

Matter of Sandler

2023 NY Slip Op 33723(U)

October 13, 2023

Surrogate's Court, New York County

Docket Number: File No. 2019-2734/8

Judge: Rita Mella

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SURROGATE'S COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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Probate Proceeding, Estate of

LYDIA SANDLER,

DECISION and ORDER

File No.: 2019-2734/B

Deceased.

-----X
M E L L A, S.:

The court considered the following submissions in determining the instant motions and cross-motion for discovery:

	<u>Numbered</u>
Objectant Lynne Boyarsky's Request for a Motion to Compel Further Responses to Objectant's Notice of Discovery and Inspection, dated March 24, 2022, with Exhibit	1
Objectant Lynne Boyarsky's Notice of Motion and Affidavit in Support of Motion to Compel Further Responses to First Set of Interrogatories, dated April 14, 2022, with Exhibits	2,3
Cross-Petitioner Rochelle Klein's Notice of Cross-Motion to Compel and for a Protective Order and Affirmation of John Guccione, Esq., in Opposition to Motion to Compel and in Support of Cross-Motion to Compel and for a Protective Order, dated April 29, 2022, with Exhibits	4,5
Rochelle Klein's Memorandum of Law in Opposition to Objectant's Motion to Compel and in Support of Cross-Motion to Compel and for a Protective Order, dated April 29, 2022	6
Affirmation of John Guccione in Opposition to Motion to Compel, dated May 6, 2022, with Exhibits	7
Rochelle Klein's Memorandum of Law in Opposition to Motion to Compel Discovery, dated May 6, 2022	8
Rochelle Klein's Reply to Opposition to Motion to Compel Further Responses to First Set of Interrogatories, dated May 13, 2022	9
Lynne Boyarsky's Opposition to Cross-Motion to Compel Discovery, Dated May 27, 2022	10
Lynne Boyarsky's Amended Reply to Opposition to Objectant's Motion to Compel Discovery, dated May 31, 2022, with Exhibits and Affidavit	11,12

Submitting Supporting Documents, dated May 27, 2023, with Supporting Documents for Motion to Compel Discovery from Cross-Petitioner, dated April 15, 2022

Lynne Boyarsky's Amended Opposition to Cross-Motion for Protective Order, dated May 31, 2022, with Exhibits 13

June 3, 2022, was the return day for three discovery motions in this contested probate proceeding in the estate of Lydia Sandler, namely (1) the motion of Objectant Lynne Boyarsky (Lynne) to compel Cross-Petitioner Rochelle Klein (Rochelle) to produce documents responsive to Lynne's January 7, 2022 Notice of Discovery and Inspection, (2) Lynne's motion to compel Rochelle to respond to Lynne's January 27, 2022 First Set of Interrogatories, and (3) Rochelle's cross-motion for an order: (A) compelling Lynne to produce documents responsive to Rochelle's November 11, 2021 Notice of Discovery and Inspection, and (B) precluding Lynne and the other Objectant, Karen Boyarsky (Karen) from seeking further discovery and (C) barring Lynne "from making any further [motion] to compel compliance with her existing requests for discovery" (*see* CPLR 3124; CPLR 3103[a]).

With respect to Lynne's motions to compel, the court determined, on the record at the call of the calendar on June 3, 2022, that Rochelle must produce all non-privileged documents and information in her possession or under her control that are relevant to the objections regarding undue influence, duress, and fraud to the extent such documents are within the scope of the "3-2 Rule." That rule confines discovery in a contested probate proceeding "to a three-year period prior to the date of the propounded instrument and two years thereafter, or to the date of decedent's death, whichever is the shorter period" unless "special circumstances" are shown (Uniform Rules for Surrogate's Court [22 NYCRR] § 207.27). The court concluded, however, that some of Lynne's discovery demands were vague and overbroad or requested information

outside the period of the 3-2 Rule and reserved ruling on each of Lynne's document demands and interrogatories for a later written decision.

To aid the parties, the court also provided some general discovery guidelines (Guidelines) and instructions. The court identified specific categories of documents and information relevant to the objections that Rochelle must produce (provided they fall within the period of the 3-2 Rule), including those related to:

1. The allegations that a \$10,000 check of decedent's was missing;
2. The incident that led to police involvement in January 2016;
3. The proceedings involving decedent and Lynne in Family Court;
4. The decedent's health and medical care;
5. The decedent's finances, including her Franklin Templeton account, and Rochelle's involvement in the management of decedent's finances, whether as an agent under a power of attorney or not; and
6. The allegations that Lynne abused decedent.

