

Superior Court of California,
Rene C. Davidson Alameda County Courthouse.
Alameda County
SAVAGLIO, Plaintiff(s),
v.
WAL-MART STORES, INC., Defendant(s).
No. C-835687.
March 13, 2002.

Motion to Compel Granted

Order

Furth Firm the, Attn: [Ben Furth](#), 201 Sansome Street, Suite 1000, San Francisco, CA 94104-0000.

Mayer, Brown Rowe & Maw, [Jerome M. Jauffret](#), 350 South Grand Avenue, 25th Floor, Los Angeles, CA 90071-1503.

Judge [Ronald M. Sabraw](#).

The Motion to Compel filed for ANDREA SAVAGLIO was set for hearing on 03/08/2002 at 02:00 PM in Department 22 before the Honorable Ronald M. Sabraw. The Tentative Ruling was published and has not been contested.

IT IS HEREBY ORDERED THAT:

The tentative ruling is affirmed as follows: Plaintiff's motion to compel compliance with agreement to produce documents with sufficient identifiers is GRANTED.

On July 23, 2001, this Court held that Defendants could produce documents and redact the names of Wal-Mart employees because on most of those documents the employees are identified by the last four numbers of their social security numbers. This decision was made based on the Court's finding, based on the record at that time, that most, if not all, documents identified the relevant Wal-Mart employees by the last four numbers of their social security numbers and that the parties could evaluate the case using the numbers to identify the relevant Wal-Mart employees.

Plaintiffs now assert that this identification is inadequate because some numbers are missing, some are illegible, and some employees share the same last four numbers of their social security numbers. Defendants have agreed to provide numbers where the numbers are missing, clear copies where the numbers are illegible, and to assist in differentiating among employees who share the last four numbers of their social security numbers. Plaintiffs counter that this will lead to delay and that they will then have to rely on the accurate transcription of the numbers by Defendants.

The Court holds that the evidence regarding the practicality of identifying employees by the last four numbers of their social security numbers new facts sufficient to justify a motion to reconsider under [C.C.P. 1008](#).

The Court holds that Defendants must produce the documents in question without redacting the names of Defendants' employees. The Court finds that the names of the individuals who worked at Defendants and information regarding when they clocked in and clocked out of work was posted at Wal-Mart stores and is therefore not private information. Assuming there is some privacy interest in the names of the employees, that interest is not substantial. See, e.g., Judicial Council Form Interrogatories No. 12 and 16 (asking for name, address, and telephone number of persons who were witnesses to the incident). Any privacy interest in the names of Defendants' employees and the hours they worked is outweighed by the need for discovery.

In June 2001 Defendant Wal-Mart produced redacted copies of time adjustment requests that contain specific information as to why individual employees were absent on particular dates. Based on the exemplars presented to the Court in June 2001, some of this information is private as it concerns medical appointments and similar, personal, information. Plaintiffs must return any such documents in their possession to Defendants and Defendants must then provide versions of such documents with the specific information as to why individual employees were absent on particular dates redacted.

The Court reaches a different conclusion from its decision on July 23, 2001, based on the evidence that it is proving to be very difficult for the parties to evaluate the case using the last four numbers of employees' social security numbers to identify the relevant employees. The burdens imposed on the parties of using numbers to identify employees in terms of delay, cost, and ease of use outweigh the limited privacy interest in the names of the employees. Defendants have asserted that there is little burden and that the difficulties can be remedied, but their delay in remedying the difficulties indicates that there is a substantial burden.

The names of Defendants' employees may be included as confidential information under the protective order signed on February 13, 2002.

Plaintiffs and Defendants must not communicate with any potential class members about the subject matter of this litigation other than those persons who were identified pursuant to this Court's Order of September 20, 2001, and did not elect to assert their privacy rights. The Court understands that this permits counsel for Plaintiffs and Defendants to communicate with 1540 potential class members.

The document productions will proceed as follows:

On or before March 15, 2002, Plaintiffs must return all Time Adjustment Requests to Defendants and provide a verification that they have done so.

On or before March 29, 2002, Defendants must produce unredacted copies of the documents in question. Defendants may redact any medical or confidential information on the Time Adjustment Requests. Plaintiffs and Defendants are to share the copying costs of this production equally.

Dated: 03/13/2002

<<signature>>

Judge Ronald M. Sabraw

ADDITIONAL ADDRESSEES

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