

1 SELARZ LAW CORP.
DANIEL E. SELARZ (State Bar No. 287555)
2 *dselarz@selarzl原因.com*
11777 San Vicente Blvd., Suite 702
3 Los Angeles, California 90049
Telephone: 310.651.8685
4 Facsimile: 310.651.8681

5 **Attorneys for Plaintiff(s),**
[CLIENT'S NAME(S)]

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **COUNTY OF [COUNTY], [DISTRICT]**

10 [PLAINTIFF(S)], an individual,
11 Plaintiff,
12 vs.
13 [DEFENDANT(S)], and DOES 1 to [#],
inclusive,
14 Defendants.

Case No. []
Honorable []
[Dept. [#]]

**NOTICE OF MOTION AND MOTION
TO COMPEL FURTHER RESPONSES,
WITHOUT OBJECTIONS, TO
REQUESTS FOR PRODUCTION, SET
NO. [#] AND REQUEST FOR ORDER
AWARDING MONETARY
SANCTIONS AGAINST DEFENDANT
AND DEFENSE COUNSEL IN THE
SUM OF \$1,060.00; MEMORANDUM
OF POINTS AND AUTHORITIES**

Filed Concurrently with Separate
Statement; Declaration of Daniel E. Selarz,
Esq. and Exhibits; [Proposed] Order

[California Code of Civil Procedure
("CCP") § 2031.310]

Date: []
Time: []
Dept.: []

Action Filed: []
Trial Date: []

25
26 ///
27 ///
28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TO THE COURT, ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on [Date], at [Time] or as soon thereafter as the matter may be heard in Department [#] of the above-entitled court, Plaintiff [CLIENT’S NAME] (“Plaintiff”), will move the court for an order compelling Defendant, [DEFENDANT’S NAME] (“Defendant”), to serve further, verified responses, without objections to Requests for Production, Set No. [#], Requests Nos. [#] served on Defendant on [Date].

Notice is further given that Plaintiff will request that the Court award monetary sanctions against Defendant and Defense Counsel, and in favor of Plaintiff in the sum of \$1,060.00 pursuant to *CCP* § 2023.010 et seq., and *CCP* § 2031.310, et seq.

This motion is made pursuant to *CCP* § 2031.310 on the grounds that the Defendant has failed, without justification, to serve proper responses to these Requests.

This motion is further based upon this notice; the attached Memorandum of Points and Authorities; Separate Statement; Declaration of Daniel E. Selarz and Exhibits, filed herewith; upon the records and files in this action; and upon such further evidence and argument as may be presented prior to or at the time of hearing on the motion.

DATED: May 24, 2020

SELARZ LAW CORP.

By: _____
Daniel E. Selarz, Esq.
Attorneys for Plaintiff(s),
[Client’s Name(s)]

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 The present case arises out of a [Date], [Type of Accident], resulting in personal
4 injuries to Plaintiff [Client’s Name] (“Plaintiff”). On [Date], Plaintiff served Requests for
5 Production, Set No. [#], on Defendant. (Declaration of Daniel E. Selarz, Esq., (“Selarz
6 Decl.”) ¶2; Exhibit “A”.) On [Date], Defendant served responses which, as to Requests Nos.
7 [#], failed to provide adequate, substantive responses and/or provided responses, which
8 contained general and meritless objections. (Selarz Decl., ¶3; Exhibit “B”).

9 On [Date], Plaintiff sent a Meet and Confer Letter to Defense Counsel, outlining the
10 deficiencies in Defendant’s responses, unilaterally allowing fifteen additional days to
11 provide further verified substantive responses and offering additional time should it be
12 requested. (Selarz Decl., ¶4; Exhibit “C”). It is now May 24, 2020, and Defendants
13 responses to Plaintiff’s Requests for Production, Set [#], Nos. [#] remain deficient. (Selarz
14 Decl., ¶5.)

15 As a result of Defendant’s willful refusal to serve full and complete verified responses
16 to these Requests, Plaintiff is unable to proceed with meaningful discovery. The information
17 requested is necessary in order to proceed with depositions, and to effectively prosecute this
18 action and prepare for trial. Accordingly, Plaintiff is forced to file the present motion,
19 requesting a Court order compelling Defendant, to serve full and complete further verified
20 responses, without objections, to Requests for Production, Set No. [#], Nos. [#] served on
21 Defendant on [Date]. Furthermore, Plaintiff requests monetary sanctions against Defendant
22 and Defense Counsel, jointly, for their misuse of the discovery process and because there is
23 no showing that they acted with substantial justification or that other circumstances make
24 the imposition unjust.

25 **II. THE COURT IS AUTHORIZED TO COMPEL FURTHER RESPONSES**
26 **TO THESE REQUESTS (CCP § 2031.310).**

27 *CCP* § 2031.310 provides the following:

28 On receipt of a response to requests a demand for inspection, copying,
testing, or sampling, the demanding party requesting Productions may

1 move for an order compelling a further response to the demand if the
2 demanding party deems that any of the following apply:

- 3 (1) A statement of compliance with the demand is incomplete.
4 (2) A representation of inability to comply is inadequate, incomplete,
5 or evasive.
6 (3) An objection in the response is without merit or too general.