Rochelle was directed to supplement her discovery responses by a date the court would provide in its written decision and instructed that these supplemental responses should indicate if Rochelle has no documents or information responsive to Lynne's discovery requests or if she had previously produced all responsive documents and information. Regarding privileged documents or information, Rochelle was directed to indicate in her supplemental responses whether she was asserting privilege as a basis for non-disclosure and, if so, to provide a privilege log.

As for Rochelle's cross-motion for a protective order, the court granted it only to the extent of precluding all interrogatories and demands for information or documents that are irrelevant to the probate objections or barred by the 3-2 Rule. The court also specifically granted Rochelle's request in her cross-motion to compel that Lynne produce all transcripts in her possession from the proceedings involving decedent and Lynne in Family Court (Family Court Proceedings).

Having set forth its prior rulings from the bench, the court now renders specific rulings on the discovery demands at issue in the motions and sets deadlines for supplemental discovery responses.

Background

Decedent died on May 19, 2019, at age 93, survived by nieces, Rochelle, Lynne, and Karen, who are sisters. Lynne petitioned for probate of an instrument, dated December 22, 2014, under which decedent left her tangible personal property equally to her nieces, her cooperative apartment in Manhattan to Lynne, and her residuary estate as follows: two-thirds to Rochelle, one-sixth to Karen, and one-sixth to Lynne, whom she nominated as executor. Preliminary letters testamentary issued to Lynne on September 23, 2019. Shortly thereafter, Rochelle cross-petitioned for probate of a later instrument, dated April 5, 2016, under which she is the nominated executor and the sole beneficiary of the estate except for 10% of the residuary estate, which Lynne and Karen are to share equally. Rochelle also petitioned to revoke the Preliminary Letters Testamentary previously issued to Lynne in favor of her own appointment. Lynne, however, remains preliminary executor.¹ After Lynne and Karen filed objections to the later will, various discovery disputes arose, resulting in the instant motions.

Discussion

The standards for evaluating discovery motions such as these are clear. Parties are entitled to “full disclosure of all matter material and necessary in the prosecution or defense of an

¹ In November 2022, the court, in its discretion under SCPA 1412[2][b], denied Rochelle’s request that Lynne’s Preliminary Letters be summarily revoked. Instead, the court 1) restricted Lynne’s letters to ensure that she could not dispose of decedent’s cooperative apartment, the ownership of which is in dispute, and 2) issued Limited Letters of Administration to Rochelle for the sole purpose of representing the estate in a proceeding to determine ownership of the apartment (*see Matter of Sandler*, NYLJ, Nov. 22, 2022, at 5, col 2 [Sur Ct, NY County]).

action, regardless of the burden of proof” (CPLR 3101 [a]). Nonetheless, a protective order may be warranted in order “to prevent unreasonable annoyance, expense, embarrassment, disadvantage, or other prejudice to any person or the courts” (CPLR 3103 [a]). The burden is on the party seeking a protective order to demonstrate that the requested discovery is improper (*see e.g. Sage Realty Corp. v Proskauer Rose*, 251 AD2d 35, 40 [1st Dept 1998]). Whether and to what extent discovery is permitted, however, is a matter that falls squarely within the court’s discretion (*see e.g. Rodney v City of New York*, 192 AD3d 606, 606 [1st Dept 2021] [noting that trial courts have “broad discretion over the discovery process, and (their) determinations will not be set aside absent a clear showing of abuse of discretion” (citations omitted)]).

1) Lynne’s Motion to Compel Responses to Her January 7, 2022 Notice of Inspection and Discovery

At issue in this motion are 61 discovery demands to which Lynne contends Rochelle has “failed to provide an acceptable response.” Rochelle, however, had previously agreed to comply with Request Nos. 2, 3, 4, 9, 47, 48, 54, 55, 56, 59, and 61, as indicated in her February 7, 2022 Response to Objectant’s January 7, 2022 Notice of Discovery and Inspections and in her opposition papers. Accordingly, to the extent she has not already done so, Rochelle is directed to produce all non-privileged documents responsive to these requests in her possession or under her control that fall within the period of the 3-2 Rule.

