

**LEITNER-HERNANDEZ, et al v LAKESIDE VENTURES, LLC, et al**

**24CV47786**

**PLAINTIFFS' DEMURRER TO ANSWER**

This is a real property dispute involving 1475 Railroad Flat Road, Mokelumne Hill, California, 95245 ("Property"). Now before the Court is the demurrer brought by Plaintiff/Cross-Defendant Vicki Leitner-Hernandez ("Vicki") and Miguel Hernandez ("Miguel") as to the Answer purportedly brought by Lakeside Mobile Home Estates, LLC ("Lakeside") and Bonnie Hurley ("Hurley")(collectively "Cross-claimants").

On March 21, 2025, the Court issued a provisional tentative ruling, allowing Lakeside until April 16, 2025, to find counsel. On April 1, 2025, Lakeside submitted notice of substitution of counsel.

The Court adopts the provisional ruling. Specifically, the Court finds that the filing of an Amended Answer on March 6, 2025, moots the demurrer to the original Answer and on this basis the demurrer is **OVERRULED**.

The Clerk shall provide notice of this Ruling to the parties forthwith. No further formal Order is required.

**JOHNSON v CITY OF ANGELS, et al**

**24CV47321**

**PLAINTIFF'S MOTION TO REOPEN CASE; PLAINTIFF'S MOTION FOR  
PERMISSION TO FILE SECOND AMENDED COMPLAINT; PLAINTIFF'S MOTION  
FOR RESTRAINING ORDER**

On or about April 16, 2024, Plaintiff filed a Complaint alleging "Intentional Tort: building of fence in curtilage making curtilage inaccessible and car garages inaccessible" and "Intentional Tort: Libel, slander telling public that there are dangerous people, perverts, drug dealers, addicts, sex offenders, criminals, persons dangerous to minors, living at plaintiffs house, as well as other accusations." (Plaintiff's Complaint). Individual defendants are Scott McNurlin ("McNurlin"), Diane Bateman ("Bateman"), Christy Miro ("Miro"), Jenny Eltringham ("Eltringham"), Timothy Randall ("Randall", and Alvin Broglio ("Broglio") (collectively "Individual Defendants.").

Before the Court is Plaintiff's Motion to Reopen Case, Plaintiff's Motion for Permission to File Second Amended Complaint, and Plaintiff's Motion for Restraining Order.

**None of the Motions comply with Local Rule 3.3.7.** All matters noticed for the Law & Motion calendar shall include the following language in the notice:

3 3 7 Tentative Rulings (Repealed Eff 7/1/06, As amended 1/1/18) All parties appearing on the Law and Motion calendar shall utilize the tentative ruling system. Tentative Rulings are available by 2:00 p.m. on the court day preceding the scheduled hearing and can be accessed either through the court's website or by telephoning 209-754-6285. The tentative ruling shall become the ruling of the court, unless a party desiring to be heard so advises the Court no later than 4:00 p.m. on the court day preceding the hearing including advising that all other sides have been notified of the intention to appear by calling 209-754-6285. Where appearance has been requested or invited by the Court, all argument and evidence is limited pursuant to Local Rule 3.3. All matters noticed for the Law & Motion calendar shall include the following language in the notice:

**Pursuant to Local Rule 3.3.7, the Court will make a tentative ruling on the merits of this matter by 2:00 p.m. the court day before the hearing. The complete text of the tentative ruling may be accessed on the Court's website or by calling 209-754-6285 and listening to the recorded tentative ruling. If you do not call all other parties and the Court by 4:00 p.m. the**

**court day preceding the hearing, no hearing will be held and the tentative ruling shall become the ruling of the court** [emphasis in original.]

Failure to include this language In the notice may be a basis for the Court to deny the motion.

Plaintiff has been repeatedly admonished about his continued failure to include the requisite language and has repeatedly failed to comply with the Local Rule. Additionally, the Court concurs with defendants' opposition that the Motions of necessity must be substantively denied as the Court's jurisdiction to hear the motions terminated once the Order of Dismissal was entered on 3/10/25. Accordingly, the Motions are **DENIED, WITH** prejudice.

The Clerk shall provide notice of this Ruling to the parties forthwith. No further formal Order is required but if Defendants want to submit a Formal Order the Court will sign same.

## **MATTER OF SILVEIRA**

**21PR8357**

### **FRANCILLE PETERS' MOTION TO QUASH CONSUMER REQUESTS AND ACCOMPANYING SUBPOENA**

This matter includes four consolidated probate petitions and one related civil complaint. The Objectors, Francille Elaine Peters, Individually, as Beneficiary, as Executor, and as Co-Trustee; and David J. Silveira, Jr., Individually and as Personal Representative, now bring a motion to quash consumer requests and associated subpoenas.

