

## MOTION TO COMPEL DISCOVERY RESPONSES

# Obtaining an Order that the Opposing Side Respond to Discovery Requests

*This Guide includes instructions and sample forms. Links to download the fillable forms are at the end of this Guide.*

*Additional copies of this Guide can be accessed at [www.saclaw.org/motion-compel](http://www.saclaw.org/motion-compel).*

The information in this guide applies only to compelling responses to interrogatories and requests for production. If the opposing side fails to respond to your request for admissions, your remedy is to ask the court for an order to have the facts you sought to have the other side admit deemed true. For more information on that process, see the Step-by-Step guide on Motions to Deem Facts Admitted on our website at [www.saclaw.org/motion-deem-admitted](http://www.saclaw.org/motion-deem-admitted).

## BACKGROUND

Sometimes, as you conduct discovery in your civil case, the opposing side fails to respond to your formal discovery requests. If the opposing side does not respond to your form interrogatories, special interrogatories, or request for production, you may file a motion seeking an order compelling the opposing party to respond. This Guide provides step-by-step instructions for seeking such an order. If the opposing side served responses that were incomplete or otherwise void (e.g., not verified), you would need to file a motion to compel further responses, which is not described in this Guide. Please ask at the Reference Desk for information on that procedure.

## STEP-BY-STEP INSTRUCTIONS

### Step 1: Meet and Confer

Before you file your motion, you must first attempt to “meet and confer” with the opposing counsel or self-represented party. This typically means sending a letter that informs the opposing attorney or self-represented litigant that the deadline to respond has passed, and providing him or her a reasonable time to respond, after which you would file a motion to compel responses.

A reasonable time to respond to your letter could be two weeks, or longer if the interrogatories or requests for production are particularly complicated. The “meet and confer” requirement is your opportunity to demonstrate to the court that you are making a “reasonable and good faith attempt at an informal resolution.” [California Code of Civil Procedure \(CCP\) § 2016.040](#). A sample “meet and confer” letter is included at the end of this Guide.

Disclaimer: This Guide is intended as general information only. Your case may have factors requiring different procedures or forms. The information and instructions are provided for use in the Sacramento County Superior Court. Please keep in mind that each court may have different requirements. If you need further assistance consult a lawyer.

### You may also need...

#### Related Step-by-Step Guides

- [Motion to Deem Facts Admitted](#)
- [Proof of Service by Mail](#)
- [Personal Service](#)

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Although not required, it is a good idea to have someone who is over 18 and not a party to the case mail the letter for you, and complete a [Proof of Service by First Class Mail \(POS-030\)](#). That way, if you are forced to file a motion with the court, you can attach the proof of service as an exhibit to your motion. For more information, see the Step-by-Step guide on Proof of Service by Mail on our website at [www.saclaw.org/mail-service](http://www.saclaw.org/mail-service).

## Step 2: Prepare the Motion

You must file a separate motion for each of the discovery responses you wish to compel. For example, if you served, and received no response to, both form interrogatories and requests for production, you will need to file two separate motions.

### Step 2.1: Modify the Template Motion

Since there are no pre-printed Judicial Council forms for motions to compel responses, you must draft them yourself. Motions must be typed on 28-line pleading paper and follow a specific format. This motion consists of four parts:

- 1) Notice of Motion;
- 2) Motion;
- 3) Points and Authorities in Support of the Motion; and
- 4) Declaration of [Name] in Support of the Motion.

At the end of this Guide is a sample motion with declaration and points and authorities for compelling responses to both interrogatories and requests for production. Customizable templates may be downloaded from the links below:

- [Notice of Motion and Motion to Compel Responses to Interrogatories; Points and Authorities; and Declaration](#)  
OR
- [Notice of Motion and Motion to Compel Production of Documents; Points and Authorities; and Declaration](#)

In the sample and templates, the four parts listed above have been combined into a single document. Although it is possible to include a proposed formal order, the Sacramento County Superior Court typically issues minute orders in response to motions to compel discovery, and does not require a formal order to be submitted.

In Sacramento, the Notice of Motion and Motion **must** end with the paragraph from [Local Rule 1.06 \(A\)](#) informing the parties of the tentative ruling system. That language is included in the templates and the sample at the end of this Guide.

### Step 2.2: Setting the Date of the Motion

In Sacramento County, the party making the motion is responsible for setting the date for hearing the motion. There are two very important deadlines you must consider when setting the date of a motion: the **filing deadline** and the **service deadline**.

