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## RELIEF FROM ADMISSIONS

# How to Ask to Withdraw Erroneous or Deemed Admissions

*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 [saclaw.org/relief-admissions](http://saclaw.org/relief-admissions).*

## BACKGROUND

During discovery, each party may serve one or more sets of requests for admissions, asking the opposing side to admit 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 in question, does not need to be proven at trial.

Occasionally, a party may inadvertently or mistakenly admit a fact that is not true, or may fail to respond to a request for admissions altogether, resulting in 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.

This Guide provides step-by-step instructions for asking to be relieved from these admissions, including a sample motion and a template that can be downloaded and modified to fit the facts and circumstances of your case.

## GROUNDINGS FOR RELIEF

[California Code of Civil Procedure \(CCP\) § 2033.300\(b\)](#) allows a court to permit the withdrawal or amendment of admissions *only* if the court “determines that the admission was the result of mistake, inadvertence, or excusable neglect, and that the party who obtained the admission will not be substantially prejudiced in maintaining that party’s action or defense on the merits.”

### ***Mistake, Inadvertence, or Excusable Neglect:***

The party asking to be relieved from admissions must present sufficient evidence for the court to find that the admissions or failure to respond to the request for admissions was the result of a mistake, inadvertence, or excusable neglect. The act or omission that led to the admission must be one that a

### You may also need....

#### Related Step-by-Step Guides

- [Responding to Requests for Admission](#)

#### Related Videos

- [Introduction to Discovery](#)

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.

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reasonably prudent person under the circumstances would make. Forgetting about the admissions, being too busy to properly respond, or being unable to afford an attorney are not sufficient grounds for relief. Some examples of reasons that might be excusable include:

- An unanticipated illness or injury that disabled the party, preventing him or her from responding;
- Reasonably, but mistakenly, believing that your former attorney had responded, based upon his or her representations;
- Having never received the request for admissions and subsequent motion to deem the admissions true, through no fault of your own;
- Misunderstanding a particularly complicated request, and incorrectly responding “admit” based upon this misunderstanding;
- Admitting or denying a fact based upon the information available at the time, only to determine through later-discovered evidence that your previous response was incorrect;
- Making a typographical error in the numbering of your responses such that your admissions do not correctly correspond to the requests, resulting in false statements being admitted, and true statements being denied.

***Party Obtaining Admission Not Substantially Prejudiced in Maintaining Action:***

After determining that an admission is the result of a mistake, inadvertence, or excusable neglect, the court must then consider whether the party that obtained the admission will be prejudiced if your motion to relieve the admission is granted. Some of the factors the court might find important in determining whether the other party will be prejudiced include, but are not limited, to:

- The promptness in which relief from admissions is granted;
- The nature of the facts that were admitted or deemed admitted;
- The reliance of the requesting party on the admission in conducting or not conducting further discovery.

In order to minimize any prejudice to the propounding or requesting party, the court may extend or reopen discovery, allow additional discovery, or make other orders to reduce any harm caused in granting your motion to be relieved from admissions.

As the party requesting to be relieved from the admissions, it is your burden to prove to the court both that the admission was the result of a mistake, inadvertence, or excusable neglect, and that the propounding party will not be prejudiced by the granting of your motion for relief from admissions.

## **STEP-BY-STEP INSTRUCTIONS**

### **Step 1: Prepare the Motion**

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

- [Notice of Motion and Motion to be Relieved from Deemed Admissions; Points and Authorities; and Declaration](#)

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### 1.1 Motions in General

A request to be relieved from the effect of admissions is made through a motion. A “motion” is a request asking the court to issue an order of some sort. Most motions are made in writing. With few exceptions (such as in family law cases), there is no Judicial Council form for making a motion. Instead, the motion must be typed on 28-line pleading paper. A written motion consists of four parts:

1. Notice of Motion;
2. Motion;
3. Points and Authorities; and
4. 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 explain 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 first two parts, the Notice of Motion and Motion, are typically combined together in the same document, while the Points and Authorities and Declaration are often separate documents. In many instances, however, they may be combined together into the same document, as in the case of the sample included in this Guide and in the downloadable template.

In Sacramento, the Notice of Motion and Motion **must** include the paragraph from Local Rule 1.06(D) ([www.saccourt.ca.gov/local-rules/docs/chapter-01.pdf](http://www.saccourt.ca.gov/local-rules/docs/chapter-01.pdf)) informing the parties of the tentative ruling system. That language is included in the sample at the end of this Guide, and in the template you may download from the website listed above.

