

Motion to Deem Facts Admitted

If a party fails to respond to a Request for Admissions entirely, the party who served the Request for Admissions is entitled to a court order deeming each of the facts listed in the Request for Admissions to be true, and each document listed in the Request to be deemed genuine. The judge is also required to order that the responding party to pay the costs of filing the motion. This is called “imposing monetary sanctions.”

Templates and Forms

- [Motion to Deem Facts Admitted Template – RTF](https://saclaw.org/wp-content/uploads/2023/04/sbs-motion-to-deem-facts-admitted-motion.rtf) (<https://saclaw.org/wp-content/uploads/2023/04/sbs-motion-to-deem-facts-admitted-motion.rtf>)
- [Proof of Personal Service – Personal \(POS-020\)](https://www.courts.ca.gov/documents/pos020.pdf) (<https://www.courts.ca.gov/documents/pos020.pdf>)
- [Proof of Personal Service – Mail \(POS-030\)](https://www.courts.ca.gov/documents/pos030.pdf) (<https://www.courts.ca.gov/documents/pos030.pdf>)

During discovery, each party may serve one or more sets of Requests for Admissions, asking the opposing side to admit that

- that one or more facts are true or
- one or more documents are genuine.

If a party admits a fact, or admits that a document is genuine, that fact, or the genuineness of the document, does not need to be proven at trial.

Special Discovery Deadline: 15 Days before Trial

If a trial date has been set, there is an extra deadline to consider: Discovery motions such as this one must be heard at least 15 days before trial. [CCP § 2024.020](#)

(http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=2024.020).

If a motion to deem the admissions admitted is filed, the responding party can prevent his or her admissions being deemed true by serving adequate responses prior to the hearing date of the motion. Generally the responding party still must pay the sanction.

Note: even if your motion is granted, it may be possible for the party whose admissions were deemed admitted to file a Motion for Relief from Admissions under certain circumstances. For more information on this process, see our guide to [Motion for Relief from Admissions](https://saclaw.org/resource_library/relief-from-admissions/) (https://saclaw.org/resource_library/relief-from-admissions/).

Unless a successful Motion for Relief from Admissions is filed, any admissions deemed admitted must be considered true by the court or jury, and the party whose admissions were deemed admitted will be prevented from presenting evidence inconsistent with the admitted facts at trial.

Related Discovery Guides

Visit our [Discovery topic page](https://saclaw.org/legal_topic/discovery-process-to-get-evidence-from-other-side/#research_guides) (https://saclaw.org/legal_topic/discovery-process-to-get-evidence-from-other-side/#research_guides) for a complete list of our discovery guides and videos.

Requests for Admissions are unique

Requests for Admissions are the only type of discovery with this “motion to deem” remedy.

If a party fails to respond to interrogatories or requests for production, the requesting party files a [Motion to Compel Discovery Responses](https://saclaw.org/resource_library/motion-to-compel-discovery-responses/) (https://saclaw.org/resource_library/motion-to-compel-discovery-responses/). For help with or more information on these types of motions, see the resources listed at the end of this Guide.

Also attached to this guide is a sample motion asking a court to issue an order that the court deem each statement in a Request for Admissions to be true, and for monetary sanctions in the amount of the motion fee and any attorney fees for filing the motion. Self-represented litigants in Sacramento may only receive attorney fees if they actually hired an attorney to work in any capacity on the motion.

Step by Step Instructions

1. Reserve Your Hearing Date and Determine Filing and Service Deadlines

This information is for Sacramento. If your case is in a different county, do not follow these instructions. Instead, call the clerk or visit the court website in your county to find the correct information.

Determine the department and time of the motion

This is considered a “Law and Motion” matter. In Sacramento, Law and Motion hearings are heard in Department 53 at 1:30 p.m. or Department 54 at 9:00 a.m., Tuesday-Thursday. To determine which department your hearing will be in, check your case number. Odd numbered cases are heard in Dept. 53, even numbered cases in Dept. 54. (There are occasional exceptions, so if you’ve been assigned to one or the other in the past, use that one.)

Reserve the date for the hearing

In Sacramento's Departments 53 and 54, you must reserve a court date through the court's online reservation system.

To use the online system, go to [the Sacramento Superior Court's Public Portal \(https://prod-portal-sacramento-ca.journaltech.com/public-portal/\)](https://prod-portal-sacramento-ca.journaltech.com/public-portal/) and choose "Reservation System (CRS)." You must have a free account on the system to use it.

