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County of Los Angeles

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Sherri R. Carter, Executive Officer/Clerk
By _____ Deputy
Shaunya Bolden

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MJJ Ventures, Inc. and MJJ Productions, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, CENTRAL DISTRICT

WADE ROBSON, an individual,

Plaintiff,

vs.

DOE 1, an individual; MJJ PRODUCTIONS, INC., a California corporation; MJJ VENTURES, INC., a California corporation; and DOES 4-50, inclusive,

Defendants.

Case No. BC 508502
Assigned to Judge Beckloff – Dept. 51

NOTICE OF MOTION AND MOTION FOR A PROTECTIVE ORDER RE PLAINTIFF WADE ROBSON'S FIRST SETS OF SPECIAL INTERROGATORIES, REQUESTS FOR ADMISSION, AND FORM INTERROGATORIES TO DEFENDANTS

[Declaration of Aaron C. Liskin and [Proposed] Order filed concurrently herewith]

Date: October 28, 2014
Time: 8:30 a.m.
Dept: 51

Action Filed: May 10, 2013
Trial Date: None Set

CITYCASE: 508502
LEA/DEF#:

RECEIPT #: CCH465980091
DATE PAID: 07/25/14 02:25 PM
PAYMENT: $60.00
RECEIVED:
CHECK: $60.00
CASH: $0.00
CHANGE: $0.00
CARD: $0.00

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PLEASE TAKE NOTICE THAT on October 28, 2014 at 8:30 a.m. in Department 51 of the above entitled court, or as soon thereafter as the matter can be heard, Defendants MJJ Ventures, Inc. and MJJ Productions, Inc. ("Defendants") will and hereby do move for a protective order setting the terms and conditions upon which Defendants shall answer Plaintiff Wade Robson's Special Interrogatories, Sets One; Requests for Admission, Sets One; and Form Interrogatories, Sets One.

This Motion is made pursuant to sections 2019.030(a), 2030.090(a), 2033.080(a), 2030.090(b)(1)-(2) and 2033.080(b)(1)-(2) of the California Code of Civil Procedure, and pursuant to the inherent power of the Court, on the grounds that (1) the number of special interrogatories (143 to each corporate defendant) and requests for admissions (93 to each corporate defendant and related Form Interrogatory 17.1 requests) are unduly burdensome, oppressive, harassing, excessive and unwarranted despite the declarations for additional discovery served by Plaintiff. Furthermore, Plaintiff has failed to justify this volume of discovery despite having the burden to do so.

Accordingly, Defendants respectfully requests that the Court issue an order that Robson shall be limited to 35 special interrogatories and 35 requests for admission (and corresponding Form Interrogatory 17.1 responses) and that Defendants need not answer the additional requests.

This Motion is based upon this Notice of Motion, the attached Memorandum of Points and Authorities, the declaration of Aaron C. Liskin attached hereto, all other documents on file in this matter, and such evidence as may be presented at or prior to the hearing on the Motion.

DATED: July 25, 2014

KINSELLA WEITZMAN ISER KUMP & ALDISERT LLP

By: _____
Howard Weitzman
Attorneys for Defendants MJJ Ventures, Inc. and MJJ Productions, Inc.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Defendants MJJ Ventures, Inc. and MJJ Productions, Inc. ("Defendants") bring this motion seeking a protective order from answering Plaintiff Wade Robson's ("Robson" or "Plaintiff") First Sets of Special Interrogatories to each defendant Nos. 36 through 143 and Requests for Admission to each defendant Nos. 36 through 93 (and corresponding Form Interrogatory 17.1 responses).

Plaintiff repeatedly uses discovery to ask Defendants, two corporate entities, about irrelevant claims and lawsuits that have been brought against Defendants and/or Michael Jackson ("Jackson"), who has been deceased for more than five years. For example, Plaintiff asks Defendants, two corporate entities, about any claims of negligence ever brought against Jackson without any time limitation and without regard for whether the claims had anything to do with childhood sexual abuse. There is no probative value to these requests, and Defendants would have to go to great expense to search for every potential claim brought against Jackson and/or Defendants without any time limitation and without any regard for the claims at issue in this litigation. The requests are duplicative, excessive, unwarranted and utterly fail to address the issues in this litigation or to advance the goals of discovery.

