



LOYR, APC

March 3, 2023

VIA EMAIL AND U.S. MAIL

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Re: *Dylan Yeiser-Fodness v. Master Dog Training, et al.*
Los Angeles Superior Court Case No. 22STCV21852
**Meet and Confer Re Deficiencies in Defendants 5 Star K-9 Academy Inc.'s
and Ekaterina Korotun's Discovery Responses**

Dear Counsel:

We write to meet and confer with Defendants 5 Star K-9 Academy Inc. (“5 Star”) and Ekaterina Korotun (“Korotun”) (collectively “Defendants”) regarding severe deficiencies in Defendants’ responses to Plaintiff Dylan Yeiser-Fodness’ (“Plaintiff”) Form Interrogatories—General, Set One (“FIG”), Form Interrogatories—Employment, Set One (“FIE”), Special Interrogatories (“SI”), and Requests for Production of Documents, Set One (“RFP”).

On August 17, 2022, Plaintiff served Defendants with the foregoing discovery requests. On January 19, 2023, Defendants were ordered to provide verified responses *without* objections within thirty days. Defendants provided their responses on February 16, 2023. Please review this letter, which explains the severe deficiencies in Defendants’ responses, and confirm immediately whether Defendants will provide further responses by **no later than Friday, March 10, 2023**. For the reasons set forth below, Plaintiff is entitled to further responses containing complete and straightforward information. If the parties are unable to resolve the issues, Plaintiff is prepared to file a Motion for Issue, Evidence and/or Terminating Sanctions, or in the Alternative Monetary Sanctions, against Defendants pursuant to Code of Civil Procedure section 2030.300, subdivision (e), for failure to obey the Court’s Order compelling further responses.

I. IMPROPER PRELIMINARY STATEMENT

In their responses, Defendants attempt to invoke and assert general objections to all of Plaintiff’s discovery requests under the guise of the heading labeled “preliminary statement.”

We ask that Defendants withdraw the improper general objections disguised as “preliminary statements,” because these boilerplate assertions are improper, and the Court will strike them. General or “boilerplate” objections and other equivocal responses have the effect of obstructing discovery. The Code of Civil Procedure requires that “[e]ach . . . objection in the response shall bear the same identifying number or letter and be in the same sequence as the corresponding interrogatory.” (Code Civ. Proc., § 2030.210(c), emphasis added.) The Code of Civil Procedure also requires that “[e]ach statement of compliance, each representation, and each objection in the

response shall bear the same number and be in the same sequence as the corresponding item or category in the demand” (Code Civ. Proc., § 2031.210(c) [emphasis added].) Defendants subject themselves to sanctions by making “‘boiler plate’ objections lacking the specificity the statute mandates.” (*Korea Data Systems Co. v. Superior Court* (1997) 51 Cal.App.4th 1513, 1516; see also Code Civ. Proc., § 2030.300(a)(3) [general objection to interrogatory is ground for motion to compel further response]; Code Civ. Proc., § 2030310(a)(3) [general objection to inspection demand is ground for motion to compel further response].)

The Code of Civil Procedure requires a responding party respond separately to each item or category of item. (Code Civ. Proc., § 2031.210.) By making broad and general objections, Defendants have not responded separately to each item of category with its objections. Nor have Defendants responded separately to each request by virtue of incorporating by reference its general objections into each response. As such, Defendants’ discovery responses, as a whole, are procedurally defective. Defendants’ general objections disguised as “preliminary statements” also make their responses cumbersome to use at trial because Plaintiff is arguably required to read the entirety of Defendants’ preliminary assertions when reciting an individual response, which will cause an undue waste of the Court’s and a jury’s time.

Moreover, Defendants have been explicitly ordered by the Court to respond *without objections* to all of Plaintiff’s discovery requests. General objections disguised as a preliminary statement violate this order.

Accordingly, Defendants should withdraw the improper Preliminary Statement from each of their responses to Plaintiff’s FIG, FIE, SI, RFP, and RFA **immediately**.

II. DEFICIENCIES IN DEFENDANTS’ RESPONSES

A. Deficiencies in Korotun’s Responses

1. Korotun’s Responses to FIG

FIG 1.1 – This interrogatory asks the responding party to state the name, address, and telephone number of each person who prepared or assisted in the preparation of the responses. Korotun responded “I did it myself.” This response is entirely deficient, as it does not include any name, address, or telephone number. It also seems to make the unlikely assertion that Defense Counsel did not even assist in the preparation of Defendant’s responses. This assertion seems particularly unlikely given that Defense Counsel signed the responses. Answers to interrogatories must be as complete and straightforward as possible. (CCP § 2030.220.) Korotun has clearly not provided a complete response. Please supplement accordingly.

FIG 2.1-2.13 – Korotun responded to these interrogatories in a single disorganized block as “2.0,” with no distinction between each of the individual interrogatories within the 2.0 series. Such a response violates CCP § 2030.210, which requires that “[e]ach answer . . . in the response shall

bear the same identifying number or letter and be in the same sequence as the corresponding interrogatory.” Korotun has not even attempted to comply with this requirement.

