

Superior Court of the State of California
County of Orange
TENTATIVE RULINGS FOR DEPARTMENT CM3
Judge Erin Rowe
Date: 02/26/2025

Court Room Rules and Notices

#	Case Name	Tentative
1	De Leon - Trust 01266610	<p>MOTION FOR PROTECTIVE ORDER</p> <p>Before the court is Petitioner David De Leon's motion for protective order. The court's tentative ruling is to GRANT the motion.</p> <p>Objector Ruth Chase's evidentiary objection to the Declaration of Aaron Charles Gregg is OVERRULED.</p> <p>This motion concerns the "Demand of Objector Ruth Chase to Enter the Premises at 270 North Hemlock Street, Orange, California 92868 and Inspect, Photograph, Videotape and Measure, Set One, Propounded to Petitioner David De Leon" (the "Inspection Demand"). (Gregg Decl., Ex. 1.)</p> <p>The Inspection Demand was served on 7/24/24 and states in full as follows:</p> <p style="padding-left: 40px;">Pursuant to Code of Civil Procedure sections 2031.010(a), 2031.020, 2031.030 and 2031.040, objector Ruth Chase ("Chase") hereby demands that she, her attorney, consultants, agents, and employees in addition to interested persons in this action be permitted to enter the premises at 270 North Hemlock Street, Orange, California 92868 ("Hemlock Property") for the purpose of inspecting, photographing, videotaping, and measuring. The date and time for such inspection, photographing, videotaping, and measuring [sic]. The date and time for such inspection, photographing, videotaping, and measuring shall be 10:00 a.m. on Thursday, August 29, 2024 and continuing so long as reasonably necessary. Chase anticipates that persons who have filed objections or otherwise appeared in this action, and as such are interested persons in this action, will attend the inspection.</p> <p>On 8/2/24, counsel for Petitioner sent counsel for Objector a meet and confer letter that set forth the following four objections (paraphrased): (1) the Inspection Demand would endanger Petitioner because he is a peace officer; (2) the Inspection Demand is not likely to lead to the discovery of admissible evidence; (3) the Inspection Demand is overbroad and harassing because it permits Objector, extended family members,</p>

consultants, agents, and employees access to the house; and (4) the Inspection Demand violates Petitioner and his family's right to privacy. (Id. at Ex. 2.)

The meet and confer letter indicates that Petitioner would not object to having an appraisal done. It further requests that the Inspection Demand be withdrawn so that a motion for protective order would not need to be filed.

Counsel for Objector responded to the meet and confer letter by email on 8/9/24. (Id. at Ex. 3.) The parties were unable to resolve the issue. Objector did not serve an Objection to the Inspection Demand. This motion was filed on 8/26/24, three days before the date demanded for inspection.

Under the Civil Discovery Act, "any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence. Discovery may relate to the claim or defense of the party seeking discovery or of any other party to the action." (Code Civ. Proc., § 2017.010; *Los Angeles Unified School Dist. v. Trustees of the Southern California IBEW-NECA Pension Plan* (2010) 187 Cal.App.4th 621, 627-628.)

The court has reviewed the pleadings on file and cannot determine the relevance of the Inspection Demand. The issue before the court as framed by the only pending Petition, and the Objections thereto, is which, if any, of the Decedent's trusts are valid. The condition of the property is irrelevant to a determination of such issue.

The court has also reviewed the First Accounting prepared by Petitioner. It acknowledges that the subject property is the only trust asset. It claims the property is worth \$1,100,000. It does not reflect any costs incurred for home improvements or repairs. While an appraisal *might* be relevant, the court does see how generally inspecting and recording the condition of the property will help resolve any issues pending in this litigation.

The court also believes that the Inspection Demand is procedurally defective in that it exceeds the inspection permitted by the Code. Code of Civil Procedure section 2031.010(d) provides: "A party may demand that any other party allow ***the party making the demand, or someone acting on the demanding party's behalf***, to enter on any land or other property that is in the possession, custody, or control of the party on whom the demand is made, and to inspect and to measure, survey, photograph, test, or sample the land or other property, or any designated object or operation on it." (Emphasis added.)

