

# **Your Honor the Other Side is Being Mean to Me**



**WHAT YOUR DISCOVERY  
MOTIONS AND  
OPPOSITIONS SHOULD  
LOOK LIKE**

# SAN FRANCISCO SUPERIOR COURT DISCOVERY TENTATIVE RULINGS



- Plaintiff has had two years to properly respond to the discovery. Yet, despite the numerous opportunities to respond, she has violated three separate orders. Therefore, defendant's motion for terminating sanctions is granted. Defendant's request for monetary sanctions is granted in the amount of \$1600.
- The motion to modify the protective order is granted. Request for sanctions granted in the amount of \$10,000 to be paid by petitioners and their attorney.
- Defendant's motion to compel is granted. Plaintiff's service of an unverified response to the document request after filing of this motion, coupled with non-service of actual documents, does not meet plaintiff's statutory discovery obligations...Sanctions in the sum of \$580.00 are awarded.
- Plaintiff's motions to compel are denied. Notice of motions to compel further responses to interrogatories must be filed and served within 45 days of receipt of responses. CCP §2030.300(c). These three motions were not served until four days after that 45 day jurisdictional limit expired. Defendant's request for sanctions is granted in the amount of \$4,250.

# Judge Kahn's Guiding Principles Regarding Adjudication of Discovery Motions



- Empower parties to resolve their discovery disagreements with as little court intervention and as much civility and professionalism as possible.
- Meet and confer efforts are for the parties' benefit, not just to lighten the court's workload, and serve a critical role in the efficient administration of a lawsuit.
- Strictly enforce all deadlines.
- Permissibility under the CCP and CRC and discovery relevance are often the beginning, not the end, of the inquiry. Merely because something is allowed doesn't mean it should be done without consideration of burden and cost.
- Discovery sanctions are not designed to punish, but rather to level the playing field and have a non-complying party bear the cost (financial and otherwise) of his non-compliance.



- Filing a lawsuit or being named as a defendant does not mean that the party loses all ability to object to discovery propounded on him.
- Boilerplate discovery questions, responses and objections are worth no more than the time taken to cut and paste them from another document.
- Speaking objections, conferring with witnesses while a deposition is proceeding and instruction not to answer non-privileged questions carry a strong presumption of discovery abuse.
- Any interrogatory, request for admission, or request for production of documents that has three digits carries a strong presumption of discovery abuse, except in extraordinarily complicated cases.
- Some cases need a discovery referee, either because the parties/counsel cannot work cooperatively or there are too many issues for the court to effectively resolve.

# **ANATOMY OF A DISCOVERY MOTION**



- **Meet and Confer**
- **Notice of Motion**
- **Points and Authorities**
- **Separate Statement of Items in Dispute**
- **Declaration**
- **Exhibits**
- **Proposed Order**