

1. De LOIA, ET AL. v. CEFALU, ET AL., 23CV2066

(A) Motion to Compel Further Responses from Defendant John Cefalu (FROG, Set One)

(B) Motion to Compel Further Responses from Defendant John Cefalu (RFP, Set One)

(C) Motion to Compel Further Responses from Defendant John Cefalu (RFA, Set One)

(D) Motion to Compel Further Responses from Defendant Joby Cefalu (FROG, Set One)

(E) Motion to Compel Further Responses from Defendant Joby Cefalu (RFP, Set One)

(F) Motion to Compel Further Responses from Defendant Joby Cefalu (RFA, Set One)

(G) Motion to Compel Further Responses from Defendant JARS Linen (RFP, Set One)

(H) Defendant John Cefalu's Motion for Protective Order

(A) Defendant John Cefalu – Form Interrogatories, Set One

In the event that the court compels a further response from defendant John Cefalu¹ to plaintiffs' Request for Production, plaintiffs seek a further response to Form Interrogatory Number 17.1. The motion to compel is granted.

(B) Defendant John Cefalu – Request for Production, Set One

Plaintiffs seek a further response to Demand Numbers 12 through 16, and 32.

Request Numbers 12 through 16 seek all documents concerning monies paid by JARS to John, or on his behalf, from January 1, 2011, through present. John complied in part by providing responsive documents from 2020 to 2024. However, John objects that the requests are overbroad as to time where the court previously struck allegations from the Complaint that occurred on or before 2018. Plaintiffs contend they are nonetheless entitled to the information because it might reasonably assist in evaluating the case, preparing for trial, or facilitating settlement.

The court denies the motion insofar as it seeks responsive documents on or before 2018 (John must produce responsive documents from 2019 through present).

¹ The court will refer to the Cefalu parties by first name for clarity. The court intends no disrespect.

Request Number 32 seeks all documents relating to any payment from JARS towards development plans for the property located at 497 Canal Street in Placerville, California. John objects that the request is irrelevant, claiming that the court previously struck the allegation from the operative complaint regarding the Canal Street property due to the applicable statute of limitations. Plaintiffs argue that the request does not become irrelevant simply because it seeks information outside of the allegations of the complaint.

The court is not aware of the relevant allegations concerning the Canal Street property. But the court finds that plaintiffs have not shown good cause for the request. Therefore, the motion is denied with respect to Request Number 32.

(C) Defendant John Cefalu – Request for Admission, Set One

Plaintiffs seek a further response to RFA Numbers 1, 2, 6, and 22.

Request Numbers 1 and 2 concern JARS's funds spent on John's personal property during the period of January 1, 2011, to the present. John objects that the requests are vague, ambiguous, and unintelligible as written because the term, "personal property," is unclear. Subject to and without waiving these objections, John states he is unable to admit or deny the matter stated in the requests because he lacks sufficient information after a reasonable inquiry. Plaintiffs argue that John should not be allowed to claim lack of sufficient information because the information requested is within John's personal knowledge.

The court overrules John's vague and ambiguous objection. The court agrees with plaintiffs that the information requested is within John's personal knowledge. Therefore, the motion to compel is granted with respect to Request Numbers 1 and 2.

Request Number 6 asks John to admit that, when initially asked about the distribution of Director's Fees, he told plaintiff Gina De Loia that it was a mistake by JARS's accountant. John objects that the request is vague, ambiguous, and unintelligible as written as to the meaning of the terms, "distribution" and Director's Fees," explaining that there have been multiple distributions. John further objects that the request is overbroad as to time.

Subject to and without waiving these objections, John states that he is unable to admit or deny the matter stated in the request because he lacks sufficient information. Plaintiffs state that during their meet and confer efforts, they agreed to limit this request to the 2019 distribution of Director's Fees.

The court agrees with plaintiffs that the information requested is within John's personal knowledge. John is ordered to further respond to Request Number 6 with the understanding that it refers to the 2019 distribution of Director's Fees only.

Request Number 22 asks John to admit that he used JARS funds to pay for development plans for the property located at 497 Canal Street in Placerville, California. John objects that the request is irrelevant, claiming that the court previously struck the allegation in the operative complaint regarding the Canal Street property due to the applicable statute of limitations.

