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Most of the civil procedure rules either under the Federal Rules of Civil Procedure ("FRCP") or California Civil Procedure ("CA") are similar, however where there is a distinction one will be made, the answer will be analyzed under both as the question does not specify either FRCP or CALI.

The answer will not analyze any issues pertaining to personal jurisdiction, subject matter jurisdiction, venue, or service of process as P filed suit in federal district court against G for negligence, and G has admitted that the jurisdiction was proper. Therefore, personal jurisdiction, subject matter jurisdiction, venue, and service of process was correct and not at issue.

1. How should the court rule on Priscilla's ("P") motion to compel further responses to her interrogatories to Grocery ("G")?

California classification of case

Under CA, there are three kinds of classifications that a case can fall into which will govern the amount of pleadings/demurrers, relief, etc. The first is an unlimited case, which is filed in superior court and damage claims must be in excess of \$25,000. The unlimited case, allows for unlimited number of interrogatories, pleadings and recovery sought. Secondly, there is limited case which is also filed in superior court with damage claims under \$25,000, which have limited number of pleadings, interrogatories, and limits recovery sought. Lastly, there is small claims, which is filed in small claims court and damage claims are under \$10,000 for personal and \$5,000 for business.

P's case will likely be classified as unlimited as P filed a suit for Negligence in federal court. For a claim to be raised in federal court, the court must have subject matter jurisdiction over the claim either through a federal question or diversity of the parties with an amount in controversy in excess of \$75,000. As Negligence is not a federal question, the federal court likely has a diversity claim. And as G has already admitted that the jurisdiction is proper, the amount in controversy of \$75,000 is met, which is well over \$25,000 threshold for a CA unlimited case.

The case will be classified as unlimited for CA and the amount of interrogatories to be sent to G is unlimited. P's 26 interrogatories to G is proper.

What is discoverable?

Any evidence that is not privileged, that is material to the case that may be proved to be probative is discoverable. Discovery tools include interrogatories, depositions, request for information, copies of electronic stored data, admissions, and physical and mental examinations.

P sent G 26 interrogatories, G is a party to the suit and therefore interrogatories to party is proper. The information P is requesting, the names of the address of every G employee who worked on the construction of the soda display and every soda company employee who did so is proper as the information obtained will provide probative value if negligence was committed by an employee of G or someone under G's authority.

The training manual sought would help P discover if G had proper training of how to display large soda bottles, it would have probative value on whether G was or was not negligent.

Both of P's interrogatories are proper, and therefore, should be allowed to be discovered.

Mandatory Disclosures

CA does not require mandatory disclosures, however, either party may request disclosures. FRCP requires mandatory disclosures for initial, experts, and pre-trial. Initial disclosures would disclose names of those who have discoverable evidence that pertains to the case. Expert mandatory disclosures would disclose experts used and the method the experts used. Pre-trial disclosures would disclose evidence to be used at trial and other witnesses to be called.

P's interrogatories would fall under initial disclosures, that being names of those who have discoverable relevant evidence. G's employee involved in the construction of the soda display which P was hurt by would have information on whether the display was properly constructed. The request for the manuals would go to show whether G trained its employees in constructing such large displays or if they were negligent in failing to give their employees safety guidelines for such large displays.

P's interrogatories fall under initial mandatory disclosures for FRCP and should be allowed.

Therefore, the court should affirm P's motion to compel further responses from G.

2. How should the court rule on each of G's motions to compel?

a. Mental and Physical Examinations

Under CA, a party is allowed to have one physical examination of the other party, if the some harm or to the body is at issue. A mental examination under CA, is typically not allowed unless mental claims are issue, if mental claims are at issue, CA requires a leave of court and permission from the court for a mental examination. Under FRCP, a party is allowed to one physical and mental examination of the other party, if the physical or mental conditions are at issue.

P claims to have bruising on her head and entire body, as her physical injuries are at issue under the negligence claim (whether she did in fact receiving the bruising caused by large bottles of soda falling on her), G would have a right to one physical examination of P. One the mental examination, G might argue the mental examination is required to see if P mentally ill for not seeing large display of soda and avoid its path, thereby making her contributory or comparatively negligent and reducing G's liability. G's argument will likely fail as there are no claims regarding P's mental issue from the facts. Even if, the court agreed with G's argument, G would need to have a leave of court to request the mental examination.

Under CA and FRCP, G will likely get the psychical examination, but not the mental examination as no mental conditions are at issue. The court should affirm G's motion to compel on the physical examination, but not the mental examination.

b. P's tax returns since 1995

Tax returns in a negligence cause is not typically probative to the negligence claim or its defenses. Even so, the tax returns may be discoverable if they lead to probabitve evidence, but as P is claiming bruising on her head and body, her tax returns are most likely are not relevant to providing a defense to negligence.

The court should dismiss G's motion to compel on P's tax returns.

3. Was G's response to P's interrogatory about its experts proper?

Expert Disclosures

Expert disclosures are mandatory under FRCP, the party using the expert is required to

disclose the expert's name and methods used by the expert.

G hired X, an expert, to investigate the accident on the store display. X is an expert used by G, a party to the suit. X must be disclosed to P.

G's response to P about its expert was not proper.

4. Should the court sustain Grocery's assertion of privilege with regard to Xavier ("X")?

Information that is privileged is not discoverable. Privilege information is typically communications between an attorney and client in regards to the suit, like strategy and communications in preparation of trial. Privilege information between a client and attorney can extend to other parties who are involved in that communication in preparation for trial.

G will argue it only hired X under the pretenses that it might be sued and therefore was doing so in preparation of suit and should be privileged. This might stand as privilege, however, the communication was done at the discretion of an attorney or planned with an attorney to see if G is more or less at fault for its large store display. It is likely that X will be required to be disclosed under mandatory disclosures if he is to be used in trial, if X is not used in trial and was hired for the purpose only to see how negligent G was in preparation for suit, then X's communications may be privileged, but his information will still be required to be disclosed.

The court should dismiss G's assertion of privilege if X will be testifying, but at most at least G must reveal who its expert is, but not the communication.

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