FTC stating that LOA objected to the requests to the extent they sought "information protected by any privilege or immunity" and "confidential, non-public, proprietary, trade secret, and/or commercially sensitive information." (Id., Ex. A.) In support of its Application, LOA argues that information disclosed in paragraphs 59, 61, 62, 66, 72-77, 79 and 82 of the AC paraphrase, refer to, or quote from confidential and privileged emails that were produced to the FTC pursuant to the CID. (Id. ¶ 2.) On this basis, LOA requests that the Court issue an order to retain the RAC as the operative pleading because the RAC has redacted the allegations relating to the content of those emails.

Section 6(f) of the FTC Act provides that "the Commission shall not have any authority to make public any trade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential." Section 4.10(a) of the FTC Regulations provides that "commercial or financial information" that is "privileged or confidential" is not required to be made public under 5 U.S.C. § 552. 16 C.F.R. § 4.10(a)(2). Section 4.10(g) of the FTC Regulations provides that "confidential or

[5] The rationale of Foltz, which addressed the burden to show good cause for a protective order pursuant to Rule 26(c), applies with equal force to the burden to show good cause for redaction pursuant to Rule 5.2(e). See King Pharm., Inc. v. Eon Labs, Inc., Case No. 04-CV-5540 (DGT), 2010 WL 3924689, at *3 (E.D.N.Y. Sept. 28, 2010) ("[T]he burden remains on the party resisting disclosure to demonstrate good cause for maintaining confidentiality, pursuant to Rules 26(c) and 5.2(e).") (citations omitted).

financial information protected by section 6(f) of the Federal Trade Commission Act, and § 4.10(a)(2) of this part, may be disclosed in Commission administrative or court proceedings subject to Commission or court protective order or in camera orders as appropriate." 16 C.F.R. § 4.10(g).

The FTC concedes that the emails at issue are commercial, but argues that section 6(f) does not prohibit the FTC from making the emails public because the emails are neither confidential nor privileged and LOA has not demonstrated good cause for redaction. (Docket No. 58, Opposition to Application to Retain the RAC ("Opp'n to App.") 4-10.) The Court agrees.

1. The Emails Are Not Confidential

Information is considered confidential if disclosure of the information would be likely to "impair the Government's ability to obtain necessary information in the future" or "cause substantial harm to the competitive position of the person from whom the information was obtained." GC Micro Corp. v. Defense Logistics Agency, 33 F.3d 1109, 1112-13 (9th Cir. 1994) (citing National Parks & Conservation Ass'n v. Morton, 498 F.2d 765 (D.C. Cir. 1974)); see also Miller, Anderson, Nash, Yerke & Wiener v. United States Dep't of Energy, 499 F. Supp. 767, 771 (D.Or. 1980).[6] LOA has not explained how or why the emails meet either prong of the test for confidential information. After reviewing the content of the emails, the Court finds that disclosing the information would not be likely to cause substantial harm to LOA's competitive position to the extent that

[6] LOA argues that in Miller, the "determinative factor" for confidentiality was whether the information was "not the type of document one would reveal to the public." (See App. 4.) LOA misconstrues the court's analysis. Although the court in Miller stated that "some courts have imposed the additional requirement that the information be of a type which would customarily not be released to the public by the person from whom it was obtained," the court first explained that "[t]he most often cited construction of confidentiality is that in order to be confidential the disclosure of the information must have the effect of impairing the Government's ability to obtain necessary information in the future or of causing substantial harm to the competitive position of the person from whom the information was obtained." 499 F. Supp. at 771 (internal quotations and citations omitted) (emphasis added). As noted above, this test for confidentiality is echoed by the Ninth Circuit in GC Micro, 33 F.3d at 1112-13. In any event, the rule has no logical applicability, for a company would rarely disclose its misconduct.

The Court also notes that LOA's statement that Miller was decided by the Ninth Circuit is incorrect. (App. 3.) Miller was decided by the District Court for the District of Oregon.

such position is based on trade secrets or other product advantages. The Court also finds that disclosing the information would not be likely to impair the government's ability to obtain necessary information in the future because the FTC Act requires companies to produce documents for CIDs. 15 U.S.C. §57b-1(c)(1).

Despite relying on Miller, a decision construing the term "confidential" in the context of section 552(b)(4) of the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(b)(4), LOA argues in its Reply that the Court should reject the "narrow" construction of "confidential" espoused in FOIA cases because the purpose and legislative history of FOIA differ from the purpose and legislative history of the FTC Act. (Docket No. 66, Reply In Support Of Application ("Reply ISO App.") 1, 2-8.) The Court is not persuaded that the distinct purposes of the Acts warrant rejection of FOIA case law construing the term "confidential." Notably, the language of section 552(b)(4) of FOIA and the language of section 6(f) of the FTC Act are nearly identical. Compare 5 U.S.C. § 552(b)(4) (exempting from mandatory disclosure "trade secrets and commercial or financial information obtained from a person and privileged or confidential") with 5 U.S.C. § 46(f) (prohibiting the FTC from making public "any trade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential"). In light of the striking similarity between the provisions, the Court finds the FOIA case law applicable to construing the term "confidential" as used in section 6(f) of the FTC Act. The Court also notes that LOA does not direct the Court to any case law interpreting the term "confidential" in the context of the FTC Act. LOA's quotation of the definition of "confidential" from Webster's Third New International Dictionary is unpersuasive because "confidential" is a legal term of art.