Before you log on or call, figure out if there are any days you will *not* be available during the next couple of months. For instance, you don't want to pick a date when you know you will be out of town.

You must choose a date far enough in the future that you can both **file** and **serve** your motion on time. Scheduling it four weeks in advance generally gives a comfortable margin for most types of motions. Usually, the first available date will be further away than that.

Determine the legal deadline to file the motion in court

Tip: File the motion as soon as possible. Your reservation is not final until the motion has been filed and any fees paid.

The last legal day to file with the court is at least sixteen *court* (business) days prior to the motion date ([CCP § 1005 \(http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=1005.\)](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=1005.)). "Court days" are Monday through Friday, excluding court holidays. To determine whether a particular filing date will meet this deadline, start counting backwards on the day before your hearing until you reach the sixteenth court day. ([CCP § 12c \(http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=1005.\)](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=1005.))

For example, suppose your reservation is for Monday, June 18. You would start counting backward using the previous court day, Friday, June 15, as day one, as shown in the calendar below. Skip weekends and court holidays (there is one court holiday in this example, which is Memorial Day, May 28). The sixteenth court day before the hearing would be May 24, which would be the last day that the motion could be filed.

MAY							JUNE						
Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5						1 Day 11	2
6	7	8	Day 5 falls on a weekend, so the last day for service by mail rolls over to the previous court day.			12	3	4 Day 10	5 Day 9	6 Day 8	7 Day 7	8 Day 6	9
13	14	15	16	17	18 Last day to serve by mail	19 Day 5	10	11 Day 5	12 Day 4	13 Day 3	14 Day 2	15 Day 1	16
20 Day 4	21 Day 3	22 Day 2	23 Day 1	24 Day 16 Last day to file	25 Day 15	26	17	18 Hearing Date	19	20	21	22	23
27	28 Holiday	29 Day 14	30 Day 13	31 Day 12			24	25	26	27	28	29	30

Holiday Heads-Up: The California courts are closed on several holidays that you may not expect, including Lincoln’s Birthday (Feb. 12); Cesar Chavez Day (March 31); Juneteenth (June 19); and Native American Day (third Friday in September).

Make a note on your calendar to file the motion by this date. Do not miss this deadline. The court will cancel the hearing and you will have to start over.

Determine the legal deadline to serve the motion on the other parties or their attorneys

You must have all other attorneys (or self-represented parties) served with a copy of the motion, then have the server fill out a Proof of Service which you file along with the motion. This means that someone over the age of 18 who is not a party in the case must either mail or personally deliver a copy of the motion and related documents to them. There is a strict deadline to do this (earlier is always fine).

Personal service: 16 **court** days before the hearing, the same as the minimum filing deadline. The server can fill out [Proof of Personal Service—Civil \(POS-020\)](https://www.courts.ca.gov/documents/pos020.pdf) (<https://www.courts.ca.gov/documents/pos020.pdf>).

Service by mail: 16 court days before hearing PLUS five **calendar** days before the hearing (more if the mailing address is outside California). ([CCP § 1005](#))

(http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=1005).

). The server can fill out [Proof of Service by First-Class Mail—Civil](https://www.courts.ca.gov/documents/pos030.pdf). (<https://www.courts.ca.gov/documents/pos030.pdf>)

“Calendar days” include weekends and holidays, but if the final day lands on a weekend or holiday, it is pushed back to the previous court day.

Make a note on your calendar to have the motion served by mail before the deadline. If you miss the mail deadline, you can still have the motion served by personal service up until 16 court days before the hearing. If you miss that deadline, you will have to cancel your court date and start over.

2. Prepare the Motion

There is no pre-printed form for this motion. You will need to customize a motion on “pleading paper.” Instructions and a sample motion are at the end of this guide.

Parts of a Motion

A request to deem an opposing party’s admissions true is made through a **motion**. A motion is a request to the judge to issue an order of some sort.

A written motion consists of four parts (the Notice of Motion and Motion are combined):

- Notice of Motion and Motion;
- Points and Authorities; and
- Declaration

The Notice of Motion lets the opposing party know when and where the motion is scheduled to be heard, while the Motion lets the court and the opposing party know what is being requested. The Points and Authorities explains to the court and the opposing party the legal basis of the motion, while the Declaration provides evidence, sworn under penalty of perjury, supporting the motion.

