

2nd Civil B341119  
Consolidated Appeal No. B345361

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT, DIVISION ONE

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JANE DOE,

Plaintiff and Respondent

v.

ALKIVIADES DAVID, et al.,

Defendant and Appellant

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Superior Court of the State of California  
County of Los Angeles, Case No. 20STCV37498  
Honorable Christopher K. Lui, Judge

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**RESPONDENT'S REPLY TO APPELLANT'S OPPOSITION TO  
RESPONDENT'S MOTION TO DISMISS APPEAL**

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DORDICK LAW CORPORATION  
Gary A. Dordick, Esq. S/B# 128008  
Dustin Z. Moaven, Esq. S/B# 320939  
Brittney Ghadoushi, Esq. S/B# 345932  
1122 Wilshire Boulevard  
Los Angeles, California 90017  
P (310) 551-0949 • F (855) 299-4545  
dzmeservice@dordicklawn.com

LIVINGSTON • BAKHTIAR  
Ebby S. Bakhtiar, Esq. S/B# 215032  
3435 Wilshire Boulevard, STE 1669  
Los Angeles, California 90010  
P (213) 635-1550 • F (213) 632-3100  
esb@livingstonbakhtiar.com

Attorneys for Plaintiff/Respondent Jane Doe

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## REPLY TO OPPOSITION

### **I. The Disentitlement Doctrine Applies Because Appellant Continues to Defy the Trial Court's Orders While Seeking Appellate Relief**

Appellant's opposition does not dispute the operative facts supporting dismissal. The record establishes that Appellant has failed to comply with the trial court's post-judgment discovery order while simultaneously seeking affirmative relief from this Court. That conduct falls within the circumstances in which the courts may invoke the disentitlement doctrine.

The doctrine rests on a well-established legal principle: a litigant who refuses to comply with the orders of the trial court or engages in "obstructive tactics" may not simultaneously seek the assistance of the appellate courts. (*MacPherson v. MacPherson* (1939) 13 Cal.2d 271, 277; *Menezes v. McDaniel* (2019) 44 Cal.App.5th 340, 346.) The rule exists to protect the dignity of the judicial process and to prevent litigants from exploiting appellate review while disregarding the authority of the court below. (*Ironridge Global IV, Ltd. v. ScripsAmerica, Inc.* (2015) 238 Cal.App.4th 259, 265.)

That principle applies here. Appellant does not dispute that the trial court ordered him to provide post-judgment discovery concerning his assets, nor does he contend that he has complied with that order. Instead, he offers only the vague assertion that he is "working on the discovery responses." Such an assertion concedes the essential point: the order remains unfulfilled, and Appellant cannot identify when compliance will occur.

A litigant who ignores a discovery order for months while offering nothing more than indefinite assurances of future compliance is not diligently attempting to comply; he is obstructing the enforcement process. By withholding the very asset information that post-judgment discovery is designed to reveal, and by refusing to provide any concrete timetable for compliance, Appellant effectively places Respondent's judgment beyond reach while the appeal proceeds.

This Court should not permit Appellant to evade the trial court's specific orders through delay and ambiguity. Appellant's position—conceding noncompliance while promising compliance at some unspecified future time—is the very definition of obstructionist litigation conduct. California courts repeatedly hold that such conduct justifies dismissal of an appeal. When a party refuses to comply with trial-court orders that are necessary to enforce a judgment, the appellate court may dismiss the appeal to prevent the litigant from invoking appellate jurisdiction while flouting the authority of the trial court. (*Travis v. Travis* (1948) 89 Cal.App.2d 292, 295.)

## **II. Appellant's Assertions Regarding the Merits of His Appeal Are Irrelevant to the Disentitlement Analysis**

Much of Appellant's opposition is a re-packaging of Appellant Opening Brief and makes the same argument about alleged trial errors, including purported violations of due process, disability-accommodation issues, and claimed defects in the notice of trial. Even if those allegations were relevant to the merits of the appeal, they have no bearing on whether dismissal under the disentitlement doctrine is appropriate. The merits of the appeal are irrelevant to the application

of the doctrine. (See *Stone v. Bach* (1978) 80 Cal.App.3d 442, 448 [rejecting defendant's claim that dismissal was not warranted because the orders he violated were “invalid”].)