Request No. 1 seeks the production of “all Documents and Communications concerning testamentary instruments, including but not limited to wills and codicils executed by Decedent or on her behalf prior to March 5, 2014.” Rochelle had previously agreed to produce copies of all testamentary instruments executed by decedent, regardless of date (*see Matter of Manoogian*, NYLJ, Feb. 28, 2014, at 22, col 5 [Sur Ct, NY County]). To the extent Rochelle has not produced copies of such testamentary instruments, she is directed to do so. As for the balance of

Request No. 1, subject to the 3-2 Rule, she is directed to produce documents and communications in her possession or under her control relating to any testamentary instrument executed by decedent or on her behalf to the extent she has not already done so.

As for Lynne's remaining discovery demands, Request Nos. 5, 6 and 7 seek documents relating to various fund transfers to and from the respective bank accounts of decedent and Rochelle, allegedly while Rochelle was a fiduciary for decedent under a power of attorney. Apart from the court, on June 3, 2022, having specifically identified documents and information relating to Rochelle's involvement in decedent's finances as relevant to the objections generally, these transactions are germane to Lynne's specific allegations of undue influence by Rochelle (*see e.g. Matter of MacLeman*, 9 Misc 3d 1119[A], 2005 NY Slip Op 51675[U], *6 [Sur Ct, Westchester County] ["all transactions ... between a decedent and a party alleged to have exerted domination over [her] are materials subject to inquiry where undue influence has been charged"]). Rochelle is, therefore, directed to produce non-privileged responsive documents that fall within the period of the 3-2 Rule.

In contrast, Request No. 8, which seeks documents relating to taxes "declared and/or paid" by Rochelle and her husband in connection with one such fund transfer from decedent's account to Rochelle's, does not seek information relevant to Lynne's objections. Indeed, Lynne concedes as much in her reply papers, wherein she specifically notes that she is seeking the information as preliminary executor to "determine whether any tax liabilities were incurred as a result of said transfers." Request No. 8 is stricken and requires no further response.

With respect to Request Nos. 10, 11, and 46, Rochelle claims that they are duplicative of Request No. 9, to which she has agreed to produce non-privileged responsive documents, subject to the 3-2 Rule. Request No. 9 seeks documents that tend to corroborate Rochelle's testimony at

what Lynne describes as the “January 11, 2016 Family Offense Proceeding,” that Lynne, in her capacity as decedent’s attorney-in-fact, “had caused a check belonging to Decedent in the amount of \$10,000 to be ‘missing’ or otherwise unaccounted for.” On their face, however, Requests Nos. 10, 11, and 46 are not duplicative of Request No. 9 and seek additional documents or information that may not be responsive to Request No. 9. Documents responsive to Request No. 10, for example, might not corroborate Rochelle’s testimony and could even contradict it. In any event, documents relating to the allegation that a \$10,000 check of decedent’s was missing were among the categories of information and documents the court identified as relevant on the record, on June 3, 2022. Accordingly, to the extent Rochelle is in possession of additional non-privileged documents responsive to Requests No. 10, 11, and 46 that fall within the period of the 3-2 Rule, she is directed to produce them.

Requests Nos. 12 to 17 concern decedent’s execution of documents on December 12, 2016, purporting 1) to revoke the Lydia Sandler Grantor Trust, a revocable trust established by decedent on March 25, 2015, of which Lynne is trustee and sole beneficiary upon decedent’s death (Trust), and 2) to effectuate the transfer of the Trust’s primary asset, a cooperative apartment, to decedent in her individual capacity such that it would pass as an estate asset under the propounded instrument. Request Nos. 18 and 25 relate more generally to Rochelle’s involvement, if any, in efforts to amend or revoke the Trust and to transfer decedent’s apartment from the Trust back into decedent’s name. Lynne’s objections include allegations that Rochelle was involved in efforts to revoke the Trust, which would inure to Rochelle’s financial benefit as the primary beneficiary under the propounded instrument, and that Rochelle’s conduct regarding the Trust was part of a pattern of fraudulent conduct and undue influence. Documents and information that could substantiate these allegations are relevant to the objections and should be

produced. Rochelle is thus directed to produce non-privileged documents responsive to Request Nos. 12 to 17, 18, and 25, subject to the 3-2 Rule.

Request Nos. 20 to 24 seek documents and information related to decedent's account at Franklin Templeton, to which decedent had designated Rochelle, Lynne, and Karen as equal beneficiaries upon her death, but Rochelle has claimed decedent may have changed the beneficiary designation to make Rochelle the sole beneficiary a few weeks before she executed the propounded instrument. On June 3, 2022, the court specifically identified information and documents concerning this account as relevant to the objections. Rochelle is thus directed to produce non-privileged documents in her possession and control that are responsive to these documents requests and fall within the period of the 3-2 Rule.

