

TENTATIVE RULINGS

FOR: November 3, 2017

The Court may exercise its discretion to **disregard** a late filed paper in law and motion matters. (Cal. Rules of Court, rule 3.1300(d).)

Unlawful Detainer Cases – Pursuant to the restrictions in Code of Civil Procedure section 1161.2, no tentative rulings are posted for unlawful detainer cases and appearances are required.

Court Reporting Services – The Court does not provide official court reporters in proceedings for which such services are not legally mandated. These proceedings include civil law and motion hearings. If counsel want their civil law and motion hearing reported, they must arrange for a private court reporter to be present. Go to <http://napacountybar.org/court-reporting-services/> for information about local private court reporters. Attorneys or parties must confer with each other to avoid having more than one court reporter present for the same hearing.

PROBATE CALENDAR – Hon. Diane Price, Dept. F (Criminal Courts Bldg.-1111 Third St.)

Estate of Glen Leroy Bobst, Sr.

26-66592

SECOND AND FINAL REPORT OF ADMINISTRATOR; PETITION FOR SETTLEMENT AND FINAL DISTRIBUTION AND FOR ALLOWANCE OF REIMBURSEMENT TO THE ADMINISTRATOR AND FOR ORDINARY FEES TO THE ADMINISTRATOR'S ATTORNEY

TENTATIVE RULING: GRANT petition, including fees as prayed.

PROBATE CALENDAR – Hon. Rodney Stone, Dept. I (Criminal Courts Bldg.-1111 Third St.)

In the Matter of Angiolina A Martini

17PR000117

(1) MOTION TO TRANSFER AND CONSOLIDATE ACTIONS AND REQUEST FOR STAY; (2) PETITION TO COMPEL TRUSTEE TO DISTRIBUTE SPECIFIC GIFTS, BREACH OF FIDUCIARY DUTY, RETURN OF TRUST PROPERTY, IMPOSITION OF CONSTRUCTIVE TRUST, AND FOR SUSPENSION/REMOVAL OF TRUSTEE; AND (3) CROSS-PETITION TO CONFIRM INVALIDITY OF DONATIVE TRANSFER TO CAREGIVERS, FOR INSTRUCTIONS TO TRUSTEE, AND FOR RECOVERY OF TRUST ASSETS

TENTATIVE RULING: The matter is continued to January 5, 2018, at 8:30 a.m. in Dept. I for a transfer reviewing hearing.

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PETITION FOR LETTERS OF ADMINISTRATION AND LIMITED AUTHORIZATION TO ADMINISTER UNDER THE INDEPENDENT ADMINISTRATION OF ESTATES ACT

TENTATIVE RULING: GRANT Petition.

CIVIL LAW & MOTION CALENDAR – Hon. Rodney Stone, Dept. I (Criminal Courts Bldg.-1111 Third St.)

(1) DEFENDANT’S MOTION FOR PROTECTIVE ORDER

TENTATIVE RULING:

Defendant Christina Ligouri’s motion for a protective order to deny or limit the demand for inspection of property is GRANTED IN PART. Plaintiff Adrienne Radakovic seeks to inspect defendant’s Nest security camera, any electronics connected or interfaced with that NestCam, and ESI on these devices. The ESI subject to the demand for inspection already is limited to “only include data and/or information collected by, stored, transmitted, or otherwise gathered or disseminated by the [Nest] security camera[] . . . located on” defendant’s property. (Sep. St. at p. 3:5-8.) The Court will permit the inspection to move forward with the following limitations since plaintiff is entitled to inspect defendant’s NestCam and its contents:

1. Plaintiff is entitled to inspect the exterior of defendant’s home where the NestCam is located.
2. The inspection of the NestCam in defendant’s home is limited to plaintiff’s experts, plaintiff’s attorney, defendant, defendant’s attorney, and if applicable, defendant’s expert. Plaintiff shall not enter defendant’s home.
3. Plaintiff’s experts are limited to examining the devices to capture, export, and store the information retrieved as part of the forensic examination of the NestCam and its capabilities. (Stutchman Decl., ¶ 5.)
4. The inspection of defendant’s other electronic devices is limited to those items that have accessed the NestCam.
5. The inspection of defendant’s electronic devices (computers, smartphones, tablets, etc.) that have accessed the NestCam is limited to data relating to the NestCam such as NestCam data (i.e. data or videos recorded by the NestCam), NestCam software, and other information connected with the NestCam. The information accessed and examined shall not include any other data on defendant’s devices. By way of example, the “other information” or “data” shall not include private information protected by privileges such as attorney-client communications and tax returns.
6. Plaintiff’s experts shall not intrude upon or review any other ESI to which the devices have access. No other ESI will be disclosed to any party or attorney, and plaintiff’s

experts will not review any other content or information unless authorized by written agreement or by Court order.