7 As discussed below and in Plaintiff's Separate Statement, filed herewith, Defendant
8 served incomplete, inadequate and evasive answers, which included general and meritless
9 objections. Accordingly, the Court is authorized to compel further responses for the reasons
10 stated below.

11 **III. DEFENDANT'S RESPONSES ARE DEFICIENT AND REQUIRE AN**
12 **ORDER COMPELLING FURTHER RESPONSES**

13 *CCP* § 2031.210 provides, in relevant part, the following:

14 (a) The party to whom a demand for inspection, copying, testing, or
15 sampling has been directed shall respond separately to each item or
16 category of item by any of the following:

- 17 (1) A statement that the party will comply with the particular demand
18 for inspection, copying, testing, or sampling by the date set for the
19 inspection, copying, testing, or sampling pursuant to paragraph (2) of
20 subdivision (c) of Section 2031.030 and any related activities.
21 (2) A representation that the party lacks the ability to comply with the
22 demand for inspection, copying, testing, or sampling of a particular
23 item or category of item.
24 (3) An objection to the particular demand for inspection, copying,
25 testing, or sampling.

26 For the reasons discussed below and as stated in the Declaration of Daniel E. Selarz,
27 Esq., and detailed in the Separate Statement, included herewith, Defendant's responses to
28 Plaintiff's Requests for Production failed to comply with the requirements of *CCP* §
2031.210.

**A. Defendant's Responses Fail to Comply with the Requirements of a
Statement of Compliance**

CCP § 2031.220 provides the following:

A statement that the party to whom a demand for inspection, copying,
testing, or sampling has been directed will comply with the particular
demand shall state that the production, inspection, copying, testing, or
sampling, and related activity demanded, will be allowed either in
whole or in part, and that all documents or things in the demanded
category that are in the possession, custody, or control of that party
and to which no objection is being made will be included in the
production.

1 As shown in Plaintiff's Separate Statement, in the case of Request Nos. [#],
2 Defendant's responses fail to comply with the requirements of a statement of compliance in
3 that Defendant failed to specify which items or categories of items will be produced or that
4 all demanded items in its possession, custody, or control to which no objection has been
5 made will be produced.

6 **B. Defendant's Responses Fail to Comply with the Requirements of a**
7 **Statement of Inability to Comply**

8 *CCP* § 2031.230 provides the following:

9 A representation of inability to comply with the particular demand for
10 inspection, copying, testing, or sampling shall affirm that a diligent
11 search and a reasonable inquiry has been made in an effort to comply
12 with that demand. This statement shall also specify whether the
13 inability to comply is because the particular item or category has never
14 existed, has been destroyed, has been lost, misplaced, or stolen, or has
15 never been, or is no longer, in the possession, custody, or control of
16 the responding party. The statement shall set forth the name and
17 address of any natural person or organization known or believed by
18 that party to have possession, custody, or control of that item or
19 category of item.

20 As shown in Plaintiff's Separate Statement, in the case of Request Nos. [#],
21 Defendant's responses fail to state a valid reason for Defendant's inability to comply with
22 numerous demands and, further, fail to identify persons or organizations which have, or are
23 believed to have, possession, custody or control of these items.

24 **IV. DEFENDANT'S RESPONSES INCLUDE MERITLESS AND/OR**
25 **BOILERPLATE OBJECTIONS, WHICH FAIL TO COMPLY WITH THE**
26 **REQUIREMENTS, WHEN OBJECTING TO A REQUEST FOR**
27 **PRODUCTION**

28 *CCP* § 2031.240 provides, in relevant part, the following:

- (a) If only part of an item or category of item in a demand for inspection, copying, testing, or sampling is objectionable, the response shall contain a statement of compliance, or a representation of inability to comply with respect to the remainder of that item or category.
- (b) If the responding party objects to the demand for inspection, copying, testing, or sampling of an item or category of item, the response shall do both of the following:

1 (1) Identify with particularity any document, tangible thing, land, or
2 electronically stored information falling within any category of item
in the demand to which an objection is being made.

3 (2) Set forth clearly the extent of, and the specific ground for, the
4 objection. If an objection is based on a claim of privilege, the
particular privilege invoked shall be stated. If an objection is based on
5 a claim that the information sought is protected work product under
Chapter 4 (commencing with Section 2018.010), that claim shall be
expressly asserted.

6 (c) (1) If an objection is based on a claim of privilege or a claim that
7 the information sought is protected work product, the response shall
provide sufficient factual information for other parties to evaluate the
merits of that claim, including, if necessary, a privilege log.

8 The discovery statutes require a responding party who objects to the demand for
9 inspection of a document to identify with particularity the document and set forth clearly the
10 extent of, and the specific ground for, the objection and/or a particular privilege. *Best*
11 *Products, Inc. v. Superior Court*, (2004) 119 Cal. App. 4th 1181, 1189, (*citing Hernandez v.*
12 *Superior Court*, (2003) 112 Cal. App. 4th 285, 292, as modified, (Oct. 23, 2003)).