Request Nos. 26 to 31, 41 to 45, and 49 relate to the Family Court Proceedings based upon which orders of protection were issued, preventing Lynne from having any contact with decedent. Among other things, Lynne requests the production of documents and communications that would corroborate certain allegations made by Rochelle or testimony given by Rochelle and decedent in connection with the Family Court Proceedings. As noted above, documents in Rochelle's possession concerning the Family Court Proceedings were among the categories of information the court identified as relevant to the objections on June 3, 2022. Among other things, such documents could bear on whether Rochelle engaged in fraudulent conduct and whether decedent may have had a reason to change the dispositions in her prior will. Rochelle is thus directed to produce non-privileged documents responsive to these document requests, that fall within the period of the 3-2 Rule.

Request Nos. 50 and 51 seek documents and communications relating to the hiring, employment, and payment of decedent's home health care aid, including information regarding

how she was paid, how her wages were taxed, and “tax forms issued under [her] Social Security I.D.” To the extent that Lynne is trying to obtain information that could substantiate her claims that the health care aid was involved in matters that led to decedent changing her will, the requests are not sufficiently tailored to obtain such information and are therefore stricken.

Request Nos. 52 and 53 seek documents and communications to support Lynne’s contention that Rochelle waited until October 24, 2019, more than five months after decedent’s death, to disclose to objectants their aunt’s death and the existence of the propounded instrument. Acknowledging that this request seeks information outside the period of the 3-2 Rule, Lynne’s only argument in support of her motion is that she has offered to stipulate to extend the period of the 3-2 Rule to allow Rochelle “to respond with documents to the contrary.” Rochelle, for her part, had declined such an offer and contends that these requests seek information that is irrelevant to the objections. Under these circumstances, Lynne has not provided a basis for the court to compel the production of documents responsive to these requests.

Request No. 60 seeks communications between decedent and Rochelle and between decedent and/or Rochelle with various banks regarding the disposition of the contents of specifically identified safety deposit boxes/vaults. Documents and information responsive to this request are relevant to the fraud and undue influence objections (*see Matter of MacLeman, supra* [discussing broad scope of documents relating to decedent’s assets that are discoverable in contested probate proceedings]). Accordingly, subject to the 3-2 Rule, Rochelle is directed to produce non-privileged documents responsive to this request.

Finally, Request. Nos. 19, 32 to 40, and 57 to 58 fail for one or all of the following reasons: 1) Lynne has failed to demonstrate relevance to the objections, 2) the documents and information requested are protected by the attorney-client privilege or 3) the documents and

information requested fall squarely outside the period of the 3-2 Rule. For example, Request No. 19 requests the production of documents and communications between Rochelle and a law firm “regarding current proceedings.” Similarly, Request No. 36 seeks information and documents regarding Rochelle’s allegations in her unsuccessful application to revoke Lynne’s preliminary letters testamentary that Lynne was acting outside the scope of her appointment as preliminary executor. Accordingly, these document requests are stricken.

2) Lynne’s Motion to Compel Responses to her January 27, 2022 First Set of Interrogatories

At issue in this motion are 25 interrogatories the responses to which Lynne claims are deficient. Interrogatory No. 1 asks for copies of all testamentary instruments in Rochelle’s possession “including wills and codicils executed by Decedent or on Decedent’s behalf prior to March 5, 2014.” To the extent that Interrogatory No. 1, as written, seeks testamentary instruments in Rochelle’s possession that were not executed by decedent, it is stricken. To the extent that Interrogatory No. 1 seeks copies of testamentary instruments executed by or on behalf of decedent, as noted above, Rochelle had previously agreed to produce all such testamentary instruments regardless of date. Accordingly, to the extent such testamentary instruments have not yet been produced, Rochelle is directed to produce them.

Interrogatory No. 2 asks Rochelle to “[i]dentify the circumstances” that led to certain changes in decedent’s testamentary plan. As written, this interrogatory is too vague and unclear to require Rochelle to respond and is therefore stricken.

Interrogatory No. 3 seeks an explanation for why Rochelle, while acting as decedent’s agent under a power of attorney, “chose to neglect demand for payment notices from the law firm of Finkel & Fernandez, LLP[,] . . . resulting in said attorneys[‘] expressing their intention to pursue legal action against Decedent for non-payment.” Lynne, having failed to demonstrate how

an answer to this interrogatory might be relevant to the probate objections, the interrogatory is stricken and no further response is required.

