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DEERING'S CALIFORNIA CODES ANNOTATED
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(All 2012 legislation, 2012 Governor's Reorg. Plan No. 2 and all
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CODE OF CIVIL PROCEDURE
Part 4. Miscellaneous Provisions
Title 4. Civil Discovery Act
Chapter 9. Oral Deposition Inside California
Article 4. Objections, Sanctions, Protective Orders, Motions to Compel, and Suspension of Depositions

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Cal Code Civ Proc § 2025.460 (2013)

§ 2025.460. Privileged and protected information; Waiver absent objection; Objection to errors and irregularities; Certain matters not waived by failure to object

(a) The protection of information from discovery on the ground that it is privileged or that it is a protected work product under Chapter 4 (commencing with Section 2018.010) is waived unless a specific objection to its disclosure is timely made during the deposition.

(b) Errors and irregularities of any kind occurring at the oral examination that might be cured if promptly presented are waived unless a specific objection to them is timely made during the deposition. These errors and irregularities include, but are not limited to, those relating to the manner of taking the deposition, to the oath or affirmation administered, to the conduct of a party, attorney, deponent, or deposition officer, or to the form of any question or answer. Unless the objecting party demands that the taking of the deposition be suspended to permit a motion for a protective order under Sections 2025.420 and 2025.470, the deposition shall proceed subject to the objection.

(c) Objections to the competency of the deponent, or to the relevancy, materiality, or admissibility at trial of the testimony or of the materials produced are unnecessary and are not waived by failure to make them before or during the deposition.

(d) If a deponent objects to the production of electronically stored information on the grounds that it is from a source that is not reasonably accessible because of undue burden or expense and that the deponent will not search the source in the absence of an agreement with the deposing party or court order, the deponent shall identify in its objection the types or categories of sources of electronically stored information that it asserts are not reasonably accessible. By objecting and identifying information of a type or category of source or sources that are not reasonably accessible, the deponent preserves any objections it may have relating to that electronically stored information.

(e) If a deponent fails to answer any question or to produce any document, electronically stored information, or tangible thing under the deponent's control that is specified in the deposition notice or a deposition subpoena, the party seeking that answer or production may adjourn the deposition or complete the examination on other matters without

waiving the right at a later time to move for an order compelling that answer or production under Section 2025.480.

(f) Notwithstanding subdivision (a), if a deponent notifies the party that took a deposition that electronically stored information produced pursuant to the deposition notice or subpoena is subject to a claim of privilege or of protection as attorney work product, as described in Section 2031.285, the provisions of Section 2031.285 shall apply.

NOTES:

Amendments:

2012 Amendment:

(1) Added subds (d) and (f); (2) redesignated former subd (d) to be subd (e); and (3) added ", electronically stored information," in subd (e).

Historical Derivation:

Former CCP § 2025(m), added Stats 1986 ch 1334 § 2, amended Stats 1987 ch 86 § 8, Stats 1988 ch 160 § 20 (ch 553 prevails), ch 553 § 3, Stats 1989 ch 1137 § 1, ch 1360 § 13, ch 1416 § 29.5, Stats 1990 ch 1491 § 11.5, Stats 1991 ch 1090 § 10, Stats 1993 ch 926 § 9, Stats 1994 ch 660 § 5, Stats 1995 ch 576 § 7, Stats 1997 ch 395 § 1, Stats 1998 ch 875 § 1, ch 932 § 22, ch 974 § 4, Stats 1999 ch 892 § 13, Stats 2000 ch 474 § 1, Stats 2001 ch 812 § 9.6, Stats 2002 ch 1068 § 2.

Law Revision Commission Comments:

2004

Subdivision (a) of Section 2025.460 continues former Section 2025(m)(1) without change, except to conform the cross-reference.

Subdivision (b) continues former Section 2025(m)(2) without change, except to conform the cross-reference.

Subdivision (c) continues former Section 2025(m)(3) without change.

Subdivision (d) continues former Section 2025(m)(4) without change, except to conform the cross-reference.

Editor's Notes

For notes of decisions derived from cases decided under former CCP § 2025, see *CCP § 2025.010*.

Collateral References:

Cal. Forms Pleading & Practice (Matthew Bender(R)) ch 551 "Trial".

Cal. Points & Authorities (Matthew Bender(R)) ch 81 "Discovery: Privileges And Other Discovery Limitations" § 81.204.

Cal. Points & Authorities (Matthew Bender(R)) ch 83 "Discovery: Depositions" § 83.31.

Cal. Points & Authorities (Matthew Bender(R)) ch 83 "Discovery: Depositions" § 83.50.

Cal. Fam. Law Practice & Procedure (Matthew Bender(R)), § 110.14.

Law Review Articles:

Case Strategy: Defending Depositions. *29 LA Law 34* (Fall, 2006).

Hierarchy Notes:

Pt. 4, Tit. 4 Note

Emerging Issues Analysis

2012 Changes to the California Electronic Discovery Act

California's 2012 "clean up" legislation expands and clarifies application of the Electronic Discovery Act and specifically extends the application of numerous sections of the Civil Discovery Act to electronically stored information ("ESI"). This commentary addresses changes affecting the general provisions of the Civil Discovery Act, subpoenas, ESI that is not reasonably accessible, sanctions, and inadvertent production of privileged ESI.

LexisNexis 50 State Surveys, Legislation & Regulations

Depositions & Interrogatories