### 1.2 Modify the Template Motion

At the end of this Guide is a sample motion to be relieved from admissions. A template may be downloaded from the link listed above. This sample and template include checkboxes that must be filled in by hand. Although you may use this form as is, your document will be much easier to read and more persuasive if you simply use the text from the items you would have checked, and delete the unused text and the unused checkboxes.

The template includes a fill-in-the-blanks declaration that you may use for your case. However, it is generally preferable if you use your own words to explain the facts of your case. The template does not anticipate all possible facts that might arise, and is best used merely as a guideline for some of the points that should be made in your declaration. The declaration is the most important part of the motion because the declaration presents to the court the evidence that you wish the court to consider when ruling on your motion. Since it is your responsibility, as the moving party, to prove the basis of your motion, the better your declaration, the more likely it is that your motion will be granted by the court.

#### IMPORTANT!

Your declaration must have a copy of your proposed admissions attached as an Exhibit, or **your motion will be denied**. For more information, see the Step-by-Step guide on Responding to Requests for Admissions on our website at [saclaw.org/respond-req-admissions](http://saclaw.org/respond-req-admissions).

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**1.3 Setting the Date of the Motion**

In Sacramento, the party requesting relief from admissions 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**.

**Filing Deadline:** The motion must be filed with the court at least sixteen court days prior to the motion 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.

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6	7	8	<div style="border: 1px solid red; padding: 5px; width: fit-content;">                     Day 5 falls on a weekend, so the last day for service by mail rolls over to the previous court day.                 </div>				12	<del>3</del>	4 Day 10	5 Day 9	6 Day 8	7 Day 7	8 Day 6	<del>9</del>
13	14	15					16	17	18 Last day to serve by mail	19 Day 5	<del>10</del>	11 Day 5	12 Day 4	13 Day 3
20 Day 4	21 Day 3	22 Day 2	23 Day 1	24 Day 16 Last day to file	25 Day 15	<del>26</del>	<del>17</del>	18 Hearing Date	19	20	21	22	23	
<del>27</del>	<del>28</del> 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 a copy of the motion and related documents to the attorney or self-represented party or mail a copy of the motion and related documents to the party by first class mail.

If the motion is personally served, the service must be at least sixteen court days prior to the date of the motion, 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

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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.

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

**1.4 Determining the Department to Hear and the Time of the Motion**

Motions to be relieved from admissions are heard in 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 now at the Hall of Justice Building, 813 6th St., Sacramento, CA 95814.

**Step 2: 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 must include your proposed admissions.

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:** In Sacramento County, the exhibits in one set of photocopies must be separated by a rigid sheet of card stock with a tab identifying the letter of the exhibit on the bottom. The Law Library sells exhibit tabs at the Circulation Desk.

Exhibits for the original and other two copies should be separated by a blank piece of pleading paper with their exhibit letter or number typed or written at the bottom of the page.

EXHIBIT A

**Step 3: 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 1.3 above for more information. In some situations, these timing requirements will help you decide which type of service will best fit your situation.

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### **Step 3.1: Fill out the Proof of Service form**

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

- 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 [saclaw.org/personal-service](http://saclaw.org/personal-service) and [saclaw.org/mail-service](http://saclaw.org/mail-service), respectively.

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

### **Step 3.2: 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 2 (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 3.3: 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 3.4: 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 4: Assemble Your Documents for Filing**

You will need to attach a signed proof of service to each of the packets you assembled in Step 2.

Attach your original signed proof of service to the packet of original documents. Use a clip, NOT a staple!

Staple a photocopy of the signed proof of service to each of your remaining photocopied packets.

## **Step 5: Filing/Fees**

File the original and three photocopies of your motion at the 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.

There is a \$60 filing fee for filing this 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)). If you were previously granted a fee waiver in this case, you will not need to file another fee waiver to file your motion. If you newly qualify for a fee waiver, you may file a request with the court along with your motion. For more information, see the Step-by-Step guide on Fee Waivers on our website at [saclaw.org/fee-waiver-guide](http://saclaw.org/fee-waiver-guide).

