

TENTATIVE RULING(S) FOR OCTOBER 15, 2024
Department S37 – Judge Corey G. Lee

Tentative Rulings for Department S37, if posted, are on court’s website (<https://www.sb-court.org/divisions/civil/civil-tentative-rulings>) by 3:00 p.m. and 7:00 p.m. on the court day before the hearing (in some cases, on a non-court day before the hearing). If no tentative ruling is posted by 3:00 p.m., please check again after 7:00 p.m.

Unless you wish to submit on the tentative ruling, you must appear for the hearing either in person, CourtCall (888-882-6878 or www.courtcall.com), or by ZOOM. Failure to appear is deemed a waiver of oral argument. If you wish to submit to the tentative, please call the Judicial Assistant at (909) 708-8707 in advance of the hearing. If all parties submit on a tentative ruling, the tentative ruling will become final. The tentative ruling may seek input on particular issues and direct appearance. If so directed, attendance at the hearing is mandatory. The party prevailing on a motion or other hearing shall serve written notice of the court’s ruling unless all parties waive notice of the ruling.

ATTENTION: Since January 9, 2023, the court no longer provides an official Court Reporter to transcribe proceedings. Parties who wish to have a transcript must retain their own private reporter and must submit a “Stipulation and Order to Use Certified Shorthand Reporter.” Please contact the Department if you need this form. Prior to the hearing, you can email the completed Stipulation to Department S37 at AGear@sb-court.org. Parties who do not retain their own reporter have waived the right to one.

UNLESS OTHERWISE NOTED, THE PREVAILING PARTY IS TO GIVE NOTICE OF THE RULING.

CIVSB2315626: *Austin v. County of San Bernardino, et al.*

Motion: Motion to Compel Further Responses to Form Interrogatories
Motion to Compel Further Responses to Production of Documents
Movant: Defendant County of San Bernardino
Respondent: Plaintiff Troy Austin

DISCUSSION

Plaintiff alleges that Defendant San Bernardino County negligently, fraudulently, and intentionally reduced his CalFresh benefits by entering zero dollars for Plaintiff’s rental/shelter expense when \$300 should have been entered. Plaintiff further alleges that the only change he made to his SAR-7 form was a change of address to a TAD office in Rancho Cucamonga. The reduction in shelter expense translated to a reduction in his CalFresh benefits causing Plaintiff emotional distress and anxiety. County claims Plaintiff never actually received a reduction in any of his benefits at any point during the entire process and that Plaintiff timely received the full amount of benefits at all times. At issue are two discovery motions filed by County.

A party who deems responses to propounded interrogatories (form or special) as evasive or incomplete; or an objection is without merit or too general; or the exercise of the option to produce documents is unwarranted or the required specification of those documents is inadequate can move to compel further responses. (Code Civ. Proc., § 2030.300, subd. (a).) Similarly, a party who deems a statement of compliance with a document demand as incomplete; or the representation of inability to comply as inadequate, incomplete or evasion; or an objection to a

document demand as without merit or too general can move to compel further responses. (Code Civ. Proc., § 2031.310, subd. (a).)

Form Interrogatories in Dispute

Form Interrogatory 2.2 – State the date and place of your birth.

Plaintiff objects claiming the information is already known to the County and is in the possession and control of Defendant (in his Welfare case).

Plaintiff needs to answer this question. There is no privacy concern and the County has the right to this basic information to verify identity. Motion to further compel is **granted**.

Form Interrogatory 2.5 – State (a) your present residence ADDRESS; (b) your residence ADDRESSES for the past five years; and (c) the dates you lived at each ADDRESS.

Plaintiff objects claiming again the information is already known to the Defendant and that it is not relevant to the subject matter of this litigation, and is protected by privacy rights. Plaintiff's supplemental response to subdivision (a) states he "does not have a perinate address/residence and [is] currently staying in Las Vegas, I am not authorized you use or give address fore address is not my residence."

Plaintiff provides two partial California addresses with estimates of occupancy form 2011 to January 31, 2023, as to subdivisions (b) and (c).

Plaintiff notes County has been in communication with the plaintiff via the address and email on file and does not want to risk giving an address where the information may not reach him. Plaintiff claims County's request for the address is to be able to serve Plaintiff. Plaintiff's offer to waive service is not possible here, where service may be required for this Court to obtain jurisdiction.

County replies that "Plaintiff's entire case is about his residence, address, and rent/shelter expense and the information that was purportedly reported to the Transitional Assistance Department to obtain CalFresh Benefits. Indeed, as County points out, there may be witnesses at the addresses and the information is relevant. As such, Plaintiff should provide his current address and full information as to his prior addresses. County's motion to further compel is therefore also **granted** here.

Requests for Production in Dispute

The Request for Production of Documents seeks further responses to three requests for production (## 6, 7 and 33).

Plaintiff argues he was "blindsided" by the motion but as noted by County, there were two meet and confer efforts (letters and phone calls) and the parties conferred telephonically on June 13, 2024, when Plaintiff initially agreed to participate in an informal discovery conference ("IDC") to resolve the issue, but subsequently stated (although unclear when) that he did not desire to participate in an IDC with the Court. (Declarations of Seonhae Shin, ¶¶ 4-8.)

Plaintiff's argument the motion was frivolous or harassing is not supported. The demands are appropriate for this litigation, which Plaintiff chose to file. Nor is there any merit to Plaintiff's argument that Defendant should have waited until Plaintiff filed his requests for

discovery as against County. The motion to further compel responses to Production Demands ## 6, 7 and 33 is therefore *granted*.

Sanctions

Monetary sanctions shall be imposed against any party, person or attorney who unsuccessfully makes or opposes a motion to compel further responses, unless the court finds that the party subject to sanctions acted with substantial justification or that other circumstances make the imposition of the sanction unjust. (Code Civ. Proc., §§ 2030.300, subd. (d), 2031.310, subd. (h).)

County seeks sanctions of \$1435 for each Motion to Compel (two Judicial Form Interrogatories and Three Demands for Production), representing a total of seven hours at \$205/hour per motion. This is excessive for these straight-forward and brief motions. Three, rather than seven hours at \$205 for both motions together may be more appropriate. Nevertheless, given the nature and circumstances of this case, namely, Plaintiff is *pro per* and the case indicates extreme financial difficulty for Plaintiff, the Court finds imposition of monetary sanctions at this point unjust. Therefore, County's request for sanctions is *denied*. This ruling does not apply to any future appropriate requests for sanctions.

RULING

Based on the foregoing, the Court's ruling is as follows:

- Defendant County's motion to compel further responses to form interrogatories is *granted*.
- Defendant County's motion to compel further responses to production demands *granted*.
- Defendant County's request for sanctions is *denied*.

Counsel for Defendant is ordered to give notice of the Court's findings, rulings and orders as set forth herein.