UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

COLLEEN MacDONALD	:	
	:	
v.	:	C.A. No. 10-415S
	:	
ADRIENNE J. PERRY, M.D., and	:	
OB-GYN ASSOCIATES, INC.	:	

MEMORANDUM AND ORDER

Pending before me for determination (18 U.S.C. § 636(b)(1)(A); LR Cv 72(a)) is Defendant OB-GYN Associates, Inc.'s Motion for Protective Order. (Document No. 30). Plaintiff opposes the Motion. (Document No. 31). For the following reasons, Defendant's Motion is GRANTED in limited part as to Topic 4 and otherwise DENIED as to Topics 3, 8, 9 and 10.

First, as to Topics 3, 8, 9 and 10, Defendant has not shown good cause for the entry of a protective order under Rule 26(c) or that the subject matter of these Topics is beyond the reasonable scope of discovery as delineated by Rule 26(b)(1). Thus, Defendant's Motion to Strike Topics 3, 8, 9 and 10 of Plaintiff's Rule 30(b)(6) Deposition Notice is DENIED.

Second, as to Topic 4, Plaintiff requests designation of a witness to testify as to the following:

> Whether the IUD implanted in Colleen MacDonald failed in any way to comply with state and federal laws and regulations, including without limitation regulations of the Food and Drug Administration ("FDA"); and if it failed to comply, the reasons for its non-compliance.

Defendant objects contending that Topic 4 improperly seeks an expert opinion. Plaintiff counters that Defendant purchased the IUD in issue and inserted it in her body, and that she should be able to inquire about such IUD. Although Plaintiff's point is generally valid, Topic 4 as presently drafted

is overly broad and improperly requires Defendant to designate and prepare a deponent to provide an expert opinion generally as to the state and federal legal and regulatory compliance of the implanted IUD. See Dagdagan v. City of Vallejo, 263 F.R.D. 632, 635-636 (E.D. Cal. 2009) (holding that it is improper to ask "expert type questions" of a Rule 30(b)(6) deponent).

Rule 30(b)(6) obligates a corporate party to designate a representative to "testify about information known or reasonably available to the organization." Here, no matter how you slice it, Topic 4 seeks a broad legal opinion regarding the regulatory compliance of the IUD and not "information known or reasonably available" to Defendant OB-GYN Associates. Moreover, Topic 4 is not specifically directed at narrower and more appropriate areas such as the contents of Defendant's July 8, 2010 letter to Plaintiff about the IUD, Defendant's contentions in this case as to the IUD,[1] or Defendant's knowledge of legal compliance at the time the IUD in issue was procured and implanted in Plaintiff.

Accordingly, Defendant's Motion for Protective Order (Document No. 30) is GRANTED solely as to Topic 4 and otherwise DENIED. However, Plaintiff is granted leave to amend the Rule 30(b)(6) Deposition Notice to revise Topic 4 in accordance with the guidance provided herein.

SO ORDERED

/s/ Lincoln D. Almond
LINCOLN D. ALMOND
United States Magistrate Judge
January 27, 2012

[1] For instance, in its Answer, Defendant OB-GYN Associates "specifically denies" that the implanted IUD was "counterfeit in that it was not manufactured by a company having rights to the product" or "misbranded," and "specifically denies" that it had actual or constructive knowledge of such or that the IUD had not received "FDA approval." See Document No. 2, Answer at ¶¶ 9, 12 and 14.