13 As demonstrated in moving party's Separate Statement, Defendant interposed the
14 same general and boilerplate objections to nearly all Requests, without any effort to explain
15 or identify how each objection applied to any particular question or part of a question.
16 Further, Defendant's responses improperly rely upon a myriad of meritless overbroad and
17 general objections to entire categories of documents without providing a valid reason for
18 Defendant's inability to comply with the numerous demands. Lastly, Defendant fails to
19 identify persons or organizations who have, or are believed to have, possession, custody or
20 control of these items.

21 **A. Defendant Improperly Objects to Portions of the Requests Without**
22 **Including a Statement of Compliance or Representation of Inability to**
23 **Comply**

24 "If only part of an item or category of item in a demand for inspection, copying,
25 testing, or sampling is objectionable, the response shall contain a statement of compliance,
26 or a representation of inability to comply with respect to the remainder of that item or
27 category." *CCP* § 2031.240(a).

1 As shown in Plaintiff’s Separate Statement, in the case of Request Nos. [#],
2 Defendant has asserted objections as to only a portion of these Requests and has failed to
3 include a statement of compliance or a representation of inability to comply with respect to
4 the remainder of that item or category.

5 **B. Defendant Improperly Objects Without Identifying the Document Falling**
6 **Within Any Category in The Demand to Which the Objection Is Being**
7 **Made.**

8 “If the responding party objects to the demand for inspection, copying, testing, or
9 sampling of an item or category of item, the response shall do both of the following: (1)
10 Identify with particularity any document, tangible thing, land, or electronically stored
11 information falling within any category of item in the demand to which an objection is being
12 made. (2) Set forth clearly the extent of, and the specific ground for, the objection.” *CCP* §
13 2031.240(a)(1)-(2).

14 As shown in Plaintiff’s Separate Statement, in the case of Request Nos. [#],
15 Defendant has asserted objections and has failed to identify with particularity the document,
16 tangible thing, land, or electronically stored information falling within that category of item
17 in the demand to which an objection is being made. Defendant’s responses, further, fail to
18 clearly set forth the extent of the objection being made.

19 **C. Defendant Objects Based on Privilege and/or Work Product Without**
20 **Identifying the Privilege Invoked or Providing Sufficient Factual**
21 **Information to Evaluate the Merits of That Claim.**

22 “If an objection is based on a claim of privilege, the particular privilege invoked shall
23 be stated. If an objection is based on a claim that the information sought is protected work
24 product under Chapter 4 (commencing with Section 2018.010), that claim shall be expressly
25 asserted.” *CCP* § 2031.240(b)(2).” “If an objection is based on a claim of privilege or a
26 claim that the information sought is protected work product, the response shall provide
27 sufficient factual information for other parties to evaluate the merits of that claim, including,
28 if necessary, a privilege log.” *CCP* § 2031.240(c)(1).

1 Defendant's responses to Form Request Nos. [#] interpose objections based upon
2 claims of privilege and/or work product but fail to identify the particular privilege asserted
3 or the particular matters claimed to be privileged. Further, Defendant fails to provide
4 sufficient factual information, or a privilege log, for Plaintiff to evaluate the merits of
5 Defendant's claim of privilege and/or work product.

6 **V. DEFENDANT IMPROPERLY INCLUDES OBJECTIONS, WHICH**
7 **WERE WAIVED DUE TO UNTIMELY RESPONSES**

8 *CCP* § 2031.300(a) provides, in relevant part, the following:

9 If a party to whom a demand for inspection, copying, testing, or
10 sampling is directed fails to serve a timely response to it . . . The party
11 to whom the demand for inspection, copying, testing, or sampling is
12 directed waives any objection to the demand, including one based on
13 privilege or on the protection for work product under Chapter 4
14 (commencing with Section 2018.010).

15 Belated objections to Requests are not valid unless the defaulting party demonstrates
16 good cause to grant relief from such default, and the burden is on the defaulting party to seek
17 and justify relief. *Mannino v. Superior Court*, (1983) 142 Cal. App. 3d 776, 778; *see CCP*
18 § 2030.290(a)(1)-(2).

19 In the present case, Defendant served untimely responses, which improperly
20 contained numerous objections, including those based upon privilege. Plaintiff served
21 Requests for Production, Set No. [#], on Defendant on [Date]. (Selarz Decl. ¶2; Exhibit "A".)
22 Responses to these discovery requests were, therefore, due on, or before, [Date], pursuant to
23 *CCP* § 2030.260(a). [Thirty-day response plus five calendar days if served by mail (*CCP* §
24 1013(a))]. Defendant, however, failed to provide responses until [Date]. (Selarz Decl., ¶3;
25 Exhibit "B".) Defendant has neither sought such relief, nor can relief be justified for
26 Defendant's willful refusal to comply with its discovery obligations. Accordingly, Plaintiff
27 requests the Court to order compelling Defendant, to serve full and complete further verified
28 responses, without objections to the subject discovery.