	<p>Code Civil Procedure section 2031.030 demands specificity as to the activity that is going to take place.</p> <p>Here, the Inspection Demand does not specify who is going to enter the property on Objector’s behalf. Instead, it generally refers to Objector’s “consultants, agents, and employees.” It also states that anyone who has filed anything in this case might also attend the inspection. The Inspection Demand states that all of these people may inspect, photograph, videotape, and measure the property, but it does not specify who will be performing these activities, how these activities will be performed, how long these activities will take place, or the purpose for these activities. In short, the Inspection Demand seeks to allow a group of unnamed individuals to enter Petitioner’s residence for an unspecified purpose and unspecified length of time. Thus, the court agrees with Petitioner that the Inspection Demand, as written, is overbroad, burdensome, and harassing.</p> <p>The court is additionally concerned about the invasion of privacy to Petitioner who is residing on the property. Objector contends that Petitioner does not have a right to reside on the property, and that he is not entitled to the rental income therefrom. Objector may certainly pursue any rights she has to dispossess Petitioner of the Property and may seek reimbursement for any rental income to which she believes she is entitled. However, the fact remains that Petitioner and his family are currently residing at the property.</p> <p>The party asserting a privacy right must establish a legally protected privacy interest, and objectively reasonable expectation of privacy in the given circumstances, and a threatened intrusion that is serious. The party seeking information may raise in response whatever legitimate and important countervailing interest disclosure serves, while the party seeking protection may identify feasible alternatives that serve the same interest or protective measures that would diminish the loss of privacy. A court must then balance these competing considerations. To the extent prior cases require a party seeking discovery of private information to always establish a compelling interest or compelling need, without regard to the other considerations articulated in <i>Hill v. National Collegiate Athletic Assn.</i>, <i>supra</i>, 7 Cal.4th 1, 26 Cal.Rptr.2d 834, 865 P.2d 633, they are disapproved.</p> <p>(<i>Williams v. Superior Court</i> (2017), 3 Cal.5th 531, 557.)</p> <p>Petitioner has established a legally protected privacy interest and an objectively reasonable expectation of privacy in the interior of</p>
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	<p>the home in which he resides. Petitioner has also established that the Inspection Demand constitutes a serious threatened intrusion on such expectation of privacy.</p> <p>As for important and countervailing interests, Objector argues that she has a right to know the property's condition because it is the primary asset of the Decedent's estate and there has been no determination by the court as to who has a right to the property. Objector argues that Petitioner has wrongly taken possession of the property to exclusion of the Decedent's other children and may be renting a portion of it and keeping the rental income for himself.</p> <p>In balancing the competing considerations, the court finds that the intrusion on Petitioner's right to privacy as set forth in the Inspection Demand is unnecessary.</p> <p>Objector additionally argues that Petitioner has waived all objections to the Inspection Demand by failing to timely serve a written objection. However, waiving objections to discovery does not necessarily waive the right to bring a motion for protective order. (<i>Stadish v. Superior Court</i> (1999) 71 Cal.App.4th 1130, 1142-1143; <i>Nativi v. Deutsche Bank National Trust Co.</i> (2014) 223 Cal.App.4th 261, 317.)</p> <p>Based on the foregoing, the court finds good cause to grant Petitioner's motion for protective order. Petitioner need not comply with the subject Inspection Demand.</p> <p>Counsel for Petitioner is ordered to give notice.</p>
Brown – Trust 01396727	<p style="text-align: center;">MOTIONS TO COMPEL INITIAL RESPONSES TO DISCOVERY AND TO DEEM RFA ADMITTED</p> <p>Before the court are three motions to compel further responses to discovery and one motion to deem requests for admission admitted. All four motions were filed by Petitioner John Simpson against Respondent Scott Simpson.</p> <p>On the record presented, it appears that the Petition and Notice of Hearing were served on Respondent, as well as on Domenico A. Scire as attorney for Respondent. Likewise, the meet and confer letter concerning the subject discovery was addressed to Mr. Scire. However, the subject discovery and the instant discovery motions were served only Respondent.</p> <p>On 1/21/25, current counsel for Respondent, Sam Goldstein of Buffington Law Firm, PC, filed an opposition to the instant motion, stating that their office was never served with the discovery or the discovery motions. It appears from the record that Mr. Goldstein may have become counsel for Respondent</p>