The court is not aware of the relevant allegations concerning the Canal Street property. But the court finds that plaintiffs have not shown good cause for the request. Therefore, the motion is denied with respect to Request Number 22.

(D) Defendant Joby Cefalu – Form Interrogatories, Set One

In the event that the court compels a further response from defendant Joby Cefalu to plaintiffs' Request for Production, plaintiffs seek a further response to Form Interrogatory Number 17.1. The motion to compel is granted.

(E) Defendant Joby Cefalu – Request for Production, Set One

Plaintiffs seek a further response to RFP Numbers 13 through 16, 30, 33, and 35.

Request Numbers 13 through 16 seek documents relating to any monies paid by JARS to Joby from January 1, 2011, through present. Joby complied with these requests in part and produced documents covering the period of 2020 through 2024. However, Joby objects that the requests are overbroad as to time where the court previously struck allegations from the operative complaint that occurred on or before 2018. Plaintiffs

contend they are nonetheless entitled to the information because it might reasonably assist in evaluating the case, preparing for trial, or facilitating settlement.

The court denies the motion insofar as it seeks responsive documents on or before 2018 (Joby must produce responsive documents from 2019 through present).

Request Number 30 seeks all documents relating to any payment from JARS to Lake Tahoe Stump Removal from January 1, 2011, through present. Joby objects that the request is overbroad as to time and irrelevant because it seeks over seven years of records outside of the allegations at issue in the complaint. Lastly, Joby claims that plaintiffs already obtained all of the available documents from 2011 to 2018 in connection with their petition for writ of mandate (El Dorado Super. Ct. Case No. 23CV0839). Plaintiffs claim that the fact they obtained documents in a prior litigation is irrelevant to Joby's obligation to provide a code-compliant response to the instant demand. Additionally, plaintiffs claim that the document production they received in the prior litigation was incomplete.

The court denies the motion insofar as it seeks responsive documents on or before 2018 (Joby must produce responsive documents from 2019 through present).

Request Number 33 seeks all Form 1099s relating to any contract for which Joby was paid with JARS funds. Joby objects that the request is vague and ambiguous as to the term, "contract work." Additionally, Joby objects that the request is overbroad as to time. During their meet and confer efforts, plaintiffs agreed to limit the time frame of this request to January 1, 2011, through present.

The court overrules defendant's objection that the term, "contract work," is vague and ambiguous. However, the court denies the motion insofar as it seeks responsive documents on or before 2018 (Joby must produce responsive documents from 2019 through present).

Request Number 35 seeks all documents relating to any QuickBooks subscription owned by JARS. Joby complied with this request in part and provided responsive

documents from 2022 to present. However, Joby objects that the request is overbroad as to time where the court previously struck allegations from the Complaint that occurred on or before 2018. Plaintiffs contend they are nonetheless entitled to the information because it might reasonably assist in evaluating the case, preparing for trial, or facilitating settlement.

The court denies the motion insofar as it seeks responsive documents on or before 2018 (Joby must produce responsive documents from 2019 through present).

(F) Defendant Joby Cefalu – Request for Admission, Set One

Plaintiffs seek a further response to RFA Numbers 2 through 4, 6 through 9, 39, and 40.

Request Number 2 states, “Admit that during the RELEVANT TIME PERIOD [January 1, 2011, to the present] YOU spent JARS’ funds on insurance for YOURSELF.” Joby objects that the request is vague, ambiguous, and unintelligible as written as to the meaning of the terms, “funds,” “insurance,” and “for yourself.” Joby explains that there are at least two types of insurance at issue here (life and health), and it is unclear what type of insurance this request refers. Additionally, Joby objects that the request is irrelevant where the court previously struck plaintiffs’ allegations in the complaint concerning Joby’s receipt of insurance funds from 2015 through 2017. Plaintiffs contend they are nonetheless entitled to the information because it might reasonably assist in evaluating the case, preparing for trial, or facilitating settlement. Plaintiffs further argue that “whether Joby spent funds on insurance for himself is plainly relevant as it relates to all of Plaintiff’s claims.”

The court overrules Joby’s vague and ambiguous objection. The court finds that the term, “insurance,” covers both life and health insurance. However, the court denies the motion insofar as it seeks responsive documents on or before 2018 (Joby must produce responsive documents from 2019 through present).

