

A long time ago (well, actually,  
today) in a galaxy far, far away (or in  
Martinez, California)....

## **THE LAW & MOTION SAGA**

### **EPISODE II: THE DISCOVERY WARS**



## DISCLAIMER

- I am happy to take questions during and after the program, time permitting.
- I am a quasi-judicial court employee bound not only by the Rules of Professional Conduct, but by the Canons of Judicial Ethics.
- I cannot answer questions about cases that are pending in the Contra Costa County Superior Court.
- I cannot answer questions about how particular judges would rule on any issue. Nothing in this seminar should be construed as any indication of how a judge would rule.
- All fact patters, examples and sample forms are fiction.

## ABBREVIATIONS

APJ – All-Purpose Judge	MSJ/MSA – Motion for Summary Judgment/Summary Adjudication
COA – Cause of Action	MTC – Motion to Compel
CoCoCo – Contra Costa County	NOE – Notice of Entry
F&S – File & Serve	POD – Request for Production of Documents
j/x – Jurisdiction	RFA – Request for Admission
M&C – Meet & Confer	RFJN – Request for Judicial Notice
MIL – Motion <i>In Limine</i>	Rog – Interrogatory (either Special or Form)
MJOP – Motion for Judgment on the Pleadings	SOL – Statute of Limitations
MPA – Memorandum of Points and Authorities	

## **THE LAW & MOTION UNIVERSE**

**All of the Episodes of the Law & Motion Saga will give examples based on the following set of hypothetical facts:**

***Darth Vader (fka Annikan Skywalker) died during the Battle of Endor. At the time of his death, Vader was unmarried. His wife, Padme Skywalker (nee Amidala), predeceased him in childbirth. Vader was survived by twin children, Luke Skywalker and Princess Leia Solo (nee Organa).***

***Approximately two months after Vader's death, Luke and Leia received a Trustee's Notification pursuant to Probate Code § 16061.7. The Trustee's Notification included a copy of The Darth Vader Revocable Living Trust. The Trust provides that the successor trustee following Vader's death is to be Emperor Palpatine or, if he does not survive (he didn't), then "Supreme Leader Snoke" is to serve as successor trustee. Upon Vader's death, all of the assets of the Trust (assumed to be worth approximately 10 million Galactic Credits) are to be distributed to Vader's Grandson, Ben Solo, except that Luke and Leia are to each receive a bantha, if any are assets of the Trust.***

**Shocked, Luke (but not Leia) hired an attorney to file a Petition in the Probate Division of the Contra Costa County Superior Court alleging, among other claims, that the Trust is invalid because (1) Vader lacked the requisite mental capacity to execute the Trust; (2) Vader was unduly influenced by Emperor Palpatine, Ben Solo and/or "Supreme Leader Snoko" into executing the Trust; and (3) Vader was under duress when he executed the Trust.**

**Assume that CoCoCo has personal and subject matter jurisdiction over this case and that service of the petition was proper and timely.**

## **EPISODE II: THE DISCOVERY WARS**

### **DISCOVERY MOTIONS**



## **EPISODE II: THE DISCOVERY WARS**

**Probate Code § 1000 specifically incorporates the Civil Discovery Act to Probate Code proceedings**

**Civil Discovery Act: CCP §§ 2016.010 et seq.**

**Discovery Motions: CRC 3.1345-3.1348**

## **EPISODE II: THE DISCOVERY WARS**

**THE GOVERNING PRINCIPLE FOR ALL DISCOVERY ISSUES:**

**CCP § 2017.010: “any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence.”**

**Discovery Statutes are to be construed liberally *in favor of disclosure*. Shepherd v. Superior Court (1976) 17 Cal.3d 107, 118**

## **CoCoCo DISCOVERY FACILITATOR PROGRAM**

**A prerequisite to filing a Motion to Compel Further Responses is compliance with the Discovery Facilitator Program**

**Local Rules 3.300-3.301**

**Includes motions per CCP § 1987.1 (non-party deposition subpoenas)**

## **CoCoCo DISCOVERY FACILITATOR PROGRAM**

### **Exceptions to Mandatory Participation (L.R. 3.300):**

- **Motions to Compel where there is no response.**
- **Trial is < 60 days away.**
- **Only issue is 3<sup>rd</sup> party's refusal to comply with a subpoena.**
- **Disputes exempted by trial judge.**
- **Other court order.**

## **STARTING THE DISCOVERY FACILITATOR PROGRAM (L.R. 3.301)**

- **Fill out local form ADR-610 & fax or e-mail.**
- **Deadline: Form must be served on or before last day to file motion**
  - **Usually 45 days after responses served or as otherwise agreed to by parties.**
  - **NOTE RE DEPOSITIONS: Deadline to file MTC is 60 days from date deposition record is complete. CCP § 2025.480(b).**

## **STARTING THE DISCOVERY FACILITATOR PROGRAM (L.R. 3.301)**

- **ADR Office assigns Discovery Facilitator w/in 20 days.**
- **Parties have 10 days to object to proposed Facilitator.**
  - **1<sup>st</sup> objection: Facilitator is re-assigned**
  - **Subsequent objections: only by *ex parte* application showing good cause**
  - **No objection: Facilitator is automatically confirmed.**

## **DISCOVERY FACILITATOR HEARING (L.R. 3.301)**

- **Hearing within 30 days.**
- **Briefing of dispute is at Facilitator's discretion, but should be informal.**
- **Maximum hearing length: 4 hours.**
- **If dispute is resolved at the hearing, the terms of the resolution are reduced to writing, and the appointment of the Facilitator is terminated.**
- **Otherwise, within 10 days after the hearing, Facilitator serves "Recommendations" on the merits.**

## **DISCOVERY FACILITATOR HEARING (L.R. 3.301)**

- **If Recommendations do not resolve the dispute, moving party has 30 days from service of the Recommendations to file and serve a Motion.**
- **Motion must include as the first exhibit a declaration that the parties have completed the Facilitator Program.**
- **Court will consider the Recommendations in deciding the merits of the Motion.**