The parts can be filed as separate documents or combined into one document, as in our template motion.

Modify the Template Motion

There is no Judicial Council form for this procedure. Instead, the relevant documents must be typed on 28-line pleading paper. A customizable template may be downloaded from this link:

- [Motion to Deem Facts Admitted](https://saclaw.org/wp-content/uploads/2023/04/sbs-motion-to-deem-facts-admitted-motion.rtf) (<https://saclaw.org/wp-content/uploads/2023/04/sbs-motion-to-deem-facts-admitted-motion.rtf>)

More information about how to fill the forms out is included on the sample at the end of this guide.

Include Request for Admissions with its Proof of Service in your Declaration: All Motions to Deem Facts Admitted must include a copy of the Request for Admissions (including the signed Proof of Service

demonstrating the date and method the Request for Admissions was served on the responding party). You may need additional exhibits depending on your situation.

3. Copy Your Documents and Serve the Other Party or Parties

You must serve one copy on each other party in the case, and have the server sign the Proof of Service form.

Make the required number of copies to serve on the parties, plus two copies to file along with the original. You can make an extra copy for yourself if you like, for a total of three copies to file — the clerk will stamp your copy and hand or mail it back to you.

Choose someone to serve your documents on the other party or parties. Your motion must be served by a person over the age of 18 who is not a party to the case. Usually motions are served by mail. They can be served by personal delivery if the mail service deadline has passed (see discussion of deadlines, above).

Your server must complete a proof of service form, either [Proof of Service by First Class Mail \(POS-030\)](http://www.courts.ca.gov/documents/pos030.pdf) (<http://www.courts.ca.gov/documents/pos030.pdf>) or [Proof of Personal Service \(POS-020\)](http://www.courts.ca.gov/documents/pos020.pdf) (<http://www.courts.ca.gov/documents/pos020.pdf>).

Fill out the appropriate proof of service form, but do not have the server sign it yet. **Make a copy of the unsigned proof of service before proceeding and staple after the last page of the copy or copies you will have the server serve.**

The server must then serve the other party's attorney (or the other party, if they do not have an attorney), then sign the Proof of Service form and return it to you. For more information on these Proofs of Service, see our guides for [Serving Documents by Mail](https://www.saclaw.org/resource_library/serve-documents-by-mail/) (https://www.saclaw.org/resource_library/serve-documents-by-mail/) and [Service by Personal Delivery](https://www.saclaw.org/resource_library/personal-service/) (https://www.saclaw.org/resource_library/personal-service/).

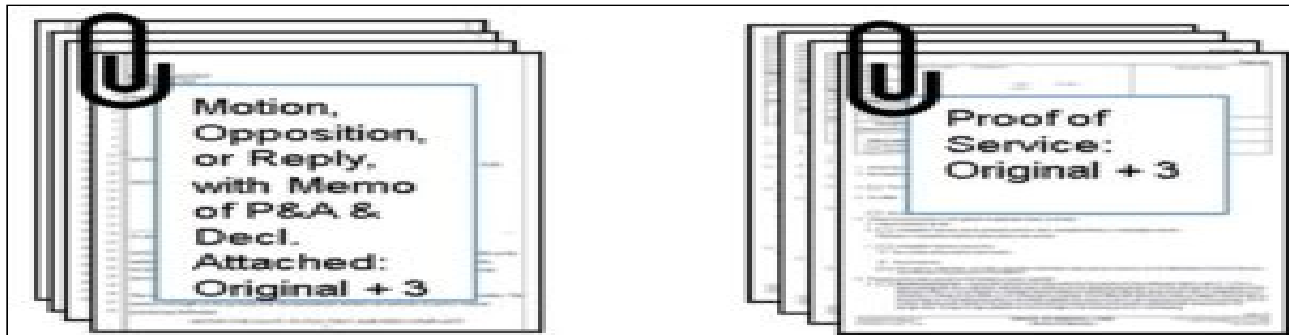
4. Copy and Assemble Your Documents for Court

You must turn in the original and two copies to the court. Sacramento County has specific requirements for how you compile and submit motion documents. In other counties, check with the local civil department to find out their requirements.

Now that you have the signed Proof of Service, make copies of it to file in court along with the Motion.

- Leave the original Motion and Proof of Service unstapled.
- Staple the copies of the Motion.

