Antonio Zaranda Salinas v Juana Velazquez Moreno et al — Case No. 24CV00357
Hearing Date: July 9, 2025
Motions to Compel Discovery Responses

PARTIES/ATTORNEYS

Plaintiff	Antonio Zaranda Salinas	Self-Represented
Defendants and Cross-Complainants	Juana Velzaquez Moreno Iran Yadira Zaranda Velazquez Michelle Stephanie Zaranda Velazquez	Emilie de la Motte Carmel & Naccasha LLP
Cross-Defendants	Antonio Zaranda Salinas and Teresa Hernandez Zaranda	Self-Represented

---

TENTATIVE RULING

1. Motions to Compel Further Discovery

For all the reasons discussed below, the court grants the motions to compel further responses. Further responses (without objections) must be produced within 30 days without objection. Sanctions are granted in the amount of $7,500 in total for discovery misconduct and imposed jointly and severally on Antonio Zaranda Salinas, Teresa Hernandez Zaranda, along with their former counsel, Jonas Bailey, Esq. and The Bailey Law Firm, who prepared the discovery responses and with deficient objections.

2. Motions: Sanctions

These motions will be continued to August 27, 2025, at 8:30 a.m. No further briefing is invited or authorized. Appearances are required at the July 9, 2025, hearing to confirm availability and/or set it for a later date.

MEMORANDUM

This case involves alleged elder abuse of Jose Ramiro Saranda Alvarez (decedent). He was born in Mexico on March 18, 1928, and died at the age of 95 in California on November 29, 2023. The facts of the complaint have been recounted in previous tentative rulings. They will not be repeated here.

On July 29, 2024, Juana Velazquez Moreno and Iran Yadira Zaranda Velazquez[1] filed a cross-complaint against Antonio Zaranda Salinas and his wife, Teresa Hernandez Zaranda (also referred to as responding parties), alleging one cause of action for elder abuse based on their actions in forcibly removing decedent from his home, isolating him, and manipulating him into believing Juana and Iran had betrayed him. Antonio and Teresa answered the cross-complaint on December 9, 2024.

On December 20, 2024, Juana and Iran served Form Interrogatories, Set One, Special Interrogatories, Set One, Requests for Admission, Set One, and Request for Production, Set One on Antonio, and served the same requests separately on Teresa. The deadline for responding parties to respond was January 23, 2025. Juana and Iran ultimately granted an extension for response to February 14, 2025.

The responses made were nevertheless untimely served on February 21, 2025. The parties engaged in meet and confer efforts through attorneys Emilie de la Motte and Jonas Bailey, and attorney Bailey indicated the responding parties would supplement their answers by April 4, 2025. Supplemental responses were not served and on April 7, 2025, attorney Bailey stipulated to extend the deadline to file a motion to compel to May 9, 2025. Attorney Bailey substituted out as counsel for responding parties on April 7, 2025, hours after he was granted the extension of the deadline for filing the motions to compel. (de la Motte Decl., Exhs. A-J.)

After attempting to meet and confer with Antonio and Teresa through their daughter, Jasmine, Juana and Iran filed the instant Motions to Compel Further Responses from the responding parties to the following discovery:

- Form Interrogatories, Set One,
- Special Interrogatories, Set One,
- Requests for Admission, Set One, and
- Request for Production, Set One

This results in eight motions to compel on the court's calendar. Responding parties filed no opposition to the merits of this motion. The Bailey Law Firm filed opposition to the request for joint and several sanctions against it and the named attorneys. Reply has been filed.

[1] For ease of reference, the court will refer to the parties by their first names. No disrespect is intended.

1. Motions to Compel

The Civil Discovery Act is largely self-executing, but the Code of Civil Procedure provides for court interventions in specified circumstance. (*Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 402.) For example, if a propounding party is not satisfied with the response timely served by a responding party, the propounding party may move the court to compel *further* responses. (§§ Code Civ. Proc.[2] 2030.300 [interrogatories]; 2031.310 [inspection demands].) To be successful on this motion the propounding party must demonstrate that the responses were incomplete, inadequate or evasive, or that the responding party asserted objections that are either without merit or too general. (§§ 2030.300, subd. (a)(1)-(3); 2031.310, subd. (a)(1)-(3).)