## **FORMAL DISCOVERY MOTIONS: GENERAL CONCEPTS**

- **5 types of discovery motions:**

- 1. Motion for a Protective Order (the preemptive strike)**

- **CCP §§ 1987.1, 2025.420 (Non-Party Subpoenas)**
- **CCP § 2025.420 (Party Depositions)**
- **CCP § 2030.090 (Rogs)**
- **CCP § 2031.060 (POD)**
- **CCP § 2033.080 (RFA)**
- **CCP § 2034.250 (Expert Witness Discovery)**

## **FORMAL DISCOVERY MOTIONS: GENERAL CONCEPTS**

- **5 types of discovery motions:**

- 2. MTC Responses (no response given *at all*)**

- **CCP § 2025.480 (Non-Party Subpoena)**
- **CCP § 2025.450 (Party Deposition)**
- **CCP § 2030.290 (Rogs)**
- **CCP §§ 2031.300, 2031.320 (POD)**

## **FORMAL DISCOVERY MOTIONS: GENERAL CONCEPTS**

- **5 types of discovery motions:**

- 3. Motion for Order that RFAs be Deemed Admitted**

- **CCP § 2033.280(b)**



## **FORMAL DISCOVERY MOTIONS: GENERAL CONCEPTS**

- **5 types of discovery motions:**

- 4. MTC Further Responses (response/objection given)**

- **CCP § 2025.480 (Non-Party Subpoena)**
    - **CCP § 2025.450 (Party Deposition)**
    - **CCP § 2030.300 (Rogs)**
    - **CCP § 2031.310 (POD)**
    - **CCP § 2033.290 (RFA)**

## **FORMAL DISCOVERY MOTIONS: GENERAL CONCEPTS AND AUTHORITIES**

- **5 types of discovery motions:**
  - 5. **Motion for Independent Medical Examination**
    - **CCP §§ 2032.310 et seq.**

## **FORMAL DISCOVERY MOTIONS: GENERAL CONCEPTS AND AUTHORITIES**

- **In addition, Discovery Motions are governed by CRC 3.1345-3.1348.**
- **Timing**
  - **Service of Papers: 16/9/5 Rule**
  - **Last day to hear non-expert discovery motions: 15 days before initial first trial date. CCP § 2024.020(a).**
  - **Last day to hear expert witness discovery motions: 10 days before initial first trial date. CCP § 2024.030.**
  - **CCP § 2016.060: Deadline is weekend or holiday? Extended to next court day closer to trial.**

## **FORMAT OF FORMAL DISCOVERY MOTIONS**

- **Motion to Compel; Motion to Deem RFAs Admitted; Motion for IME; Motion for Terminating Sanctions:**
  - **Notice of Motion, MPA, Evidence**
- **Motion for a Protective Order; Motion to Compel Further Response; Motion for Issue or Evidentiary Sanctions:**
  - **Notice of Motion, MPA, Evidence, Separate Statement/Concise Outline**

## **SEPARATE STATEMENT REQUIREMENT**

- **CRC 3.1345**
  - **Required in all discovery motions except in a Motion to Compel Responses (no response given) or when a court allows the moving party to give a concise outline of the discovery request and each response in dispute.**
  - **Moving party only.**
  - **Format (CRC 3.1345(c)):**
    - **Separate Document.**
    - ***Verbatim* recitation of request and response at issue.**
    - **“A statement of the factual and legal reasons for compelling further responses, answers, or production as to each matter in dispute.”**

## FEATURES OF PARTICULAR DISCOVERY MOTIONS

- **Motions for Protective Orders**
  - Allows *responding party* to seek an order controlling discovery
  - Party or non-party witness may file
  - Uses:
    - *Quashing* the discovery demand entirely
    - Control *timing* of discovery (e.g., deposition scheduling)
    - Advance ruling on *privilege* or *work product* issues
    - Control who *attends* depositions
    - Control *conduct of counsel* at deposition
    - Limit the *number* of written discovery requests (rule of 35)
    - Control *how documents are to be produced*
    - Limit the *number of expert witnesses* identified by a party

## FEATURES OF PARTICULAR DISCOVERY MOTIONS

- **Motions for Protective Orders**
  - Generally, moving party (party responding to discovery) carries burden of proof on motion to show “good cause” for the protective order. Emerson Elec. Co. v. Superior Court (1997) 16 Cal.4<sup>th</sup> 1101, 1110.
  - Timing: for written discovery, motion must be made *promptly and before response is due* (otherwise objection may be waived)
  - Alternative to motion, particularly as to written discovery, is to raise *objections* in response.

## FEATURES OF PARTICULAR DISCOVERY MOTIONS

- **MTC Responses (no response *at all*)**
  - Deponent doesn't show up; No response to written discovery demands; No document production despite agreement to produce.
  - Includes *unverified* written responses.
    - Equivalent of no response at all. Appleton v. Superior Court (1988) 206 Cal. App. 3d 632, 636.
    - NOTE: Objections do not require verification.

## FEATURES OF PARTICULAR DISCOVERY MOTIONS

- **MTC Response (no response *at all*)**
  - No M&C required.
    - Probably should before filing MTC for unverified responses.
    - Non-party deponent failure to appear or produce records: must provide declaration that moving party has contacted the deponent to inquire about non-appearance/failure to produce. CCP § 2025.450(b)(2).
  - Not required to use Discovery Facilitator Program.
  - No Separate Statement required.

