

Samples

Motion

IMPORTANT: RED boxes and arrows are instructions, and are not part of your completed document. Text that appears in BLUE is text you will change to fit your case. When you print your motion, be sure to use BLACK ink for your text. The Court will reject your papers if they are in blue type.

1 Name: Darryl Draper
2 Address: 123 Main St.
3 Telephone: 916-555-1212
4 Defendant, In Pro Per

5 The name of the court goes on line 8 of the first page. In the caption, identify the plaintiff and defendant, replacing PEGGY POUNDSTONE with the name of the Plaintiff and DARRYL DRAPER with the name of the Defendant.

6
7 SUPERIOR COURT OF CALIFORNIA COUNTY OF SACRAMENTO
8
9 Peggy Poundstone,
10 Plaintiff,
11 vs.
12 Darryl Draper,
13 Defendant

14 Case No.: 34-2014-01234567
15 NOTICE OF MOTION AND MOTION FOR ORDER DEEMING ADMITTED TRUTH OF FACTS AND GENUINENESS OF DOCUMENTS AND IMPOSING MONETARY SANCTIONS
16 Date: July 6, 2014
17 Dept/Time: Dept. 53 at 2:00 p.m.
18 Date Complaint was filed: January 10, 2014

19 NOTICE IS HEREBY GIVEN that on July 6, 2014, at 2 p.m., or as soon as possible, the court shall be heard, in Dept. 53 of this court, located at 813 6th St., Sacramento, California. Darryl Draper will, and hereby requests the court to grant to Sections 2025.010 et seq. and 2033.280 of the Code of Civil Procedure (Deering's) that the truth of all specified matters, and the genuineness of all specified documents, in his Request For Admissions, Set No. One, served on Plaintiff Peggy Poundstone on March 3, 2014 be deemed admitted, and for monetary sanctions against responding party Peggy Poundstone and her attorney Arlen Alda in the amount of \$92. The motion will be made on the grounds that the responding party Peggy Poundstone failed to serve a timely response to the moving party's above-described Request for Admissions.

25 This section identifies what you are asking for, and the grounds justifying your request.

26
27 Be sure to include a footer with the name of the document and page numbers.

28 NOTICE OF MOTION AND MOTION FOR ORDER DEEMING ADMITTED TRUTH OF FACTS AND GENUINENESS OF DOCUMENTS AND IMPOSING MONETARY SANCTIONS
Motion Deeming Truth of Facts and Genuineness of Documents, Page 1



1 The motion will be based on this notice of motion; on the declaration of Darryl Draper and the copies
2 of the Requests for Admissions attached thereto as Exhibit A; the memorandum filed herewith; on the
3 records and file herein; and on such evidence as may be presented at the hearing of the motion.
4

5 Pursuant to Local Rule 1.06 (A), the court will make a tentative ruling on the merits of this
6 matter by 2:00 p.m., the court day before the hearing. The complete text of the tentative rulings
7 for the department may be downloaded from the Court's public access site. If you do not have
8 online access, you may call the dedicated phone number for the department as referenced in the
9 local telephone directory, between the hours of 2:00 p.m. and 4:00 p.m. on the court day before
10 the hearing and listen to the tentative ruling. If the party does not call the court and the
11 opposing party by 4:00 p.m. the court day before the hearing, no hearing will be held.

12 Dated: *May 28, 2014*
13

This language is required in Sacramento for motions heard in Dept. 53 and 54. Other courts have different requirements.

Darryl Draper
Darryl Draper
Defendant, In Pro Per

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28 NOTICE OF MOTION AND MOTION FOR ORDER DEEMING ADMITTED TRUTH OF FACTS
AND GENUINENESS OF DOCUMENTS AND IMPOSING MONETARY SANCTIONS

- 2 -

Motion Deeming Truth of Facts and Genuineness of Documents, Page 2



A Memorandum of Points and Authorities presents the legal argument that explains to the court why it can, and should, grant your motion. For this motion, the argument is simple: the law says you are entitled to the order because the responding party failed to respond.

Memorandum of Points and Authorities

I. BACKGROUND

Background facts (with citations to the appropriate paragraph of your Declaration).

This motion arises from Defendant Darryl Draper's Request for Admissions. On March 3, 2014, the moving party served his first set of requests for admissions on Plaintiff Peggy Poundstone by mail. (Darryl Draper Decl., ¶ 2.) The time for Plaintiff to serve a timely response expired on April 9, 2014. The moving party has received no response to date. (Darryl Draper Decl., ¶ 3.)

Use the name of the person or persons who is (are) making the declaration(s) supporting the motion.

The moving party is now asking the court to order that the genuineness of any documents and the truth of any matters specified in the requests be deemed admitted, and that Plaintiff pay the moving party \$92 in monetary sanctions.