### Select the proper template!

Although the language of the motion is the same in both templates, the supporting points and authorities are very different. Points and authorities explain to the court and the opposing party the legal basis of your motion. The court cannot grant your motion without the proper legal basis. Be sure to use the proper template (for compelling responses to either interrogatories or requests for production) for your best chance of having the court grant your motion.

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**Filing Deadline:** The motion must be filed with the court at least sixteen court days prior to the hearing date ([CCP § 1005](#)). Court days are Monday through Friday, excluding court holidays. To determine whether a particular filing date will meet this deadline, start with your desired hearing date and count backward ([CCP § 12c](#)) sixteen court days. Day one is the court day prior to the hearing. The sixteenth court day prior to the hearing is the last possible date that the motion can be filed with the court.

MAY							JUNE							
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		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	

For example, suppose you wanted to have your motion heard on June 18, 2012. You would start counting backward using June 15, 2012 as day one. Do not count weekends or court holidays (there is only one court holiday in this example, which is Memorial Day, May 28). Your sixteenth court day before the hearing would be May 24, 2012, which would be the latest that the motion could be filed.

**Service Deadline:** Prior to filing the motion with the court, all other attorneys, or self-represented parties in a case must be served with a copy of the motion. This means that someone over the age of 18 who is not a party in the case must either personally deliver or mail a copy of the motion and related documents to the attorney or self-represented party.

If the motion is personally served, the service must be at least sixteen court days prior to the hearing date, the same as the minimum filing deadline.

If the motion is served by first-class mail, additional time is added to the calculation, depending on where the mail originates and where it is sent ([CCP § 1005](#)). For example, if the documents are mailed from California to an address in California, five calendar days are added before the sixteen court days. Calendar days include weekends and holidays, but if the final day lands on a weekend or holiday, it is rolled over to the previous court day. So, if June 18, 2012 was the hearing date, the sixteenth court day before would be May 24, 2012, but counting back five more calendar days results in Saturday, May 19, 2012. Because the fifth day fell on a weekend (or holiday), the deadline for service rolls back to May 18, 2012, the last court day before the deadline.

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When choosing the date of your motion hearing, be sure that you have left enough time for the motion to be both served and filed in a timely fashion.

**Step 2.3: Setting the Location of the Motion**

In Sacramento, motions to compel responses to discovery are heard in either Department 53 at 2:00 p.m. or Department 54 at 9:00 a.m., depending on your case number, Monday through Friday except for holidays. To determine whether your motion is in Department 53 or 54:

- For NEW CASES filed after January 1, 2013: If your case number ends in an odd number, then your law and motion Department is 53 at 2:00 p.m. If it ends in an even number, it is Department 54 at 9:00 a.m.
- All Law and Motion matters for CASES filed prior to January 1, 2013 shall be heard by the Law and Motion department previously assigned.

Department 53 and 54 are not in the main courthouse; they are located in the Hall of Justice Building, 813 6th St., Sacramento, CA 95814.

**Step 3: Make Copies**

Make four (4) copies of your documents, including your motion, with points and authorities and declaration, and any exhibits you mentioned in your declaration. Your exhibits should include the requests for which you are trying to compel responses, your meet and confer letter, and any other relevant documents you would like the court to review when considering your motion.

Assemble your copies into packets. Each packet will include:

- Motion
- Points and authorities
- Declaration
- Exhibits

One packet should include all your original documents; the other three packets should include only photocopies. Staple each set of photocopies, but **leave the packet of originals unstapled**. The originals will be scanned into the court's filing system, and the staple will damage the scanner.

**Important:** Sacramento County Superior Court requires each of the *Exhibits* in one of your sets of copies be separated by a rigid sheet of card stock with a tab identifying the letter of the exhibit on the bottom. Exhibits for the original and other copies should be separated by a blank piece of pleading paper with their exhibit letter or number (for instance, "Exhibit A") typed or written on the bottom of the page.

Note: The Law Library sells card stock with tabs at the Circulation Desk.

EXHIBIT A

**Step 4: Have the Motion Served**

Your motion must be served by someone over 18 who is not a party to the case. Service may be made either in person or by mail. Each type of service has different timing requirements; see Step 2.2 above for more information. In some situations, these timing requirements will help you decide which type of service will best fit your situation.

**Step 4.1: Fill out the Proof of Service form**

Prior to service, the proof of service form should be completely filled out, but not signed.