## FEATURES OF PARTICULAR DISCOVERY MOTIONS

### MTC Responses (no response *at all*)

- **NO DEADLINE TO FILE (except pre-trial deadline)!!!**
- **Not available for CCP § 2034.210 expert witness demand.**
  - **Party who unreasonably fails to comply with exchange demand may not use expert witnesses at trial. CCP § 2034.300.**
- **Not available for RFA**
  - **Use Motion for Deemed Admissions instead.**

## FEATURES OF PARTICULAR DISCOVERY MOTIONS

### MTC Responses (no response *at all*)

- **What if responding party serves responses while the MTC is pending? Trial court has options. Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants (2007) 148 Cal. App. 4<sup>th</sup> 390, 408-409:**
  - **Grant the motion (especially if responses are not Code-Compliant);**
  - **Deny the motion as moot w/o prejudice to filing a MTC *further* responses;**
  - **Consider substance of responses and rule on whether further responses are required.**
- **Propounding party may still seek monetary sanctions against responding party if originally requested in the MTC. CRC 3.1348(a).**

## FEATURES OF PARTICULAR DISCOVERY MOTIONS

- **Motion for Order that RFAs be Deemed Admitted**
  - **CCP § 2033.280(b).**
  - **No response given at all or unverified written responses.**
    - **NOTE: Objections do not require verification.**
  - **No M&C required.**
    - **Probably should before filing for unverified responses.**
  - **Not required to use the Discovery Facilitator Program.**
  - **No Separate Statement required.**

## FEATURES OF PARTICULAR DISCOVERY MOTIONS

- **Motion for Order that RFAs be Deemed Admitted**
  - **Late response defeats motion. CCP § 2033.280(c).**
    - **“Late” = before hearing on the motion.**
    - **Response must be in *substantial compliance* with Code.**
      - **Unverified response = no response at all. Allen-Pacific, Ltd. v. Superior Court (1997) 57 Cal. App. 4<sup>th</sup> 1546, 1551.**
      - ***No objections.* Objections are now waived!**
        - **Relief from waivers: CCP § 2033.280(a).**
        - **Not CCP § 473(b).**
    - **Court may not shorten time on motion. Demyer v. Costa Mesa Mobile Home Estates (1995) 36 Cal. App. 4<sup>th</sup> 393, 401.**



## FEATURES OF PARTICULAR DISCOVERY MOTIONS

- **Motion for Order that RFAs be Deemed Admitted**
  - No late response in substantial compliance? Motion must be granted.
  - Admissions are preclusively established against the responding party. CCP § 2033.410(a).
  - In addition, monetary sanctions are mandatory
    - Including when responding party serves substantially-compliant response while motion is pending. CCP § 2033.280(c).
    - Compare: no sanctions were responses served *before* motion is filed.

## FEATURES OF PARTICULAR DISCOVERY MOTIONS

- **MTC Further Responses (response/objection given)**
  - Applies to deposition subpoenas, depositions, Rogs and POD.
  - Unsatisfactory response under oath at depo, unsatisfactory verified written response, or meritless objections.
    - Objections must be signed by counsel or *pro per* party
  - Requires M&C and participation in Discovery Facilitator Program in CoCoCo.

## FEATURES OF PARTICULAR DISCOVERY MOTIONS

- **MTC *Further* Responses (response/objection given) (Burdens of Proof)**
  - **Depos (including Depo Subpoenas)**
    - Where MTC is for production of documents attached to subpoena/notice, burden of proof is on moving party to show “good cause” for the production. Calcor Space Facility, Inc. v. Superior Court (1997) 53 Cal. App. 4<sup>th</sup> 216, 223-224 (non-party subpoena); CCP § 2025.450(b) (party depo notice).

## FEATURES OF PARTICULAR DISCOVERY MOTIONS

- **MTC *Further* Responses (response/objection given) (Burdens of Proof)**
  - **Depos (including Depo Subpoenas)**
    - Where MTC is for further response to a question at deposition, burden of proof is on the deponent to justify refusal to respond.
    - When filing, certified transcript excerpts must be lodged with the court. CCP § 2025.480(h)
      - Check with your court – most will dispense with this requirement.
      - Rough draft must not be used. CCP § 2025.540(b).

## FEATURES OF PARTICULAR DISCOVERY MOTIONS

- **MTC *Further Responses* (response/objection given) (Burdens of Proof)**
  - **Rogs (Form and Special); RFA**
    - **Form Rogs are not objection proof!**
      - **E.g., Coito v. Superior Court (2012) 54 Cal.4<sup>th</sup> 480, 499, 502 (Form Rog. 12.2).**
    - **Burden is on the *responding party* to justify objections or refusal to fully respond. Coy v. Superior Court (1962) 58 Cal.2d 210, 220-221.**

## FEATURES OF PARTICULAR DISCOVERY MOTIONS

- **MTC *Further Responses* (response/objection given)**
  - **POD**
    - **Two types of MTC: To compel further written response and to compel further document production.**
      - **Must be clear about what you are seeking in the Notice of Motion!**
    - **Motion requires a showing of “good cause” for the production. CCP § 2031.310(b)(1).**
      - **“Good cause” = relevance to the subject matter and specific facts justifying discovery (e.g., why the document(s) is/are necessary for trial prep or to avoid surprise). Glenfed Develop. Corp. v. Superior Court (1997) 53 Cal. App. 4<sup>th</sup> 1113, 1117.**

## FEATURES OF PARTICULAR DISCOVERY MOTIONS

- **Motion for Independent Medical Examination (“IME”)**
  - **CCP §§ 2032.310 et seq.**
  - The only way to get an IME is by motion and order, absent a stipulation.
  - Potentially useful in contested conservatorship cases.
  - Examinee’s condition must be “in controversy”. CCP § 2032.020(a).

## FEATURES OF PARTICULAR DISCOVERY MOTIONS

- **Motion for Independent Medical Examination (“IME”)**
  - Moving party carries burden to show “good cause” for the exam. CCP § 2032.320(a).
    - Relevancy to the subject matter, need for the information sought and lack of means for obtaining it elsewhere. Vinson v. Superior Court (1987) 43 Cal.3d 833, 840.
    - Consider *deposing* the physician who signed the Capacity Declaration and proposed conservatee’s treating physician(s) before filing a motion to show lack of means.

