

**SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

Department 1, Honorable Le Jacqueline Duong, Presiding
Mai Jansson, Courtroom Clerk

191 North First Street, San Jose, CA 95113
Telephone 408.882-2120

To contest the ruling, call (408) 808-6856 before 4:00 P.M.

PROBATE LAW AND MOTION TENTATIVE RULINGS

DATE: August 2, 2024 TIME: 10:00 A.M.

*****NOTICE*****

**APPEARANCES IN DEPT. 1 MAY BE IN PERSON OR
REMOTE THROUGH MICROSOFT TEAMS**

PLEASE GO TO:

https://www.scsccourt.org/general_info/ra_teams/video_hearings_teams.shtml to find the appropriate link.

State and local Court Rules prohibit recording of court proceedings without a Court order. This prohibition applies while on Microsoft Teams.

Prevailing party shall prepare the order by e-file, unless stated otherwise below

The court does not provide official court reporters for civil/probate law and motion hearings. See court website for policy and forms for court reporters at hearing

TROUBLESHOOTING TENTATIVE RULINGS

If do not see this week's tentative rulings, they have either not yet been posted or your web browser cache (temporary internet files) is accessing a prior week's rulings. "REFRESH" or "QUIT" your browser and reopen it, or adjust your internet settings to see only the current version of the web page. Your browser will otherwise access old information from old cookies even after the current week's rulings have been posted.

LINE #	CASE #	CASE TITLE	RULING
LINE 1	22PR193625	Lindhan Family Trust	Click on LINE 1 or scroll down for attached Tentative Ruling.
LINE 2	24PR197332	Estate of Asha Sharma	Parties to appear at 9am. Will be heard together with 9am petitions.
LINE 3			Click on LINE 3 or scroll down for attached Tentative Ruling.
LINE 4			

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LINE 6			

Line 1

INTRODUCTION

On January 31, 2023, Petitioner Karen Clarity (“Petitioner”) filed a petition to remove her brothers, Richard Lindahn (“Respondent”) and Roger Lindahn as co-trustees of the Lindahn Family Trust. The court named Petitioner interim successor trustee. Thereafter, Petitioner filed amended petition, which Respondent answered. Respondent also filed a petition contending that Petitioner breached the terms of the trust.

Currently before the court is Petitioner’s motion to compel Respondent’s further responses to Petitioner’s requests for admissions, set one; special interrogatories, set one; form interrogatories, set one; and requests for production of documents, set one. The motion is unopposed.¹

DISCUSSION

Petitioner seeks further responses to her form and special interrogatories, requests for admission, and requests for production of documents.

I. Legal Background

A. Requests for Admission

Code of Civil Procedure section 2033.2202 provides, “(a) Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits. [¶] (b) Each answer shall: [¶] (1) Admit so much of the matter involved in the request as is true, either as expressed in the request itself or as reasonably and clearly qualified by the responding party. [¶] (2) Deny so much of the matter involved in the request as is untrue. [¶] (3) Specify so much of the matter involved in the request as to the truth of which the responding party lacks sufficient information or knowledge. [¶] (c) If a responding party gives lack of information or knowledge as a reason for a failure to admit all or part of a request for admission, that party shall state in the answer that a reasonable inquiry concerning the

matter in the particular request has been made, and that the information known or readily obtainable is insufficient to enable that party to admit the matter.”

Section 2033.290, subdivision (a) provides, “On receipt of a response to requests for admissions, the party requesting admissions may move for an order compelling a further response if that party deems that either or both of the following apply: [¶] (1)

An answer to a particular request is evasive or incomplete. [¶] (2) An objection to a particular request is without merit or too general.”

B. Form and Special Interrogatories

A responding party must provide non-evasive answers to interrogatories that are “as complete and straightforward...to the extent possible,” and, if after a reasonable and good faith effort to obtain the information they still cannot respond fully to an interrogatory, the responding party must so state in its response. (§ 2030.220.) If the responding party provides incomplete or evasive answers, or objections without merit, the propounding party’s remedy is to seek a court order compelling a further response to the interrogatories. (§ 2030.300.)