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- If personally serving, use [Proof of Personal Service \(POS-020\)](#)
- If serving by mail, use [Proof of Service by First Class Mail \(POS-030\)](#)

Instructions for completing these forms are available from the Step-by-Step guides on Proofs of Service on our website at accessed at: [www.saclaw.org/personal-service](http://www.saclaw.org/personal-service) and [www.saclaw.org/service-mail](http://www.saclaw.org/service-mail), respectively.

Make a copy of the unsigned proof of service before proceeding.

#### ***Step 4.2: Serve the motion***

The server must personally deliver or mail the following documents to the opposing attorney or self-represented litigant:

- One of the packets of photocopies you made in Step 3 (NOT the copy with tabs!)
- **Unsigned** Proof of Service

The unsigned proof of service form can be attached as the last page of the motion.

#### ***Step 4.3: Sign the Proof of Service form***

After mailing or delivering the documents, the server signs the original Proof of Service form, and gives the signed Proof of Service to you.

#### ***Step 4.4: Copy the Signed Proof of Service***

Make three (3) copies of the signed Proof of Service. It is not necessary to copy the instruction page.

### **Step 5: Assemble Your Documents for Filing**

You will need to attach a signed proof of service to each of the packets you assembled in Step 3.

- Attach your original signed proof of service to the back of the packet of original documents. Use a clip, NOT a staple!
- Staple a photocopy of the signed proof of service to the back of the each of your remaining photocopied packets.

### **Step 6: Filing/Fees**

File the original and three photocopies of your motion at the Civil Law and Motion filing counter at 813 Sixth St., Room 212. Oppositions and replies are also filed at the counter. **Do not use the drop box for filing motions, oppositions, or replies**, as the delay in processing will prevent the court from timely receiving your document. At this time there is a \$60 filing fee for your motion, unless your fees were waived. Current fees are available on the Sacramento County Superior Court's website ([www.saccourt.ca.gov/fees/docs/fee-schedule.pdf](http://www.saccourt.ca.gov/fees/docs/fee-schedule.pdf)).

### **Step 7: Opposition and Reply**

The opposing counsel or self-represented party may oppose your motion by serving and filing an opposition at least nine court days prior to your hearing date. No fee is required to file an opposition. The opposition contains a memorandum of points and authorities and usually a declaration, but does not need the notice of motion or motion. Be sure to check your mail, and read any documents you receive carefully.

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If the opposing attorney or party files an opposition to your motion, you may choose to serve and file a reply to the opposition at least five court days prior to the hearing. No fee is required to file a reply. The reply should carefully address any points made by the opposition, especially if that point was not originally addressed in your motion. The reply should also contain a memorandum of points and authorities and usually a declaration.

### **Step 8: Check the Tentative Rulings**

Pursuant to [Local Rule 1.06](#), the court will make a tentative ruling on the merits of your matter by 2:00 p.m. **the court day before the hearing**. You may read the tentative ruling online, or may call the court at 916-874-8142 to hear it. For more information, see the Sacramento County Superior Court's website at [www.saccourt.ca.gov/civil/motions-hearings-tentative.aspx](http://www.saccourt.ca.gov/civil/motions-hearings-tentative.aspx).

Closely review the tentative ruling. If you filed the motion, you are looking for your motion to be "GRANTED." If you are happy with the tentative ruling, you do not need to do anything. You won't have to go to court unless ordered to appear in the tentative ruling or unless the other side calls you and the court between 2:00 p.m. and 4:00 p.m. the court day before your hearing date to request an oral argument in front of the judge. If that happens, you should go to the court hearing and be prepared to argue your case.

If you are not happy with the tentative ruling, and wish to present arguments in front of the judge, you must call all opposing counsel and/or self-represented parties, and the clerk for Department 53 (874-7858) or Department 54 (874-7848) no later than 4:00 p.m. the court day before your hearing and state that you are requesting oral argument on the motion.

If neither you nor the opposing counsel or self-represented party requests oral argument, the court will simply make the tentative ruling the order of the court, and no oral argument will be permitted.