In addition, the trial court may intervene when a party "fails to serve a timely response[.]" (§§ 2030.290 [interrogatories]; 2031.300 [inspection demands].) A party that fails to serve a timely response to the discovery request waives "any objection" to the request, "including one based on privilege" or the protection of attorney work product. (§§ 2030.290, subd. (a); 2031.300, subd. (a).) The trial court may relieve the party of its waiver, but that party must first demonstrate that (a) it subsequently served a response to the demand; (b) its response "is in substantial compliance" with the statutory provisions governing the form and content of the response; and (c) "[t]he party's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect." (§§ 2030.290, subd. (a)(1)-(2); 2031.300, subd. (a)(1)-(2).) The propounding party can move the trial court for an order compelling a party to provide initial responses to the discovery request. (§§ 2030.290, subd. (b); 2031.300, subd. (b).) Unlike a motion to compel further responses, a motion to compel initial responses is does not require the propounding party to demonstrate good cause. (See *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 402.)

Here, the moving party identifies this as a motion to compel *further* response, while also arguing that all objections must be deemed waived, which is a consequence of failing to provide a timely *initial* response. This raises the interesting question as to how, procedurally, to obtain the waiver remedy specified by §2030.290 when responses are served late.

In *Sinaiko*, the trial court considered the interplay between motions to compel initial responses and motions to compel further responses. In that case, the

[2] All further statutory references are to the Code of Civil Procedure unless otherwise indicate.

responding party served untimely interrogatory responses *after* the propounding party has served the motion to compel. The trial court granted the motion to compel initial responses, and the responding party appealed, arguing that once it served its responses the trial court had no authority to grant the motion. The appellate court held that "once a party has failed to serve timely interrogatory responses, the trial court has the authority to hear a propounding party's motion to compel [initial] responses under section 2030.290, subdivision (b), regardless of whether a party serves an untimely response. If a party fails to serve a timely response to interrogatories, then by operation of law, all objections that it could assert to those interrogatories are waived. (§ 2030.290, subd. (a).) Unless that party obtains relief from its waiver, the propounding party is entitled to move under subdivision (b) for an order compelling the response to which the propounding party is entitled—that is, a response without objection, and that substantially complies with the provisions governing the form (§ 2030.210) and completeness (§ 2030.220) of interrogatory responses." (*Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants, supra,* 148 Cal.App.4th at 408.)

As noted above, the propounding parties granted an extension for responses to be served by February 14, 2025. The responses were nevertheless untimely served on February 21, 2025. Given this factual background, the court interprets the moving party's motion as one to compel *initial* responses.[3] While the court has statutory power to grant the responding parties' relief from any waiver, no such motion or showing has been made here. The motions are granted. Code compliant responses must be produced without objection.

The motions to compel are granted. Further responses must be produced within 30 days without objection.

2. Sanctions

The moving parties request an order that Antonio and Teresa, along with their former counsel, Jonas Bailey, Esq., Jamie Erskine, Esq., and The Bailey Law Firm, who prepared the deficient discovery responses, pay, jointly and severally, the sum of $15,388.00 as sanctions.

Monetary and/or nonmonetary sanctions may be imposed on a party or the party's attorney for "misuse of the discovery process." (§ 2023.030.) Section 2023.010 provides a "nonexhaustive list" of conduct that constitutes a " 'misuse of the

[3] This alleviates the moving party from having to demonstrate, and the court from having to find, that the responses were incomplete, inadequate or evasive, or that the responding party asserted objections that are either without merit or too general.

discovery process.' " (*Kwan Software Engineering, Inc. v. Hennings* (2020) 58 Cal.App.5th 57, 74.) (d) This includes failing to respond or to submit to an authorized method of discovery; making, without substantial justification, an unmeritorious objection to discovery; and making an evasive response to discovery. (§ 2023.010, subd. (d) – (f).) The moving parties identified this conduct as the basis for the sanctions motion. (See Notices of Motion.)[4]

a. Sanctions against Attorneys Bailey, Erskine, or The Bailey Law Firm

Section 2023.030(a) permits a trial court to impose discovery sanctions against an attorney who advises a client to engage in discovery misconduct. Imposition of monetary sanctions against a party's attorney requires a finding that the attorney advised the party to engage in the conduct resulting in sanctions, and the attorney bears the burden of proving he or she did not so advise the client. (*Ghanooni v. Super Shuttle of Los Angeles* (1993) 20 Cal.App.4th 256, 262.) "Any attorney advising that conduct" includes an attorney who is no longer counsel of record when the motion to compel is filed. (*Masimo Corp. v. The Vanderpool Law Firm, Inc.* (2024) 101 Cal.App.5th 902, 905, 909—"It is not necessary to be counsel of record to be liable for monetary sanctions for discovery misuse.")