Furthermore, Robson's requisite declarations for additional discovery merely state each of the potential statutory grounds for exceeding statutory limits. The declarations are insufficient because they do not even attempt to provide substantive justification for seeking more than four times the statutory maximum for interrogatories and nearly three times the statutory maximum for requests for admission, discovery that is being sought in this matter before the case is at issue and before the parties are set. It cannot be that Plaintiff can simply provide rote declarations and then be allowed unlimited discovery without regard for the probative value of the information sought or the burden being placed on Defendants.

Additionally, the Complaint against Defendants will likely be disposed of by the pending demurrer because Robson did not and cannot make allegations against Defendants that are viable claims under Code of Civil Procedure § 340.1. Robson is attempting to bring claims against Defendants because Jackson is deceased and Robson can no longer bring claims against Jackson.

Furthermore, Robson's excessive and unwarranted requests are premature in light of the fact that the case is not at issue and the fact that parties are not yet established because Robson's petition to file a late claim against the estate is still pending.

II. STATEMENT OF FACTS

On May 22, 2014, Robson served the following: (1) First Set of Requests for Production (97 requests to each defendant); (2) First Set of Special Interrogatories (143 to each defendant); (3) First Set of Requests for Admission (93 to each defendant); and (4) First Set of Form Interrogatories (including 17.1). (Declaration of Aaron Liskin ("Liskin Decl."), ¶¶ 2-7, Exs. 1-6.)[1] Defendants are responding to all of the requests for production, special interrogatories Nos. 1-35, requests for admission Nos. 1-35, and Form Interrogatories including responses to 17.1 for requests for admission Nos. 1-35.[2] Defendants bring this motion as to Special Interrogatories Nos. 36-143, Requests for Admission Nos. 36-93 and Form Interrogatory No. 17.1 with regard to Requests for Admission Nos. 36-93.

On June 24, 2014, counsel for Defendants attempted to initiate the meet and confer process in order to attempt resolve this discovery dispute without filing a motion. Defendants addressed several problems with Plaintiff's discovery requests and asked that Plaintiff limit the number of special interrogatories and requests for admission at this time to the statutory maximum by serving a more narrowly tailored set of requests. (*See* Liskin Decl., ¶ 8, Ex. 7 (Liskin Letter).) In Defendants' letter, Defendants asked Robson's counsel to provide the earliest possible date to meet and confer regarding placing reasonable limitations on the discovery requests. (*Id.*) Robson's counsel responded the same day by claiming that Defendants did not make any proposal regarding modifications or reasonable limitations on discovery, apparently ignoring the specific proposal in Defendants' letter. (Liskin Decl., ¶ 9, Ex. 8 (Marzano Letter).) Plaintiff's counsel did not offer any dates to meet and confer and concluded by stating that Plaintiff was simply standing

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[1] Defendants have not attached the requests for production because they are not at issue in this Motion.

[2] Defendants' responses and objections are being served today per agreement of the parties.

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by his requests. (*Id.*) On June 27, 2014, Defendants' counsel followed up by reiterating the specific proposal that Plaintiff serve amended sets of discovery consistent with the statutory maximum. (Liskin Decl., ¶ 10, Ex. 9 ("Liskin e-mail").) Defendants' counsel again asked for dates of availability to meet and confer. (*Id.*) As of this date, Defendants have not received a response to the June 27th e-mail, Plaintiff's counsel never provided dates of availability to meet and confer, and Plaintiff demonstrated no interest in meeting to attempt to reach a compromise.

Plaintiff could have easily picked 35 relevant, non-duplicative, interrogatories and requests for admission for each defendant, but Plaintiff utterly failed to engage in the meet and confer process. As such, Defendants saw no option other than to answer the first 35 special interrogatories and requests for admission served on each defendant (along with the corresponding 17.1 responses), while bringing this motion seeking a court order that special interrogatories (Nos. 36-143) and requests for admission (Nos. 36-93) are unwarranted and need not be answered pursuant to Code of Civil Procedure §§ 2030.090(b)(1)-(2) and 2033.080(b)(1)-(2).

III. ARGUMENT

A. Plaintiff Bears the Burden of Justifying the Number of Requests

Instead of responding to interrogatories and requests for admission, a party may move for a protective order, and the Court, "for good cause shown, may make any order that justice requires to protect any party . . . from unwarranted annoyance, embarrassment, or oppression, or undue burden and expense." *See* C.C.P. §§ 2030.090(a), 2033.080(a).