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## Step 6: Opposition and Reply

If opposing counsel or the self-represented party opposes your request for relief from admissions, he or she may serve and file an opposition at least nine court days prior to your hearing date ([CCP § 1005\(b\)](#)). Be sure to check your mail, and carefully read any documents you receive.

You may serve and file a reply to the opposing party's opposition (also written on pleading paper), at least five court days prior to the hearing date ([CCP § 1005\(b\)](#)). This reply should carefully address any points made by the opposition, especially if that point was not originally addressed in your motion.

## Step 8: Review the Tentative Ruling

Pursuant to Local Rule 1.06 ([www.saccourt.ca.gov/local-rules/docs/chapter-01.pdf](http://www.saccourt.ca.gov/local-rules/docs/chapter-01.pdf)), the court in most departments will make a tentative ruling on the merits of your matter 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.

You may read the tentative ruling online, or may Department 53 (916-874-7858) or Department 54 (916-874-7848) 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. 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." Be sure to read the tentative ruling very carefully to make sure you understand it.

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 the clerk for Department 53 (916-874-7858) or Department 54 (916-874-7848) 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 you do not do this, your hearing will be canceled.

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 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 requests oral argument by 4:00 p.m., the court will simply make the tentative ruling the order of the court, and no oral argument will be permitted. If a party requests oral argument, the court will make its ruling after the oral argument, either in court or by mail a few days later.

## FOR HELP

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

609 9th Street, Sacramento 95814

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

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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.

The Civil Self-Help Center also offers two Discovery sessions for assistance in responding to Requests for Admissions and other discovery requests:

### **Introduction to Written Discovery Class**

1:30 p.m. to 3:30 p.m., 1<sup>st</sup> Thursdays of the Month.

Come to understand what discovery is, how to answer questions you received by mail, and how you can use discovery yourself. Bring a USB flash drive to download sample forms. The Law Library sells USB drives at the Circulation Desk. Arrive by 1:20 p.m.

### **Discovery Lab**

1:30 p.m. to 3:30 p.m., 2<sup>nd</sup> & 4<sup>th</sup> Thursdays of the Month.

Work on your discovery requests or responses in this drop-in computer lab. Bring your USB flash drive with your requests or responses. No entrance after 3:15 p.m. Lab closes promptly at 3:30 p.m. The Introduction to Written Discovery Class is a prerequisite for the Discovery Lab.

## **FOR MORE INFORMATION**

*At the Law Library:*

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

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

**California Practice Guide: Civil Procedure Before Trial** [KFC 995 .W4](#)

**Electronic Access:** On the Law Library computers, using *Westlaw Next*.

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

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

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

**Electronic Access:** On the Law Library computers, using *Westlaw Next*.

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

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

## **ATTACHMENTS: FORMS AND INSTRUCTIONS**

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

- [Notice of Motion and Motion to be Relieved from Deemed Admissions; Points and Authorities; and Declaration](#)

Sample filled-in forms with instructions are available at the end of this Guide.

**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.**



1 PAUL SAMPLE  
123 ANYSTREET  
2 SACRAMENTO, CA 95814  
3 916-555-1234

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

4 Defendant, In Pro Per

5  
6  
7 SUPERIOR COURT OF CALIFORNIA COUNTY OF SACRAMENTO

8 Identify the plaintiff(s), defendant(s), and case number.

9 ACME, INC.,

10 Plaintiff,

11 vs.

12 PAUL SAMPLE,

13 Defendant

) Case No.: 34-2008-00099999

) NOTICE OF MOTION AND MOTION TO  
) BE RELIEVED FROM ADMISSIONS (CCP  
) §2033.300(a)); POINTS AND  
) AUTHORITIES; DECLARATION

) Date: June 18, 2012

) Dept./Time: Dept. 53 at 2:00 p.m.

) Date Complaint was filed: March 12, 2008

14  
15 Insert the date, time and department of  
16 the motion, as well as the date that the  
17 lawsuit was first filed. See Step 1.3 for  
information on how to select a hearing  
date.

18 YOU ARE HEREBY NOTIFIED THAT at the above-captioned date and time and department in the  
19 courthouse located at 813 Sixth Street, Sacramento, California that Paul Sample will move the court  
20 for an order relieving him or her from admissions, and permitting him or her to serve admissions  
21 responsive to the defendant's Request for Admissions, Set One. This motion is made on the grounds  
22 of inadvertence, surprise, mistake or reasonable neglect. This motion will be based upon this notice,  
23 the attached points and authorities and declaration of Paul Sample, and the records and files in this  
24 action.