## FEATURES OF PARTICULAR DISCOVERY MOTIONS

- **Motion for Independent Medical Examination (“IME”)**
  - **Notice of Motion must state the time and place for the examination; the identity and specialty of the examiner; and the manner, conditions, scope and nature of the examination. CCP § 2032.310(b).**
  - **M&C required. CCP § 2032.310(b).**
  - **Examiner need not be actually “independent”. Bias goes to credibility at trial, not to the qualification of examiner to be appointed. Mercury Cas. Co. v. Superior Court (1986) 179 Cal. App. 3d 1027, 1034.**

## DISCOVERY SANCTIONS

- **General Authority: CCP §§ 2023.010-2023.050**
- **All methods of discovery authorize the imposition of sanctions against those who “misuse the discovery process”**
  - **Depositions: CCP §§ 2025.410 *et seq.***
  - **Rogs: CCP §§ 2023.290 *et seq.***
  - **RFA: CCP §§ 2033.280 *et seq.***
  - **POD: CCP §§ 2031.300 *et seq.***
  - **IME: CCP §§ 2032.410 *et seq.***



## DISCOVERY SANCTIONS

- Purpose of sanctions is to compel disclosure, *not to punish*. Ghanooni v. Super Shuttle of Los Angeles (1993) 20 Cal. App. 4<sup>th</sup> 256, 262.

## DISCOVERY SANCTIONS

- “Misuse of the discovery process” (CCP § 2023.010)
  - Improper use of a discovery method
  - Use of discovery to cause unwarranted annoyance, undue burden and expense
  - Failing to respond
  - Making unmeritorious objections without substantial justification.
  - Evasive responses
  - Making or opposing a discovery motion without substantial justification
  - Failing to meet and confer in good faith

## DISCOVERY SANCTIONS

- **Monetary Sanctions (CCP § 2023.030(a))**
  - “Shall” be awarded for a misuse of the discovery process unless court finds “substantial justification” for the conduct or other circumstances make the imposition of sanctions unjust. CCP § 2023.030(a).
    - “Substantial justification”: conduct was well-grounded in both law and fact. Doe v. United States Swimming, Inc. (2011) 200 Cal. App. 4<sup>th</sup> 1424, 1434.
  - “Shall” be awarded against party, attorney or both who fails to meet and confer where required, regardless of the outcome of the Motion. CCP § 2023.020.

## DISCOVERY SANCTIONS

- **Monetary Sanctions**
  - **Amount:** reasonable expenses including attorney’s fees incurred in bringing or opposing the motion.
    - E.g., attorney’s fees, filing fees, travel expenses, court time.
  - **No penalty.** Kwan Software Engineering, Inc., v. Hennings (2020) 58 Cal. App. 5<sup>th</sup> 57, 75.
  - **No fees recoverable by pro per litigant (costs are OK).** Argaman v. Ratan (1999) 73 Cal. App. 4<sup>th</sup> 1173, 1179.

## DISCOVERY SANCTIONS

- **Monetary Sanctions**
  - **Special Sanction (CCP § 2023.050)**
    - In addition to any other sanction, court shall sanction party, person or attorney \$250.00 to the requesting party if:
      - The party, person or attorney failed to respond in good faith to a document demand in a subpoena, deposition notice or POD;
      - Offending party produced documents within 7 days of MTC hearing that is filed as a result of failure to respond in good faith; or
      - Offending party failed to meet and confer.
    - **COURT MAY REQUIRE ATTORNEY TO REPORT SANCTION TO THE STATE BAR!!!**
    - **Mandatory sanction unless the court finds in writing that the offending party acted with substantial justification or sanction is otherwise unjust.**
    - ***Pro per* party is presumed to have acted in good faith unless otherwise proved by *clear & convincing evidence*.**

## DISCOVERY SANCTIONS

- **Non-Monetary Sanctions (CCP § 2023.030(b)-(e))**
  - Usually only available for refusal to comply with prior discovery orders.
  - **Not available for failure to pay monetary sanctions:**
    - Orders for monetary sanctions are enforceable as a judgment under the Enforcement of Judgments Law. Newland v. Superior Court (1995) 40 Cal. App. 4<sup>th</sup> 608, 615.
    - See also CCP § 680.230: “Judgment” includes orders



## DISCOVERY SANCTIONS

- **Non-Monetary Sanctions (CCP § 2023.030(b)-(e))**
  - **Evidence Sanction**: Offending party is prohibited from presenting particular evidence.
  - **Issue Sanction**: Designated facts are established in favor of the non-offending party. Also prohibiting offending party from submitting evidence on an issue.
  - **Terminating Sanction: Doomsday!**
    - Striking pleadings or parts of pleadings
    - Staying proceedings until discovery order is obeyed
    - Dismissal
    - Default
  - **Contempt**

## DISCOVERY SANCTIONS

- **Obtaining Sanctions**
  - Notice of Motion must specify the party(-ies) against whom the sanction is sought.
    - If seeking monetary sanctions against counsel, the attorney must be named *personally*. Blumenthal v. Superior Court (1980) 103 Cal.App. 3d 317, 320.
  - Opposing parties may request monetary sanctions in their Opposition for making a discovery motion without substantial justification.
  - Notice of Motion must specify the amount of monetary sanctions sought.
  - Notice of Motion must cite the sanctioning authority.

## DISCOVERY SANCTIONS

### • Obtaining Sanctions

- Where monetary sanctions are sought, motion must include a declaration that sets forth the facts supporting the amount.
- Where issue or evidentiary sanctions are sought, Separate Statement is required. CRC 3.1345(a)(7).
- M&C is not required for sanctions for disobedience of prior order, but it is recommended.
- Where terminating sanctions are sought, Separate Statement is not required. Siry Investment, L.P. v. Farkhondehpour (2020) 45 Cal. App. 5<sup>th</sup> 1098, 1119.
- Monetary sanctions are available *in addition to* more severe sanctions.

