

# Superior Court of California County of San Benito



Edgar Nolasco  
Court Executive Officer

## **Tentative Decisions for March 10, 2022**

**Courtroom #1: Judge J. Omar Rodriguez**

### **CU-20-00189 Rocket Restrooms & Fencing, Inc v. Leal, et al.**

Regarding the five motions to compel further responses that are still at issue, the Plaintiff's Motions are GRANTED (Motions to Compel Further Responses to Requests to: Leal for Admissions Nos. 8 and 9; Leal for Responses to Form Interrogatory No. 17.1; Popescu for Requests for Admission Nos. 4, 5, 6, 43, 51, 52; and Popescu for Requests for Production of Documents Nos. 16, 18, 20.) The requests are not overbroad, oppressive or burdensome. Regarding Form Interrogatory No. 17.1, the court is not persuaded that a party is prohibited from asking a party to prove a negative. The language of Form Interrogatory essentially allows for that since the interrogatory allows one party to ask another for proof in support of a negative response to a request for admission.

Regarding the claim that the requests seek to obtain trade secrets or attorney-client privilege, the Defendants fail to establish the existence of these privileges to any specific information or document and set forth the specific ground for the objection. Regarding the requests for admission, the answering party owes a duty to respond in good faith as best as he or she can. (*See Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771.)

Regarding Defendant Popescu's Responses to Request for Admission, the responses must be as complete and straightforward as the information reasonably available to the responding party permits. (Cal. Civ. Proc. Section 2033.220(a).) A response does not comply if it contains language that unreasonably qualifies the answer

and must be unequivocal. (*Smiths v. Circle P Ranch Co.* (1978) 87 Cal.App.3d 267, 275.) Here, responses No. 4 through 6 are unreasonably qualified responses.

The further responses are to be served on Plaintiff no later than April 22, 2022. Regarding the production of documents, Defendant may still maintain a privilege log and/or file a motion for a protective order.

Defendants Motion to Quash Cell Phone Records

Defendants Motion to Quash Subpoenas for Cell Phone Records to Verizon, Onvoy, LLC, and Onvoy Spectrum, LLC is DENIED. The subpoena shall be limited to phone calls to and from . Defendant Leal's status as the manager of Rentafence is in dispute and is a proper subject of discovery. Notice of the subpoenas was provided as required by law as copies of the subpoenas were served on counsel of Leal and Popescu. The subpoenas are not overbroad or violate Defendants' privacy rights as they are limited to phone calls records for a relevant prior of time. The subpoenas do not extend to text messages or contents of text messages.

**END OF TENTATIVE RULINGS**