VI. **GOOD CAUSE EXISTS FOR COMPELLING FURTHER RESPONSES**

1 “The motion shall set forth specific facts showing good cause justifying the discovery
2 sought by the demand.” *CCP* § 2031.310(b)(1). “Good cause” for production of documents
3 may be established where it is shown that the request is made in good faith and that the
4 documents sought are relevant to the subject matter and material to the issues in the
5 litigation. *Associated Brewers Distributing Co. v. Superior Court of Los Angeles County*,
6 (1967) 65 Cal. 2d 583, 588. If good cause is shown, the burden shifts to the responding
7 party to justify any objections made to documents production. *Kirkland v. Superior Court*,
8 (2002) 95 Cal. App. 4th 92, 98. It has been held reversible error to deny discovery where
9 the objectives of discovery—preventing surprise at trial and allowing proper preparation for
10 trial—are defeated by the denial. *Associated Brewers Distributing Co. v. Superior Court of*
11 *Los Angeles County*, (1967) 65 Cal. 2d 583, 588, 55.

12 As set forth in the Declaration of Daniel E. Selarz, Esq., filed herewith, good cause
13 exists for production of all documents within each of the categories requested because the
14 documents sought are relevant and material to the litigation. The objectives of discovery
15 would be defeated by denial of the discovery sought. Further, as detailed in the Separate
16 Statement, filed herewith, good grounds exist for compelling further responses.

17 **VII. PLAINTIFF HAS MADE A GOOD FAITH EFFORT TO RESOLVE THE**
18 **ISSUES ADDRESSED HEREIN**

19 *CCP* § 2031.310(b) provides that this motion “shall be accompanied by a meet and
20 confer declaration under Section 2016.040.” A meet and confer declaration in support of a
21 motion shall state facts showing a reasonable and good faith attempt at an informal
22 resolution of each issue presented by the motion. *CCP* § 2016.040.

23 On [Date], Plaintiff sent a Meet and Confer Letter to Defense Counsel, outlining the
24 deficiencies in Defendant’s responses, unilaterally allowing fifteen additional days to
25 provide further verified substantive responses and offering additional time should it be
26 requested. (Selarz Decl., ¶4; Exhibit “C”). It is now May 24, 2020, and Defendants
27 responses to Plaintiff’s Requests for Production, Set [#] remain deficient. (Selarz Decl., ¶5.)

28 **VIII. THIS MOTION IS TIMELY NOTICED**

1 CCP § 2031.310(c) provides:

2 Unless notice of this motion is given within 45 days of the service of
3 the verified response, or any supplemental verified response, or on or
4 before any specific later date to which the demanding party and the
responding party have agreed in writing, the demanding party waives
any right to compel a further response to the demand.

5 As shown by the proof of service attached to Defendant’s verified responses and the
6 proof of service of this Noticed Motion, this Motion is timely made as moving party has
7 noticed the motion within forty-five days of the service of the response.

8 **IX. MONETARY SANCTIONS AGAINST DEFENDANT AND DEFENSE**
9 **COUNSEL ARE WARRANTED FOR FAILURE TO RESPOND TO**
10 **LEGITIMATE DISCOVERY AND FOR NECESSITATING THIS**
11 **MOTION**

12 “To the extent authorized by the chapter governing any particular discovery method
13 or any other provision of this title, the court, after notice to any affected party, person or
14 attorney, and after opportunity for hearing may impose ... sanctions against anyone
15 engaging in conduct that is a misuse of the discovery process...” CCP § 2023.030. “Misuses
16 of the discovery process include, but are not limited to . . . (e) Making, without substantial
17 justification, an unmeritorious objection to discovery . . . (f) Making an evasive response to
18 discovery . . . (h) Making or opposing, unsuccessfully and without substantial justification,
19 a motion to compel or to limit discovery” CCP § 2023.010.

20 “Except as provided in subdivision (j), the court *shall* impose a monetary sanction
21 under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney
22 who unsuccessfully makes or opposes a motion to compel further response to a demand,
23 unless it finds that the one subject to the sanction acted with substantial justification or that
24 other circumstances make the imposition of the sanction unjust.” CCP § 2031.310(h)
25 (*emphasis added.*). These sanctions may be awarded under the Discovery Act in favor of a
26 party who files a motion to compel discovery, even though no opposition to the motion was
27 filed, or an opposition to the motion was withdrawn, or the requested discovery was provided
28 to the moving party after the motion was filed. *Cal. Rules of Ct.*, Rule 3.1030(a).

1 In the present case, there is no excuse or justification for Defendant's refusal to
2 provide further responses to the subject discovery. The Declaration of Daniel E. Selarz, Esq.
3 submitted herewith attests to the efforts expended on the part of this moving party to avoid
4 this motion. The purpose of discovery sanctions is to prevent abuse of the discovery process
5 and correct the problem presented. *Do v. Superior Court*, (2003) 109 Cal. App. 4th 1210,
6 1213. It is evident from the facts presented that Defendant will not comply with this
7 authorized method of discovery absent a court order and the imposition of sanctions.