#### **I. Background**

Carolyn Silveira ("Carolyn")<sup>1</sup> and David J. Silveira Sr. ("David, Sr.") were a married couple with five children: Audrey Petricevich ("Audrey"), Manuel Silveira ("Manuel"), Francille Elaine Peters ("Francille"), David Silveira Jr. ("David Jr. ") and "Dominick Silveira ("Dominick")<sup>2</sup>. (Declaration of Audrey Petricevich ("Audrey Decl.") ¶ 3.)

In or around 2016, Carolyn created the Carolyn L. Silveira Separate Property Revocable Trust dated August 2, 2016, ("Carolyn Trust") naming daughter Francille as the trustee. (Audrey Decl. ¶ 10.) Francille was also given Power of Attorney. (Ibid.) Audrey avers that in 2019, she and David Sr. confronted Carolyn about the fact that she was improperly transferring community property to herself via the Carolyn Trust. (Ibid.)

In February of 2020, Carolyn filed for divorce from David Sr. According to Audrey, the divorce was bitter and split the siblings' loyalty. Francille and David Jr. aligned with Carolyn, while Manuel and Audrey fell more in step with David Sr. (Id. ¶ 12.)

In August 2020, Carolyn, through her attorney, conveyed an offer to buy out David Sr.'s interest in the community real property for \$500,000, and pay off a home equity line of credit with a \$52,000 balance. (Id. ¶ 14.) At that time it was represented that Carolyn had the financial means to do so, without a loan, and it appeared that the \$500,000 would come from David Jr. and Francille. (Ibid.)

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<sup>1</sup> Due to the common surnames, first names will be used for all parties. No disrespect is intended.

<sup>2</sup> Dominick is not a party to the matter or the instant motion/opposition.

Carolyn passed away on September 21, 2020, survived by David Sr. and the above referenced five children. Audrey avers that she was unaware of her mother's passing until September 30, 2020, when she learned of it at a hearing in this Court. (Audrey Decl. ¶ 16.) Audrey avers that in the days between Carolyn's death, and her learning of same, Francille and her daughters were observed removing multiple items from the family home. (Ibid.)

In March of 2021, David Sr., Audrey, Manuel and Dominick filed an amended petition in this Court against Francille, Rodd Peters ("Rodd"), individually and as Co-Trustee of the Peters Family Trust ("Peters Trust"), and David Jr. to recover real and personal property allegedly misappropriated from Carolyn and David Sr.'s community estate. (Audrey Decl. ¶ 4.) The Amended Petition alleged that new information had been discovered that, while still married to David Sr., Carolyn had secretly taken fully control of the community property, and converted property to the Carolyn Silveira Trust ("Carolyn Trust") for the benefit of Francille, Rodd and David Jr. (Audrey Decl. ¶ 4.) The estimated value of the converted property was over \$500,000. (Ibid.)

In August 2021, David Sr. filed a creditor's claim in this Court (21PR8424) in the amount of \$1,770,928.58 alleging that Carolyn had misappropriated the community money and that Carolyn and Francille had committed elder abuse. (Audrey Decl. ¶ 5.)

David Sr. passed away on November 1, 2021. (Audrey Decl. ¶ 6.) Thereafter, Audrey opened a probate proceeding in this Court (21PR8452), seeking, among other things, to adjudicate David Sr.'s creditor's claim. (Id. ¶ 7.) Audrey avers that over the course of many court filings, it has been shown that there is significant property missing from the community funds. There has also been evidence of multiple bank accounts opened by Carolyn in secrecy. (Id. ¶ 18.)

At issue are the following subpoenas:

1. Subpoena to Wells Fargo,, N.A., c/o CSC-Lawyers Incorporating Services, relating to David J. Silveira, Jr.
2. Subpoena to Wells Fargo, N.A., c/o CSC-Lawyers Incorporating Services, relating to Francille Peters, individually and as Administrator of the estate of Carolyn J. Silveira
3. Subpoena to Wells Fargo, N.A., c/o CSC-Lawyers Incorporating Services, relating to Rodd Peters

4. Subpoena to Bank of Stockton, c/o Custodian of records, Jonathan Klipfel, relating to David J. Silveira Jr.
5. Subpoena to Bank of Stockton, c/o Custodian of records, Jonathan Klipfel, relating to Francille Peters, individually and as Administrator of the estate of Carolyn J. Silveira,
6. Subpoena to Bank of Stockton, c/o Custodian of records, Jonathan Klipfel, relating to Rodd Peters
7. Subpoena to Citibank, N.A., relating to Francille Peters, individually and as Administrator of the estate of Carolyn J. Silveira,
8. Subpoena to Citibank, N.A., relating to Rodd Peters
9. Subpoena to Capital One, National Association, c/o CSC- Lawyers Incorporating Service, relating to Francille Peters, individually and as Administrator of the estate of Carolyn J. Silveira, and
10. Subpoena to Capital One, National Association, c/o CSC-Lawyers Incorporating Service, relating to Rodd Peters.

