

**1. E.D.C. GROWERS ADVOC. ALLIANCE v. EL DORADO COUNTY, 21CV0161**

**(1) Demurrer to Petition/Complaint**

**(2) CMC Re: Service, Response, Lodging of Record, Briefing Schedule**

Demurrer

A First Amended Verified Petition/Complaint having been filed on March 25, 2022, respondents'/defendants' demurrer is moot.

CMC

Appearances required.

**TENTATIVE RULING # 1: APPEARANCES ARE REQUIRED AT 1:30 P.M., FRIDAY, APRIL 8, 2022, IN DEPARTMENT FOUR.**

**2. DELGRASSO v. MOE, 21CV0236****Defendant's Motion for Interlocutory Judgment or, Alternatively, Interim Order of Sale**

Because there are contested issues of fact regarding ownership of the subject property, an interlocutory judgment is premature. Both parties, however, agree that the property should be sold now and that the proceeds should be placed in escrow pending resolution of this action. Accordingly, defendant's motion for an interim order of sale is granted.

**TENTATIVE RULING # 2: DEFENDANT'S MOTION FOR INTERIM ORDER OF SALE IS GRANTED. THE PROCEEDS FROM THE SALE MUST BE PLACED IN ESCROW PENDING THE OUTCOME OF THE LITIGATION. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.**

**3. MASSARWEH v. CAMP RICHARDSON RESORT, ET AL., SC20200086****Motion to Compel Plaintiff's Responses to Request for Production of Documents (Set Three)**

This is a personal injury action. Plaintiff, a minor by and through her guardian ad litem, filed a complaint in 2020 asserting causes of action for negligence, premises liability, and motor vehicle against defendants Camp Richardson Resort, Inc., and L T Leasing, Inc. Plaintiff alleges that on July 9, 2018, she “was severely injured when she was struck by a boat while a paying visitor on property owned, leased, rented, managed, operated, possessed, and/or controlled by Defendants.” (Compl., pp. 4, 5.) As a result of the incident, she alleges she suffered severe injuries to her leg requiring medical intervention and resulting in permanent disfigurement, discoloration, and scarring.

Pending is defendants' motion to compel plaintiff to respond to Request for Production of Documents (Set Three), Numbers 23–29. The requests seek copies of videos and photographs in which plaintiff can be seen engaging in cheerleading, gymnastics, TikTok dances, or playing volleyball. Plaintiff objected to these requests on the grounds that they violate her privacy rights, attorney-client privilege and/or work-product doctrine.

Preliminary Matters

Citing Code of Civil Procedure § 1010.6, plaintiff requests that the court not consider the motion on the basis that service of the motion was improper because it was served by mail only, when plaintiff expressly requested service by electronic means only.

The objection is overruled. The fact that defendants did not serve plaintiff electronically per her request is not a jurisdictional issue, and there is no provision in Code of Civil Procedure § 1010.6 that supports plaintiff's request that the court not consider the motion as a penalty for defendants not complying with plaintiff's request

regarding mode of service. Further, service of the motion was timely made and plaintiff has not demonstrated any prejudice as a result of having been served by mail only. As such, the court will consider defendants' motion.

Attorney-Client Privilege and/or Work-Product Doctrine

Having reviewed and considered plaintiff's responses, her objections made on the grounds of attorney-client privilege and/or work-product doctrine are without merit and are overruled.

Right to Privacy

The California Constitution (Cal Const., art. I, § 1) creates "a zone of privacy" that protects against unwarranted, compelled disclosure of private or personal information and extends to, inter alia, the details of an individual's personal life. This right to privacy protects an individual's reasonable expectation of privacy against a serious invasion. (*Ibarra v Superior Court* (2013) 217 Cal.App.4th 695, 705.)

Courts have recognized various zones of privacy deserving protection against discovery including, inter alia, sexual conduct, financial information, medical records, disclosures during psychotherapy, and marital relationships. (E.g., *Vinson v. Superior Court* (1987) 43 Cal.3d 833, 841; *Look v. Penovatz* (2019) 34 Cal.App.5th 61, 73; *Davis v. Superior Court* (1992) 7 Cal.App.4th 1008, 1020; *Mathews v. Becerra* (2019) 8 Cal.5th 756, 770; *Tylo v. Superior Court* (1997) 55 Cal.App.4th 1379, 1387–1388.)