8 In the present case, Plaintiff has incurred \$1,060.00 in costs and attorneys' fees in
9 connection with this motion and enforcing this discovery. (Selarz Decl., ¶11.) Pursuant to
10 *CCP* §§ 2023.010, 2023.030, and 2031.310, and the power of this Court to impose monetary
11 sanctions against the losing party on a motion to compel responses to Requests, Plaintiff
12 submits that given the attempts by Plaintiff to avoid this motion, and the lack compliance by
13 Defendant, sanctions should properly be awarded to Plaintiff, and against Defendant and
14 Defense Counsel of record in the amount of \$1,060.00, as reflected in the Declaration of
15 Daniel E. Selarz, Esq.

16 **I. ISSUE, EVIDENTIARY AND/OR TERMINATING SANCTIONS ARE**
17 **WARRANTED UNDER THESE CIRCUMSTANCES**

18 In addition to monetary sanctions awardable pursuant to *CCP* § 2023.030 (which also
19 gives the court discretion to deem the matters involved in the instant requests deemed
20 admitted. *CCP* § 2031.310(i) specifically provides:

21 Except as provided in subdivision (j), if a party fails to obey an order
22 compelling further response, the court may make those orders that are
23 just, including the imposition of an issue sanction, an evidence
24 sanction, or a terminating sanction under Chapter 7 (commencing
with Section 2023.010). In lieu of, or in addition to, that sanction, the
court may impose a monetary sanction under Chapter 7 (commencing
with Section 2023.010).

25 In *Stein v. Hassen*, (1973) 34 Cal. App. 3d 294, 301-302, citing *Fred Howland Co. v.*
26 *Superior Court of Los Angeles County*, (1966) 244 Cal. App. 2d 605, the court found "[t]here
27 is no question of the power of the respondent court to apply the ultimate sanction of default
28 against a litigant who persists in an outright refusal to comply with his discovery

1 obligations.” In *Stein*, the court struck defendant’s answer and counterclaim and entered his
2 default after finding defendant’s initial answers and two sets of further answers to
3 interrogatories insufficient, nonresponsive, evasive; and that the responses reflected a lack
4 of good faith and a willful disregard for the discovery process without substantial
5 justification, warranting striking of defendant’s pleadings and entering default. *See also*
6 *Vallbona v. Springer*, (1996) 43 Cal. App. 4th 1525 (finding the court properly imposed
7 issue sanction against defendant where defendant claimed in response to inspection demand
8 that items were stolen, but later attempted to produce some of the purportedly stolen
9 documents at trial.)

10 Defendant, without either good cause or substantial justification, has violated, and
11 continues to violate, the terms of this Court’s [Date], order. Contrary to Defendant’s
12 position, complying with court orders is not discretionary, nor is complying with the rules of
13 discovery, which was the conduct warranting sanctions in the first place. Defendants are
14 bound by the Court’s order to comply with the law. Such disobedience should not be
15 tolerated, and the Court should further order issue and/or terminating sanctions, pursuant to
16 *CCP* § 2031.310(i), to prevent Defendant from disobeying court orders in the future of this
17 litigation.

18 **II. DEFENDANT’S VIOLATION OF THE COURT’S PRIOR ORDER** 19 **PERMITS THE IMPOSITION OF ADDITIONAL SANCTIONS**

20 To ensure that orders and judgments from the Court are not being disregarded, the
21 law provides express authority for the court to impose sanctions for violating a lawful court
22 order, aside and apart from contemnor sanctions. Thus, *CCP* § 177.5 states:

23 A judicial officer shall have the power to impose reasonable money
24 sanctions, not to exceed fifteen hundred dollars (\$1,500), notwithstanding
25 any other provision of law, payable to the court, *for any violation of a*
26 *lawful court order* by a person, done without good cause or substantial
justification. This power shall not apply to advocacy of counsel before
the court. For the purposes of this section, the term “person” includes a
witness, a party, a party’s attorney, or both.

27 Sanctions pursuant to this section shall not be imposed except on notice
28 contained in a party’s moving or responding papers; or on the court’s own
motion, after notice and an opportunity to be heard. An order imposing

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

sanctions shall be in writing and shall recite in detail the conduct or circumstances justifying the order.

(emphasis added)

As discussed above, Defendant, without either good cause or substantial justification, has violated, and continues to violate, the terms of this Court’s [Date], order. The Court should be compensated the full \$1,500.00 for the resources expended to ensure Defendant’s compliance with the Court’s prior order. Sanctions pursuant to CCP § 177.5, are necessary to prevent Defendant from disobeying court orders in the future of this litigation.

III. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court enter an order compelling Defendant to provide full and complete further verified responses, without objections, to Plaintiff’s Requests for Production, Set [#], Nos. [#] propounded on [Date]. Additionally, Plaintiff respectfully requests monetary sanctions be awarded in the amount of \$1,060.00 against Defendant and Defense Counsel, jointly, and in favor of Plaintiff for misuse of discovery without substantial justification and for Defendant’s willful violation of the discovery statutes discussed herein in addition to any other sanctions deemed appropriate by the Court.

DATED: May 24, 2020

SELARZ LAW CORP.