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Insert your name and the set number of the admissions this motion concerns, where appropriate.

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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 day before the hearing. The complete text of the tentative rulings for the department may be downloaded off the court’s website. If the party does not have online access, they may call the dedicated phone number for the department as 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 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 before the hearing, no hearing will be held.

The local rules of the Sacramento Superior Court require that this notice about the tentative ruling system be included with each motion. Other courts have different requirements.

Dated: May 16, 2012

*Paul Sample*

Paul Sample  
Defendant, In Pro Per

Date, sign, and print your name.

Print the name of the party whose admissions this motion concerns, and the set number of the admissions.

## Memorandum of Points and Authorities

### I. Background

This motion arises from *Acme Inc.*'s Request for Admissions Set *One*.

On *November 14, 2011*:

the court deemed the admissions as admitted.

the moving party served admissions in response.

The moving party is now asking that the court relieve him or her of the basis of inadvertence, mistake or excusable neglect, and grant a response to these admissions.

Print the date that the court deemed the admissions admitted, or you served your admissions, and identify whether the admissions were served by you or deemed admitted by the court. You may either check the box by hand, or delete the checkbox for the text you are asserting, and delete the checkbox and text for anything that you are not asserting.

### II. LEGAL ARGUMENT

#### A. Pursuant to California Code of Civil Procedure 2033.300(a) the Court May Permit the Defendant to Respond

Pursuant to California Code of Civil Procedure §2033.300(a) an admission cannot be deemed amended or withdrawn except by leave of the court after noticed motion; see italics on the *Valerio v. Andrew Youngquist Const.* (2002) 103 Cal.App 4<sup>th</sup>1264, 1272. This includes "deemed admissions" ordered by the court under Code of Civil Procedure §2033.280 (b), as well as admissions expressly made by party. *Wilcox v. Birtwhistle* (1999) 21 Cal.4<sup>th</sup> 973, 979.

Pursuant to Code of Civil Procedure §2033.300(b), a party will be permitted to withdraw or amend on admission only if the court finds:

1. The admission resulted from "mistake, inadvertence or excusable neglect;" and
2. No substantial prejudice to the requesting party will result from allowing the admissions to be withdrawn or amended. See *New Albertsons, Inc. v. Sup. Ct. (Shanahan)* (2008) 168 Cal. App. 4<sup>th</sup> 1403, 1418.

This section explains the legal basis for a motion to be relieved from admissions. If your circumstances are unique, you may wish to supplement this section based on your own research.

Upon the required finding, the court may relieve a party of the effect of that party's admissions or even deemed admissions, and allow new or amended responses to be served upon the party requesting the admissions.

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For the reasons explained in the attached declaration, the moving party requests that the Court relieve him or her of the admissions, and permit a new or amended response to the admissions to be served.

Dated: May 17, 2012

*Paul Sample*

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Paul Sample  
Defendant, In Pro Per

Date, sign, and print your name.

The declaration contains the evidence that supports your motion. It is the most important part of the motion. Because your facts are unique to your case it is preferable that the declaration be written specifically to your circumstances, using this template only as a rough guide to the types of facts you might include.

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Identify whether you are the plaintiff or defendant.

## DECLARATION

I, am the **Defendant** in this matter, and I am making these admissions:

State whether you are seeking to amend your prior answer, or to be relieved from deemed admissions, as well as the set number and party that propounded the admissions. You may either check the box by hand, or delete the checkbox for the text you are asserting, and delete the checkbox and text for anything that you are not asserting.

If deemed admissions, the date they were deemed admitted by the court.

1. I am asking that the court to permit me to amend my admissions.  
 Serve amended admissions in accordance with the Request for Admissions Set **One** propounded by **Acme, Inc.**, that were previously deemed admitted on **April 28, 2012**.

2. Attached as Exhibit A is a list of the proposed Admissions that I request to serve.

Be sure when describing your inadvertence, mistake, or excusable neglect to use enough detail in a clear and concise description. Remember that your declaration is being read by a person who has no personal knowledge of any of the facts of your case, or how your case is being litigated, and for this reason it is crucial to explain your reasons fully, as if describing it for the first time to a stranger.