Request Numbers 3 and 4 ask Joby to admit that between January 1, 2011, through present, he spent JARS' funds on insurance for Laura Cefalu (Joby's wife) and said funds have not been repaid to JARS. Joby objects that the requests are vague, ambiguous, and unintelligible as written as to the meaning of the terms, "funds" and "insurance." Joby explains that there are at least two types of insurance at issue here (life and health), and it is unclear what type of insurance these requests refer. Additionally, Joby objects that the requests are irrelevant where the court previously struck plaintiffs' allegations in the complaint concerning Joby's receipt of insurance funds from 2015 through 2017. Plaintiffs contend they are nonetheless entitled to the information because it might reasonably assist in evaluating the case, preparing for trial, or facilitating settlement. Plaintiffs further argue that "whether Joby spent funds on insurance for himself is plainly relevant as it relates to all of Plaintiff's claims."

The court overrules Joby's vague and ambiguous objection. The court finds that the term, "insurance," covers both life and health insurance. However, the court denies the motion insofar as it seeks responsive documents on or before 2018 (Joby must produce responsive documents from 2019 through present).

Request Number 6 asks Joby to admit that, when initially asked about the distribution of Director's Fees, he told plaintiff Gina De Loia that it was a mistake by JARS's accountant. Joby objects that the request is vague, ambiguous, and unintelligible as written as to the meaning of the terms, "distribution" and Director's Fees," explaining that there have been multiple distributions. Subject to and without waiving these objections, Joby states that he is unable to admit or deny the matter stated in the request because he lacks sufficient information. Plaintiffs claim that it is clear from the allegations in the operative complaint that this request refers to the 2019 distribution of Director's Fees. Additionally, plaintiffs claim that what Joby told plaintiff Gina De Loia in response to her questions regarding the distribution of Director's Fees is within Joby's personal knowledge.

The court agrees with plaintiffs that the information requested is within Joby's personal knowledge. The court orders Joby to further respond to Request Number 6 with the understanding that it refers to the 2019 distribution of Director's Fees only.

Request Number 7 asks Joby to admit that, prior to July 5, 2023, he did not provide plaintiff Gina De Loia with keys to JARS's office. Joby objects that the term, "JARS's office" is vague, ambiguous, and unintelligible as written, explaining that Gina De Loia has been a JARS Director with access to records at various offices since the 1980s and it is unclear which office this request refers. Subject to and without waiving these objections, Joby states that he lacks sufficient information to admit or deny the matter stated in the request. Plaintiffs claim that it is clear from the allegations in the operative complaint that this request refers to JARS's main office located at 3100 Nevada Avenue. Additionally, plaintiffs argue that whether Joby provided Gina De Loia with keys prior to July 5, 2023, is within Joby's personal knowledge.

The court agrees with plaintiffs that the information requested is within Joby's personal knowledge. The court orders defendant to further respond to Request Number 7 with the understanding that "JARS's office" refers to the main office located at 3100 Nevada Avenue.

Request Number 8 states, "Admit that, when Gina De Loia again inquired about the Director's Fees, in or about October 2021, YOU told her the amount of the disbursement had been subtracted from the salaries of those receiving the disbursement." Joby objects that the request is vague, ambiguous, and unintelligible as written as to the meaning of the terms, "distribution" and "Director's Fees." Subject to and without waiving these objections, Joby states that he lacks sufficient information to admit or deny the matter stated in the request. Plaintiffs claim that it is clear from the allegations in the operative complaint that this request refers to the 2019 distribution of Director's Fees. Additionally, what Joby told Gina De Loia in response to her questions regarding the distribution of Director's Fees is within Joby's personal knowledge.

The court agrees with plaintiffs that the information requested is within Joby's personal knowledge. The court orders Joby to further respond to Request Number 8 with the understanding that it refers to the 2019 distribution of Director's Fees only.

Request Number 9 states, "Admit that the Director's Fees distribution was never subtracted from the salary of anyone working for JARS." Joby objects that the request is vague, ambiguous, and unintelligible as written as to the meaning of the terms, "distribution" and "Director's Fees." Subject to and without waiving these objections, Joby states that he lacks sufficient information to admit or deny the matter stated in the request. Plaintiff argues: "There have only been three employees of JARS: Judith Cefalu, Joby Cefalu, and Laura Cefalu, Joby's wife. If Joby made a reasonable inquiry into JARS' payroll records, he should have been able to determine whether a distribution of Director's Fees was ever subtracted from his or his wife's salary."