Here, the moving party argues that The Bailey Law Firm and attorneys Bailey and Erskine advised misuse of the discovery process by failing to submit to the discovery process; making, without substantial justification, unmeritorious objections to discovery; and making an evasive response to discovery. The moving parties argue that the record reflects a pattern of delay, unfulfilled assurances, counsel's prepared boilerplate objections, and a failure to ensure compliance with discovery obligations prior to withdrawing from representation. They argue that these actions – and inactions – constitute a misuse of the discovery process under Code of Civil Procedure sections 2023.010 and 2023.030, warranting monetary sanctions.

---

[4] In addition, monetary sanctions may be imposed "to the extent authorized by the chapter governing any particular discovery method." (§ 2023.030.) The chapters governing interrogatories, demands for inspection, and requests for admission authorize monetary sanctions against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel a response to interrogatories, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust. (Code Civ. Proc., §§ 2030.290, subd. (c) [interrogatories]; 2031.300, subd. (c) [demand for inspection]; 2033.290, subd. (a) [requests for admissions].) Although the statute is silent on the matter, the California Rules of Court authorize an award of sanctions for failure to provide discovery "even though no opposition to the motion was filed, or opposition … was withdrawn, or the requested discovery was provided … after the motion was filed." (Calif. Rules Court, rule 3.1348(a).) This is not identified as a basis for sanctions.

Jonas Bailey submitted a declaration in response to each motion. In them, he states that neither he nor attorney Erskine[5] or anyone at his firm instructed Antonio and Teresa not to respond to the discovery. Instead, they were encouraged to respond fully. After agreeing to serve supplemental responses, Bailey states he and his law firm again worked diligently to gather information necessary to respond to the written discovery in light of issues raised by Defendants and encouraged Antonio and Teresa to respond fully. He asserts: "Antonio and Teresa's inability to do so was not due to the advice of The Bailey Law Firm, Mr. Bailey, or Ms. Erskine." (Bailey Decl., ¶ 15.) He states that on April 7, 2025, "Antonio and Teresa and I had mutually agreed that Antonio and Teresa would substitute into the case to represent themselves in place of The Bailey Law Firm until Antonio and Teresa could find new counsel. In my email to Ms. de la Motte, I indicated that '[a]ny motions that you seek to file can be discussed with the client's new counsel.'" (Bailey Decl., ¶ 20.)

While Bailey's declarations may refute any responsibility for failing to submit to the discovery process, they do not address whether the objections were unmeritorious or evasive. Imposition of such objections fall within the purview of the attorney, not the client. (See § 2030.250, subd. (a), (c)—responses containing objections must be signed by the attorney; see *Blue Ridge Ins. Co. v. Sup.Ct. (Kippen)* (1988) 202 Cal.App.3d 339, 344,—responses consisting entirely of objections need not be verified by the client; see also *Blanton v. Womancare, Inc.* (1985) 38 Cal.3d 396, 404—attorney, not the client, makes tactical decisions even over opposition of the client.) Moreover, Bailey's concession to supplement the responses would seem to concede they were without substantial justification.

Some of the objections to the form interrogatories based on ambiguity are meritorious. For example, respondents objected to the definition of the term "incident," arguing it rendered some of the form interrogatories ambiguous. The term "incident" is defined as follows: "The events described in the operative cross-complaint." (de la Motte Omnibus Decl., Exhs. M & Q.) The cross-complaint alleges the elder abuse occurred while decedent was in the care of Antonio and Teresa during the last 18 months of his life. (Cross-Complaint, ¶¶ 42, 57, 63.) It alleges acts of neglect, such as lack of medical care (Cross-Complaint, ¶ 68); isolation (Cross-Complaint, ¶¶ 70-74); mental suffering (Cross-Complaint, ¶ 75); undue influence (Cross-Complaint, ¶¶77-78); and financial abuse by withdrawing money from decedent's account for personal benefit, both during COVID and after his death. (Cross-Complaint, ¶¶ 80-81.)

[5] Jamie Erskine is a contract attorney who assisted the Bailey Firm.

Form Interrogatories 11.1 and 11.2 ask whether the responding party has filed an action or made a demand for compensation for personal injuries or for worker compensation benefits in the last 10 years. The first subpart directs the respondent to identify the place of the "incident." As the term "incident" is defined as the events described in the operative cross-complaint, these interrogatories are indeed rendered ambiguous, at least as to subparts (a), which uses specifically defined word "incident."