### **FOR HELP**

#### ***Sacramento County Public Law Library Civil Self Help Center***

609 9th Street, Sacramento 95814

[www.saclaw.org/self-help/civil-self-help-center](http://www.saclaw.org/self-help/civil-self-help-center)

*Services Provided:* The Sacramento County Public Law Library Civil Self Help Center provides general information and basic assistance to self-represented litigants on a variety of civil legal issues. Appointments will be made beginning at 8:30 a.m. Patrons who are present at 8:30 a.m. will be entered into a random drawing to determine the order their case will be evaluated. If an appointment is appropriate, it will be made for later in the day. You are encouraged to arrive by 8:25 a.m. to participate in the appointment setting drawing.

*Eligibility:* Must be a Sacramento County resident or have a [qualifying](#) case in the Sacramento County Superior Court.

### **FOR MORE INFORMATION**

#### ***At the Law Library:***

**California Civil Discovery Practice** [KFC 1020 .C35](#) Chap. 15

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

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**California Civil Practice: Procedure** [KFC 995 .A65 B3](#) Chap. 13

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

**California Deposition and Discovery Practice** [KFC1020 .D44](#) Chaps. 60 and 61

**Electronic Access:** On the Law Library's computers, using the *Matthew Bender CD*.

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

**California Forms of Pleading and Practice** [KFC 1010 .A65 C3](#) (Ready Reference)

Chaps. 194 and 195

**Electronic Access:** On the Law Library's computers, using the *Matthew Bender CD*.

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

**California Points and Authorities** [KFC 1010 .B4](#) (Ready Reference) Chaps. 84 and 85

**Electronic Access:** On the Law Library's computers, using the *Matthew Bender CD*.

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

**California Practice Guide: Civil Procedure Before Trial** [KFC 995 .W45](#) Chap. 8

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

**Handling Motions to Compel and Other Discovery Motions** [KFC 1020 .M37](#)

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

**Younger on California Motions** [KFC 1012. C35](#) Chap. 29

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

IF YOU HAVE QUESTIONS ABOUT THIS GUIDE, OR IF YOU NEED HELP FINDING OR USING THE MATERIALS LISTED, DON'T HESITATE TO ASK A REFERENCE LIBRARIAN.

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## **ATTACHMENTS: FORMS AND INSTRUCTIONS**

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

- [Notice of Motion and Motion to Compel Responses to Interrogatories; Points and Authorities; and Declaration](#)
- OR
- [Notice of Motion and Motion to Compel Production of Documents; Points and Authorities; and Declaration](#)

You must file a separate motion for each of the discovery responses you wish to compel. Be sure to select the appropriate template for your situation. Sample filled-in forms with instructions are available at the end of this Guide.

You will also need proofs of service for both your meet and confer letter and your motion:

- If personally serving, use [Proof of Personal Service \(POS-020\)](#)
- If serving by mail, use [Proof of Service by First Class Mail \(POS-030\)](#)

Instructions for completing these forms are available from the Step-by-Step guides on Proofs of Service on our website at accessed at: [www.saclaw.org/personal-service](http://www.saclaw.org/personal-service) and [www.saclaw.org/service-mail](http://www.saclaw.org/service-mail), respectively.



## Sample "Meet and Confer" Letter

Andy Attorney, Esq.  
1234 Main Street  
Sacramento, CA 95814

February 14, 2013

Re: Acme, Inc., v. Doug Defendant, Case # 34-2013-12345678

Dear Mr. Attorney:

I am the defendant in the above-referenced case. Your client, Acme, Inc., was served with my Request for Production, Set One, on January 3, 2013, 42 days ago. To date, you have not responded to the Request for Production.

This letter asks you to please respond to the Request for Production, Set One by March 1, 2013. If I do not receive these responses, I will file a motion in court to obtain compliance and sanctions as provided by California Code of Civil Procedure § 2031.300.

Yours truly,

***Doug Defendant***

Doug Defendant

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DOUG DEFENDANT  
123 Any Street  
Sacramento, CA 95814  
916-555-1234  
Defendant, In Pro Per

Your name, address, phone number, and party designation. "In Pro Per" means you are representing yourself.

**IMPORTANT:** RED boxes and arrows are instructions, and are not part of your completed document. Text that appears in BLUE here is text you will change to fit your case on the actual templates.  
  
Be sure to change all names, identifications (plaintiff/defendant), and pronouns to match the parties in your case. This sample is written as if the defendant is filing the motion, but fill it out as appropriate in your own case.

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SUPERIOR COURT OF CALIFORNIA COUNTY OF SACRAMENTO

Case number.

) Case No.: 34-2013-12345678

Party names.

Acme Inc.,

Plaintiff,

Your name.

