

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

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 Ment 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
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