Interrogatory No. 4 seeks documents regarding Rochelle's engagement of a law firm to represent her in the Family Offense Proceedings. To the extent such interrogatory is not requesting information subject to the attorney-client privilege, Lynne has failed to demonstrate how the interrogatory is relevant to her objections. Accordingly, the interrogatory is stricken and no further response is required.

Interrogatory Nos. 5, 6, 7, 10, and 25 asks Rochelle to identify evidence she plans to introduce at trial in support of various allegations made against Lynne in the January 11, 2016 Family Court Proceeding. As formulated, such interrogatories are premature at this stage of the litigation and, in any event, could require Rochelle to reveal aspects of her attorneys' thought processes in connection with their trial preparation (*see* CPLR 3101[d]). Similarly, Interrogatory No. 20 asks Rochelle to identify members of a law firm that she plans to call as a witness at trial even though Rochelle is not required to reveal whom she intends to call as a witness at this time. Accordingly, these interrogatories are stricken, and Rochelle need not respond.

Interrogatory No. 8 is a request for the dates after December 15, 2016, on which "Decedent received her prescription medications and/or had doctors [sic] visits or examinations." Diminished mental and physical capacity can be a factor in an analysis of undue influence (*see Matter of Camac*, 300 AD2d 11, 12 [1st Dept 2002] [noting that physical and mental health can be a factor in determining undue influence (citations omitted)]). Accordingly, subject to the 3-2 Rule, Rochelle is directed to respond to Interrogatory No. 8.

Interrogatory No. 9 asks Rochelle to identify any "injuries sustained, medical attention rendered or contact with authorities" resulting from an alleged incident involving decedent and

Lynne about which Rochelle testified concerning at the Family Offense Proceeding. This information could be relevant to establish, among other things, whether decedent had a reason to change her testamentary plan. Accordingly, subject to the 3-2 Rule, Rochelle is directed to respond to this interrogatory.

Interrogatories Nos. 11 and 12 relate to Rochelle's allegation that Lynne had made a "Mafia threat" against her. The information she seeks could be relevant to, among other things, the objection that the propounded instrument was the product of fraudulent misrepresentations by Rochelle. Rochelle is thus directed to respond to these interrogatories, subject to the 3-2 Rule.

Interrogatory No. 13, which requests that Rochelle identify dates after January 11, 2016, that "Rochelle, decedent or anyone on decedent's behalf" had contact with decedent's investment advisor Raymond Henri, is proper. Such information, to the extent it falls within the period of the 3-2 Rule, is relevant to the undue influence objection as it could, for example, shed light on whether Rochelle had a confidential relationship with decedent. Accordingly, Rochelle is directed to provide this information. However, that part of the interrogatory that asks whether Rochelle plans to call Mr. Henri as a witness is premature and improper and is therefore stricken.

Interrogatory No. 14 asks Rochelle to provide the dates that she and her husband transferred funds from their bank account into decedent's bank account. This interrogatory falls squarely in the category of information that the court found relevant to the objections on June 3, 2022, namely information concerning Rochelle's involvement in the management of decedent's finances (*see e.g. Matter of MacLeman*, 9 Misc 3d 1119[A], 2005 NY Slip op 51675[U]). Accordingly, Rochelle is directed to respond to this interrogatory, subject to the 3-2 Rule.

Interrogatory No. 15 requests that Rochelle "[i]dentify the circumstances by [sic] which Decedent was unable to access her own funds from the period January 2016 thru [sic] November

2017 so as to necessitate the transfer of \$178,000 [to decedent] from the personal checking account” of Rochelle and her husband. Although inartfully drafted, this interrogatory also concerns Rochelle’s involvement in the financial affairs of decedent. Accordingly, she is directed to respond to this interrogatory, which does not request information outside the period of the 3-2 Rule, and explain the circumstances which led to the transfer of \$178,000.

Interrogatory No. 16 requests that Rochelle identify the date she learned that Lynne was the sole beneficiary and trustee of the Trust. This information could be relevant to Rochelle’s motive to engage in some of the conduct alleged. Rochelle is thus directed to respond to this interrogatory, subject to the 3-2 Rule.

