

Hearing: Motion to Compel (4)

Date: N/A

Before the Court are four motions to compel filed by Plaintiff Doreen Trombley, by and through her Attorney in Fact, Cindy Lankford, against Defendant The Village Pacific Management Group, LLC (“Village Pacific”):

- (1) Plaintiff’s Motion to Compel Further Responses to Special Interrogatories, Set Two and Request for Sanctions in the Amount of \$12,600.00, filed November 13, 2017;
- (2) Plaintiff’s Motion to Compel Further Responses and Actual Production of Documents to Request for Identification and Production of Documents, Set Two, and Request for Sanctions in the Amount of \$12,600.00, filed November 13, 2017;
- (3) Plaintiff’s Motion to Compel the Depositions of Jamie Neutil, Vivian Munro, Lisa Hulse, and Corina Segundo, and Request for Sanctions in the Sum of \$13,640.00, filed November 20, 2017; and
- (4) Plaintiff’s Motion to Compel the Deposition of the Person Most Knowledgeable (“PMK”) of Village Pacific and Request for Sanctions in the Amount of \$11,710.00, filed November 20, 2017.

As ordered by the Court at the February 8, 2018 hearing, the Parties met and conferred to narrow the issues in dispute. The Court rules as follows. Where indicated, the “Relevant Time Period” is April 6, 2011 through the date of service of the discovery requests, August 29, 2017.

Motions (3) and (4)

The Court orders Village Pacific to produce Lisa Hulse for deposition. Ms. Hulse may be deposed both in her capacity as Village Pacific’s PMK and as a percipient witness. It is not necessary for Ms. Hulse to be deposed on two separate days, unless Plaintiff’s counsel is unable to finish her deposition in one day.

Village Pacific no longer represents Jamie Neutil, Vivian Munro, or Corina Segundo and has provided these individuals’ contact information to Plaintiff’s counsel. Plaintiff may subpoena these individuals for deposition.

Motion (1): Special Interrogatories

Plaintiff withdraws interrogatory numbers 35, 36, 38, 39, 40, 41, 42, and 46 through 62.

Village Pacific will supplement its responses to interrogatory numbers 44, 45, 63, 64, and 66 through 72. Village Pacific has 20 days from the date of this order to provide supplemental responses.

The Parties remain in dispute over the following interrogatories:

Interrogatory No. 37: The identity of documents upon which Village Pacific relied to determine the acuity level of the facilities' residents so as to calculate staffing consistent with Section 87411(a) during the Relevant Time Period.

Denied: The interrogatory is vague and overbroad. Plaintiff has already requested the identity of all documents upon which Village Pacific relied to determine its staffing of the facilities. Moreover, and as discussed at the hearing, documents used to determine resident acuity likely include confidential medical records. Plaintiff's counsel is not entitled to these records by virtue of their representation of the class. (*Los Angeles Gay and Lesbian Center v. Sup. Ct.* (2011) 194 Cal.App.4th 288, 310.)

Interrogatory No. 43: The identity of documents Village Pacific used during the Relevant Time Period to ensure its facilities complied with Section 87411.

Denied: This interrogatory does not limit Section 87411 to subdivision (a) as with Plaintiff's other discovery requests. Title 22 of the Code of Regulations, section 87411, is lengthy and provides several requirements for personnel working at Residential Care Facilities for the Elderly (RCFE). This interrogatory is therefore overbroad and burdensome.

Interrogatory No. 65: The identity of all individuals who provided "basic services," as that phrase is defined under 22 C.C.R., section 87101, subdivision (b)(2), at Village Pacific's facilities during the Relevant Time Period.

Mooted: Village Pacific indicates it has no documents responsive to this request inasmuch as it does not list its employees "by such category as BASIC SERVICES." Village Pacific further indicates it has provided Plaintiff with a list of its employees during the Relevant Time Period.

Motion (2): Requests for Production

Plaintiff withdraws request numbers 48, 65, and 66.

Village Pacific will supplement its responses to request numbers 32, 33, 35 through 38, 40 through 42, 44 through 47, and 59 through 64. Village Pacific has 20 days from the date of this order to provide supplemental responses and produce any responsive documents.

The Parties remain in dispute over the following requests:

Request No. 31: All policy and procedures manuals in use at Village Pacific's facilities relating to the facilities' compliance with Section 87411(a) during the relevant time period.

Granted: Section 87411(a) outlines the sufficient number of personnel at facilities like Village Pacific's. This request is thus relevant to Plaintiff's claim that Village's Pacific's methodology for determining its staffing levels was flawed. Contrary to Village Pacific's assertion, this request does not seek "policy manuals regarding resident care;" rather, it seeks any manuals in place during the Relevant Time Period relating to the facilities' compliance with the staffing

requirements set forth in Section 87411(a). Village Pacific has 20 days from the date of this order to respond and produce any responsive documents.

Request No. 34: All documents upon which Village Pacific’s facilities relied on during the Relevant Time Period to determine acuity of the residents for the purposes of ensuring “daily compliance” with Section 87411(a).

Denied: The request is vague and overbroad. Plaintiff has already requested all documents upon which Village Pacific relied to determine its staffing of the facilities. Moreover, and as discussed at the hearing, documents used to determine resident acuity likely include confidential medical records. Plaintiff’s counsel is not entitled to these records by virtue of their representation of the class. (*Los Angeles Gay and Lesbian Center v. Sup. Ct.* (2011) 194 Cal.App.4th 288, 310.)

Request No. 39: Village Pacific’s facilities’ “Register of Residents” during the Relevant Time Period.

Granted, with modification: Plaintiff already has a list of resident names during the Relevant Time Period. At the hearing, Village Pacific agreed to produce another list with the residents’ names and their ambulatory status (i.e., bedridden, whether the resident ambulates using a walker, wheelchair, etc.). Village Pacific has 20 days from the date of this order to produce this document.

Request No. 43: Documents evidencing guidelines, criteria, and procedures in place during the Relevant Time Period to ensure Village Pacific’s facilities had a sufficient number of Care Personnel to meet its residents’ needs.

Mooted: Village Pacific avers it has produced all responsive documents.

Request No. 49: Documents upon which Village Pacific relied to ensure that its Care Personnel were fit to perform their job duties at the facilities.

Denied: This request is overbroad, vague, and seeks documents and information irrelevant to Plaintiff’s claims. The focus of Plaintiff’s lawsuit is not on the quality of Village Pacific’s staffing, but the quantity of the staffing, and more specifically, how Village Pacific arrived at that quantity.

Request No. 58: Documents used to ensure Village Pacific’s compliance with “the requirements of Title 22 Cal. Code of Regulations § [sic]” by individuals responsible for ensuring the facilities complied with Section 87411 during the Relevant Time Period.

Denied: This request is overbroad, vague, and unintelligible. Plaintiff has already requested

various documents evidencing Village Pacific's efforts to comply with the staffing requirements set out in Section 87411(a). This request refers to the entirety of Title 22, not just Section 87411, and is therefore overbroad and burdensome.

Sanctions

Neither Party is awarded sanctions. Both Parties acted with and without substantial justification. The Parties are encouraged to meet and confer telephonically in the event further disputes arise.