A plaintiff alleging an invasion of privacy in violation of the state constitution must establish (1) a legally protected privacy interest, (2) a reasonable expectation of privacy in the circumstances, and (3) conduct by the defendant that constitutes a serious invasion of privacy. (*Mathews, supra*, 8 Cal.5th at p. 769, citing *Hill v Nat'l Collegiate Athletic Ass'n* (1994) 7 Cal.4th 1, 39–40.) A defendant may prevail by negating any of these three elements or by pleading and proving that the invasion of privacy is justified because it substantively furthers one or more countervailing interests. The plaintiff may then rebut the defendant's assertion of countervailing

interests by showing there are feasible and effective alternatives to the defendant's conduct that have a lesser impact on the plaintiff's privacy interests. (*Mathews, supra*, 8 Cal.5th at p. 769.)

The standard for evaluating the justification for invading a privacy interest depends on the interest involved, the nature and seriousness of the invasion, and any countervailing interests. (*Ibid.*) When the constitutional right of privacy is involved, the party seeking discovery of a private matter must do more than satisfy the standard of Code of Civil Procedure § 2017.010 (regarding matters discoverable). (*Williams v. Superior Court* (2017) 3 Cal.5th 531, 556.)

However, not every assertion of a privacy interest under the state constitution must be overcome by a compelling interest. "Only obvious invasions of interests fundamental to personal autonomy must be supported by a compelling interest." (*Id.* at p. 557.) "But whenever lesser interests are at stake, [a] more nuanced framework ... applies, with the strength of the countervailing interest sufficient to warrant disclosure of private information varying according to the strength of the privacy interest itself, the seriousness of the invasion, and the availability of alternatives and protective measures." (*Id.* at p. 556.) "The court must consider the purpose of the information sought, the effect that disclosure will have on the affected persons and parties, the nature of the objections urged by the party resisting disclosure and availability of alternative, less intrusive means for obtaining the requested information." (*SCC Acquisitions, Inc. v. Superior Court* (2015) 243 Cal.App.4th 741, 754–755.)

Plaintiff's objections on the basis of a right to privacy are without merit and are overruled. Plaintiff has not established a legally protected privacy interest, a reasonable expectation of privacy as to the activities inquired about, or that defendant's requests constitute a serious invasion of her privacy. Virtually anyone in the world can sign up and use TikTok, which is arguably one of the most popular and

well-known social media sites. Further, engaging in cheerleading, gymnastics, and volleyball are not private personal activities. All are group or team activities, and they typically involve appearances at competitive events that are open to the public. Thus, there is little to no expectation of privacy as to the activities defendants inquired about.

Additionally, with this litigation plaintiff has put at issue the health and level of functionality of her injured leg. As such, video and photographic evidence of plaintiff engaging in various physical activities which necessarily involve her using her injured leg are highly relevant.

Defendants' motion to compel further responses to Request for Production (Set Three), Numbers 23–29, is granted. The court does not find that imposition of sanctions would be unjust or that plaintiff acted with substantial justification. Having reviewed defendants' counsel's declaration regarding the hours spent meeting and conferring and preparing the motion (7.2 hrs x \$190/hr), the court finds that \$1,428.00 is a reasonable sanction under the Discovery Act.

**TENTATIVE RULING # 3: DEFENDANTS' MOTION TO COMPEL FURTHER RESPONSES IS GRANTED. PLAINTIFF MUST SERVE DEFENDANTS WITH FURTHER RESPONSES, WITHOUT OBJECTION, TO DEFENDANTS' REQUEST FOR PRODUCTION (SET THREE), NUMBERS 23–29, AND PAY DEFENDANTS' COUNSEL \$1,428.00 NO LATER THAN 30 DAYS FROM THE DATE OF SERVICE OF THE NOTICE OF ENTRY OF ORDER. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS**

**ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.**

**4. LACROIX v. TAHOE KEYS PROP. OWNERS' ASSOC., SC20200157**

**Plaintiff's Motion to Compel Further Response to Special Interrogatory**

On the court's own motion, matter is continued to April 22, 2022. The court apologizes for any inconvenience to the parties.

**TENTATIVE RULING # 4: MATTER IS CONTINUED TO 1:30 P.M., FRIDAY, APRIL 22, 2022, IN DEPARTMENT FOUR.**

5. SEBRING v. GORDON, 21CV0282

Status Conference

**TENTATIVE RULING # 5: APPEARANCES ARE REQUIRED AT 1:30 P.M.,  
FRIDAY, APRIL 8, 2022, IN DEPARTMENT FOUR.**