The court finds that the requested information is not necessarily within Joby's personal knowledge. The motion to compel is denied as to this request.

Request Number 39 states, "Admit YOU used JARS' property to install a personal gym." Joby objects that the request is vague, ambiguous, and unintelligible as written as to the meaning of the term, "personal use." Additionally, Joby objects that he does not understand what the propounding party means when stating that he used JARS "property" to install a personal gym (i.e., JARS monies or the physical property belonging to JARS). Joby states that after a reasonable inquiry, he has insufficient information to admit or deny the matter.

The court sustains Joby's objection as to "JARS' property" and finds that plaintiffs can rewrite the request to clarify. The motion to compel is denied with respect to Request Number 39.

Request Number 40 states, "Admit YOU used JARS' property to install a golf simulator." Joby objects that the request is vague, ambiguous, and unintelligible as written as to the meaning of the term, "personal use." Additionally, Joby objects that he

does not understand what the propounding party means when stating that he used JARS “property” to install a golf simulator (i.e., JARS monies or the physical property belonging to JARS). Joby states that after a reasonable inquiry, he has insufficient information to admit or deny the matter.

The court sustains Joby’s objection as to “JARS’ property” and finds that plaintiffs can rewrite the request to clarify. The motion to compel is denied with respect to Request Number 40.

(G) Defendant JARS Linen, Inc. – Request for Production, Set One

Plaintiffs seek a further response to RFP Numbers 2, 4, and 6 through 10.

Request Number 2 seeks all of JARS’s financial statements from January 1, 2012, through present. JARS complied with this request in part and produced responsive documents from 2019 to 2024. However, JARS objects that the request is overbroad, and that plaintiffs previously obtained all potentially responsive documents in connection with their petition for writ of mandate (El Dorado Super. Ct. Case No. 23CV0839). Plaintiffs claim that the fact they obtained documents in a prior litigation is irrelevant to JARS’s obligation to provide a code-compliant response to the instant demand. Additionally, plaintiffs claim that the document production they received in the prior litigation was incomplete.

The court denies the motion insofar as it seeks responsive documents on or before 2018 (JARS must produce responsive documents from 2019 through present).

Request Number 4 seeks all of JARS’s federal income tax returns and complete schedules from 2012 through present. JARS complied with this request in part and produced responsive documents from 2019 to 2024. However, JARS objects that the request is overbroad, and that plaintiffs previously obtained all potentially responsive documents in connection with their petition for writ of mandate (El Dorado Super. Ct. Case No. 23CV0839). Plaintiffs claim that the fact they obtained documents in a prior litigation is irrelevant to JARS’s obligation to provide a code-compliant response to the

instant demand. Additionally, plaintiffs claim that the document production they received in the prior litigation was incomplete.

The court denies the motion insofar as it seeks responsive documents on or before 2018 (JARS must produce responsive documents from 2019 through present).

Request Number 6 seeks all bank statements from January 1, 2012, through present for all bank accounts held in the name of JARS. JARS complied with this request in part and produced responsive documents from 2019 to 2024. However, JARS objects that the request is overbroad, and that plaintiffs previously obtained all potentially responsive documents in connection with their petition for writ of mandate (El Dorado Super. Ct. Case No. 23CV0839). Plaintiffs claim that the fact they obtained documents in a prior litigation is irrelevant to JARS's obligation to provide a code-compliant response to the instant demand. Additionally, plaintiffs claim that the document production they received in the prior litigation was incomplete.

The court denies the motion insofar as it seeks responsive documents on or before 2018 (JARS must produce responsive documents from 2019 through present).

Request Number 7 seeks all bank statements from January 1, 2012, through the present for all bank accounts used by JARS in any person's name. JARS complied with this request in part and produced responsive documents from 2019 to 2024. However, JARS objects that the request is overbroad, and that plaintiffs previously obtained all potentially responsive documents in connection with their petition for writ of mandate (El Dorado Super. Ct. Case No. 23CV0839). Plaintiffs claim that the fact they obtained documents in a prior litigation is irrelevant to JARS's obligation to provide a code-compliant response to the instant demand. Additionally, plaintiffs claim that the document production they received in the prior litigation was incomplete.