Defendant shall permit inspection, without objections, within 10 calendar days of service of notice of entry of order.

The CMC scheduled for November 3, 2017, is continued to February 28, 2018, at 8:30 a.m. in Dept. I.

(2) PLAINTIFF'S MOTION TO COMPEL

TENTATIVE RULING:

At the outset, the Court notes defendant Christina Ligouri filed separate memoranda in response to this multi-faceted discovery motion. Technically, this is a violation of the page limits set forth in the California Rules of Court. But the Court has found the separate oppositions helpful in light of the seven motions currently scheduled, the volumes of paperwork filed for those matters, and plaintiff's decision to bring multiple distinct issues under the umbrella of one motion.

A. Motion to Compel Demand for Inspection

Plaintiff Adrienne Radakovic's motion to compel her demand for inspection of defendant Christina Ligouri's property is GRANTED IN PART subject to the limitations detailed in the protective order from the Court's ruling on defendant's motion for protective order. Defendant shall permit inspection, without objections, within 10 calendar days of service of notice of entry of order.

B. Motion to Compel Further Responses to Form Interrogatories

Plaintiff's motion to compel further responses to form interrogatory (set one) numbers 12.3-12.4 and 13.1-13.2 is DENIED. Motions to compel further responses to interrogatories require the filing of a declaration that the moving party attempted to resolve the matter informally prior to filing. (Code Civ. Proc., § 2030.300, subd. (b)(1).) Defendant contends plaintiff did not properly meet-and-confer prior to filing this motion. Plaintiff does not respond to this contention in her reply, and therefore, concedes it is meritorious. Indeed, the exhibits referenced in the accompanying declaration regarding the meet-and-confer efforts are woefully inadequate to establish that a meaningful meet-and-confer took place prior to the filing of the motion. (See Jackson Decl., ¶ 8, Exs. 6-8.)

C. Motion to Quash and for a Protective Order Regarding Continued Deposition

Plaintiff's motion to quash and for a protective order regarding her continued deposition is DENIED. Plaintiff does not request that her deposition be continued "until after all issues concerning review and dissemination of the ESI is determined . . ." (Mem. at p. 7:14-15.) Plaintiff instead argues she wants "an order compelling Defendant to provide" answers to form interrogatory numbers 12.3-12.4 and 13.1-13.2 "reasonably in advance of noticing her continued deposition." (*Id.* at p. 7:16-18.) Since plaintiff did not demonstrate she meaningfully met-and-

conferred regarding these interrogatories, the premise for the continued deposition is not well-taken. Plaintiff shall appear for her continued deposition within 10 calendar days of service of notice of entry of order.

D. Motion to Quash and for a Protective Order Regarding the Deposition Subpoena to Wells Fargo Clearing Services

Plaintiff's motion to quash and for a protective order regarding the deposition subpoena seeking documents and testimony from Wells Fargo Clearing Services is DENIED. The subpoena seeks all documents concerning plaintiff's employment, including applications, resumes, contracts, attendance records, sick leave records, sick leave slips, time-off requests, vacation requests, work schedules, exams, tests, physicals, personnel file, medical exams, evaluations, disciplinary records or reports, and workers' compensation documents. Plaintiff avers the subpoena seeks "every shred of paper and bit of computer data that is in any way associated with" plaintiff. (Mem. at p. 8:14-16.) As a result, plaintiff believes "such overbreadth violates third-party privacy, trade secrets, confidential and proprietary information, and attorney-client and work-product privileges." (Sep. St. at p. 21:10-12.) The Court deems these objections waived because plaintiff does not explain, expand, or cite any authority why any of these purported objections apply. (See *Fairmont Ins. Co. v. Super. Ct.* (2000) 22 Cal.4th 245, 254.) Even if plaintiff had done so, defendant makes clear in her opposition the reasons why such information is necessary and directly relevant. (Opp. at pp. 5:22-9:8.) And in light of the allegations, the records are germane to the claim of emotional distress and plaintiff's possible history of intimidating and harassing others at work.

E. Motion to Quash and for a Protective order Regarding the Deposition Subpoena to Jeffrey Taylor

Plaintiff's motion to quash and for a protective order regarding the deposition subpoena seeking documents and testimony from plaintiff's supervisor, Jeffrey Taylor, is DENIED for the same reasons noted above regarding Wells Fargo Clearing Services. The objection that the seemingly ever absent counsel, Margaret Lesniak, was not served with the subpoena is not, at this date, a valid basis to quash the subpoena. Taylor shall appear for a deposition and produce documents within 20 calendar days of service of notice of entry of order.

