

1. CAMPBELL v. HALL, ET AL., SC20210058

Issues Conference

**TENTATIVE RULING # 1: APPEARANCES ARE REQUIRED AT 1:30 P.M., FRIDAY,
FEBRUARY 24, 2023, IN DEPARTMENT FOUR.**

2. COSTANZA-MAJOR v. UPTON, 22CV0544**Defendant's Motion to Compel Responses to Discovery and Deem Matters Admitted**

This action arises from injuries sustained by plaintiff as a result of alleged health and safety issues with the premises she rented from defendant. Plaintiff's complaint asserts causes of action for negligence, premises liability, and breach of contract. Pending is defendant's motion to compel plaintiff's responses to Form Interrogatories (Set One), Special Interrogatories (Set One), and Requests for Production (Set One), and to have the matters referenced in Requests for Admission (Set One) deemed admitted.

The discovery requests were served on plaintiff by U.S. mail and electronically. (Mot., Herman Decl., Exs. 1–4.) Plaintiff did not serve any verified responses by the deadline. (Id., ¶¶ 6–7.) Although not required to do so, defense counsel had sent a reminder email to plaintiff prior to the response deadline and then emailed a meet and confer letter to her after not having received any responses. (Id., ¶¶ 4, 6.) Plaintiff did not respond to counsel's emails, she did not request an extension of time to respond, and she did not serve any responses by the signing date of the moving papers. (Id., ¶¶ 5–7.)

To date, plaintiff has not opposed the motion. The proof of service to the motion declares that plaintiff was served via U.S. Mail at two different addresses and she was served electronically at two different email addresses. Plaintiff's opposition papers were due no later than nine court days prior to the hearing. (Code Civ. Proc., § 1005(b).)

Good cause appearing, defendant's motion to compel plaintiff's responses and to deem matters admitted is granted. Having reviewed and considered defense counsel's declaration concerning fees and costs incurred, the court finds that \$690.00 is a reasonable sanction under the Discovery Act.

TENTATIVE RULING # 2: DEFENDANT'S MOTION IS GRANTED. PLAINTIFF MUST SERVE DEFENSE COUNSEL WITH VERIFIED RESPONSES, WITHOUT OBJECTIONS, TO DEFENDANT'S (1) FORM INTERROGATORIES (SET ONE), (2) SPECIAL INTERROGATORIES

(SET ONE), AND (3) REQUESTS FOR PRODUCTION (SET ONE), AND PAY DEFENSE COUNSEL \$690.00 NO LATER THAN MARCH 30, 2023. THE MATTERS REFERENCED IN DEFENDANT'S REQUESTS FOR ADMISSION (SET ONE) ARE DEEMED ADMITTED. 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. PARTIES MAY APPEAR IN PERSON AT THE HEARING. IF ANY PARTY WISHES TO APPEAR REMOTELY THEY MUST APPEAR BY ZOOM.

3. MATTER OF TIFFANY, 22CV1841

OSC Re: Name Change

To date, Proof of Publication is not in the court's file

**TENTATIVE RULING # 3: APPEARANCES ARE REQUIRED AT 1:30 P.M., FRIDAY,
FEBRUARY 24, 2023, IN DEPARTMENT FOUR.**

4. PERFECT UNION SLT, LLC v. CITY OF SOUTH LAKE TAHOE, SC20210172**Motion to Compel Plaintiff's Further Responses to Discovery Requests**

Defendant City of South Lake Tahoe ("City") moves pursuant to Code of Civil Procedure sections 2030.290, 2031.300, 2031.310, 2031.320, and 2033.290 for an order compelling plaintiff Perfect Union SLT, LLC ("plaintiff") to serve further substantive, code-compliant, verified responses to the City's Requests for Production (Sets 1 and 2), Form and Special Interrogatories (Sets 1 and 2), and Requests for Admission (Set 1). The City further requests that the court impose monetary sanctions against plaintiff in the amount of \$2,500.00.

This matter was continued from February 10, 2023, in order for both parties' counsel to meet and confer in order to narrow the disputed issues. Counsel timely filed the updated meet and confer declarations on February 21, 2023, which the court has reviewed.

1. Interrogatories

A party propounding interrogatories has the burden of filing a motion to compel if it finds the answers it receives unsatisfactory, but "the burden of justifying any objection and failure to respond remains at all times with the party resisting an interrogatory." (Coy v. Superior Court (1962) 58 Cal.2d 210, 220–221.) To show an interrogatory seeks relevant, discoverable information "is not the burden of [the party propounding interrogatories]. As a litigant, it is entitled to demand answers to its interrogatories, as a matter of right, and without a prior showing, unless the party on whom those interrogatories are served objects and shows cause why the questions are not within the purview of the code section." (W. Pico Furniture Co. v. Superior Court (1961) 56 Cal.2d 407, 422.)

