TORMEY et al v. JENNINGS et al

22CV46038

PLAINTIFFS' MOTION TO COMPEL FURTHER RESPONSES

This is a quiet title action involving an easement for ingress and egress between adjoining parcels APN 012-004-005 and APN 012-004-019, which plaintiffs describe as an easement of necessity given the remoteness of the cabin thereon and the loss of an access bridge previously available to plaintiffs. Before the Court is plaintiffs' commingled motion for further discovery responses to both production requests and special interrogatories. Although the practice of filing commingled motions *for further responses* is generally frowned upon, a review of the papers reveals a relatively simple solution.

As for the merits, a review of the papers on file reveals that defendants' written responses are not Code-compliant. A party responding to special interrogatories has an obligation to provide responses which are "as complete and straightforward" as possible, which obligates the party to make a "reasonable and good faith effort to obtain the information" from sources within its reach/control. (CCP §2030.220.) A party responding to a request for documents must provide a clear statement of compliance (and produce all responsive documents) or a clear statement of noncompliance based on bona fide objections or an inability to comply (including a proper declaration that a "diligent search and reasonable inquiry" and the reason for the inability, to wit: the documents never existed, were lost/destroyed, or in the possession of someone inaccessible). (CCP §§ 2031.210-2031.280.) The suggestion that documents exist "in the file" or that documents sought are "not applicable" to the issues is insufficient. (See *Coy v. Superior Court* (1962) 58 Cal.2d 210, 218; *Food 4 Less Supermarkets, Inc. v. Superior Court* (1995) 40 Cal.App.4th 651, 653-655.) Plaintiffs are entitled to Code-complaint responses. The motion to compel further responses is GRANTED. Defendants ordered to respond completely, without objection, properly verified, within 30 calendar days.

As for the sanction request, plaintiffs' request for sanctions is DENIED because pro se plaintiffs are not entitled to recover monetary sanctions. (See *Musaelian v. Adams* (2009) 45 Cal.4th 512, 516-520; *Kravitz v. Superior Court* (2001) 91 Cal.App.4th 1015, 1016-1022; *Argaman v. Ratan* (1999) 73 Cal.App.4th 1173, 1175–1182.) Plaintiffs are entitled to recover the $60 filing fee, which is awarded and also is to be paid within 30 calendar days..

The Clerk shall provide notice of this Ruling to the parties forthwith. Plaintiffs to prepare a formal Order pursuant to Rule of Court 3.1312 in conformity with this ruling.

PORTFOLIO RECOVERY ASSOCIATES v. SNOW

23CF14053

PLAINTIFF'S MOTION TO DEEM RFAs ADMITTED

This is a limited jurisdiction collections case. Before the Court this day is an unopposed motion by plaintiff to have its Requests For Admission deemed admitted as a result of defendant's failure to provide any response thereto.

Pursuant to CCP §2033.280(c), if a party fails to timely respond to a set of RFAs, a trial court "shall" grant a motion to deem those matters admitted ""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 … in substantial compliance with Section 2033.220." Since the responding party has up until the actual hearing on the discovery motion to moot portions thereof, a tentative ruling granting the motion remains tentative unless and until the moving party confirms at or after the hearing that substantially compliant responses were never served. (See *St. Mary v. Superior Court* (2014) 223 Cal.App.4th 762, 778-780; *Tobin v. Oris* (1992) 3 Cal.App.4th 814, 827.) The motion is GRANTED and all matters are deemed admitted, subject to revision if complete and proper responses are provided prior to the scheduled hearing.

The Clerk shall provide notice of this Ruling to the parties forthwith. Plaintiff to prepare a formal Order pursuant to Rule of Court 3.1312 in conformity with this Ruling.