## THE BOTTOM LINE

**AVOID DISCOVERY DISPUTES WHENEVER YOU CAN!!!**

**DISCOVERY DISPUTES ARE EXPENSIVE AND UNNECESSARY**

**COURTS HATE DISCOVERY DISPUTES**

**RISK OF SANCTIONS (MAYBE STATE BAR REPORTABLE SANCTIONS)**

**“REASONABLY CALCULATED TO LEAD TO THE DISCOVERY OF ADMISSIBLE EVIDENCE”**

**QUESTIONS???**



Presented by:  
**Mark Schmuck**  
Probate Research Attorney  
Contra Costa County Superior Court



**EPIISODE II SAMPLE  
FORMS**

**DISCOVERY  
FACILITATOR  
PROGRAM**

**REQUEST FOR ASSIGNMENT OF DISCOVERY FACILITATOR**

Case Name: \_\_\_\_\_

Case Number: \_\_\_\_\_

Plaintiff/defendant \_\_\_\_\_ hereby requests assignment of a Discovery Facilitator.

Plaintiff/defendant intends to file a motion regarding the following type(s) of discovery:

- Form interrogatories
- Special Interrogatories
- Requests for Admissions
- Inspection Demands
- Other (describe) \_\_\_\_\_
- Deposition Questions
- Subpoenas Duces Tecum
- Medical or Mental Health Examinations
- For issue or evidentiary sanctions

The deadline for filing the motion is \_\_\_\_\_.

The party(ies) against whom this motion will be brought are:

\_\_\_\_\_  
(Names of Parties)

A service list for this motion is attached or is as follows (set forth each attorney's or self-represented party's name, fax and email, and party represented):

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Fax number: \_\_\_\_\_

Fax number: \_\_\_\_\_

Email \_\_\_\_\_

Email \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Fax number: \_\_\_\_\_

Fax number: \_\_\_\_\_

Email \_\_\_\_\_

Email \_\_\_\_\_

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

\_\_\_\_\_  
(Print name) Attorney for Plaintiff/Defendant

\_\_\_\_\_  
Email address

**MOTION TO  
COMPEL  
RESPONSES**

1 Darth Maul, Esq. (SBN K2SO)  
2 LAW OFFICE OF DARTH MAUL  
3 1 Sith Road  
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(925) 555-5555 | Fax (925) 555-5555  
[DMaul@thisisntrealeither.com](mailto:DMaul@thisisntrealeither.com)

5 Attorneys for BEN SOLO

6 SUPERIOR COURT OF CALIFORNIA

7 COUNTY OF CONTRA COSTA

8 In re the

Case No.: P74-00001

9 DARTH VADER REVOCABLE LIVING  
10 TRUST.

11 NOTICE OF MOTION AND MOTION TO  
12 COMPEL RESPONSES TO SPECIALLY  
13 PREPARED INTERROGATORIES; FOR AN  
14 ORDER DEEMING FIRST SET OF  
15 REQUESTS FOR ADMISSION ADMITTED;  
AND FOR MONETARY SANCTIONS  
AGAINST LUKE SKYWALKER AND HIS  
COUNSEL, CASSIAN ANDOR

16 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

17 NOTICE IS HEREBY GIVEN that on July 12, 2074, at 9:00 a.m. in Department 30 of  
18 the above-captioned court, located at 725 Court Street, Martinez, California, Ben Solo  
19 (“Respondent”) will and hereby does move for an order pursuant to Code of Civil Procedure  
20 section 2030.290(b) compelling Luke Skywalker (“Petitioner”) to serve full and complete, Code-  
21 compliant responses to Ben Solo’s First Set of Specially Prepared Interrogatories, without  
22 objection. The grounds for this Motion are that Respondent served the interrogatories on  
23 Petitioner, the time within which Petitioner must have responded expired, and no response was  
timely served.

24 NOTICE IS FURTHER GIVEN that at the same time and place set forth above,  
25 Respondent will and hereby does request an order pursuant to Code of Civil Procedure section  
26 2033.280(b) deeming each and every of Respondent’s First Set of Requests for Admission

27 NOTICE OF MOTION AND MOTION TO COMPEL RESPONSES TO SPECIALLY PREPARED  
28 INTERROGATORIES; FOR AN ORDER DEEMING FIRST SET OF REQUESTS FOR ADMISSION  
ADMITTED; AND FOR MONETARY SANCTIONS AGAINST LUKE SKYWALKER AND HIS COUNSEL,  
CASSIAN ANDOR - 1

1 admitted. The grounds for this Motion are that Respondent served the Requests for Admission  
2 on Petitioner, the time within which Petitioner must have responded expired, and no response  
3 was timely served.

4 NOTICE IS FURTHER GIVEN that at the same time and place set forth above,  
5 Respondent will and hereby does request the imposition of monetary sanctions pursuant to Code  
6 of Civil Procedure sections 2023.030(a), 2030.290(c) and 2033.280(b) in the amount of  
7 \$2,560.00 against Luke Skywalker and his counsel, Cassian Andor, jointly and severally. The  
8 ground for this request is that Petitioner's failure to serve timely responses to Respondent's First  
9 Set of Specially Prepared Interrogatories and First Set of Requests for Admission constitutes a  
10 "misuse of the discovery process" as that term is defined in Code of Civil Procedure section  
2023.010(d).

11 This Motion is based on this Notice, the Memorandum of Points and Authorities, the  
12 Declaration of Darth Maul, both on file herewith, the file in this matter, and on such oral  
13 argument as may be received at the hearing on this matter.

14  
15 Date: \_\_\_\_\_

\_\_\_\_\_  
16 DARTH MAUL, ESQ.  
17 Attorneys for BEN SOLO  
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Attorneys for BEN SOLO

SUPERIOR COURT OF CALIFORNIA

COUNTY OF CONTRA COSTA

In re the  
  
DARTH VADER REVOCABLE LIVING  
TRUST.