1.1 SPECIAL INTERROGATORIES

In defense counsel's updated meet and confer declaration, counsel contends that plaintiff still has not served code-compliant responses to Special Interrogatories (Set 2),

numbers 36, 39, 43, and 46, and did not verify its Supplemental Responses to the City's Special Interrogatories (Set 2). In plaintiff counsel's updated meet and confer declaration, counsel focuses on its current efforts to comply with the City's discovery requests, but does not refute the City's assertions.

Having reviewed and considered the parties' memoranda and documentary evidence, including counsels' updated meet and confer declarations, the City's motion to compel further responses to Special Interrogatories (Set 2), numbers 36, 39, 43, and 46, and for plaintiff to verify its Supplemental Responses to the City's Special Interrogatories (Set 2) is granted.

1.2 FORM INTERROGATORIES

In defense counsel's updated meet and confer declaration, counsel contends that plaintiff still has not served code-compliant responses to Form Interrogatories, number 17.1, which requests, inter alia, that plaintiff identify the documents supporting its denials to the City's Requests for Admission ("RFA"), numbers 1–4, 10–12, and 18–21, and that plaintiff did not verify its Supplemental Responses to the City's Form Interrogatories (Set 1). In plaintiff counsel's updated meet and confer declaration, counsel focuses on its current efforts to comply with the City's discovery requests, but does not refute the City's assertions.

Having reviewed and considered the parties' memoranda and documentary evidence, including counsels' updated meet and confer declarations, the City's motion to compel further responses to Form Interrogatories, number 17.1 (RFA, nos. 1–4, 10–12, 18–21), and for plaintiff to verify its Supplemental Responses to the City's Form Interrogatories (Set 1) is granted.

2. Requests for Production

A party responding to an inspection demand has the following two basic obligations: (1) service of a written response and (2) production of the requested items. Thus, the responding party must first prepare a verified written response to the demand. (Code Civ.

Proc., §§ 2031.210, 2031.250.) “The party to whom a demand for inspection ... has been directed shall respond separately to each item or category of item by any of the following: [¶] (1) A statement that the party will comply with the particular demand for inspection ... and any related activities. [¶] (2) A representation that the party lacks the ability to comply with the demand for inspection ... of a particular item or category of item. [¶] (3) An objection to the particular demand” (Code Civ. Proc., § 2031.210(a).)

When the party responds with a statement of compliance, the party need only make the representation that the inspection would be allowed, and “that all documents or things in the demanded category that are in the possession, custody, or control of that party” will be included in the inspection. (Code Civ. Proc., § 2031.220.) The statute does not require that a party identify the specific documents or things that will be produced. Further explanation would only be required if the party made the representation there was a lack of ability to comply with a request, or the responding party intended to make an objection. (Code Civ. Proc., §§ 2031.230, 2031.240.)

The burden on the propounding party is higher in compelling responses to production of documents (“RFP”) than in compelling responses to interrogatories. The motion to compel must “set forth specific facts showing good cause justifying the discovery sought by the demand.” (Code Civ. Proc., § 2031.310(b)(1).) “[A]bsent a claim of privilege or attorney work product, the party who seeks to compel production has met his burden of showing good cause simply by a fact-specific showing of relevance.” (Kirkland v. Superior Court (2002) 95 Cal.App.4th 92, 98.) “In the context of discovery, evidence is ‘relevant’ if it might reasonably assist a party in evaluating its case, preparing for trial, or facilitating a settlement.” (Glenfed Development Corp. v. Superior Court (1997) 53 Cal.App.4th 1113, 1117.) Once good cause is shown, the burden shifts to the party opposing the motion to justify its objections. (Kirkland, supra, 95 Cal.App.4th at p. 98.)

Defense counsel states that plaintiff still has not complied with the following: (1) produced all records in its possession, custody, or control (plaintiff admits it has only collected records from one custodian) that are responsive to the City's RFP (Sets 1 and 2), and has not produced attachments to certain emails; (2) identified, by Bates number or other means, which documents—produced on February 9, 2023—respond to which RFP; (3) served a privilege log identifying the documents it withheld on the basis of privilege; and (4) and served verifications to its Supplemental Responses to the City's RFP (Sets 1 and 2). In plaintiff counsel's updated meet and confer declaration, counsel focuses on its current efforts to comply with the City's discovery requests, but does not refute the City's contentions.