Place the original and copies of each document in a stack. In this case, you may only have two stacks — the Motion and the Proof of Service:



5. File Your Motion in the Law and Motion Department

As long as your filing is received by the deadline (16 court days before the hearing), you can file at the counter, by dropbox, or by mail.

File the original (with original signed proof of service) and two copies (with copied proof of service) of your motion at the Law & Motion Civil Filing Window in Room 212 on the second floor of the Hall of Justice building, located at 813 6th Street in downtown Sacramento. If you want an extra copy for yourself, file original and three copies and request a “conformed” (stamped) copy back.

Filing Fee: There is a \$60 fee to file a motion.

Fee Waiver: If you are receiving government benefits such as Medi-Cal or are otherwise qualified because of low income, you may qualify for a fee waiver. If you applied for one when you filed the case, there will be no fee. If you have not yet applied for a fee waiver, turn the fee waiver request forms in with the motion instead of a fee payment. For more information, see our [Step-by-Step guide on Fee Waivers](https://www.saclaw.org/resource_library/fee-waiver/)

(https://www.saclaw.org/resource_library/fee-waiver/).

6. The Other Party Can Serve Proposed Responses and Defeat the Motion

If the other party serves proper responses without objections prior to your hearing, the court cannot grant your motion.

If the responding party serves a proposed response that is in substantial compliance with the provisions governing responses, the judge must deny your request. (CCP § 2033.280(c))

To be considered in “substantial compliance,” the response must provide a proper answer to each numbered request. That is, they must admit, deny, or state that they cannot admit or deny due to lack of sufficient information for each. Because their response is untimely, they are not permitted to object to any requests. In addition, the response must be in proper format and must be verified (signed under penalty of perjury).

7. Opposition to Motion and Your Optional Reply

If the other party serves an Opposition without also serving proposed responses, you may choose to file a Reply.

Reply to Opposition: If the other attorney or party opposes your motion without serving such proposed responses, you may choose to serve and file a **reply** to the opposition at least **five court days** prior to the motion. [CCP § 1005](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=1005) (http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=1005). It must be served by overnight mail to reach the opposing party no more than one day after it is filed.

The reply is optional and is usually used to address new issues your opponent raised in the opposition. In this case you could raise the fact that you have not received proposed responses. No fee is required to file a reply. See our guide on [Writing, Scheduling, and Opposing Motions](https://www.saclaw.org/resource_library/motions-in-civil-cases/) (https://www.saclaw.org/resource_library/motions-in-civil-cases/) for more information.

8. Review the Tentative Ruling and Notify Court and Opponent if You Wish to Appear

Before the hearing, the judge reads the motion and opposition and decides how they are going to decide. They post the decision on the court's website for the parties to read by 2 p.m. the court day before the hearing. The parties can then decide whether it is worth their time to request oral argument on the day of the hearing.

Pursuant to [Local Rule 1.06](http://www.saccourt.ca.gov/local-rules/docs/chapter-01.pdf) (<http://www.saccourt.ca.gov/local-rules/docs/chapter-01.pdf>), the judge in Dept. 53 or 54 reads the papers ahead of time and posts a tentative ruling by 2:00 p.m. the **court day before the hearing**. **You then have two hours to request oral argument**, if you choose to do so. Unless one party requests oral argument, the tentative ruling will automatically become the actual ruling.

You may read the tentative ruling online, or may call Department 53 (916-874-7858) or Department 54 (916-874-7848) to hear it. For more information, see the [Sacramento County Superior Court's Tentative Ruling Information](http://www.saccourt.ca.gov/civil/motions-hearings-tentative.aspx). (<http://www.saccourt.ca.gov/civil/motions-hearings-tentative.aspx>)

Closely review the tentative ruling. As the party making the motion, you are looking for your motion to be "GRANTED." The motion may also be "DENIED" or "GRANTED IN PART" and "DENIED IN PART." Occasionally the judge will order the parties to appear. Be sure to read the tentative ruling very carefully to make sure you understand it.

If You Want to Talk to the Judge

If you are not happy with the tentative ruling, and wish to present oral argument in front of the judge, you must call all opposing counsel and/or self-represented parties, and also call the Law and Motion Oral Argument Request Line at (916) 874-2615 before 4:00 p.m. that same day. State that you are requesting oral argument on the motion. **If you do not do this, your hearing will be canceled.** Be aware that the judges very rarely

change their tentative rulings.