) NOTICE OF MOTION AND MOTION;  
) MEMORANDUM OF POINTS AND  
) AUTHORITIES; and DECLARATION OF  
) DOUG DEFENDANT IN SUPPORT OF  
) MOTION TO COMPEL RESPONSES TO  
) DEFENDANT'S REQUEST FOR  
) PRODUCTION, SET ONE AND MONETARY  
) SANCTION

vs.

Doug Defendant,

Defendant

Identify the discovery request for which you want to compel responses.

) Date: June 19, 2013  
) Dept. 54  
) Time: 9:00 a.m.  
)

Identify party designation of party you want to compel to respond.

Date, time, and location of hearing. See Step 2 of this Guide for information on choosing a hearing date.

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To plaintiff and to its attorney of record:

NOTICE IS HEREBY GIVEN that on June 19, 2013 or as soon thereafter as the matter may be heard, in Department 53 this court, located at 813 Sixth Street, Sacramento, the defendant, Doug Defendant will, and hereby does, move for an order compelling plaintiff, Acme, Inc., to serve on him a response to the defendant's Request for Production of Documents, Set One, which he served on plaintiff, Acme, Inc. on January 3, 2013, and will further move this court for an order requiring plaintiff, Acme, Inc., to pay a monetary sanction to defendant. The motion will be made on the grounds that plaintiff has failed to serve a timely response to the above-described production of documents.

Change all names, party designations and pronouns to match the parties in your case.

Be sure to identify whether you are seeking to compel a response to Interrogatories or Request for Production, and the Set number.

Your name.

1 The motion will be based on this notice of motion, on the declaration of DOUG DEFENDANT and the memorandum set  
2 forth below, on the records and file herein, and on such evidence as may be presented at the hearing of the motion.

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4 NOTICE OF TENTATIVE RULING SYSTEM

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

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12 Dated: May 8, 2013

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14 Your name, party  
15 designation and date.

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17 By: \_\_\_\_\_  
18 Doug Defendant  
19 Defendant, In Pro Per  
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Demands for Production and Interrogatories rely on two different code sections. Choose the set of Points and Authorities that pertains to the type of discovery you want to compel.

Use this Points and Authorities to compel responses to your **Request for Production**.

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT FOR ORDER COMPELLING RESPONSES TO  
REQUEST FOR PRODUCTION AND FOR MONETARY SANCTIONS

Opposing party's designation, your party designation, and the set number of your requests.

PLAINTIFF HAS FAILED TO SERVE A TIMELY RESPONSE TO DEFENDANT'S DEMAND FOR PRODUCTION OF DOCUMENTS, SET ONE, AND THUS THE COURT SHOULD MAKE AN ORDER COMPELLING A RESPONSE AND IMPOSING A MONETARY SANCTION FOR THE FAILURE TO RESPOND.

**A. Party May Move for Order Compelling Response and for Monetary Sanction.** When a party makes an inspection demand under Section 2031.010 of the Code of Civil Procedure and the party to whom the demand is directed fails to respond, the demanding party may move for an order compelling response and for a monetary sanction under Section 2023.030 of the Code of Civil Procedure ( Code Civ. Proc. § 2031.300).

**B. Waiver of Objection to Demand.** When the party to whom an inspection demand has been directed fails to serve a timely response to it, that party waives any objection to the demand, including one based on privilege or on the protection for work product under Section 2018.010 et seq. of the Code of Civil Procedure ( Code Civ. Proc. § 2031.300(a)).

**C. Court Must Impose Monetary Sanction Absent Specified Findings.** The court must impose a monetary sanction under Section 2023.030 of the Code of Civil Procedure against any party, person, or attorney who unsuccessfully opposes a motion to compel a response to an inspection demand, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust (Code Civ. Proc. §§ 2023.030(a), 2031.300(c)).

**D. Court May Impose Sanctions Despite Lack of Opposition to Motion to Compel Discovery.** The court may award sanctions under the Discovery Act in favor of a party who files a motion to compel discovery, even though no opposition to the motion was filed, or opposition to the motion was withdrawn, or the requested discovery was provided to the moving party after the motion was filed (Cal. Rules of Ct., Rule 3.1030(a) ).

Dated: May 8, 2013

Your name, party designation and date.

By: \_\_\_\_\_  
Doug Defendant  
Defendant, In Pro Per

Demands for Production and Interrogatories rely on two different code sections. Choose the set of Points and Authorities that pertains to the type of discovery you want to compel.