Having reviewed and considered the parties' memoranda and documentary evidence, including counsels' updated meet and confer declarations, the City's motion to compel is granted. Plaintiff must (1) produce all non-privileged records in plaintiff's possession, custody, or control that are responsive to the City's RFP (Sets 1 and 2), and produce attachments to certain emails; (2) identify, by Bates number or other means, which documents—produced on February 9, 2023—respond to which RFP; (3) serve a privilege log identifying the documents it withheld on the basis of privilege; and (4) serve verifications to its Supplemental Responses to the City's RFP (Sets 1 and 2).

3. Requests for Admission

Lastly, the City asserts that plaintiff still has not served code-compliant responses to the City's RFA, numbers 19 and 21, and has not served a verification to its Supplemental Responses to the City's Requests for Admission (Set 1).

The party to whom requests for admission have been directed may respond to a request by either answering that the party admits or denies the matter involved in the request or by objection to the request. (Code Civ. Proc., §§ 2033.210, 2033.220.) If part of a request is objectionable, the responding party must answer the unobjectionable part. (Code Civ. Proc., § 2033.230(a).) Each response "shall be as complete and straightforward

as the information reasonably available to the responding party permits.” (Code Civ. Proc., § 2033.220(a).)

When the propounding party believes that any of the responses to the requests are deficient or that any objections are not well taken, that party may move to compel further responses. (Code Civ. Proc., § 2033.290.) The grounds for a motion to compel a further response are that the answer to a particular request is evasive or incomplete, or that an objection to a request is without merit or too general. (Code Civ. Proc., § 2033.290(a).)

Again, plaintiff does not refute the City’s assertions, but rather focuses on plaintiff’s current efforts to comply with the City’s discovery requests.

Having reviewed and considered the parties’ memoranda and documentary evidence, including counsels’ updated meet and confer declarations, the City’s motion to compel further responses to RFA, numbers 19 and 21, and for plaintiff to serve a verification to its Supplemental Responses to the City’s Requests for Admission (Set 1) is granted.

4. Sanctions

The court must impose a monetary sanction against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel further response, unless it finds that party acted with substantial justification or that other circumstances make the imposition of the sanction unjust. (Code Civ. Proc., §§ 2030.300(d), 2031.310(h), 2033.290(e).)

The record does not support that plaintiff acted with substantial justification or that other circumstances make the imposition of a monetary sanction unjust. The court finds that \$2,500 is a reasonable sanction under the Discovery Act.

TENTATIVE RULING # 4: DEFENDANT’S MOTION TO COMPEL FURTHER RESPONSES IS GRANTED AS SET FORTH IN THE FULL TEXT OF THE TENTATIVE RULING. PLAINTIFF MUST COMPLY WITH THE COURT’S RULING AND PAY DEFENDANT \$2,500.00 AS A SANCTION

NO LATER THAN THE END OF BUSINESS ON FRIDAY, MARCH 10, 2023. 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. PARTIES MAY APPEAR IN PERSON AT THE HEARING. IF ANY PARTY WISHES TO APPEAR REMOTELY THEY MUST APPEAR BY ZOOM.

5. LOPEZ, ET AL. v. GENERAL MOTORS LLC, 22CV0619**Motion to Compel Further Responses from Defendant**

This is a lemon law action. Plaintiffs move, pursuant to Code of Civil Procedure sections 2031.280 and 2031.310, for an order compelling defendant to provide further substantive, code-compliant, verified responses to plaintiffs' Requests for Production of Documents (Set One) ("RFP"). Plaintiffs further request that the court impose monetary sanctions against defendant and defense counsel in the amount of \$2,685.00.

Legal Principles

The responding party to an inspection demand must state, as to each item or category of items in the demand, that the responding party will comply; or respond that the party cannot comply, stating the reasons for the inability to comply and affirming that diligent efforts were made to comply; or that the party objects to the demand on specified grounds. (Code Civ. Proc., § 2031.210(a).) If part of an inspection demand is objectionable, the responding party must state that it will comply with the unobjectionable part. (Id., § 2031.240(a).)

The propounding party is entitled to obtain an order compelling further responses to its inspection demands if the responding party's statement of compliance is incomplete, or if the responding party's representation of its inability to comply is inadequate or evasive, or if the responding party made an objection that is without merit or too general.