Here, the moving parties seek to quash all the requested subpoenas and move for attorney's fees and costs.

## **II. Legal Standard**

"California law provides parties with expansive discovery rights." (Lopez v. Watchtower Bible & Tract Society of N.Y., Inc. (2016) 246 Cal.App.4th 566, 590-591.) Specifically, the Code provides that "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 either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence." (CCP § 2017.010) The scope of discovery is one of reason, logic and common sense. (Lipton v. Superior Court (1996) 48 Cal.App.4th 1599, 1612.)

That said, discovery is not without its limitations. Code of Civil Procedure Section 1987.1 states in relevant part that "[w]hen a subpoena requires the...production of books, documents or other things ... the court, upon motion reasonably made...may make an order quashing the subpoena entirely, modifying it, or directing compliance with it upon such terms or conditions as the court shall declare, including protective

orders...” (CCP §1987.1.) “In addition, the court may make any other order as may be appropriate to protect the person from unreasonable or oppressive demands, including unreasonable violations of the right of privacy of the person.” (*Monarch Healthcare v. Superior Court* (2000) 78 Cal.App.4th 1282, 1287-1288.)

### **III. Analysis**

Moving parties move to quash the subpoenas on two grounds: 1) they are untimely, and 2) violate their privacy.

As an initial matter, the motion to quash does not comply with the requirements of California Rules of Court 3.1345(a)(5) which requires a party moving to quash the production of documents or tangible things at a deposition to accompany the motion with a separate statement. Specifically, the separate statement “must be full and complete so that no person is required to review any other document in order to determine the full response.” Here, moving parties provide copies of the subpoenas but do not provide any additional information for the Court regarding who owns the various listed accounts and the objections as to each account. The failure to file the requisite separate statement is, alone, grounds to deny the motion to quash. (See *Flores v. Uber Techs.*, 20002 Cal. Super LEXIS 60938; *Cal. Fueling LLC v. Best Energy Sols. & Tech. Corp.* (2020 Cal. Super LEXIS 1837.)

Nonetheless, the Court will briefly look to the substance of the motion.

The moving parties’ argument that these subpoenas were untimely is not persuasive. While the subpoenas were served after the initial discovery cutoff date, the Court extended the discovery cutoff to thirty days before trial. Accordingly, the subpoenas are timely.

Notably, four of the ten requested subpoenas involve accounts belonging to Rodd Peters. However, Rodd is not one of the parties bringing the motion to quash. The Movants provide no argument or explanation as to why they have any authority or right to move to quash subpoenas to which they are not a party.

That leaves the remaining six subpoenas which seek bank account information related to Francille and David Jr. The movants’ remaining objection is that seeking information related to their personal bank accounts violates their privacy. Again, without a separate statement specifying the information sought and the specific objections thereto, it is difficult for the Court to determine the extent of the privacy interests. On the other hand, the parties seeking the information have shown substantial evidence that Carolyn transferred funds and property out of the community property to both Francille and

David Jr. (and for the sake of complete analysis, Rodd Peters). This is especially pertinent to Audrey's claims on behalf of her father as to the creditor's claims. The Court agrees that that personal financial data is within the zone of privacy protected by the California Constitution. (*Harris v. Superior Court* (1992) 3 Cal.App.4<sup>th</sup> 661.) However, that right is not absolute, and where, as here, the party seeking the information has shown the court that the information is relevant and essential to a fair resolution of this case, discovery may be allowed. (*Planned Parenthood Golden Gate v. Superior Court* (2000) 83 Cal.App.4<sup>th</sup> 347, 367.)

Accordingly, and for all the foregoing reasons, the motion to quash is **DENIED**. The request for attorney fees and cost is also **DENIED**.

The Clerk shall provide notice of this Ruling to the parties forthwith. Counsel for Audrey and Manuel to prepare a formal Order complying with Rule 3.1312 in conformity with this Ruling.