		<p>after the motions were filed. However, Mr. Goldstein declares that, despite counsel regularly communicating about this case, the subject discovery was never mentioned.</p> <p>Based on the record presented, the court is inclined to order as follows:</p> <p>The motion to compel is denied, as Respondent appears able and willing to respond to discovery. Counsel shall meet and confer as to whether Respondent has waived objections. If necessary, Respondent may seek appropriate relief from waiver of the objections. (Code of Civil Procedure §§ 2030.290 and 2031.300.)</p>
Thomas – Probate 01357126	<p style="text-align: center;">MOTIONS TO COMPEL INITIAL RESPONSES TO DISCOVERY AND TO DEEM RFA ADMITTED</p> <p>Petitioner Jodi Ann Gist ("Petitioner") brings three motions to compel Respondent Alice Mora ("Respondent") to provide initial responses to form interrogatories, special interrogatories, and requests for production of documents. (ROAs 79, 80, and 81.) Petitioner also brings a motion to deem requests for admission admitted. (ROA 82.)</p> <p><u>Pertinent Facts</u></p> <p>The evidence before the court is that Petitioner propounded discovery on Respondent on 7/9/24. Responses were due 8/12/24. Respondent did not timely respond to discovery.</p> <p>On 8/14/24, Respondent's counsel, Steven A. Fink, requested that copies of the discovery be emailed to him in Word version, but responses were not forthcoming.</p> <p>Though not required to do so, on 8/16/24, counsel for Petitioner, Michelle C. Bartolic, sent Mr. Fink an email to meet and confer and requested that responses be served no later than 8/21/24. Mr. Fink did not respond.</p> <p>On 1/10/25, Mr. Fink emailed Petitioner's counsel Respondent's responses to form interrogatories; Respondent's responses to requests for admission; and Mr. Fink's declaration in opposition to this motion.</p> <p>Mr. Fink's declaration in opposition to this motion was untimely filed and served. (ROA 116.) In his declaration, Mr. Fink declares that the discovery was voluminous; that his client is elderly, in poor health, and dealing with the loss of her husband and home; that he and his client underestimated the task of responding to the discovery; that he has since served Respondent's responses to form interrogatories and requests for admission; and that he will serve Respondent's responses to special interrogatories and</p>	

requests for production before Petitioner's replies to these motions are due (i.e., before 1/15/25).

On 1/17/25, Mr. Fink filed a supplemental declaration stating that he served Respondent's responses to special interrogatories and requests for production on 1/17/25. (ROA 121.)

Motions to Compel Initial Responses to Discovery

The motion to compel responses to form interrogatories is **denied as moot**.

The motion to compel responses to special interrogatories is **denied as moot**.

The motion to compel responses to requests for production of documents is **denied as moot**.

Motion to Deem RFA Admitted

If the party propounding requests for admission does not receive timely responses thereto, the propounding party may move for an order that the genuineness of any documents and the truth of any matters specified in the requests be deemed admitted, as well as for a monetary sanction. (Code Civ. Proc. § 2033.280(b).) The court must make this order, unless it finds that the party to whom the requests for admission have been directed has served, before the hearing on the motion, a proposed response to the requests for admission that is in substantial compliance with section 2033.220. (Code Civ. Proc. § 2033.280(b) and (c).)

Respondent served responses to the requests for admission before the hearing on this motion. Petitioner has not informed the court that the responses were not in substantial compliance with the Code.

The motion to deem requests for admission admitted is **denied**.

Request for Monetary Sanctions

Pursuant to Code of Civil Procedure section 2033.280 (c), "It is mandatory that the court impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) on the party or attorney, or both, whose failure to serve a timely response to requests for admission necessitated this motion."

Further, sanctions are mandatory in connection with motions to compel responses to interrogatories and requests for production of documents against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel unless the court "finds that the one subject to the sanction acted with substantial justification or that other circumstances make the

		<p>imposition of the sanction unjust.” (Code Civ. Proc. §§ 2030.290(c); 2031.300(c); see also Cal. Rule of Court, Rule 3.1348(a) [“The court may award sanctions under the Discovery Act in favor of a party who files a motion to compel discovery, even though . . . the requested discovery was provided to the moving party after the motion was filed.”])</p> <p>On the record presented, Respondent has not acted with substantial justification. The court is not unsympathetic to the challenges Respondent faced in preparing timely responses to discovery. However, Mr. Fink never requested an extension of time to respond to discovery and never responded to Petitioner’s counsel’s attempts to meet and confer. Instead, Mr. Fink served responses to the outstanding discovery almost five months after the motions were filed.</p> <p>The court imposes reasonable attorney’s fees of \$2,400 (1.5hrs p/m at reasonable rate of \$400p/h) and costs of \$334.00 (\$83.50 per motion) for a total of \$2,734.00 jointly and severally against Respondent Alice Mora and her attorney Steven A. Fink.</p>