If you are happy with the tentative ruling, you do not need to do anything. You won't have to go to court unless the tentative ruling orders you to appear, or the other side calls you and the court before 4:00 p.m. that same day to request oral argument. If that happens, you should go to the court hearing and be prepared to argue your case.

If neither party calls the court and opposing party to request oral argument, the court will simply cancel the hearing and finalize the tentative ruling.

9. Attend the Hearing, if Necessary

If neither party calls the court and opposing party to request oral argument, the hearing will be cancelled and the tentative ruling will become final.

If you or the other party request oral argument, you can attend in person or remotely by video or phone call using the Zoom app. The tentative ruling will explain how to connect if you choose to use Zoom.

If you or the other party notify each other and the court that they plan to attend the hearing, you have the option of attending in person or by video or telephone using Zoom.

In person: Go to 813 Sixth St., in downtown Sacramento, in plenty of time to arrive before your hearing starts. Leave early if you will need to find parking, since the courthouse does not have a parking lot. The nearest pay lot is at the corner of 7th and G, at least a 5-minute walk away. When you arrive at the Hall of Justice, go to the second floor and enter the courtroom (Dept. 53/54). Check in with the staffer seated by the door.

Using Zoom: instructions are listed on your tentative ruling. Be sure to log on a bit early.

What to expect: Since you are the moving party, the judge will ask you to explain your request first, then ask the opposing party to respond. The judge will usually decide immediately whether whether to grant the motion or not, but may "take it under consideration" and mail out their ruling a few days later.

For Help

SH@LL (Self-Help at the Law Library) (<https://saclaw.org/services/civil-self-help/>) (formerly Civil Self Help Center)
609 9th Street, Sacramento CA 95814
(916) 476-2731 (Appointment Request Line)

Services Provided: SH@LL provides general information and basic assistance to self-represented litigants on a variety of civil legal issues, including name changes. All assistance is provided by telephone. Visit "[What we can help with](https://saclaw.org/services/civil-self-help/#canhelp)" (<https://saclaw.org/services/civil-self-help/#canhelp>)" for a list of qualifying cases.

Eligibility: Must be a Sacramento County resident or have a [qualifying case](https://saclaw.org/services/civil-self-help/#who) in the Sacramento County Superior Court.

For more information

At the Law Library:

California Civil Discovery Practice KFC 1020 .C35, Vol. 2, § 9.72 et seq.

Electronic Access: On the Law Library's computers, using OnLaw.

California Practice Guide: Civil Procedure Before Trial KFC 95 .W4, Vol. 2, Chap. 8G.

California Forms of Pleading and Practice KFC 1010 .A65 C3 (Ready Reference), Vol. 2A, Chap.13.

Electronic Access: On the Law Library's computers, using Lexis Advance.

California Points and Authorities KFC 1010 .B4 (Ready Reference), Vol. 8, Chap. 86

Electronic Access: On the Law Library's computers, using Lexis Advance.

Samples and Instructions

There is no Judicial Council form for this procedure. Instead, the relevant documents must be typed on 28-line paper. Customizable templates may be downloaded from these links:

- [Motion for Order that Matters in Request for Admissions be Deemed Admitted](https://saclaw.org/wp-content/uploads/2023/04/sbs-motion-to-deem-facts-admitted-motion.rtf)

You will also need either

- [Proof of Personal Service \(POS-020\)](https://www.courts.ca.gov/documents/pos020.pdf) OR <http://www.courts.ca.gov/documents/pos020.pdf>
- [Proof of Service by First Class Mail \(POS-030\)](https://www.courts.ca.gov/documents/pos030.pdf)

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.

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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 motion will be heard, in **Dept. 53** of this court, located at **813 6th St., Sacramento, CA**

20 **Draper** will, and hereby **request** that the court grant the moving party's motion pursuant 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.

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

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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.

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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*

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

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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

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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. § 2023.280(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 I, **Darryl Draper**, am the **Defendant** in this matter, and I declare the following in support of
2 my motion to deem matters in my Request for Admissions Set No. ~~One~~ **to be admitted**, and for
3 sanctions.

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

4
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.

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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: _____

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

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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**

Use the date you are signing the declaration.

Darryl Draper
Darryl Draper
Defendant, In Pro Per

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

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

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Defendant's Request for Admissions, Set No. One

Exhibit A

DECLARATION OF THE TRUTH OF
FACTS AND GENUINENESS OF DOCUMENTS

DECLARATION OF THE TRUTH OF
FACTS AND GENUINENESS OF DOCUMENTS

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