

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Mente Group LLC v. Arnell Enterprises, Inc.

Mente Group · No. 20-cv-07459-VKD · Decided March 9, 2023

SUMMARY

The United States District Court for the Northern District of California granted Mente Group LLC's motion to compel Arnell Enterprises, Inc. to produce documents concerning its assets and potential asset transfers for post-judgment collection. The court ordered production responsive to specified requests by March 24, 2023, denied Mente's request for attorneys' fees without prejudice, and vacated the hearing.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Virginia K. DeMarchi
JURISDICTION	United States District Court for the Northern District of California
DECIDED	March 9, 2023
DOCKET	20-cv-07459-VKD
DISPOSITION	other
PROCEDURAL POSTURE	Judgment creditor Mente Group LLC moved to compel judgment debtor Arnell Enterprises, Inc. to produce documents in post-judgment discovery concerning Arnell's assets and asset transfers.
PRECEDENTIAL VALUE	unpublished

TOPICS

discovery dispute civil procedure commercial litigation attorney fees breach of contract

PRACTICE AREAS

civil procedure commercial litigation contracts remedies

QUESTIONS PRESENTED

- Whether a judgment creditor may compel the judgment debtor to produce documents concerning assets and asset transfers under Federal Rule of Civil Procedure 69(a)(2).

2. Whether Mente was entitled to attorneys' fees under Federal Rule of Civil Procedure 37(a)(5)(A) for bringing the motion to compel.

HOLDINGS

1. A judgment creditor may obtain discovery from the judgment debtor under Federal Rule of Civil Procedure 69(a)(2) to identify assets available to satisfy the judgment or concealed or fraudulently transferred assets. Because Arnell failed without justification to produce documents responsive to the specified requests, the motion to compel was granted.
2. Mente's request for attorneys' fees was denied without prejudice because it was inadequately briefed and the parties did not use the court's expedited discovery-dispute procedures.

KEY QUOTATIONS

“Post-judgment discovery may be used to identify assets that can be used to satisfy a judgment or to discover concealed or fraudulently transferred assets.” (at 1)

“The Court grants Mente’s motion to compel. Arnell must produce all documents in its possession, custody, or control responsive to Mente’s RFPs 4-9, 12, 14, 20, 21, 23, 27, 32, 34, 40, 44, 45, 56, 60, 61, and 65 by March 24, 2023, unless the parties stipulate to a different date.” (at 3)

FACTUAL BACKGROUND

Mente obtained a judgment against Arnell for actual damages, attorneys' fees, and costs totaling \$403,902.28, exclusive of interest. To identify assets available to satisfy the judgment and possible transfers intended to avoid payment, Mente served Arnell with post-judgment requests for production. Arnell produced some documents but allegedly failed to provide complete responses and offered no substantive justification for the deficiencies.

PROCEDURAL HISTORY

The court previously granted partial summary judgment for Mente on its breach-of-contract claim and on Arnell's counterclaims and affirmative defenses, awarded Mente actual damages, and entered judgment. The court later awarded Mente attorneys' fees and costs. Mente then served post-judgment requests for production, contended that Arnell's production was incomplete, and moved to compel. The court granted the motion to compel, denied the request for attorneys' fees without prejudice, and vacated the scheduled hearing.

DISPOSITION

other

CASES CITED

- Ryan Inv. Corp. v. Pedregal de Cabo San Lucas, No. C 06-3219 JWRS, 2009 WL 5114077, at *1 (N.D. Cal. Dec. 18, 2009)

OPINION

Mente Group LLC v. Arnell Enterprises, Inc

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 SAN JOSE DIVISION

7 8 MENTE GROUP LLC, Case No. 20-cv-07459-VKD 9 Plaintiff,

ORDER GRANTING PLAINTIFF'S

10 v. MOTION TO COMPEL POST-

JUDGMENT DOCUMENT

11 ARNELL ENTERPRISES, INC, PRODUCTION

12 Defendant. Re: Dkt. No. 60 13 14 Plaintiff and counter-defendant Mente Group LLC (“Mente”) moves for an order requiring 15 defendant and counter-claimant Arnell Enterprises, Inc. (“Arnell”) to produce documents 16 responsive to Mente’s post-judgment document requests.1 Dkt. No. 60. The Court finds Mente’s 17 motion suitable for decision without oral argument. Civil L.R. 7-1(b). 18 For the reasons explained below, the Court grants Mente’s motion to compel.