Additionally, Defendant has failed to respond to each interrogatory within the 2.0 series. Among other things, she does not state her birth date and place, her educational history, or her addresses for the past five years. She also asserts incorrectly and without explanation that “2.12 and 2.13 do not apply.” Defendant is not permitted to blatantly disregard the basic requirements of the California Code of Civil Procedure. Please supplement accordingly.

FIG 3.1-3.7 – Like the 2.0 series, Korotun responded to these interrogatories in a single disorganized block as “3.0,” with no distinction between each of the individual interrogatories within the 3.0 series. In fact, Korotun responded to all five interrogatories with the single sentence “I am not a corporation, or partnership or DBA or public entity.” Such a response violates CCP § 2030.210, which requires that “[e]ach answer . . . in the response shall bear the same identifying number or letter and be in the same sequence as the corresponding interrogatory.” Please supplement accordingly.

FIG 15.1 – This interrogatory asks the Defendant to identify each denial of a material allegation and each special or affirmative defense in their pleadings, and for each to state the facts upon which they are based, the information of anyone who has knowledge of those facts, and any documents which support them. Defendant responded “I am not aware of any real life facts related to your definition of INCIDENT, Plaintiff was never an employee of 5 STAR K-9 ACADEMY, INC.” This response is entirely incoherent as it does not relate to the subject matter of the interrogatory in any way. A legal-contention interrogatory can ask whether the responding party is making particular legal contentions in the case, or it can ask the party to describe the legal contentions that form the basis of a particular claim or defense. (*Rifkind v. Superior Court* (1994) 22 Cal.App.4th 1255, 1261.) A legal-contention interrogatory can even ask a responding party to identify the specific facts relied on as support for its legal contentions. (CCP § 2030.010, subd. (b).) Korotun’s non-responsiveness is particularly egregious given that she has asserted a staggering **seventy (70)** affirmative Defenses in her Answer. Plaintiff is entitled to information regarding the bases of these defenses. Please supplement accordingly.

2. *Korotun’s Responses to FIE*

FIE 216.1 – This interrogatory asks the Defendant to identify each denial of a material allegation and each special or affirmative defense in their pleadings, and for each to state the facts upon which they are based, the information of anyone who has knowledge of those facts, and any documents which support them. Korotun responded “The entire denial is based on the fact that there was no [sic] any kind of employment relationship formed with the Plaintiff, Plaintiff was never an employee and Defendant was never an employer. This allegation is based on the Agreement for training services, exhibit 01.” This response is improper for at least two reasons.

First, it is not clear what Korotun means by “the entire denial.” Korotun has asserted seventy (70) different affirmative defenses in her Answer, and the interrogatory requires that she identify “each” individually.

Second, Korotun’s claim that all seventy of her affirmative defenses are “based on the fact that there was no any kind of employment relationship” is clearly false. Korotun’s Answer includes several defenses that plainly *assume* an employment relationship, including “Plaintiff Properly Compensated,” “Failure to Perform Job Duties,” and “Timely Payment of Wages.” Others do not even relate to employment at all (e.g., violation of the “Excessive Fines Clause”).

Korotun’s non-responsiveness is particularly egregious given that she has asserted a staggering seventy (70) affirmative Defenses in her Answer. Plaintiff is entitled to information regarding the bases of these defenses. Please supplement accordingly.

3. *Korotun’s Responses to SI*

SI 1 - This interrogatory asks the responding party to state the name, address, and telephone number of each person who prepared or assisted in the preparation of the responses. Korotun responded “I prepared my answers myself.” This response is entirely deficient, as it does not include any name, address, or telephone number. It also seems to make the unlikely assertion that Defense Counsel did not even assist in the preparation of Defendant’s responses. This assertion seems particularly unlikely given that Defense Counsel signed the responses. Answers to interrogatories must be as complete and straightforward as possible. (CCP § 2030.220.) Korotun has clearly has not provided a complete response. Please supplement accordingly.

4. *Korotun’s Responses to RFP*

RFP 1-50 – In response to each and every RFP, Korotun stated only “To the best of my knowledge such documents do not exist. See Declaration of Custodian of Records Dated 02/14/2023.” The declaration in question is attached as “Exhibit 02.” Within the declaration, Defendants stated only “[n]o requested documents in my possession.”

Under CCP § 2031.210, each response to a request for production must contain either “(1) A statement that the party will comply with the particular demand . . . (2) A representation that the party lacks the ability to comply with the demand. . . [or] (3) An objection to the particular demand” Additionally, “[a] representation of inability to comply with the particular demand . . . shall affirm that a diligent search and a reasonable inquiry has been made in an effort to comply with that demand . . . [and] specify whether the inability to comply is because the particular item or category has never existed, has been destroyed, has been lost, misplaced, or stolen, or has never been, or is no longer, in the possession, custody, or control of the responding party. The statement shall set forth the name and address of any natural person or organization known or believed by that party to have possession, custody, or control of that item or category of item.” (CCP § 2031.230.)