Case No.: P74-00001

MEMORANUDM OF POINTS AND  
AUTHORITIES IN SUPPORT OF MOTION  
TO COMPEL RESPONSES TO SPECIALLY  
PREPARED INTERROGATORIES AND  
FOR MONETARY SANCTIONS AGAINST  
LUKE SKYWALKER AND HIS COUNSEL,  
CASSIAN ANDOR

I.

**INTRODUCTION**

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II.

**STATEMENT OF FACTS**

Describe the facts concerning the discovery at issue, including date that discovery was served and the failure to timely respond.

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**III.**

**LEGAL DISCUSSION**

Apply the facts to the law.

**IV.**

**CONCLUSION**

Conclude here.  $\Xi\Delta\text{O } 1\aleph \text{ } \text{F}\text{K}7\downarrow\text{E } \text{J}\text{K}\text{L}\text{J } \text{V}\text{Y}\text{V}\text{I}\text{A } \text{N}\downarrow\text{I}\text{J } \text{K}\text{J}\text{I}\text{Y}\text{V}\text{I}\text{J}$   
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Date: \_\_\_\_\_

\_\_\_\_\_/s/\_\_\_\_\_  
DARTH MAUL, ESQ.  
Attorneys for BEN SOLO

1 Darth Maul, Esq. (SBN K2SO)  
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7 Attorneys for BEN SOLO

8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF CONTRA COSTA

10 In re the

Case No.: P74-00001

11 DARTH VADER REVOCABLE LIVING  
12 TRUST.

DECLARATION OF DARTH MAUL IN  
SUPPORT OF MOTION TO COMPEL  
RESPONSES TO SPECIALLY PREPARED  
INTERROGATORIES AND FOR  
MONETARY SANCTIONS AGAINST  
LUKE SKYWALKER AND HIS COUNSEL,  
CASSIAN ANDOR

13 I, DARTH MAUL, declare as follows:

14 1. I am an attorney at law duly licensed to practice law in the State of California and  
15 an attorney of record herein for Petitioner Ben Solo (“Respondent”). I have personal knowledge  
16 of the facts set forth herein and if called on to testify, I could and would do so competently.

17 2. On February 2, 2074, I served my client’s “First Set of Specially Prepared  
18 Interrogatories on Luke Skywalker” on Petitioner Luke Skywalker’s (“Petitioner’s”) counsel,  
19 Cassian Andor. A true and correct copy of these Interrogatories is attached hereto as **Exhibit A**.  
20 At the same time, I served my client’s “First Set of Requests for Admission on Luke Skywalker”  
21 a true and correct copy of which is attached hereto as **Exhibit B**. A true and correct copy of the  
22 proof of service by mail for these interrogatories and Requests for Admission is attached hereto  
23 as **Exhibit C**.

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3. Pursuant to Code of Civil Procedure section 2030.260(a), responses to these interrogatories were due to be served on March 9, 2074 (30 days after service, plus 5 days for mail service). No responses were received from Petitioner by March 9.

4. Mr. Andor did not request any extension of time by which responses were to be served.

**5. [OPTIONAL: INCLUDE ATTEMPTS TO CONTACT OPPOSING COUNSEL TO FIND OUT WHY RESPONSES WERE NOT SERVED]**

6. I spent a total of 5 hours preparing this Motion. My current hourly billing rate is \$500.00 per hour for a total bill to my client of \$2,500.00. In addition, my office advanced the filing fee for this Motion in the amount of \$60.00.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 20<sup>th</sup> day of April, 2074, at Death Valley, California.

\_\_\_\_\_/s/  
DARTH MAUL, ESQ.  
Attorneys for BEN SOLO

**MOTION TO  
COMPEL FURTHER  
RESPONSES**

1 Cassian Andor, Esq. (SBN THX1138)  
2 THE ANDOR LAW FIRM  
3 1234 Wookiee Lane  
4 Skywalker Ranch, CA 94553  
(925) 555-5555 | Fax (925) 555-5555  
[CAndor@thisisntreal.com](mailto:CAndor@thisisntreal.com)

5 Attorneys for LUKE SKYWALKER

6 SUPERIOR COURT OF CALIFORNIA

7 COUNTY OF CONTRA COSTA

8  
9 In re the

Case No.: P74-00001

10 DARTH VADER REVOCABLE LIVING  
11 TRUST.

12 NOTICE OF MOTION AND MOTION TO  
13 COMPEL FURTHER RESPONSES TO  
14 FIRST SET OF REQUESTS FOR  
15 ADMISSION AND FIRST SET OF FORM  
16 INTERROGATORIES; REQUEST FOR  
17 MONETARY SANCTIONS AGAINST BEN  
18 SOLO AND HIS COUNSEL, DARTH MAUL

19 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

20 NOTICE IS HEREBY GIVEN that on September 2, 2074, in Department 30 of the  
21 above-captioned court, located at 725 Court Street, Martinez, California, Luke Skywalker  
22 (“Petitioner”) will and hereby does move for an order compelling further responses, without  
23 objection, to Petitioner’s First Set of Requests for Admission nos. 1 and 2, from Respondent Ben  
24 Solo (“Respondent”), pursuant to Code of Civil Procedure section 2033.290. The grounds for  
25 this Motion are that the Respondent’s responses are not Code-compliant, are evasive, and the  
26 objections to the Requests are without merit.

27 NOTICE IS FURTHER GIVEN that at the same time and place set forth above,  
28 Petitioner will and hereby does move for an order compelling further responses, without  
objection, to First Set of Form Interrogatories no. 17.1, from Respondent, pursuant to Code of  
Civil Procedure section 2030.300. The grounds for this Motion are that the Respondent’s

NOTICE OF MOTION AND MOTION TO COMPEL FURTHER RESPONSES TO FIRST SET OF REQUESTS  
FOR ADMISSION AND FIRST SET OF FORM INTERROGATORIES; REQUEST FOR MONETARY  
SANCTIONS AGAINST BEN SOLO AND HIS COUNSEL, DARTH MAUL - 1

1 responses are not Code-compliant, are evasive, and the objections to the Requests are without  
2 merit.