Appellant’s extensive discussion of alleged trial error therefore misses the point. He is asking this Court to essentially pre-judge the substantive merits of his appeal as a factor in whether to issue procedural Orders stemming from Appellant’s failure to comply with lower court orders. The issue before this Court is not whether Appellant believes the trial was unfair. The issue is whether a litigant who effectively refuses to comply with a valid trial court order may nevertheless demand appellate review. Under the authorities submitted in support of Respondent’s Motion, this Court has the discretion to answer “no.”

### **III. Appellant’s Claimed Difficulty Complying With Discovery Does Not Excuse His Disobedience of the Trial Court’s Order**

Appellant’s opposition offers no explanation at all for why even the most elementary judgment-enforcement discovery have gone unanswered for months. For example, many of the interrogatories at issue were not burdensome forensic requests requiring accountants, document reconstruction, or the assembly of complex financial records. Several required nothing more than the disclosure of facts uniquely within Appellant’s immediate personal knowledge (his residence addresses for the last decade, the businesses in which he presently claims an ownership interest, his current sources of income, and whether he possesses cash outside a bank.) Other requests required only straightforward yes-or-no disclosures, such as whether judgments

or liens had been entered against him in the past five years or whether he had borrowed against life-insurance policies. Still others asked for the identity of officers or directors of companies Appellant himself publicly associates with and claims to control. [RA8-16] These are the types of questions a litigant could answer in minutes without consulting a single document.

Appellant attempts to avoid the consequences of his continued noncompliance by asserting that he is “working on” the ordered discovery responses, that he is disabled, and that responding to post-judgment discovery is a “daunting” task. But he cites no authority suggesting that such circumstances excuse disobedience of a court order. And it is not as if he made any sort of good faith effort to comply with at least some of Respondent’s discovery requests while working on obtaining additional information. He has provided nothing of substance to the judgment enforcement discovery that was served July 17, 2025, nearly eight months ago.

The trial court ordered compliance with the discovery at issue by December 24, 2025, after Respondent moved to compel it. As we approach three months following this deadline, Appellant still has not served substantive responses. Nor has he provided even a proposed schedule for completing them, just vague assertions that something is in the works. Courts cannot function if their orders and judgments are routinely ignored by litigants or their counsel. (*Findleton v. Coyote Valley Band of Pomo Indians* (2021) 69 Cal.App.5th 736, 756.)

Here, the operative fact is not that Appellant says he intends to comply someday; it is that he has failed to comply for months and has offered no concrete path toward compliance. Appellant’s Opposition

contains no timeline whatsoever for when the discovery responses will actually be served. If Appellant were genuinely in the process of completing the ordered discovery, one would expect some evidence of progress—draft responses, partial productions, or at a minimum a projected completion date. The opposition offers none. The Court is instead asked to accept an open-ended assurance that responses are being prepared without any indication of when they will be finished. That is not compliance; it is a request for an indefinite delay and de facto stay of enforcement without any obligation to post a bond.

The declaration submitted by the ADA assistant Angelina Dettamanti does nothing to fill this compliance void. The declaration does not state when the assistant began working with Appellant (specifically, whether it was before or after Respondent’s filed and served this Motion to Dismiss), how much progress has been made to date, or what steps remain to complete the responses. It does not identify a single discovery request for which information has been gathered or a draft response prepared. Nor does it state whether Appellant has cooperated with the assistant’s efforts or provided any of the information necessary to prepare responses.

If Appellant were diligently working to comply with the trial court’s order, the declaration would naturally describe the process: when work began, what information has been collected, and when completion can reasonably be expected. Instead, the declaration provides no measurable facts demonstrating progress toward compliance. At most, Appellant’s opposition suggests that assistance is being offered, not that the ordered discovery is actually being completed.