3. I am requesting that I be permitted to serve new admissions, or amend my previous admissions for the following reasons, which demonstrate that my previous response or lack thereof was the result of inadvertence, mistake, or excusable neglect: **I had no knowledge of the plaintiff's Requests for Admissions. I am using a PO Box to receive my mail, as I have moved several times in recent years. I regularly check the PO Box, and examine all mail received. Having been involved in a lawsuit before, I recognize legal documents, and had I received the plaintiff's Requests for Admissions, would have researched what type of response is required, and would have promptly served the proposed Response to Requests for Admissions attached as Exhibit A. Because I did not know about the Request for Admissions, nor about the Motion to Deem Facts Admitted, I was not able to respond to them in time. I am therefore asking the court to relieve me of the deemed admissions.**

Some of the factors the court might find important in determining whether the other party will be prejudiced include, but are not limited to: the promptness in which relief from admissions is granted; the nature of the facts that were admitted or deemed admitted; and the reliance of the requesting party on the admission in conducting or not conducting further discovery

4. For the following reasons, I contend that this request will not cause prejudice to the party requesting the admissions: **Acme, Inc. received an order deeming its Request for Admissions, Set One, on April 28, 2012. I learned of this order on May 3, 2012, and promptly began working on this motion. Relieving me of these admissions would not be prejudicial to the plaintiff, as allowing me to truthfully respond to the admissions, which I had previously attempted, would simply mean that the case would proceed to trial, where the case could be decided on its merits.**

State any other facts you wish the court to consider here.

1 5. Other facts I wish the court to consider: As seen in my proposed responses to these requests, I  
2 do not deny that I had this account, or that I previously used it. I do, however, dispute that  
3 there has been any activity on this account since 2004, when I paid off the balance in full  
4 using funds I inherited after my father's death. I believed the account to be closed at that  
5 point, and received no further billing statements. However, it appears that the account was not  
6 closed, and that the creditor continued to process internal fees and interest on those fees, for  
7 several years.

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

10 Dated: May 17, 2012

11 *Paul Sample*

12  
13 Paul Sample  
14 Defendant, In Pro Per

15 Date, sign, and print your name where indicated.

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# Proposed Admissions Exhibit A

1 PAUL SAMPLE  
2 123 ANYSTREET  
3 SACRAMENTO, CA, 95814  
916-555-1234  
Defendant, In Pro Per

Responding party's name, address and telephone number. "In Pro Per" means you are representing yourself.

Your motion **must** include your proposed responses to the requests for admission. If not included, your motion will be denied. For more information on responding to requests for admission, see the Step-by-Step guide on our website at [www.saclaw.org/respond-req-admissions](http://www.saclaw.org/respond-req-admissions).

7 SUPERIOR COURT OF CALIFORNIA  
8 COUNTY OF SACRAMENTO

Case number

9  
10 ACME, INC.

Plaintiff(s)

11 vs.

12  
13 PAUL SAMPLE

14 Defendant(s)

Party names and designations.

Case No.: 34-2008-00009999

) DEFENDANT PAUL SAMPLE'S  
) RESPONSES TO PLAINTIFF ACME, INC.'S  
) REQUEST FOR ADMISSIONS

) SET ONE

Set number. This number must match the number shown on the requests.

15  
16 PROPOUNDING PARTY: ACME, INC.  
17 RESPONDING PARTY: PAUL SAMPLE  
18 SET NUMBER: ONE (1)

Names of the propounding (asking) and responding parties, and the set number. This number must match the number shown on the requests.

19 RESPONDING PARTY hereby answers PROPOUNDING PARTY's Request for Admissions:

20 REQUEST FOR ADMISSION NO. 1:  
Admit.

21 REQUEST FOR ADMISSION NO. 2:  
Deny

22 REQUEST FOR ADMISSION NO. 3:

23 Cannot truthfully admit or deny the matters set forth in this request because he does not have  
24 knowledge of these matters, and despite reasonable inquiry into the matter by reviewing all of  
the records and information available to him, to obtain information from which the truth or  
falsity of the matter might be learned.

Respond to each request individually. You do not need to repeat the text of the request, but your responses must be in the same order as the requests, and each response should be labeled with the same number or letter as the request.

Your responses **must** include this verification language.

25 I declare under penalty of perjury under the laws of the State of California that the foregoing  
26 answers are true and correct.

27 Dated: \_\_\_\_\_

Paul Sample, Defendant In Pro Per

28 Sign and date.