3 NOTICE IS FURTHER GIVEN that at the same time and place set forth above,  
4 Petitioner will and hereby does request the imposition of monetary sanctions in the amount of  
5 \$2,560.00 against Respondent Ben Solo and his counsel, Darth Maul, jointly and severally,  
6 pursuant to Code of Civil Procedure sections 2023.030(a), 2033.290(d) and 2030.300(d). The  
7 ground for this request are that the responses and objections to Petitioner's First Set of Requests  
8 for Admission and First Set of Form Interrogatories are either without merit, evasive, and  
9 constitute misuses of the discovery process as defined by Code of Civil Procedure section  
2023.010.

10 This Motion is based on this Notice, the Memorandum of Points and Authorities,  
11 Declaration of Cassian Andor, and the Separate Statement of Discovery In Dispute, all on file  
12 herewith, the file herein, and on such other and further argument as may be made at the hearing  
13 on this matter.

14 Date: \_\_\_\_\_

15 \_\_\_\_\_  
16 CASSIAN ANDOR, ESQ.  
17 Attorneys for LUKE SKYWALKER  
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Attorneys for LUKE SKYWALKER

SUPERIOR COURT OF CALIFORNIA

COUNTY OF CONTRA COSTA

In re the

Case No.: P74-00001

DARTH VADER REVOCABLE LIVING TRUST.

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO COMPEL FURTHER RESPONSES TO FIRST SET OF REQUESTS FOR ADMISSION AND FIRST SET OF FORM INTERROGATORIES; REQUEST FOR MONETARY SANCTIONS AGAINST BEN SOLO AND HIS COUNSEL, DARTH MAUL

DATE:  
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JUDGE:

I.

**INTRODUCTION**

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II.

**STATEMENT OF FACTS**

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO COMPEL FURTHER RESPONSES TO FIRST SET OF REQUESTS FOR ADMISSION AND FIRST SET OF FORM INTERROGATORIES; REQUEST FOR MONETARY SANCTIONS AGAINST BEN SOLO AND HIS COUNSEL, DARTH MAUL  
DATE: TIME: DEPT.: JUDGE: - 1



1 Describe the facts concerning the discovery at issue, including date that discovery was  
2 served and the failure to timely respond.

3 **III.**

4 **LEGAL DISCUSSION**

5 Apply the facts to the law.

6 **IV.**

7 **CONCLUSION**

8 Conclude here. ~~XX~~

9 Date: \_\_\_\_\_

\_\_\_\_\_  
CASSIAN ANDOR, ESQ.  
Attorneys for LUKE SKYWALKER

1 Cassian Andor, Esq. (SBN THX1138)  
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6 SUPERIOR COURT OF CALIFORNIA

7 COUNTY OF CONTRA COSTA

8  
9 In re the

Case No.: P74-00001

10 DARTH VADER REVOCABLE LIVING  
11 TRUST.

12 DECLARATION OF CASSIAN ANDOR IN  
13 SUPPORT OF MOTION TO COMPEL  
14 FURTHER RESPONSES TO FIRST SET OF  
15 REQUESTS FOR ADMISSION AND FIRST  
16 SET OF FORM INTERROGATORIES;  
REQUEST FOR MONETARY SANCTIONS  
AGAINST BEN SOLO AND HIS COUNSEL,  
DARTH MAUL

17 I, CASSIAN ANDOR, declare as follows:

18 1. I am an attorney at law duly licensed to practice law in the State of California and  
19 an attorney of record herein for Petitioner Luke Skywalker (“Petitioner”). I have personal  
20 knowledge of the facts set forth herein and if called on to testify I could and would do so  
21 competently.

22 2. The parties herein have completed the Contra Costa County Discovery Facilitator  
23 Program pursuant to Local Rules 3.300 and 3.301. A true and correct copy of the  
24 Recommendations of the Discovery Facilitator is attached hereto as **Exhibit A**.

25 3. **[CONTINUE DECLARATION AS SUBSTANTIALLY THE SAME FORM**  
26 **AS THE MOTION TO COMPEL RESPONSES, ADDING COPIES OF THE**

27  
28 DECLARATION OF CASSIAN ANDOR IN SUPPORT OF MOTION TO COMPEL FURTHER RESPONSES TO  
FIRST SET OF REQUESTS FOR ADMISSION AND FIRST SET OF FORM INTERROGATORIES; REQUEST  
FOR MONETARY SANCTIONS AGAINST BEN SOLO AND HIS COUNSEL, DARTH MAUL - 1

1 **DISCOVERY RESPONSES THEMSELVES AND INCLUDING DECLARATION**  
2 **REGARDING FEES]**

3 I declare under penalty of perjury that the foregoing is true and correct. Executed this  
4 20<sup>th</sup> day of April, 2074, at Skywalker Ranch, California

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CASSIAN ANDOR, ESQ.  
7 Attorneys for LUKE SKYWALKER  
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7 SUPERIOR COURT OF CALIFORNIA

8 COUNTY OF CONTRA COSTA

9 In re the

Case No.: P74-00001

10 DARTH VADER REVOCABLE LIVING  
11 TRUST.

SEPARATE STATEMENT OF DISPUTED  
DISCOVERY RESPONSES IN SUPPORT OF  
MOTION TO COMPEL FURTHER  
RESPONSES TO FIRST SET OF REQUESTS  
FOR ADMISSION AND FIRST SET OF  
FORM INTERROGATORIES; REQUEST  
FOR MONETARY SANCTIONS AGAINST  
BEN SOLO AND HIS COUNSEL, DARTH  
MAUL

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20 I.

