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Erie Doctrine

Pricilla filed her claim in federal district court, under the Erie Doctrine, Federal courts apply the federal procedural rules and the substantive law of the state in which they sit. Assuming the federal court sits in California, they would be required to apply California substantive law and federal procedural law

1. Whether the court should grant or deny Pricilla's motion to compel further responses to her interrogatories to Grocery?

Interrogatories

The amount served

Federal courts limit the number of interrogatories, to 25.. In some situations more may be allotted if the proper motion is filed and the court deems it appropriate.

Here, Pricilla served 26 interrogatories on Grocery. When Grocery responded that the interrogatories were invalid, Pricilla then sought further responses to her interrogatories when Grocery objected to her interrogatories. Since Pricilla served more than the allotted interrogatories, she can only seek further responses, as to 25 of the listed interrogatories.

The court will either only compel grocery to answer the first 25 interrogatories to the extend that they are proper, ignoring the last question, or should the court feel especially generous, the judge can allow Pricilla to redraft her interrogatories to ensure compliance with the federal rules.

It would be up to the court to determine their course of action.

The content of the interrogatories

Interrogatories can not compel privileged information. In the information sought in discovery is not required to be admissible by the rules of evidence. Pricilla is not entitled to the names of every Grocery employee who has worked on the construction display, nor all of the soda companies who did so. She is only entitled to the information of those who are being called as witnesses. As for interrogatory 26, which is improper, she may ask for the training manual as it may be pertinent to her case.

2. Whether the court should grant or deny each of Grocery's motions to compel?

Mental and Physical examinations

Parties and motion of the compelling of mental and or physical examinations, in the event that the mental or physical state of the party is placed at issue.

Here, Pricilla placed her physical state at issue by seeking damages for medical expenses as well as pain and suffering. Since her physical state was placed at issue, the court should **grant** the motion to compel a physical examination, so long as it is not overly intrusive. However, there is no indication that Pricilla's mental state was ever placed at issue and it would be improper, for the court to compel a mental examination.

The court will likely grant the physical examination only. The mental examination is improper.

Tax returns

The parties can only compel information that is pertinent to the case at hand. In order to compel discovery the moving

party would have to make a claim as to how the information is necessary for them to make their case. There is no indication that Pricilla's tax returns between 1995-2015 would be pertinent to Grocery's case in any way.

Upon proper objection, the court will likely **deny** the motion to compel as to the tax returns since 1995.

3. Whether Grocery was proper in their response pertaining to the expert?

Privilege

Information is privileged when it is created in anticipation of litigation.

Disclosure of experts

Parties are required to disclose the names of experts that they intent to call for trial as a part of their initial disclosures. Should new information come up, parties are required to make supplemental disclosure leading up to the trial. However, they do not need to disclose the names of experts used as consultants.

Within her interrogatories, Pricilla asked for the names of any parties that were hired in anticipation of litigation. Because there was a specific interrogatory the court would likely compel Grocery to respond. The persons hired in anticipation would not likely be deemed "privileged" and the court would likely find that the disclosure of persons hired in anticipation of trial be disclosed.

The findings of the experts would be deemed privileged, however their identities would not be. The court would find that the identities must be disclosed in response to the interrogatory.

4. Whether the court should sustain the assertion of privilege with regard to Xavier?

Disclosure of experts

Parties are required to disclose the names of experts that they intent to call for trial. However, they do not need to disclose the names of experts used as consultants.

Here, while Pricilla would argue that is entitled to the information about the identity of the expert, the court would likely find that she is not. Grocery hired Xavier as an expert in grocery store displays, however, since his finding were unfavorable, he was not an intended witness for trial. As such, **Grocery is not required to disclose his information to Pricilla.** However, as mentioned above, they would likely have to disclose his name in response to the interrogatory. So ultimately that information would need to be turned over.

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