Thus, the Court finds that the test for identifying "confidential" information is whether disclosure would be likely to impair the government's ability to obtain necessary information in the future or would be likely to cause substantial harm to LOA's competitive position. GC Micro, 33 F.3d at 1112-13. The disclosure of misconduct affects no legitimate competitive advantage. Because neither prong of the is met here, the emails are not confidential within the meaning of section 6(f) of the FTC Act.

2. The Emails Are Not Privileged

LOA argues that even if the information in the emails is not considered confidential, the information cannot be made public under section 6(f) because the emails

are protected by attorney-client privilege and the "self-critical analysis" privilege. (App. 4-7; Reply ISO App. 7-10.)

"A party asserting the attorney-client privilege has the burden of establishing the [attorney-client] relationship and the privileged nature of the communication." United States v. Bauer, 132 F.3d 504, 507 (9th Cir. 1997) (citing Ralls v. United States, 52 F.3d 223, 225 (9th Cir. 1995)). "Issues concerning application of the attorney-client privilege in the adjudication of federal law are governed by federal common law." United States v. Ruehle, 583 F.3d 600, 608 (9th Cir. 2009) (quotations and citations omitted); see also United States v. Blackman, 72 F.3d 1418, 1423 (9th Cir. 1995) ("[S]ince the adoption of the Federal Rules of Evidence, courts have uniformly held that federal common law of privilege, not state law applies."). Under federal common law, attorney-client privilege has eight essential elements:

> (1) Where legal advice of any kind is sought (2) from a professional legal adviser in his capacity as such, (3) the communications relating to that purpose, (4) made in confidence (5) by the client, (6) are at his instance permanently protected (7) from disclosure by himself or by the legal adviser, (8) unless the protection is waived.

United States v. The Corporation (In re Grand Jury Investigation), 974 F.2d 1068, 1071 (9th Cir. 1992) (quoting United States v. Margolis (In re Fischel), 557 F.2d 209, 211 (9th Cir. 1977)). The party asserting the claim of attorney-client privilege must make a *prima facie* showing of these elements, generally by submitting a privilege log and affidavits. Id.

LOA has not made a *prima facie* showing of attorney-client privilege. LOA asserts that in the emails, LOA employees sought legal advice from Imran Vakil, one of LOA's attorneys.[7] After reviewing the emails, the Court finds this assertion to be disingenuous. Interestingly, Imran Vakil was not a recipient on several of the emails. (See Imran App. Decl., Exs. D, G, & H.) Even considering the emails where Imran Vakil was a recipient, those emails were sent to fifteen to twenty-four other recipients and no where in any of those emails did the sender request legal advice. (See id., Exs. B, C, E & F.) The fact that

[7] Imran Vakil has served as one of LOA's attorneys since May 2007. Between May 2007 and December 2007, he also acted as LOA's Business Development Manager. (Imran App. Decl. ¶ 1.)

one of the many recipients of the emails was a lawyer for LOA does not protect the emails under the attorney-client privilege doctrine. See United States v. Martin, 278 F.3d 988, 999 (9th Cir. 2002) ("The fact that a person is a lawyer does not make all communications with that person privileged."). LOA has not met its burden of demonstrating that the emails were sent to obtain legal advice from Imran Vakil in his capacity as a legal adviser. The Court therefore finds that the emails are not protected by attorney-client privilege.

LOA alternatively argues that the emails are privileged under the "self-critical analysis" privilege. (App. 5-7; Reply ISO App. 8-9.) The Ninth Circuit "has not recognized this novel privilege." Union Pac. R.R. Co. v. Mower, 219 F.3d 1069, 1076 n. 7 (9th Cir. 2000) (citing Dowling v. Am. Hawaii Cruises, Inc., 971 F.2d 423, 425-26 (9th Cir. 1992)). The Court declines to do so here.

Thus, the Court finds that the emails are not privileged.

3. LOA Has Not Demonstrated Good Cause for Redaction

Finally, the Court notes that LOA has not demonstrated good cause for retaining the redacted pleading. LOA simply states that making the contents of the emails public "would damage the company's reputation and deter other companies from engaging in searching self-evaluative dialogues in the future." (App. 7.) This assertion does not provide a particularized showing of harm for each document LOA seeks to protect. See Foltz, 331 at 1130. In light of the "strong presumption in favor of access to court records," the Court finds that good cause does not exist for ordering the redaction of the allegations relating to LOA's internal emails. Id. at 1135.

In sum, section 6(f) of the FTC Act does not prevent public disclosure of the content of the emails because the emails are neither confidential nor privileged, nor does good cause exist for ordering the redaction of the allegations relating to the content of the emails. Thus, the Court denies LOA's application to retain the RAC.

IV. Conclusion

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. SACV 10-1333 JVS (MLGx) Date March 31, 2011

Title FTC v. Lights of America Inc., et al.

For the foregoing reasons, the Court DENIES the motion to dismiss and the application to retain the Redacted Amended Complaint.[8]

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[8] The Court did not request the Defendants' supplemental brief. It is accordingly stricken, as is the FTC's response. (Docket Nos. 79, 80.)