By: _____
Daniel E. Selarz, Esq.
Attorneys for Plaintiff(s),
[Client’s Name(s)]

1 SELARZ LAW CORP.
DANIEL E. SELARZ (State Bar No. 287555)
2 *dselarz@selarzl原因.com*
11777 San Vicente Blvd., Suite 702
3 Los Angeles, California 90049
Telephone: 310.651.8685
4 Facsimile: 310.651.8681

5 **Attorneys for Plaintiff(s),**
[CLIENT'S NAME(S)]
6

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **COUNTY OF [COUNTY], [DISTRICT]**
9

10 [PLAINTIFF(S)], an individual,
11 Plaintiff,
vs.
12 [DEFENDANT(S)], and DOES 1 to [#],
13 inclusive,
14 Defendants.

Case No. []
Honorable []
[Dept. [#]]

SEPARATE STATEMENT

Filed Concurrently With Notice Of Motion
And Motion To Compel Further Responses,
Without Objections, To Requests for
Production, Set No. [#] And Request For
Order Awarding Monetary Sanctions
Against Defendant And Defense Counsel In
The Sum Of \$1,060.00; Memorandum Of
Points And Authorities; Declaration Of
Daniel E. Selarz, Esq, And Exhibits;
[Proposed] Order

[California Rules of Court ("CRC"), Rule
3.1345]

Date: []
Time: []
Dept.: []

Action Filed: []
Trial Date: []

25
26 ///
27 ///
28 ///

1 **SEPARATE STATEMENT**

2 Plaintiff submits this separate statement in support of the Notice of Motion and
3 Motion to Compel Further Responses, Without Objections, to Requests for Production, Set
4 [#], in compliance with CRC, Rule 3.1345.

5
6 **General Objections:**

7
8 **Legal and Factual Reasons for Compelling Further Response:**

9 General objections, by definition, are “too general” to be properly made. *CCP* §
10 2031.310(a)(3). Even though several Requests may be objectionable on the same ground
11 they may not be objected to as a group. *Hogan and Weber*, California Civil Discovery (2d.
12 ed 2009) § 518. Plaintiff requests the Court order Defendant to provide further responses,
13 without any improper general or blanket objections.

14
15 **Request for Production No. [#]:**

16
17 **Response to Request for Production No. [#]:**

18
19 **Legal and Factual Reasons for Compelling Further Response:**

20 A. **Good Cause for Discovery**

21 *CCP* § 2017.010 provides that:

22 Unless otherwise limited by order of the court in accordance with this
23 title, any party may obtain discovery regarding any matter, not
24 privileged, that is relevant to the subject matter involved in the
25 pending action or to the determination of any motion made in that
26 action, if the matter either is itself admissible in evidence or appears
27 reasonably calculated to lead to the discovery of admissible evidence.
28 Discovery may relate to the claim or defense of the party-seeking
discovery or of any other party to the action. Discovery may be
obtained of the identity and location of persons having knowledge of
any discoverable matter, as well as of the existence, description,
nature, custody, condition and location of any document, tangible
thing, or land or other property.

1 Good cause exists for full compliance with this Request because Plaintiff was injured
2 as a result of Defendant colliding into Plaintiff's vehicle. Accordingly, Plaintiff is entitled
3 to discover information about Defendant's conduct and operation of his motor vehicle at the
4 time of the incident. Additionally, this Request was drafted by the court thus bringing it within
5 the scope of discoverable information.

6 B. Invalid Objections

7 The objections made to this Request are *too general and are also meritless*.
8 Objections must convey with specificity the grounds upon which they are made and must be
9 made with substantial justification. *CCP* § 2030.240(b). Under *CCP* § 2023.010(e)
10 providing responses that consist primarily of unjustified, boilerplate objections may
11 constitute misuse of the discovery process.

12 Defendant's objections are not well taken. Defendant's objections that this Request
13 is [] is without merit. California allows for a broad scope of discovery and a
14 discovery is relevant so long as it pertains to the subject matter of the action or appears
15 reasonably calculated to lead to the discovery of admissible evidence. *CCP* § 2017.010;
16 *Laddon v. Superior Court (1950)* 167 Cal.App.2d 391; *1880 Corp. v. Superior Court, (1962)*
17 *57 Cal.App.2d 840*. Defendant is being asked basic information which can easily be stated.
18 A party has a duty to answer if "the nature of the information sought is apparent." *Deyo v.*
19 *Kilbourne (1978)* 84 Cal. App. 3d 771. Evasive answers or the posting of objections without
20 a proper basis are also grounds for discovery sanctions. *See CCP* § 2023.010(f).
21 Additionally, Requests for Production are drafted, and approved, by the Court thus bringing
22 it within the scope of discoverable information that requires a response. Furthermore,
23 Defendant has knowledge with which to respond accurately. A proper response to this
24 Request is required. Accordingly, the Court should order Defendant provide a further
25 response to this Request.

SELARZ LAW CORP.

11777 San Vicente Blvd., Suite 702
Los Angeles, California 90049
T: 310.651.8685 • F: 310.651.8681

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: May 24, 2020

SELARZ LAW CORP.

