

AMADOR SUPERIOR COURT LAW AND MOTION TENTATIVE RULINGS

Monday, May 3, 2021

TO REQUEST A HEARING ON ANY MATTER ON THIS CALENDAR, YOU MUST CALL THE COURT AT (209) 257-2692 BY 4:00 P.M. ON THE DAY PRECEDING THE HEARING. NOTICE OF THE INTENTION TO APPEAR MUST ALSO BE GIVEN TO ALL OTHER PARTIES.

IF THE CLERK IS NOT NOTIFIED OF A PARTY'S INTENTION TO APPEAR, THERE WILL BE NO HEARING AND THE TENTATIVE RULING WILL BECOME THE ORDER OF THE COURT. NO FURTHER NOTICE OF THE COURT'S RULING WILL BE PROVIDED.

18-FCD-06916

HOLM, RUBY

VS.

HOLM, MARK

FAMILY LAW MOTION TO COMPEL

TENTATIVE RULING:

The Motion to Compel Further Responses and Request for Sanctions filed by Respondent Mark Holm is granted as follows:

Procedural Issue:

The court finds that Petitioner, responding party, received adequate notice notwithstanding the typographical error in the body of the Notice of Hearing.

Motion to Compel Further Responses:

Within 30 days after service of a demand for inspection, testing, or sampling, the party to whom the demand is made shall serve the original of the response to them on the propounding party. CCP § 2031.260(a). In responding to a request for production of documents, the responding party shall provide a statement of compliance; a statement of inability to comply in part or in whole; or an objection. CCP § 2031.210.

If any portion of the request is objectionable, the response must contain a statement of compliance or representation of inability to comply with respect to the remainder of the request. Any objection must identify the document or thing to which objection is made and set forth the extent and grounds of the objection. CCP § 2031.240.

Plaintiff served written responses to the Request for Production of Documents but they fail to conform to the requirements of The Discovery Act.

Response No. 1:

Responding party's objections are overruled as without merit.

Petitioner is ordered to provide further responses.

While some documents were provided, the representation of responding party's inability to comply is inadequate, incomplete and evasive. As to documents that are no longer in responding party's possession, the response fails to "set forth the name and address of any natural person or organization "known or believed by that party to have possession, custody, or control of that item or category of item" CCP §2031.230

Response No. 2:

Responding party's objections are overruled as without merit.

Petitioner is ordered to provide further responses.

While some documents were provided, the representation of responding party's inability to comply is inadequate, incomplete and evasive. As to documents that are no longer in responding party's possession, the response fails to "set forth the name and address of any natural person or organization "known or believed by that party to have possession, custody, or control of that item or category of item" CCP §2031.230

Response No. 3:

Responding party's objections are overruled as without merit.

Petitioner is ordered to provide further responses.

While some documents were provided, the representation of responding party's inability to comply is inadequate, incomplete and evasive. As to documents that are no longer in responding party's possession, the response fails to "set forth the name and address of any natural person or organization "known or believed by that party to have possession, custody, or control of that item or category of item" CCP §2031.230

Response No. 6:

Responding party's objections are overruled as without merit.

Petitioner is ordered to provide further responses.

While some documents were provided, the representation of responding party's inability to comply is inadequate, incomplete and evasive. As to documents that are no longer in responding party's possession, the response fails to "set forth the name and address of any natural person or organization "known or believed by that party to have possession, custody, or control of that item or category of item" CCP §2031.230

Response No. 7:

Responding party's objections are overruled as without merit.

Petitioner is ordered to provide further responses.

While some documents were provided, the representation of responding party's inability to comply is inadequate, incomplete and evasive. As to documents that are no longer in responding party's possession, the response fails to "set forth the name and address of any natural person or organization "known or believed by that party to have possession, custody, or control of that

item or category of item” CCP §2031.230

Response No. 13:

Responding party’s objections are overruled as without merit.

Petitioner is ordered to provide further responses.

The representation of responding party’s inability to comply is inadequate, incomplete and evasive. As to documents that are no longer in responding party’s possession, the response fails to “set forth the name and address of any natural person or organization “known or believed by that party to have possession, custody, or control of that item or category of item” CCP §2031.230

Sanctions

Code of Civil Procedure §2031.300 provides that the Court shall award sanctions in favor of a party who was required to file a motion to compel further responses to requests for production unless substantial justification for the failure to comply has been shown or imposing sanctions would be unjust. Petitioner’s response made no such showing.

The Respondent, moving party’s request for sanctions is granted. Petitioner is ordered to pay counsel for respondent forthwith \$1,650 as attorney’s fees and \$60.00 for court filing fees for a total of \$1,710.00.

Unless a hearing is requested, this ruling is effective immediately. Neither further notice of the ruling nor a formal order per CRC 3.1312 is required.

2021 CVCLSLD 12069 XXXX, RAY

VS.

XXXX, GREGORY

DEMURRER - DEFENDANT'S

TENTATIVE RULING:

The Demurrer to the Complaint in unlawful detainer is overruled.

The Court finds there to be only one named defendant in the Complaint. The demurring party is not a named defendant, nor has he taken the necessary steps to add himself as a party to the action. To do so, the demurring party must follow procedures pursuant to the Prejudgment Claim of Right to Possession, served on March 22, 2021. (CCP §§ 415.46 and 1174.25.) Occupants not named in the Complaint can add themselves to the action as defendants. To do this, they have 10 days (including Saturdays and Sundays but excluding judicial holidays) to file the Prejudgment Claim with the court. (CCP §1174.25.) If they do not file a Prejudgment Claim, the judgment will apply to them.

Unless a hearing is requested, this ruling is effective immediately. Neither further notice of the ruling nor a formal order per CRC 3.1312 is required.