Months have passed since the court-ordered deadline, yet Appellant still has not produced substantive responses and cannot say when he will do so. Under those circumstances, Appellant's claim that there is no "willful" noncompliance rings as hollow as a claim of diligence unsupported by evidence a single completed task.

Finally, Appellant's attempt to shift blame to Respondent for declining additional extensions does not alter the analysis. Once the trial court issued a discovery order setting a compliance deadline, the obligation was no longer negotiable. Appellant's duty was to comply with the order—not to seek endless informal extensions from the opposing party. The relevant question is therefore not whether Respondent granted further extensions, but whether Appellant complied with the court's order. The undisputed answer is that he did not.

If Appellant believed that additional time or accommodations were necessary, Appellant could have sought appropriate relief from the trial court. The record shows no such effort. Having failed to obtain relief below, Appellant cannot now unilaterally decide to ignore the trial court's orders while continuing to pursue appellate review. "It is well established that an appellate court may stay or dismiss an appeal by a party who stands in contempt of the legal orders and processes of the superior court." (*MacDonald v. Superior Court* (1977) 75 Cal.App.3d 692, 696.)

Considered another way, Appellant does not contend that compliance is impossible. His opposition states only that he is "working on" the discovery responses. That admission confirms that compliance is feasible but has simply not occurred. Such ongoing noncompliance,

particularly in the context of post-judgment discovery designed to enforce a substantial judgment, falls squarely within the circumstances in which appellate courts invoke the disentitlement doctrine.

In short, Appellant's showing amounts to little more than an indefinite promise of future compliance unsupported by evidence of progress, cooperation, or a timeline for completion. After months of noncompliance with a court-ordered discovery deadline, Appellant's vague assurances are insufficient to defeat application of the disentitlement doctrine.

#### **IV. The Size of the Judgment and the Cost of a Bond Do Not Defeat Application of the Doctrine**

Appellant also argues that posting an appeal bond for a \$90 million judgment would be difficult. That contention is beside the point. The motion to dismiss is not based on Appellant's failure to post a bond. It is based on his refusal to comply with a court-ordered discovery obligation that is necessary for enforcement of the judgment.

#### **V. The Equities Strongly Favor Application of the Doctrine**

Appellant emphasizes that dismissal of an appeal is a "drastic" sanction. That observation is accurate but incomplete. The disentitlement doctrine is a discretionary equitable doctrine, applied in light of the circumstances of the particular case. (*People v. Puluc-Sique* (2010) 182 Cal.App.4th 894, 901.) Its purpose is to address precisely the situation presented here: a litigant who seeks the benefits of appellate review while refusing to comply with the authority of the courts whose rulings he challenges. When an appellant invokes the jurisdiction of the

appellate court yet simultaneously disregards the orders of the trial court, the equitable balance shifts decisively against allowing the appeal to proceed. Permitting the appeal to move forward under those circumstances would reward a litigant who seeks appellate relief while actively frustrating enforcement of the judgment under review—an outcome incompatible with the orderly administration of justice and respect for judicial authority. The equities therefore favor the traditional remedies recognized under the doctrine: either staying the appeal until Appellant complies with the trial court’s discovery order or dismissing the appeal outright.

## CONCLUSION

Appellant's opposition does not dispute the critical facts: he remains in violation of the trial court's discovery order while pursuing appellate relief. His arguments concerning the merits of the appeal, the size of the judgment, and alleged trial errors do not alter the analysis.

Under settled California law, a litigant who refuses to comply with the orders of the trial court may be disentitled from invoking the jurisdiction of the appellate courts. Because Appellant continues to defy the trial court's order, the motion to dismiss should be granted, or, alternatively, this appeal should be stayed pending Appellant's compliance with the trial court's discovery orders.

Respectfully submitted,

DORDICK LAW CORPORATION



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Gary A. Dordick, Esq.

Dustin Z. Moaven, Esq.

Attorneys for Plaintiff/Respondent