Where a party propounds more than 35 interrogatories or requests for admission, and "the responding party seeks a protective order on the ground that the number of specially prepared interrogatories [or requests for admission] is unwarranted, the *propounding party* shall have the *burden* of justifying the number of these interrogatories [or requests for admission]." *See* C.C.P. § § 2030.040(b); 2033.040(b) (emphasis added). To meet this burden, the propounding party must prove that the number of interrogatories or requests for admission is warranted by the complexity or quantity of the issues in the case. *See* C.C.P. § § 2030.040(a); 2033.040(a). "[T]he moving party *need not* produce competent evidence of hardship or burden. It is up to the propounding party to *prove* the allegations of his or her 'declaration of necessity': i.e., complexity of the case,

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financial burden of depositions of expedience of interrogatory answers." Cal. Prac. Guide Civ. Pro. Before Trial Ch. 8F-4.

In addition, Code of Civil Procedure § 2019.030 states that "[t]he court *shall* restrict the frequency or extent of use of a discovery method" if it determines that "[t]he discovery sought is unreasonably cumulative or duplicative." C.C.P. § 2019.030(a)(1) (emphasis added).

B. Robson's Written Discovery is Excessive and Unwarranted

1. Robson cannot demonstrate that he was justified in serving more than 35 special interrogatories and 35 requests for admission

Plaintiff cannot meet his burden of demonstrating that the complexity and quantity of issues in this case justified 143 nearly identical special interrogatories served to each defendant and 93 identical requests for admission served to each defendant. Robson's special interrogatories ask Defendants, two corporate entities, about all types of claims and/or lawsuits that have ever been brought against a deceased person (Jackson), regardless of whether the claims have anything to do with Defendants, Wade Robson or even sexual molestation (the subject matter of this litigation). (*See, e.g.*, Liskin Decl., Exs. 1, 2, Nos. 120-123.) Plaintiff's special interrogatories are further excessive, unwarranted, unnecessary and duplicative in that Plaintiff asks Defendant MJJ Productions, Inc. about every type of claim ever asserted against Defendant MJJ Ventures, Inc., and Plaintiff asks MJJ Ventures, Inc. about every claim that has ever been asserted against MJJ Productions, Inc., in addition to asking Defendants about every claim ever asserted against Jackson. (*See, e.g.*, Liskin Decl. Exs. 1, 2, Nos. 105, 107, 108, 109, 113, 115, 125, 127.)

It is evident that these duplicative and irrelevant requests were propounded for no purpose other than to harass Defendants and to attempt to extract settlement by forcing Defendants to engage in endless discovery. Plaintiff served special interrogatories, without any reasonable time period or subject matter limitation, regarding any claim ever made against a deceased international star throughout history regardless of whether such claims had anything to do with childhood sexual abuse or any issue that could conceivably be relevant to this litigation.

Plaintiff's requests for admission are similarly excessive, unwarranted and served with no other purpose than to harass Defendants. For example, Plaintiff devoted numerous requests for

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admission to asking Defendants, two corporate entities, to admit that specific sexual activities took place between Jackson and Robson. (*See, e.g.*, Liskin Decl., Exs. 3, 4, Nos. 59-77.) Serving these requests on Defendants is absurd in light of the fact that Robson has acknowledged in his complaint that he never told anybody about these alleged acts until he met with professionals after Jackson died. Furthermore, Robson and his family members vigorously defended Jackson while he was alive including giving testimony under oath in a criminal trial, and Plaintiff is requesting admissions from Defendants with regard to things that Jackson allegedly said to Robson in private conversations. (*See id.*, Nos. 83-86.) Plaintiff also asks for irrelevant admissions with regard to topics such as whether Plaintiff was part of a music group that released an album on Jackson's record label. (*See id.*, No. 58.) These types of requests have nothing to do with the subject matter of this litigation, and such requests place a significant and unnecessary burden on Defendants.

Robson's requests for admission are particularly burdensome in light of the fact that Robson has concurrently served Form Interrogatory 17.1 on Defendants, which asks: "Is your response to each request for admission served with these interrogatories an unqualified admission? If not, for each response that is not an unqualified admission:

(a) state the number of the request;

(b) state all facts upon which you base your response;

(c) state the names, **ADDRESSES**, and telephone numbers of all **PERSONS** who have knowledge of those facts; and

(d) identify all **DOCUMENTS** and other tangible things that support your response and state the name, **ADDRESS**."

Form Interrogatory 17.1 alone will likely require a substantial number of separate responses for each defendant because Defendants will deny the vast majority of Robson's requests for admission. Robson's true motivations are indicated by counsel for Plaintiff's unwillingness to even discuss ***any*** limitation on its written discovery. Plaintiff does not appear to have concern for what type of discovery he propounds, so long as Defendants are forced to incur significant attorneys' fees in responding.