The burden on the propounding party is higher in compelling responses to production of documents than in compelling responses to interrogatories. The motion to compel must "set forth specific facts showing good cause justifying the discovery sought by the demand." (Code Civ. Proc., § 2031.310(b)(1).) "[A]bsent a claim of privilege or attorney work product, the party who seeks to compel production has met his burden of showing good cause simply by a fact-specific showing of relevance." (Kirkland v. Superior Court (2002) 95 Cal.App.4th 92, 98.) "In the context of discovery, evidence is 'relevant' if

it might reasonably assist a party in evaluating its case, preparing for trial, or facilitating a settlement.” (Glenfed Development Corp. v. Superior Court (1997) 53 Cal.App.4th 1113, 1117.) Once good cause is shown, the burden shifts to the party opposing the motion to justify its objection(s). (Kirkland, supra, 95 Cal.App.4th at p. 98.)

Discussion

“It is a central precept to the Civil Discovery Act of 1986 [citation] ... that civil discovery be essentially self-executing. [Citation.]” (Townsend v. Superior Court (1998) 61 Cal.App.4th 1431, 1434.) A self-executing discovery system is “ ‘one that operates without judicial involvement.’ [Citation.]” (Clement v. Alegre (2009) 177 Cal.App.4th 1277, 1291.) “The Discovery Act requires that, prior to the initiation of a motion to compel, the moving party declare that he or she has made a serious attempt to obtain ‘an informal resolution of each issue.’ [Citations.] This rule is designed ‘to encourage the parties to work out their differences informally so as to avoid the necessity for a formal order....’ [Citation.] This, in turn, will lessen the burden on the court and reduce the unnecessary expenditure of resources by litigants through promotion of informal, extrajudicial resolution of discovery disputes. [Citations.]” (Townsend, supra, 61 Cal.App.4th at p. 1435.)

Here, the court finds that plaintiffs’ motion was not preceded by a serious, reasonable and good faith effort to meet and confer. As one example, defense counsel sent a meet and confer letter to plaintiffs’ counsel via email on December 28, 2022, which plaintiffs’ counsel apparently did not respond to prior to filing their motion. (Pls. Mot., Bissman Decl., Ex. F; Def. Opp., Yaraghchian Decl., ¶¶ 7–9.) The December 28 letter addresses one of the complaints raised in plaintiffs’ motion, which is that defendant served a supplemental document production but did not identify what RFPs the documents are in response to. Plaintiffs’ counsel could have contacted defense counsel for clarification, and defense counsel could have prevented the confusion by serving supplemental responses with its supplemental document production.

Further, plaintiffs paint with a broad brush by asserting that the December 28 letter simply reiterates defendant's prior objections. Many of defendant's previous objections were based on confidential, propriety, or competitively sensitive material. Once the Los Angeles Model Stipulated Protective Order was fully executed on December 17, 2022, defendant served a supplemental document production that same day, in addition to supplemental productions on January 5, 2023, and February 1, 2023. (Opp., Yaraghchian Decl., ¶ 8.) Yet, plaintiffs' reply does not acknowledge the supplemental productions on January 5 and February 1. (Reply, p. 2 ["To date, Plaintiff have [sic] received no further responses or supplemental document production responsive to their RFPs."].)

As such, the court finds that the parties' discovery disputes are not yet ripe for judicial intervention. Accordingly, plaintiffs' motion is denied without prejudice. The court finds that an award of sanctions for either party is not justified under the circumstances. Counsel are reminded that "[a]rgument is not the same as informal negotiation" [citation]; that attempting informal resolution means more than the mere attempt by the discovery proponent 'to persuade the objector of the error of his ways' [citation] ... 'Rather, the law requires that counsel attempt to talk the matter over, compare their views, consult, and deliberate.' [Citation.]" (Clement, supra, 177 Cal.App.4th at p. 1294, quoting Townsend, supra, 61 Cal.App.4th at pp. 1435, 1437, 1439.)

TENTATIVE RULING # 5: PLAINTIFFS' MOTION IS DENIED WITHOUT PREJUDICE. 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. PARTIES MAY APPEAR IN PERSON AT THE HEARING. IF ANY PARTY WISHES TO APPEAR REMOTELY THEY MUST APPEAR BY ZOOM.

6. TAHOE KEYS MARINA & YACHT CLUB v. TAHOE KEYS POA, SC20170140

Order of Examination

TENTATIVE RULING # 6: THE PERSONAL APPEARANCE OF THE JUDGMENT DEBTOR IS REQUIRED, PROVIDED PROOF OF SERVICE OF THE ORDER TO APPEAR FOR EXAMINATION IS FILED PRIOR TO THE HEARING SHOWING THAT PERSONAL SERVICE ON THE DEBTOR WAS EFFECTED NO LESS THAN TEN (10) DAYS PRIOR TO THE HEARING DATE. (CODE CIV. PROC., § 708.110(d).) IF THE APPROPRIATE PROOF OF SERVICE IS NOT FILED, NO EXAMINATION WILL TAKE PLACE.