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

DISCOVERY GENERALLY

For evidence to be discoverable it must be relevant to the claim or defense, and be proportional to the case. Parties are allowed 10 depositions per side, and 25 interrogatories. The court may allow more if there is need to prevent substantial harm or injustice. A party may ask for physical examination if in the interests of justice it can be shown that the mental state of a party needs examination.

INTEROGATORIES

A court grants 25 interrogatories per side. Interrogatories are used to discover relevant factual data and information such as names and addresses of employees or clients. The information sought in interrogatories is that which would be otherwise difficult and timely to ascertain during a deposition. Interrogatories may include A court may allow more than 25 to prevent injustice.

Here, P filed 26 interrogatories and because the rules allow for 25 P filed one too many. P has not shown that more are necessary. P has not shown that the 26th interrogatory will be necessary to prevent injustice. P did not ask for leave of the Court. P may believe that, and indeed, copies of training manuals are relevant and proportional to her case, however she has not followed the correct procedures for additional interrogatories.

Furthermore, the 25th interrogatory appears to be relevant and proportional because the names and addresses of the employees who worked directly on the display which fell on her is factual information of who she might need to dispose. However, the names of the employees who work at the SODA company will be difficult to ascertain. This portion of the interrogatory will likely be struck down.

Thus, P's motion to compel for the 25th interrogatory will be granted, with the portion of the soda company removed. She will have to file for either a deposition or interrogatory with the soda company directly. Motion for the 26th will be denied.

2. How should the court rule on each of the Groceries motions to compel?

DISCOVERY

See Above.

PHYSICAL EXAMINATIONS

A Court may grant mental and physical as examinations as part of the discovery process. A Court will require a showing of 1. The person being subjected to exam is a Party, 2. The mental or physical state of that Party is at issue 3. It is not to harass or embarrass, 4. The interests of justice would be prejusticed if it was not permitted..

SUBECT TO EXAM

A physical or mental examination requires one to be a party to the case.

Here, P is the plaintiff

Thus, P is a party to the case.

MENTAL/ PHYSICAL STATE AT ISSUE

A party must make a good faiths showing that the mental or physical state of the party to be examined is actually at issue, or proportionally relevant to any underlying claims or defences.

Here, G has made a request for P to submit to Physical and Mental examinations. However, G has not made a good faith showing that P's mental state is at issue. Had they they stated a reason in the interrogatory they would have met this factual bar, but they did not. G may argue that her mental state is at issue because a falling pop stand will not cause mental issues, but this is not in our facts. However, her PHYSICAL state is at issue. Here, a large pop stand fell on her. She is claiming that her entire body is bruised. G will have a good faiths showing that her physical state is at issue.

Thus, the motion to compel P to a phsyical exam will be granted.

TAX RETURNS

See above for general discovery.

Here, tax returns for the last 20 plus years are not relevant or proportional to the case because this is negligence case in Tort and taxes have nothing to do with the underlying claim. If Fraud were a claim, tax returns might be required, however as stated, this is not a claim which requires this type of information.

Thus, the motion to compel for tax returns will not be granted.

3 Was the Groceries response to P;s interrogatory, about its experts proper?

DISCOVERY

SEE ABOVE

REQUEST FOR EMPLOYEES

Here interrogatory 25 was valid as discussed above. Employees work for companies, and independent contractors are considered Agents.

Here, 25 asked for the names and employees of G. She did not ask for "everyone" who worked on the display, nor did she agents or contractors. Also, the expert did not "work" on the construction of the display, rather he only investigated the accident.

Thus, the motion to compel will be deined.

EXPERT WITNESSES

Under the FRE a party must disclose expert witnesses within 90 days. Expert witnesses do not need to be employees of a company.

Here, P will likely have have a case for obtaining the information regarding the expert because that is required with in 90 days.

Thus, G will have to reveal the

4. Should the court sustain G's assertion of privilege with respect to Xavier?

PRIVILEGE

Privilege is Confidential communications between a lawyer, his agents, and investigators in the furtherance of legal services. It applies to the communications themselves, and the lawyer thoughts and impressions (and likely his agents employees or investigators). It does not apply

to underlying facts or information.

Here, G claims privilege. However, as noted above, privilege doesn't apply to facts or information. This includes names, dates investigations occurred. It may also contain information of "how" the investigation was done. However, it will likely protect the underlying investigation itself and likely the reasons for its results.

Thus, G's claim will be denied as to the names and facts, but likely will still have privilege against the discovery of the investigation results/causes.

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END OF EXAM