2. Robson's declarations of necessity are entirely inadequate to justify the

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number of interrogatories and requests for admission

Robson cannot justify propounding 143 special interrogatories and 93 requests for admission on each defendant. This is evidenced by the meaningless declarations attached to each set of special interrogatories and requests for admission. The accompanying declarations simply state each of possible grounds for additional interrogatories and admissions: (1) complexity; (2) financial burden; and (3) expedience. (*See* Liskin Decl., Exs. 1-4, at Declarations.) However, under the Code of Civil Procedure, the declarations cannot merely state every potential ground for exceeding the statutory limit of 35 requests or interrogatories. The declarations are required to provide "the reasons why any factor relied on is applicable to the instant lawsuit." *See* C.C.P. §§ 2030.050(8); 2033.050(8). The declarations failed to provide reasons, and Robson could not have conceivably justified the number of interrogatories and requests for admission because the majority of requests are duplicative, irrelevant or entirely outside the scope of the issues in this litigation. The fact that a case may be complex cannot give a party carte blanche to propound hundreds of duplicative or irrelevant requests and interrogatories; the party needs to justify the specific requests in excess of the statutory maximum.

3. Robson could have asked for all relevant, non-duplicative, information in 35 (or less) special interrogatories and requests for admission

Robson has sued Defendants, two corporate entities, under C.C.P. § 340.1 for damages stemming from alleged childhood sexual abuse committed by Jackson. Plaintiff could have easily kept the special interrogatories within the statutory limit if Plaintiff had limited the requests to issues involving childhood sexual abuse and if Plaintiff did not require MJJ Productions, Inc. and MJJ Ventures, Inc. to answer meaningless (and identical) interrogatories about each other. Similarly, Plaintiff could have easily kept the requests for admission within the statutory limit if he did not use the bulk of the requests to ask Defendants about alleged private conversations and actions between Plaintiff and an individual who has been deceased for more than five years. Plaintiff is using discovery to ask Defendants about these alleged private conversations even though the alleged conversations and actions do not involve anything that Jackson allegedly did on behalf of the corporate defendants.

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In sum, Plaintiff cannot meet his burden of showing that he was justified in serving more than 35 special interrogatories and 35 requests for admission at this time. Accordingly, the Court should order that Defendants are only required to respond and object to the first 35 special interrogatories and 35 requests for admission, responses that are being served by Defendants today. Defendants anticipate that this is just the beginning of Plaintiff's outrageous discovery, and Defendants need to address this issue at the outset of the litigation.

Robson's interrogatories and requests for admission are the most recent example of what is becoming a pattern and practice of discovery abuse by Plaintiff in this case and the related probate action in this Court regarding Robson's petition to file a late creditors' claim. The suspect motivation behind this excessive discovery is highlighted by Plaintiff's unwillingness to meet and confer in any meaningful way with regard to narrowing the discovery. Plaintiff will undoubtedly serve significant amounts of additional discovery, and Plaintiff cannot continue to serve hundreds of requests without regard for relevance and duplication, just by asserting that the case is complex.

IV. CONCLUSION

For the foregoing reasons, Defendants respectfully request that the Court grant Defendants' protective order and rules that Robson's special interrogatories Nos. 36-143 and requests for admission Nos. 36-93 need not be answered. If the Court sees a better alternative to limiting Plaintiff's discovery, Defendants are open to alternatives and continue to be willing to engage in meaningful meet and confer process with Plaintiff regarding the appropriate scope of discovery.

DATED: July 25, 2014

KINSELLA WEITZMAN ISER KUMP & ALDISERT LLP

By: _____
Howard Weitzman
Attorneys for Defendants MJJ Ventures, Inc. and MJJ Productions, Inc.

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 808 Wilshire Boulevard, 3rd Floor, Santa Monica, CA 90401.

On July 25, 2014, I served true copies of the following document(s) described as **NOTICE OF MOTION AND MOTION FOR A PROTECTIVE ORDER RE PLAINTIFF WADE ROBSON'S FIRST SET OF SPECIAL INTERROGATORIES, REQUESTS FOR ADMISSION, AND FORM INTERROGATORIES TO DEFENDANTS** on the interested parties in this action as follows:

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☒ **BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed above and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Kinsella Weitzman Iser Kump & Aldisert LLP's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on July 25, 2014, at Santa Monica, California.

Natalie Niswander

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