21 **FIRST SET OF REQUESTS FOR ADMISSION**

22 **APPLICABLE DEFINITIONS**

23 As used herein, the term “TRUST” means the Darth Vader Revocable Living Trust.

24 As used herein, the term “HAN” means Han Solo.

25 **Request for Admission No. 1**

26 Admit that the TRUST is invalid.

27 SEPARATE STATEMENT OF DISPUTED DISCOVERY RESPONSES IN SUPPORT OF MOTION TO  
28 COMPEL FURTHER RESPONSES TO FIRST SET OF REQUESTS FOR ADMISSION AND FIRST SET OF  
FORM INTERROGATORIES; REQUEST FOR MONETARY SANCTIONS AGAINST BEN SOLO AND HIS  
COUNSEL, DARTH MAUL  
DATE: TIME: DEPT.: JUDGE: - 1

1 **Response to Request for Admission no. 1**

2 Responding Party objects to this Request on the ground that it is not reasonably calculated to  
3 lead to the discovery of admissible evidence. Responding Party also objects to this Request on  
4 the ground that it calls for a legal conclusion.

5 **Factual and Legal Reasons for Compelling Further Response**

6 Discovery is allowed in order to obtain discovery “regarding any matter, not privileged, that is  
7 relevant to the subject matter involved in the pending action or to the determination of any  
8 motion made in that action, if the matter either is itself admissible in evidence or appears  
9 reasonably calculated to lead to the discovery of admissible evidence.” Code of Civ. Proc. §  
10 2017.010. The objections raised by Respondent lack merit in that the subject matter of this  
11 Request (the validity of the Trust that is the subject of the pending Petition) is not only  
12 reasonably calculated to lead to the discovery of admissible evidence, but it is directly relevant to  
13 the issues raised in the Petition. Furthermore, the objection that this Request calls for a legal  
14 conclusion is not a proper objection in connection with a Request for Admission. Code of Civil  
15 Procedure section 2033.010 specifically authorizes a propounding party to propound a request  
16 for admission that seeks an admission of the application of law to fact.

16 **Request for Admission no. 2**

17 Admit that HAN shot first.

18 **Response to Request for Admission no. 2**

19 Responding Party objects to this Request on the ground that it is not reasonably calculated to  
20 lead to the discovery of admissible evidence.

21 **Factual and Legal Issues for Compelling Further Response**

22 Discovery is allowed in order to obtain discovery “regarding any matter, not privileged, that is  
23 relevant to the subject matter involved in the pending action or to the determination of any  
24 motion made in that action, if the matter either is itself admissible in evidence or appears  
25 reasonably calculated to lead to the discovery of admissible evidence.” Code of Civ. Proc. §  
26 2017.010. The objection raised by Respondent lacks merit in that the fact that George Lucas  
27 decided to change this scene in the original Star Wars film fundamentally changes how

28 SEPARATE STATEMENT OF DISPUTED DISCOVERY RESPONSES IN SUPPORT OF MOTION TO  
COMPEL FURTHER RESPONSES TO FIRST SET OF REQUESTS FOR ADMISSION AND FIRST SET OF  
FORM INTERROGATORIES; REQUEST FOR MONETARY SANCTIONS AGAINST BEN SOLO AND HIS  
COUNSEL, DARTH MAULDATE:TIME:DEPT.:JUDGE: - 2

1 audiences view the character of Han Solo. People are willing to accept that Han Solo is a less-  
2 than-perfect hero, and the fact that he decided to blast poor Greedo in the Mos Isley cantina  
3 before Greedo could do it first shows that Han is a gritty survivor, not a horrible killer.

4  
5 **II.**

6 **FIRST SET OF FORM INTERROGATORIES**

7 **Form Interrogatory no. 17.1**

8 Is your response to each request for admission served with these interrogatories an unqualified  
9 admission? If not, for each response that is not an unqualified admission:

- 10 (a) State the number of the request;
- 11 (b) State all facts upon which you base your response;
- 12 (c) State the names, ADDRESSES, and telephone numbers of all PERSONS who have  
13 knowledge of those facts; and
- 14 (d) Identify all DOCUMENTS and other tangible things that support your response and state the  
15 name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or  
16 thing.

17 **Response to Form Interrogatory no. 17.1**

- 18 (a) 1
- 19 (b) Responding party objected to this Request for Admission.
- 20 (c) N/A
- 21 (d) N/A

- 22 (a) 2
- 23 (b) Responding party objected to this Request for Admission.
- 24 (c) N/A
- 25 (d) N/A

26 **Factual and Legal Issues for Compelling Further Response**

27 Discovery is allowed in order to obtain discovery “regarding any matter, not privileged, that is  
28 relevant to the subject matter involved in the pending action or to the determination of any

SEPARATE STATEMENT OF DISPUTED DISCOVERY RESPONSES IN SUPPORT OF MOTION TO  
COMPEL FURTHER RESPONSES TO FIRST SET OF REQUESTS FOR ADMISSION AND FIRST SET OF  
FORM INTERROGATORIES; REQUEST FOR MONETARY SANCTIONS AGAINST BEN SOLO AND HIS  
COUNSEL, DARTH MAULDATE:TIME:DEPT.:JUDGE: - 3

1 motion made in that action, if the matter either is itself admissible in evidence or appears  
2 reasonably calculated to lead to the discovery of admissible evidence.” Code of Civ. Proc. §  
3 2017.010. As stated above, the objections raised to Requests for Admission nos. 1 and 2 are all  
4 without merit and form the basis for Responding Party’s refusal to respond to Form Interrogatory  
5 no. 17.1. Should the court order Respondent to provide further responses to Request for  
6 Admission nos. 1 and 2, it should also compel Respondent to respond to this Interrogatory for  
7 each.

8 Date: \_\_\_\_\_

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9 CASSIAN ANDOR, ESQ.  
10 Attorneys for LUKE SKYWALKER  
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