C. Requests for Production

A responding party to an inspection demand must respond separately to each item in the demand by stating one of the following: (1) an agreement to comply; (2) a representation of inability to comply, or (3) objections. (§ 2031.210.) Additionally, section 2031.230 requires that a representation of an inability to comply with the particular demand for inspection must also “affirm that a diligent search and a reasonable inquiry has been made in an effort to comply with the demand.” If a party demanding a response to an inspection demand deems: (1) a statement of compliance with the demand is incomplete; (2) a representation of inability to comply is inadequate, incomplete, or evasive; or (3) an objection in the response is without merit or too general, that party may move for an order compelling further response to the demand. (§ 2031.310, subd. (a).)

In general, a motion for an order compelling further responses to the request for production of documents “shall set forth specific facts showing good cause justifying the discovery sought by the inspection demand.” (§ 2031.310, subd. (b)(1).) In order to establish good cause, the burden is on the moving party to show relevance to the subject matter and specific facts justifying the discovery. (See *Glenfed Develop. Corp. v. Superior Court* (1997) 53 Cal.App.4th 1113, 1117.) Once a showing of good cause is made, the burden shifts to the opposing party to justify his or her objections. (See *Kirkland v. Superior Court* (2002) 95 Cal.App.4th 92, 98.)

II. Merits of the Motion

Petitioner seeks further responses to her requests for admissions, set one; special interrogatories, set one; form interrogatories, set one; and requests for production, set one. Respondent has not opposed the motion. All objections are overruled, (see *Coy v. Super. Ct.* (1962) 58 Cal.2d 210, 220-221 [if a timely motion to compel is filed, the burden is on the responding party to justify any objection]), except that

Respondent's privilege objections are preserved, (see *Catalina Island Yacht Club v. Superior Court* (2015) 242 Cal.App.4th 1116, 1129 [boilerplate objections in an initial response are sufficient to preserve attorney client and work product privilege objections]). To the extent Respondent seeks to withhold documents on privilege grounds, he must provide a privilege log.

The motion to compel further responses to the discovery requests at issue is GRANTED. Respondent is ordered to provide verified, code-compliant further responses to Petitioner's requests for admissions, set one; special interrogatories, set one; form interrogatories, set one; and requests for production, set one within 20 days of the date of this court's order. To the extent Respondent seeks to withhold documents on privilege grounds, he must provide a privilege log.

III. Petitioner's Request for Sanctions

Petitioner requests sanctions in the amount of \$13,592.50 in connection with the motion. Petitioner contends that this amount consists of 14.1 hours of attorney time spent in preparing the original motion and supporting documents and 11.1 hours preparing the amended motion, at \$425 per hour; 5.7 hours of attorney time at \$465 per hour, and \$220 in filing fees. By the court's math, the total should be \$13,580.50.

The code section relating to each type of discovery motion provides that "[t]he court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel a further response . . . , 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., §§ 2030.300, subd. (d) [interrogatories], 2031.310, subd. (h) [requests for production], 2033.290, subd. (d) [requests for admission].)

Here, the motion is unopposed and, therefore, Respondent has not provided any argument as to how he acted with substantial justification or how the imposition of sanctions would be unjust. However, the court finds that the amount of time spent on the motion is unreasonable. Accordingly, the court will grant the request for sanctions in part in the amount of \$8,920 (5 hours x \$465 per hour + 15 hours x \$425 per hour + filing fees of \$220). Respondent and/or his counsel are ordered to pay \$8,920 to Petitioner's counsel within 30 days of the date of this court's order.

CONCLUSION

The motion to compel further responses to the discovery requests at issue is GRANTED. Respondent is ordered to provide verified, code-compliant further responses to Petitioner's requests for admissions, set one; special interrogatories, set

one; form interrogatories, set one; and requests for production, set one within 20 days of the date of this court's order. To the extent Respondent seeks to withhold documents on privilege grounds, he must provide a privilege log. The request for sanctions in part in the amount of \$8,920. Respondent and/or his counsel are ordered to pay \$8,920 to Petitioner's counsel within 30 days of the date of this court's order.

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