Form Interrogatory 2.13 seeks to ascertain whether the responding party took any specifically identified substances within 24 hours before the "incident." The temporal limitation of this particular interrogatory renders the definition of "incident" ambiguous. The "incident" is defined as at least 5 separate types of elder abuse occurring over an 18-month period. Attempting to identify a specific 24-hour period to apply renders the term ambiguous.

The motions to compel further responses to the requests for inspection include overbroad requests. For example, Requests for Production No. 11, 12, and 13 seeks all communications between the responding party and Iran, Juana, and Michele, respectively. The respondents correctly note this request is not limited by time or scope. The request is thus overbroad.

While the court notes that a few were not without merit, as discussed above, in the complete absence of any defense of the objections, the court finds they are unmeritorious and without substantial justification. There has thus been a misuse of discovery, and that misuse was not just counseled by the attorney, but entirely orchestrated by the attorney. The sanctions will thus be imposed jointly and severally against Jonas Bailey, the Bailey Law Firm, and the responding parties.[6] (de la Motte Omnibus Decl., Exhs. T – UU.)

b. Amount

The moving parties request the sum of $15,388.00 for all motions collectively as sanctions. Monetary sanctions are limited to the reasonable expenses, including attorney fees, incurred as a result of the discovery abuse, which means a trial court has discretion to reduce the amount of fees and costs requested in order to reach a reasonable award. (*Cornerstone Realty Advisors, LLC v. Summit Healthcare REIT, Inc.* (2020) 56 Cal.App.5th 771, 790-791.)

[6] The discovery responses were signed by Jonas Bailey on behalf of the Bailey Law Firm. There is no evidence that Jamie Erskine, Esq. participated in the discovery responses at issue.

In support, attorney de la Motte states: "My regular hourly billing rate on this matter is $450. I personally inspected my firm's billing software to analyze all hours billed for these motions. I spent 10.3 hours researching and drafting this motion, and I anticipate spending 10 to analyze Cross-Defendants' and their counsel's opposition, prepare reply briefs, and participate at the hearing. This totals 20.3 hours of time. My clients request attorney's fees of $9,135.00 [$450 rate x 20.3 hours worked]. My paralegal, Tracy Morgan, bills at an hourly rate of $210. She spent a total of 21.6 hours. I estimate she will spend five hours to assist me in preparing the reply briefs and filings. This totals 26.6 hours. My clients request her fees of $5,586 [26.6 hours worked x 26.6 hours worked (sic)]. There is a $60 filing fee for each motion, for is a combined total of $480 for eight motions. We estimate that we will need to spend $70 on mailing costs to serve the motions upon Cross-Defendants. We estimate that we will need to spend $135 in printing costs to print the numerous motions and reply briefs." (de la Motte Omnibus Decl., ¶¶ 32 – 35.)

The court notes that neither Antonio or Teresa submitted any opposition, and therefore no reply to the merits of the motion was necessary. Attorney Bailey submitted opposition, but only to that portion of the motion asking for fees to be imposed against him and his firm. Attorney de la Motte's estimated 10 hours to analyze and reply to the opposition can thus be reduced to 5 hours. Her paralegal's estimated hours spent in preparing the reply can likewise be reduced from 5 hours to 2.5.

The court declines to award the "estimated" $70 on mailing costs and "estimated" $135 in printing costs as they are not substantiated. (*Cornerstone Realty Advisors, LLC v. Summit Healthcare Reit, Inc.*, *supra,* 56 Cal.App.5th at 795—not error for trial court to decline to award unsubstantiated costs.) Nor would the court be inclined to award such costs even if they were substantiated, as they are not otherwise allowable under the costs statute. (See Code Civ. Proc., § 1033.5, subd. (b)—" Postage, telephone, and photocopying charges, except for exhibits" not allowable as costs.)

The court finds fees in the amount of $6,885 [$450/hour x 15.3 hours] for attorney de la Motte and $5,061 [$210/hour x 24.1 hours] for paralegal Morgan to be reasonable. Reasonable fees and costs thus total $12,426.00 [$6,885 + $5,061 + $480 filing fee]. In recognition that some objections had merit, the court further reduces these sanctions to $7,500 in total, to be imposed jointly and severally on Antonio Zaranda Salinas, Teresa Hernandez Zaranda, along with their former counsel, Jonas Bailey, Esq. and The Bailey Law Firm, who prepared the discovery responses.

The parties are instructed to appear at the hearing for oral argument. Appearance by Zoom Videoconference is optional and does not require the filing of Judicial Council form RA-010, Notice of Remote Appearance. (See Remote Appearance (Zoom) Information | Superior Court of California | County of Santa Barbara.)