

**Judge Mosbarger – Law & Motion – Wednesday, December 21, 2022 @ 9:00 AM
TENTATIVE RULINGS**

1. 20CV01493 SHIPPEN, KALEN ET AL V. FAIRHURST, THOMAS J ET AL

EVENT: Plaintiff Shippens' Motion to Compel Further Discovery Responses from Defendant SPSG Partners

The Court, in its discretion, declines to deem the Opposition a “late-filed paper” under California Rules of Court Rule 3.113(f) and Butte County Local Rule 3.11(b). In addition, the Court finds that the various other “errors” raised by Plaintiffs in their Reply do not render the Opposition unintelligible. Thus, the Court has read and considered the arguments of Defendant raised in the Opposition. The Court concludes that none of the Requests are vague, ambiguous or over broad, and further that the information sought is relevant and does not affect the privacy rights of the parties or non-parties. Thus, Defendant’s objections are overruled. In regard to the specific Requests for Admissions, the Court rules as follows:

The Motion is DENIED as to Request Nos. 4 and 52, the Court finding that Defendant’s responses are sufficient and comply with Code of Civil Procedure §2033.220.

The Motion is GRANTED as to Request Nos. 5, 6, 7, 8, 9, 10, and 11, the Court finding that the Requests do not ask Defendant to admit what the document states, which was the response provided.

The Motion is GRANTED as to Request Nos. 17, 18, 46, 47, 48, 49, 53, and 55 the Court finding that the response provided by Defendant is insufficient as Defendant’s responses do not answer the question posed.

The Motion is GRANTED as to Form Interrogatory No. 17.1 as it relates to Requests for Admissions Nos. 5, 6, 7, 8, 9, 10, 11, 17, 18, 46, 47, 48, 49, 53, and 55.

The parties’ respective requests for sanctions are DENIED.

Further verified responses shall be provided within 30 days’ notice of this Order and counsel for the Plaintiffs shall submit a form of order within two weeks.

2. 21CV00277 MARSHALL, JAMES K ET AL V. ROSEVILLE FLOORING, INC ET AL

EVENT: Motion for Leave to File Cross-Complaint

The Motion is unopposed and is granted. Defendant Roseville Flooring, Inc. shall file its Cross-Complaint with the Court within ten days’ notice of this ruling. The Court will utilize the form of order submitted by Defendant with modification to indicate that the Cross-Complaint shall be filed with the Court and is not deemed filed with the Court as it currently indicates.

3. 21CV02257 NORLUND, SANDRA ET AL V. NORLUND, RICHARD ET AL

EVENT: Motion to Quash [or Modify] Deposition Subpoena for Consumer Records of Defendants Richard L. Norlund, Successor Trustee, Trust A of the Norlund Family Trust DTD 3-16-87 and Richard L. Norlund, Successor Trustee, Trust B of the Norlund Family Trust DTD 3-16-87; Request for Monetary Sanctions

Richard Norlund's Motion to Quash [Or Modify] Deposition Subpoena for Consumer Records of Defendants Richard L. Norlund, Successor Trustee, Trust A of the Norlund Family Trust DTD 3-16-87 And Richard L. Norlund, Successor Trustee, Trust B of The Norlund Family Trust DTD 3-16-87; Request For Monetary Sanctions Against Plaintiffs and Her Attorney Mark B. Plummer in the Sum of \$5,310.00 is DENIED in its entirety. Preliminarily, the Court is unclear as to how this motion is moot, unless Plaintiffs are representing that they are withdrawing their subpoena and are proceeding with discovery as to John Schaller as a party now that he is named as a defendant in this case.

Regarding Richard Norlund's contention that the requests should be limited to non-privileged information, the Court disagrees. It is well settled that an objecting party has the burden of substantiating his objections. This is especially true when it comes to objecting based on privilege, where in such instances a privilege log may be required, see CCP § 2031.240(c)(1). If we were to require the request be limited to non-privileged items, the propounding party would be essentially required to accept the responding party's determination of what documents are, and are not, protected by the privilege without any explanation or proof. Such a scenario would seem to defeat the purpose of a privilege log.

Additionally, the Court notes that the requests do not explicitly seek privileged information, rather they are phrased in a manner which might implicate privileged information, but not necessarily so. As a result, the Court finds all requests are properly phrased as it pertains to privilege. To clarify, the Court is not expressing an opinion as to the validity of attorney client and work product objections at this time. Rather, it is simply stating that the requests need to be responded to.

In sum, the Court finds the proper way of handling privilege objections in this situation is to object and substantiate the objection as opposed to requiring the request to exclude privileged information. As discussed, the later improperly relieves the responding party from substantiating their objection and requires the propounding party to accept the responding party's determination with no further analysis.

Regarding Richard Norlund's contention that the requests are not reasonably particularized, the Court disagrees. The categories must be reasonably particularized from the standpoint of the party on whom the demand is made. *Calcor Space Facility, Inc. v. Sup.Ct. (Thiem Indus., Inc.)* (1997) 53 Cal.App.4th 216, 222) A blanket demand hardly constitutes "reasonable" particularity. (Id)

Here, each request is sufficiently limited. For example, the first request is limited to documents pertaining to Defendant's alleged obligation to obtain title insurance.

Plaintiffs shall prepare and submit a form of order consistent with this ruling within 10 days.