19 I. BACKGROUND

20 On January 3, 2022, the Court granted partial summary judgment in favor of Mente on: (1) 21 Mente’s claim against Arnell for breach of contract; (2) Arnell’s counterclaim for breach of 22 contract; (3) Arnell’s counterclaim for slander of title; and (4) Arnell’s affirmative defenses of 23 failure to mitigate damages, assumption of risk, estoppel, statute of limitations, set off, laches, 24 waiver, unclean hands, and lack of notice. Dkt. No. 46 at 16. The Court found that Mente was 25 entitled to recover actual damages from Arnell in connection with Mente’s breach of contract 26 1 The parties did not comply with this Court’s standing order regarding the submission of 27 discovery disputes for resolution, but instead briefed the matter as a regularly noticed motion. 1 claim in the amount of \$164,147.96. Dkt. No. 46 at 15. The Court dismissed the remaining 2 claims as moot on February 11, 2022 and entered judgment. Dkt. Nos. 50, 51. On September 22, 3 2022, the Court granted Mente’s motion for an award of \$233,627.22 in attorneys’ fees and 4 \$6,127.10 in costs. Dkt. No. 59. Arnell presently owes Mente a total of \$403,902.28, exclusive of 5 interest. See Dkt. No. 60 at 1. 6 On October 28, 2022, Mente served requests for production of documents on Arnell. 7 Mente says the purpose of this discovery is to identify Arnell’s assets so that Mente can use that 8 information to collect on the judgment and fees/costs award. Dkt. No. 60 at 1. Arnell has 9 produced some responsive documents, but Mente contends that the production is incomplete. Id. 10 at 1-2. Mente moves to compel Arnell’s production of documents responsive to the following 11 document requests: RFPs 4-9, 12, 14, 20, 21, 23, 27, 32, 34, 40, 44, 45, 56, 60, 61, and 65. Id. at 12 3-7. Mente also asks the Court to award attorneys’ fees under Rule 37(a)(5) (A). Id. at 10. Arnell 13 opposes the motion, and asks the Court to deny it without prejudice so that the parties may confer 14 further about Mente’s requests and Arnell’s production. Dkt. No. 61 at 1-

2.

15 II. LEGAL STANDARD

16 Rule 69 of the Federal Rules of Civil Procedure provides that a judgment creditor “may
17 obtain discovery from any person—including the judgment debtor—as provided in these rules
or 18 by the procedure of the state where the court is located” in aid of collecting on a judgment.
Fed. 19 R. Civ. P. 69(a)(2). Post-judgment discovery may be used to identify assets that can be
used to 20 satisfy a judgment or to discover concealed or fraudulently transferred assets. See *Ryan*
Inv. Corp. 21 v. Pedregal de Cabo San Lucas, No. C 06-3219 JWRS, 2009 WL 5114077, at *1
(N.D. Cal. Dec. 22 18, 2009).

23 III. DISCUSSION

24 In its motion, Mente explains that its document requests are directed to identifying Arnell’s 25
assets and potential transfers of assets that may be used to satisfy the judgment. Dkt. No. 60 at 7.
26 Mente asks for an order requiring Arnell to produce documents responsive to requests as to
which 27 Arnell indicates it has no objection. Id. (“[T]his Motion does not seek to overrule
Arnell’s 1 In its two-page opposition to the motion, Arnell complains that Mente did not confer 2
adequately regarding the parties’ dispute, and argues that its only assets are “a truck, a horse 3
trailer, the aircraft which is the subject of this litigation and a bank account.” Dkt. No. 61 at 1-2. 4
Arnell does not otherwise respond to Mente’s arguments that Arnell failed to produce all 5
documents responsive to the requests for production at issue, including requests seeking 6
information about Arnell’s assets and transactions relating to those assets. 7 Mente has shown that
Arnell failed to produce documents responsive to Mente’s document 8 requests, without
justification. The record also reflects that Arnell may have engaged in efforts to 9 transfer assets to
avoid payment of the judgment. Arnell provides no justification for its failure to 10 comply with
its discovery obligations. Mente engaged in reasonable efforts to resolve this dispute 11 informally
with Arnell before filing a motion to compel. Accordingly, the Court will grant the 12 motion. 13
The Court denies Mente’s request for an award of attorneys’ fees, without prejudice. The 14
request for attorneys’ fees is not adequately briefed. See Civil L.R. 54-5. Moreover, because the 15
parties did not use the Court’s expedited discovery dispute resolution procedures, Mente likely 16
incurred some fees that could have been avoided. However, if Arnell fails to comply with this 17
order compelling document production and Mente must seek additional relief, the Court will 18
entertain a motion for attorneys’ fees (including fees incurred in connection with this proceeding)
19 at that time.

20 IV. CONCLUSION

21 The Court grants Mente’s motion to compel. Arnell must produce all documents in its 22
possession, custody, or control responsive to Mente’s RFPs 4-9, 12, 14, 20, 21, 23, 27, 32, 34, 40,
23 44, 45, 56, 60, 61, and 65 by March 24, 2023, unless the parties stipulate to a different date. 24
Mente’s request for an award of attorneys’ fees is denied, without prejudice. 25 The hearing set for
March 21, 2023 is vacated. 26 // 27 // 1 IT IS SO ORDERED. 2 Dated: March 9, 2023 3

VIRGINIA K. DEMARCHI

5 United States Magistrate Judge 6 7 8 9 10 11 12 13 © 15 16 = 17 Z 18 19 20 21 22 23 24 25 26
27 28

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