Use this Points and Authorities to compel responses to **Form or Special Interrogatories**.

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT FOR ORDER COMPELLING RESPONSES TO

**FORM INTERROGATORIES-GENERAL** AND FOR MONETARY SA

Opposing party's designation, your party designation.

Identify the Discovery Requests for which you want to compel responses.

THE COURT SHOULD ISSUE AN ORDER COMPELLING PLAINTIFF TO ANSWER DEFENDANT'S FIRST SET OF **FORM INTERROGATORIES-GENERAL**, BECAUSE THE PLAINTIFF HAS FAILED TO SERVE A TIMELY RESPONSE. IF THE MOTION IS GRANTED, THE COURT SHOULD ALSO IMPOSE A MONETARY SANCTION AGAINST PLAINTIFF BECAUSE THERE IS NO SHOWING THAT IT ACTED WITH SUBSTANTIAL JUSTIFICATION OR THAT OTHER CIRCUMSTANCES MAKE THE IMPOSITION OF THE SANCTION UNJUST.

**A. Statutory Authority.** If a party to whom interrogatories have been directed fails to serve a timely response, the party propounding the interrogatories may move for an order compelling response (Code Civ. Proc. § 2030.290).

**B. Burden of Justification on Nonresponding Party.** The service and filing of interrogatories pursuant to Section 2030.010 et seq. of the Code of Civil Procedure places the burden on the interrogated party to respond by answer, the production of writings, or objection. The obligation of response must be satisfied unless excused by a protective order obtained on a factual showing of good cause why no response should be given (Coriell v. Superior Court (1974) 39 Cal. App. 3d 487, 492, 114 Cal. Rptr. 310).

**C. Court Must Impose Monetary Sanction Absent Specified Findings.** The court must impose a monetary sanction under Section 2023.030(a) of the Code of Civil Procedure against any party, person, or attorney who unsuccessfully opposes a motion to compel a response to interrogatories, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust (Code Civ. Proc. §§ 2023.030(a), 2030.290(c)).

**D. Court May Impose Sanctions Despite Lack of Opposition to Motion to Compel Discovery.** The court may award sanctions under the Discovery Act in favor of a party who files a motion to compel discovery, even though no opposition to the motion was filed, or opposition to the motion was withdrawn, or the requested discovery was provided to the moving party after the motion was filed (Cal. Rules of Ct., Rule 3.1030(a)).

Dated: May 8, 2013

Your name, party designation and date.

By: \_\_\_\_\_  
Doug Defendant  
Defendant, In Pro Per

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DECLARATION OF DOUG DEFENDANT IN SUPPORT FOR ORDER COMPELLING RESPONSES TO DISCOVERY REQUESTS AND FOR MONETARY SANCTIONS

I, DOUG DEFENDANT, declare:

Your name and party designation.

- 1. I am the defendant in the above entitled action.
- 2. On January 3, 2013 I served my Request for Production, Set One, on the plaintiff, Acme,

Inc. A true copy with proof of service is attached to this declaration as Exhibit A and made a part hereof.

Indicate what discovery request was served, when it was served, and on whom it was served.

Indicate the request for which you have not received responses.

- 3. I have not received any response to my Request for Production, Set One from the plaintiff.

4. On February 14, 2013, I had served the "meet and confer" letter attached with a proof of service, as Exhibit B, but have still not received any responses.

Indicate the date your meet and confer letter was served.

5. I ask that the court award sanctions of \$120. I base my request for the imposition of a sanction on basis that it took me 5 hours to research and prepare the instant motion. My hourly wage is \$12.00 per hour times 5 hours equals \$60, (12 x 5 = 60). In addition, the motion filing fee for this motion was \$60.

As a general rule, the Sacramento court is unlikely to impose sanctions if the motion is not opposed, and is unlikely to award sanctions other than attorney fees or the cost of the motion. Self-represented litigants have no attorney fees.

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

By: \_\_\_\_\_  
Doug Defendant  
Defendant, In Pro Per

Your name and party designation.

The declaration is the evidence that you are presenting. You are signing it under penalty of perjury, so you should be sure that the declaration contains all relevant evidence to establishing the service of the discovery, and the failure to respond, and that all of the facts alleged are true. Because this is your testimony, feel free to describe the events in your own words, but be sure that it clearly and concisely states the facts necessary for your motion.

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# Exhibit A

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