II. LEGAL ARGUMENT

A. Pursuant to California Code of Civil Procedure (CCP) § 2033.280(b), the Court Must Order that the Genuineness of Documents and/or Truth of All Matters Specified in Moving Party's Request for Admissions Set No. One Be Deemed Admitted

If a party to whom requests for admission have been directed fails to serve a timely response, the requesting party may move for an order that the genuineness of any documents and the truth of any matters specified in the requests be deemed admitted. (Code Civ. Proc. § 2033.280(b) (Deering's)). The court shall make the requested order for deemed admissions, unless it finds that before the hearing on the motion the party to whom the requests for admission have been directed has served a proposed response to the requests for admission that is in substantial compliance with CCP §§ 2033.210–2033.230. (Code Civ. Proc. § 2033.280(c) (Deering's)).

In this case, the time for the responding party to serve a timely response expired on April 9, 2014, and no response has been served at this time. (Darryl Draper Decl., ¶ 3.) As a result, the court must make the requested order that the genuineness of any documents and the truth of any matters specified in the requests be deemed admitted.

MEMORANDUM OF POINTS AND AUTHORITIES SUPPORTING MOTION FOR ORDER
DEEMING ADMITTED TRUTH OF FACTS AND GENUINENESS OF DOCUMENTS AND
IMPOSING MONETARY SANCTIONS

Motion Deeming Truth of Facts and Genuineness of Documents, Page 3



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

B. Pursuant to California Code of Civil Procedure § 2023.030, the Court Must Impose a Monetary Sanction on the Party Whose Failure to Serve a Timely Response Necessitated the Motion for Deemed Admissions.

The court must impose a CCP § 2023.030 monetary sanction on the party, attorney, or both, whose failure to serve a timely response to requests for admission necessitated the motion for deemed admissions. (Code Civ. Proc. § 2033.280(c)(Deering's). A pro se litigant can recover any reasonable expenses incurred, including photocopying, computer-assisted legal research, and other identifiable and allocable costs (see *Kravitz v. Superior Court* (2001) 91 Cal. App. 4th 1015, 1017, 111 Cal. Rptr. 2d 385).

As a result of the responding party's failure to respond to the Request for Admissions described above, the moving party has necessarily incurred reasonable expenses in the amount of \$92. (Darryl Draper Decl., ¶ 4.)

The moving party therefore requests that the Court order 1.that the genuineness of any documents and the truth of any matters specified in the requests be deemed admitted, and 2. that Plaintiff Peggy Poundstone, her attorney, or both, pay the moving party \$92 in monetary sanctions.

Dated: *May 28, 2014*

Use the date you are signing the memorandum.

Darryl Draper
Darryl Draper
Defendant, In Pro Per

Change this to your name and title in the case.

MEMORANDUM OF POINTS AND AUTHORITIES SUPPORTING MOTION FOR ORDER DEEMING ADMITTED TRUTH OF FACTS AND GENUINENESS OF DOCUMENTS AND IMPOSING MONETARY SANCTIONS

Motion Deeming Truth of Facts and Genuineness of Documents, Page 4



The declaration is a statement sworn under penalty of perjury that you wish the court to consider when deciding your motion. Change the name Darryl Draper to that of the person making the declaration (typically you).

DECLARATION

1
2 1. I, Darryl Draper, am the Defendant in this matter, and I declare the following in support of
3 my motion to deem matters in my Request for Admissions Set No. One to be admitted, and for
4 sanctions.

This should be the relationship of the person making the declaration to the case.

5 2. On March 3, 2014, I served my First set of Requests for Admissions on Plaintiff Peggy
6 Poundstone by mail. A copy of those Requests for Admissions including Proof of Service is attached
7 as Exhibit A and incorporated by reference.

8 3. The time for Poundstone to serve a response in a timely manner expired on April 9, 2014,
9 and I have not at this time received any response.

The declaration must contain the facts to support your motion. For a motion to deem admissions to be admitted, you must show that you served the Request for Admissions, that the other party never responded, and the expenses you are claiming as sanctions.

11 4. As a result of Poundstone's failure to respond to the Request for Admissions described
12 above, I have necessarily incurred the following reasonable expenses:

- 13 \$ 60 Costs of filing the motion
- 14 \$ 7 Photocopying
- 15 \$ 25 Transportation to and from court
- 16 \$ Other: _____

17
18 The declaration must be declared under penalty of perjury. If it is not, the court cannot consider it as evidence in your motion.

19 I declare under penalty of perjury under the laws of the State of California that the foregoing
20 is true and correct.

21
22 Dated: May 28, 2014

23
24 Use the date you are signing the declaration.

Darryl Draper
Darryl Draper
Defendant, In Pro Per

25
26 Change this to the name and title of the person making the declaration.

27
28 DECLARATION SUPPORTING MOTION FOR ORDER DEEMING ADMITTED TRUTH OF
FACTS AND GENUINENESS OF DOCUMENTS AND IMPOSING MONETARY SANCTIONS

Motion Deeming Truth of Facts and Genuineness of Documents, Page 5



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

Defendant's Request for Admissions, Set No. One

Exhibit A

DECLARATION SUE
FACTS AND GENUIN

MITTED TRUTH OF
ETARY SANCTIONS

Motion Deeming Truth of Facts and Genuineness of Documents, Page 6