The court denies the motion insofar as it seeks responsive documents on or before 2018 (JARS must produce responsive documents from 2019 through present).

Request Number 8 seeks all insurance policies in place from January 1, 2012, through the present insuring any real property owned by JARS. JARS complied with this request in part and produced responsive documents from 2023 to 2024. However, JARS objects that the request is overbroad, and that plaintiffs previously obtained all potentially responsive documents in connection with their petition for writ of mandate (El Dorado Super. Ct. Case No. 23CV0839). Plaintiffs claim that the fact they obtained documents in a prior litigation is irrelevant to JARS's obligation to provide a code-compliant response to the instant demand. Additionally, plaintiffs claim that the document production they received in the prior litigation was incomplete.

The court denies the motion insofar as it seeks responsive documents on or before 2018 (JARS must produce responsive documents from 2019 through present).

Request Number 9 seeks all contracts in effect between JARS and third-party vendors since January 1, 2012, through present. JARS objects that the request is overbroad, and that plaintiffs previously obtained all potentially responsive documents in connection with their petition for writ of mandate (El Dorado Super. Ct. Case No. 23CV0839). Subject to and without waiving these objections, JARS produced responsive documents in its possession, custody and control. Therefore, the motion to compel further response to Request Number 9 is moot.

Request Number 10 seeks all contracts in effect between JARS and renters since January 1, 2012, through the present. JARS objects that the request is overbroad, and that plaintiffs previously obtained all potentially responsive documents in connection with their petition for writ of mandate (El Dorado Super. Ct. Case No. 23CV0839). Subject to and without waiving these objections, JARS produced responsive documents in its possession, custody and control. Therefore, the motion to compel further response to Request Number 10 is moot.

(H) Defendant John Cefalu's Motion for Protective Order

Before the court is defendant John Cefalu's ("defendant") motion for a protective order staying his deposition for two months, until defendant has a follow-up visit with his neurologist. This matter was continued from August 23, 2024, for defendant to obtain and submit declaration(s) from his medical provider(s) regarding his cognitive abilities.

On August 30, 2024, defendant submitted a declaration from his neurologist, Bobby Neimman, M.D. Dr. Niemman states that on June 12, 2024, he personally examined defendant and administered the Montreal Cognitive Assessment ("MoCA") to evaluate defendant's condition. (Niemman Decl., ¶ 6.) Following this examination, Dr. Niemman concluded that defendant suffered from mild cognitive impairment given his score of 21 out of 30 on the MoCA and that he was suffering from depression based on his subjective history. (*Id.*, ¶ 7.) Dr. Niemman also diagnosed defendant with memory loss based on his test results. (*Ibid.*)

The Americans with Disabilities Act, made applicable to California through the Unruh Civil Rights Act (Civ. Code, § 51, subd. (f)), requires a reasonable accommodation for all members of a disabled class, including persons disabled by deterioration in their mental capacity so as to render it difficult or impossible to understand and process information in a rational manner.

Code of Civil Procedure section 2025.420 also establishes protection for a disabled person, including those with deterioration in their mental capacity, and specifically provides that one of the available protections is that a "deposition not be taken at all."

Based on the above, the court grants defendant's motion for a protective order. Defendant John Cefalu shall not be required to appear for deposition in this matter on or before November 8, 2024.

TENTATIVE RULING # 1: THE MOTIONS TO COMPEL ARE GRANTED IN PART AND DENIED IN PART. ADDITIONALLY, HAVING REVIEWED AND CONSIDERED PLAINTIFFS' COUNSEL'S

DECLARATION CONCERNING ATTORNEY FEES AND COSTS INCURRED, THE COURT FINDS THAT A TOTAL SUM OF \$1,204.50 IS A REASONABLE SANCTION UNDER THE DISCOVERY ACT. DEFENDANTS SHALL SERVE FURTHER RESPONSES AS ORDERED AND PAY THE MONETARY SANCTION WITHIN 30 DAYS OF SERVICE OF NOTICE OF THIS ORDER.

DEFENDANT JOHN CEFALU'S MOTION FOR A PROTECTIVE ORDER IS GRANTED. DEFENDANT JOHN CEFALU SHALL NOT BE REQUIRED TO APPEAR FOR DEPOSITION IN THIS MATTER ON OR BEFORE NOVEMBER 8, 2024.

NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.