By: _____
Daniel E. Selarz, Esq.
Attorneys for Plaintiff(s),
[Client's Name(s)]

1 SELARZ LAW CORP.
DANIEL E. SELARZ (State Bar No. 287555)
2 *dselarz@selarzl原因.com*
11777 San Vicente Blvd., Suite 702
3 Los Angeles, California 90049
Telephone: 310.651.8685
4 Facsimile: 310.651.8681

5 **Attorneys for Plaintiff(s),**
[CLIENT'S NAME(S)]

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **COUNTY OF [COUNTY], [DISTRICT]**

10 [PLAINTIFF(S)], an individual,
11 Plaintiff,
vs.
12 [DEFENDANT(S)], and DOES 1 to [#],
13 inclusive,
14 Defendants.

Case No. []
Honorable []
[Dept. [#]]

DECLARATION OF DANIEL E. SELARZ, ESQ. AND EXHIBITS IN SUPPORT OF MOTION TO COMPEL FURTHER RESPONSES, WITHOUT OBJECTIONS, TO REQUESTS FOR PRODUCTION, SET NO. [#] AND REQUEST FOR ORDER AWARDING MONETARY SANCTIONS AGAINST DEFENDANT AND DEFENSE COUNSEL IN THE SUM OF \$1,060.00

Filed Concurrently with Notice of Motion and Motion to Compel Further Responses, Without Objections, to Requests for Production, Set No. [#] and Request for Order Awarding Monetary Sanctions Against Defendant and Defense Counsel in the Sum Of \$1.060.00; Memorandum of Points and Authorities; [Proposed] Order

[California Code of Civil Procedure ("CCP") § 2030.290(b)]

Date: []
Time: []
Dept.: []

Action Filed: []
Trial Date: []

1 I, Daniel E. Selarz, Esq., declare as follows:

2 1. I am an attorney duly licensed to practice law before all courts of the State of
3 California. My law firm, Selarz Law Corp., is counsel for Plaintiff in this action. This
4 declaration is submitted in support of Plaintiff’s Motion to Compel Responses, Without
5 Objections, to Requests for Production, Set No. [#] and Request for Order Awarding
6 Monetary Sanctions Against Defendant and Defense Counsel in the Sum Of \$1.060.00. The
7 following facts are within my personal knowledge and, if called as a witness herein, I can
8 and will competently testify thereto.

9 2. On [Date], our office served Requests for Production, Set No. [#], on
10 Defendant. A true and correct copy is attached hereto as Exhibit “A”.

11 3. On [Date], Defendant served responses which, as to Requests Nos. [#], failed
12 to provide adequate, substantive responses and/or provided responses, which contained
13 general and meritless objections. A true and correct copy is attached hereto as Exhibit “B”.

14 4. On [Date], our office sent a Meet and Confer Letter to Defense Counsel,
15 outlining the deficiencies in Defendant’s responses, unilaterally allowing fifteen additional
16 days to provide further verified substantive responses and offering additional time should it
17 be requested. A true and correct copy is attached hereto as Exhibit “C”.

18 5. It is now May 24, 2020, and Defendants responses to Plaintiff’s Requests for
19 Production, Set [#], Nos. [#] remain deficient.

20 6. Defendant’s responses fail to comply with the requirements of a statement of
21 compliance in that Defendant has failed to specify which items or categories of items will
22 be produced, or that all demanded items in its possession, custody, or control to which no
23 objection has been made will be produced.

24 7. Defendant’s responses fail to state a valid reason for Defendant’s inability to
25 comply with numerous demands and fail to identify persons or organizations which have or
26 are believed to have possession, custody or control of these items

27 8. Defendant’s responses fail to state a valid objection and contain overbroad and
28 general objections to entire categories of documents without a valid reason for Defendant’s

1 inability to comply with numerous demands and fail to identify persons or organizations
2 who have or are believed to have possession, custody, or control of these items.

3 9. Defendant's responses further fail to identify the documents to which
4 responding party asserted objections based upon privilege and fail to expressly assert the
5 nature of the privilege(s) claimed.

6 10. As a result of Defendant's willful refusal to serve full and complete verified
7 responses to these Requests, Plaintiff is unable to proceed with meaningful discovery,
8 proceed with depositions, or effectively prosecute this action and prepare for trial.

9 11. As the result of Defendant's willful refusal to provide further answers to
10 Plaintiff's proper discovery, which further responses are necessary in order to proceed with
11 discovery and effectively prepare for trial, I have expended approximately four hours in
12 pursuit of this matter, researching, drafting and editing the instant motion. My hourly wage
13 is \$250.00 per hour times four hours. In addition, the filing fee for this motion is \$60.00.
14 Therefore, I ask that the Court award sanctions in the amount of \$1,060.00.

15
16 I declare under penalty of perjury under the laws of the State of California that the
17 foregoing is true and correct.

18
19 Dated: May 24, 2020

By: _____
Daniel E. Selarz, Esq.