F. Motion to Quash and for a Protective Order Regarding the Deposition of Edwin Woo

Plaintiff's motion to quash and for a protective order regarding the deposition subpoena seeking testimony from plaintiff's friend, Edwin Woo, is DENIED. The objection that the seemingly ever absent counsel, Margaret Lesniak, was not served with the subpoena is not, at this date, a valid basis to quash the subpoena. Woo shall appear for a deposition within 20 calendar days of service of notice of entry of order.

G. Requests for Monetary Sanctions

Plaintiff's request for monetary sanctions is DENIED.

Defendant's request for monetary sanctions for opposing the motion is GRANTED IN PART against plaintiff's counsel in the amount of \$625, payable to defendant's counsel within 20 calendar days of service of notice of entry of order. The amount represents 2.5 hours preparing the opposition to the motion for further responses to the form interrogatories at \$250 per hour. (Sullivan Decl., ¶ 19.) Plaintiff was not substantially justified in bringing her motion in light of the failure to make a showing that she meaningfully met-and-conferred. (Code Civ. Proc., § 2030.300, subd. (d).)

In light of the volume of papers in this action, defendant is reminded to provide courtesy copies to the Court.

The CMC scheduled for November 3, 2017, is continued to February 28, 2018, at 8:30 a.m. in Dept. I.

(3) DEFENDANT'S MOTION TO COMPEL FURTHER RESPONSES TO FORM INTERROGATORIES, SPECIAL INTERROGATORIES, AND REQUEST FOR PRODUCTION OF DOCUMENTS

TENTATIVE RULING:

Defendant Christina Ligouri's motion to compel further responses to form interrogatory numbers 4.1, 6.2-6.7, 9.1-9.2 and 10.1-10.3, special interrogatory numbers 1-3, 5, 7-9, 14-22, 41-66, and 70-75, and request for production of documents numbers 2, 6-9, 12, 15, 17-18, 20, 22, and 26 is GRANTED. Plaintiff Adrienne Radakovic shall serve verified code-compliant further responses, without objections except for the attorney-client privilege and work product doctrine, within 10 calendar days of service of notice of entry of order.

The Court agrees with defendant that plaintiff "repeatedly uses an improper ploy of boilerplate objections" when responding to the discovery requests. (Sullivan Decl., ¶ 21.) Because plaintiff Adrienne Radakovic did not justify her objections in her opposition, they are deemed waived. (See *Fairmont Ins. Co. v. Super. Ct.* (2000) 22 Cal.4th 245, 254.) Plaintiff does preserve the attorney-client privilege and work product doctrine. (*Korea Data Sys. Co. v. Super. Ct.* (1997) 51 Cal.App.4th 1513, 1516; *Best Product, Inc. v. Super. Ct.* (2004) 119 Cal.App.4th 1181, 1188.)

Plaintiff gears her opposition toward the purported deficiencies with the separate statement, and refers to defendant's motion as "over technical" and "hair-splitting." (Opp. at p. 3:24.) The deficiencies plaintiff raises have not inhibited this Court's review of the motion in light of the utter lack of straightforward and complete responses to the discovery requests at issue. Indeed, plaintiff did not even attempt to respond to the sub-parts of the form interrogatories. Thus, this motion is not "overly technical" or "splitting hairs" considering plaintiff, in the Court's opinion, clearly is obstructing defendant's discovery. Plaintiff must provide responses that are as complete and straightforward as possible based on the information reasonably available to her.

Plaintiff cites no case law supporting her interpretation of "contentions" in inspection demands. Even if plaintiff's unsupported interpretation was correct, defendant has described the documents sought with reasonable particularity.

Plaintiff maintains defendant “untimely filed her required Separate Statement on September 18, 2017.” (Opp. at p. 3:21-22.) This statement is misleading since it is based on the filing date from the Court’s online docket. (Jackson Decl., ¶ 6, Ex. 5.) Defendant demonstrates the separate statement was timely filed on September 18, 2017. (Sullivan Reply Decl., ¶ 3, Ex. L [endorsed copy].)

Defendant’s request for monetary sanctions for bringing this motion is GRANTED IN PART against plaintiff and her counsel in the amount of \$3,810, payable to defendant’s counsel within 20 calendar days of service of notice of entry of order. The amount represents 15 hours of work (12 hours for drafting the motion and 3 hours for reviewing the opposition and drafting the reply) at \$250 per hour plus the \$60 filing fee. (Sullivan Decl., ¶ 22) The Court does not award for anticipated travel time. Plaintiff was not substantially justified in opposing the motion and no other circumstances make the imposition of monetary sanctions unjust. (Code Civ. Proc., §§ 2030.300, subd. (d), 2031.310, subd. (h).)

Plaintiff’s request for monetary sanctions for opposing the motion is DENIED.

The CMC scheduled for November 3, 2017, is continued to February 28, 2018, at 8:30 a.m. in Dept. I.