Interrogatory No. 17 seeks “confirmation that the December 12, 2016 ‘Surrender of Lease’ document therein names, designates and/or identifies” Lynne as trustee of the Trust. Likewise Interrogatory No. 18 asks Rochelle to identify the date of the notarization of another, related, document. Since these documents speak for themselves, these interrogatories are stricken.

Interrogatory No. 19 asks Rochelle to state the date that she notified Lynne as trustee of the Trust of any “attempted alteration or amendment” of the Trust and provide verification for such notification. As noted above, Lynne alleges that Rochelle was involved in these efforts to revoke the Trust and transfer the apartment out of the Trust. This information is thus relevant to whether Rochelle may have engaged in a pattern of fraudulent conduct and undue influence. Accordingly, subject to the 3-2 Rule, Rochelle is directed to respond to this interrogatory.

Interrogatory No. 21 seeks information regarding an “IT professional” who may have tried to retrieve data from Rochelle’s computer. Similarly Interrogatory No. 22 asks Rochelle about efforts to obtain emails responsive to Lynne’s discovery requests. These interrogatories

are stricken. Rochelle need not respond to either interrogatory as the information sought concerns matters that are irrelevant to the probate objections, and, in any event, are outside the period of the 3-2 Rule.

Interrogatory No. 23 asks for the “date and method” Rochelle used to obtain from Franklin Templeton a “Transfer on Death Registration Form.” Although Lynne could have used a more precise word than “method,” it is clear that, in addition to the date, Lynne seeks information regarding when and how Rochelle may have obtained the form. Since the court, at the call of the calendar on June 3, 2022, specifically identified information and documents concerning this account as relevant to the objections, Rochelle is directed to respond to this interrogatory to provide this information. For the same reason, subject to the 3-2 Rule, Rochelle is directed to respond to Interrogatory No. 24, which is also related to decedent’s Franklin Templeton account.

3) Rochelle’s Cross-Motion for a Protective Order and to Compel Responses to Her November 11, 2021 Notice of Discovery and Inspection

As noted above, the court granted Rochelle’s motion for a protective order (CPLR 3103[a]) as to all of Lynne’s interrogatories and document demands that are not relevant to the objections or fall outside the period of the 3-2 Rule. As to her motion to compel (CPLR 3124), the court directed only that Lynne provide any transcripts of the Family Court Proceedings in her possession. The transcripts were among the documents requested in Request No. 36, which sought the production of all documents and communications concerning the Family Court Proceedings. Of the 53 document requests in the November 11, 2021 Notice of Discovery and Inspection, Request No. 36 was the only one that Rochelle specifically identifies in her motion to compel. Rochelle demonstrated that Lynne was in possession of transcripts, having attached portions of them to papers that she filed with the court, but had not produced them. The court

thus directed Lynne to produce all transcripts from the Family Court Proceedings in her possession.

As to the remaining 52 document requests, Rochelle does not discuss any of them beyond her general request that the court order Lynne to produce responsive documents in “her possession custody or control.” Further, attached to Rochelle’s motion papers is Lynne’s Amended Response to Document Request dated January 14, 2022, in which Lynne represents, as to virtually all of these requests, that she either had produced responsive documents or does not have them in her possession. To the extent that Lynne has not produced any non-privileged document responsive to these requests, she has a standing obligation to supplement her responses to Rochelle’s notice to produce if circumstances warrant (CPLR 3101[h]) and could be subject to sanctions if she “wilfully fails to disclose information that the court finds ought to have been disclosed” (CPLR 3126). Under these circumstances, however, Rochelle’s motion to compel is denied as to all requests except for No. 36.

Rochelle and Lynne are directed to serve the supplemental discovery responses directed in this decision by November 17, 2023.

All discovery must be completed by January 12, 2024.

The deadline for the filing a Note of Issue is January 31, 2024.

The deadline for the filing of dispositive motions (CPLR 3212) is March 9, 2024.

This decision, together with a transcript of the June 3, 2022 proceedings, constitutes the order of the court.

The Clerk of the Court is directed to email a copy of this Decision and Order to counsel of record and the parties whose names and respective email addresses appear below.

Dated: October 13, 2023


SURROGATE

Email to:

Lynne Boyarsky (objectant pro se) - lynneboyarsky@gmail.com

John Guccione, Esq. (attorney for proponent Rochelle Klein) - jguccione@gss-law.com

Angelo Grasso, Esq. (attorney for proponent Rochelle Klein) - agrasso@gss-law.com

Karen Boyarsky (objectant pro se) - kboyarsky@cox.net