20
21
22
23
24
25
26
27
28

1 SELARZ LAW CORP.
DANIEL E. SELARZ (State Bar No. 287555)
2 *dselarz@selarzlaws.com*
11777 San Vicente Blvd., Suite 702
3 Los Angeles, California 90049
Telephone: 310.651.8685
4 Facsimile: 310.651.8681

5 **Attorneys for Plaintiff(s),**
[CLIENT'S NAME(S)]
6

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **COUNTY OF [COUNTY], [DISTRICT]**
9

10 [PLAINTIFF(S)], an individual,
11 Plaintiff,
vs.
12 [DEFENDANT(S)], and DOES 1 to [#],
13 inclusive,
14 Defendants.

Case No. []
Honorable []
[Dept. [#]]

**[PROPOSED] ORDER COMPELLING
FURTHER RESPONSES, WITHOUT
OBJECTIONS, TO REQUESTS FOR
PRODUCTION**

Filed Concurrently with Notice of Motion
and Motion and Motion to Compel
Responses, Without Objections, to Requests
for Production, Set No. [#] and Request for
Order Awarding Monetary Sanctions
Against Defendant and Defense Counsel in
the Sum Of \$1,060.00; Memorandum of
Points and Authorities; Declaration of
Daniel E. Selarz, Esq, and Exhibits

[California Code of Civil Procedure
("CCP") § 2030.290]

Date: []
Time: []
Dept.: []

Action Filed: []
Trial Date: []

25
26 ///
27 ///
28 ///

1 The Court, having reviewed the moving and opposing papers on Plaintiff’s Motion
2 to Compel Further Responses, Without Objections, to Requests for Production, Set No. [#]
3 and Request for Order Awarding Monetary Sanctions Against Defendant and Defense
4 Counsel in the Sum Of \$1.060.00; and oral argument of counsel having been received by
5 the Court:

6
7 The Court finds, adjudges and orders as follows:

- 8 1. That Plaintiff’s Motion is hereby GRANTED;
- 9 2. That Defendant is hereby ordered to serve full and complete further verified
10 responses, without objections, to Requests for Production, Set No. [#], Nos. [#], served on
11 Defendant by Plaintiff on [Date].
- 12 3. That said further verified responses, without objections, shall be served on the
13 Plaintiff no later than _____.

14 IT IS FURTHER ORDERED:

- 15 4. That monetary sanctions be imposed jointly against Defendant and Defense
16 Counsel, in the sum of \$ _____, payable no later than _____.
- 17 5. IT IS FURTHER ORDERED as follows: _____
18 _____
19 _____.

20 IT IS SO ORDERED.

21
22
23 Date: _____

24 _____
The Honorable [Name of Judge]
[City] Superior Court

25
26
27
28

PROOF OF SERVICE

I, the undersigned, declare as follows:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years, and not a party to the within action. I am an employee of, or agent for, SELARZ LAW CORP., whose business address is 11777 San Vicente Blvd., Suite 702, Los Angeles, CA, 90049.

On May 24, 2020 I served the foregoing document(s) **NOTICE OF MOTION AND MOTION TO COMPEL FURTHER RESPONSES, WITHOUT OBJECTIONS, TO REQUESTS FOR PRODUCTION, SET NO. [#] AND REQUEST FOR ORDER AWARDING MONETARY SANCTIONS AGAINST DEFENDANT AND DEFENSE COUNSEL IN THE SUM OF \$1,060.00; MEMORANDUM OF POINTS AND AUTHORITIES; SEPARATE STATEMENT; DECLARATION OF DANIEL E. SELARZ, ESQ. AND EXHIBITS; [PROPOSED] ORDER** to the following party(ies) in this action addressed as follows:

PLEASE SEE ATTACHED SERVICE LIST

- (BY MAIL) I caused a true copy of each document, placed in a sealed envelope with postage fully paid, to be placed in the United States mail at Los Angeles, California. I am “readily familiar” with this firm’s business practice for collection and processing of mail, that in the ordinary course of business said document(s) would be deposited with the U.S. Postal Service on that same day. I understand that the service shall be presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit for mailing contained in this affidavit.
- (BY PERSONAL SERVICE) I caused to be delivered each such document by hand to each addressee above.
- (BY CERTIFIED MAIL – CCP §§1020, et seq.) I caused said document(s) to be deposited with the United States Mail, postage prepaid, return receipt requested, signed by addressee that said documents were received.
- (BY FACSIMILE) By use of facsimile machine number (310) 651-8681, I served a copy of the within document(s) on the above interested parties at the facsimile numbers listed above. The transmission was reported as complete and without error. The transmission report was properly issued by the transmitting facsimile machine.
- (BY ELECTRONIC SERVICE) Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at their electronic notification addresses. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Executed on May 24, 2020, in Los Angeles, California. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Daniel E. Selarz

SELARZ LAW CORP.

11777 San Vicente Blvd., Suite 702
Los Angeles, California 90049
T: 310.651.8685 • F: 310.651.8681

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SERVICE LIST

SENT VIA U.S. MAIL

[Attorney's Name]
[Law Firm Name]
[Street Address]
[City, State & Zip Code]

Tel: (xxx) xxx-xxxx / Fax: (xxx) xxx-xxxx
Email: [Email Address]

[Attorneys for Defendant [DEFENDANT'S NAME]]