Korotun's responses are entirely deficient. First, it is not clear why she included the referenced declaration. No such declaration is required by any rule, nor is it useful to her. In fact, the declaration states that it is in reference to "DEFENDANT 5 STAR K-9 ACADEMY, INC., RESPONSES TO PLAINTIFF DYLAN YEISER-FODNESS REQUEST FOR PRODUCTION SET ONE," and is signed by "Maxim Basiro . . . custodian of records of the 5 STAR K-9 ACADEMY INC. . . ." The declaration is therefore entirely irrelevant, as by its own terms it purports to speak only on behalf of a different Defendant. Second, even assuming that Korotun's answers by reference to the declaration were permissible, the answers provided in the declaration are themselves not code compliant, as they make none of the affirmations required by CCP § 2031.230. Third, Defendant's blanket assertion of a total lack of documents is clearly false, as they have produced the document identified as "Exhibit 01," titled "Agreement for Training Services." Although Defendant gives no explanation as to why this document was included, it is responsive to at least RFP No. 44. Lastly, the one document that *was* produced fails to comply with CCP § 2031.280. There is no indication as to which request number it is responsive to, nor is it Bates stamped. Please supplement accordingly.

B. Deficiencies in 5 Star's Responses to Interrogatories

1. 5 Star's Responses to FIG

FIG 1.1 – This interrogatory asks the responding party to state the name, address, and telephone number of each person who prepared or assisted in the preparation of the responses. 5 Star responded "I did it myself." This response is entirely deficient, as it does not include any name, address, or telephone number. It also seems to make the unlikely assertion that Defense Counsel did not even assist in the preparation of Defendant's responses. This assertion seems particularly unlikely given that Defense Counsel signed the responses. Answers to interrogatories must be as complete and straightforward as possible. (CCP § 2030.220.) 5 Star clearly has not provided a complete response. Please supplement accordingly.

FIG 3.7 – This interrogatory asks whether, within the past five years, any public entity has registered or licensed Defendant's business. 5 Star responded "not to the extent I understand the question." It is not clear to what extent Defendants *did* understand the question, and on what basis they are therefore answering. In responding to interrogatories, "[i]f the responding party does not have personal knowledge sufficient to respond fully to an interrogatory, that party shall so state, but shall make a reasonable and good faith effort to obtain the information by inquiry to other natural persons or organizations" (CCP § 2030.220.) If Defendants were unsure of the meaning of FIG No. 3.7, they ought to have consulted with Defense Counsel, who can surely provide a satisfactory explanation. Please supplement accordingly.

FIG 4.1 – This interrogatory asks whether, at the time of the incident, there was in effect any policy of insurance through which Defendants were or might have been insured, and for each to answer seven subparts. Defendants responded: "We only have workers compensation insurance and general liability insurance. Since the business is closed now I am not in the possession of the paperwork, but I will use my best efforts to obtain copies and amend this answer with the copies."

There are several issues with this response. First, Defendants do not answer any of the question's subparts. Second, it is entirely unclear what Defendants mean by the statement that they cannot obtain relevant documents "[s]ince the business is closed now." 5 Star *is* the business. Does 5 Star not have access to its own records? If 5 Star is "not in possession of the paperwork," who is? Please supplement accordingly.

FIG 12.1 – This interrogatory asks Defendant to state the name, address, and telephone number of each individual who witnessed the incident, made or heard any statements regarding the incident, or otherwise has knowledge of the incident. Defendant responded "[n]ot to my knowledge, to the extent I understand your definition of INCIDENT, the fact of which is denied." Defendant's response is incoherent as it appears to be responding to a yes or no question, where the actual interrogatory asks only for Defendant to state the names and contact information of relevant individuals. Please supplement accordingly.

FIG 15.1 – This interrogatory asks the Defendant to identify each denial of a material allegation and each special or affirmative defense in their pleadings, and for each to state the facts upon which they are based, the information of anyone who has knowledge of those facts, and any documents which support them. Defendant responded "[n]ot to my knowledge, to the extent I understand your definition of INCIDENT, the fact of which is denied." This response is entirely incoherent as it does not relate to the subject matter of the interrogatory in any way. A legal-contention interrogatory can ask whether the responding party is making particular legal contentions in the case, or it can ask the party to describe the legal contentions that form the basis of a particular claim or defense. (*Rifkind v. Superior Court* (1994) 22 Cal.App.4th 1255, 1261.) A legal-contention interrogatory can even ask a responding party to identify the specific facts relied on as support for its legal contentions. (CCP § 2030.010, subd. (b).) 5 Star's non-responsiveness is particularly egregious given that they have asserted a staggering **seventy (70)** affirmative Defenses in their Answer. Plaintiff is entitled to information regarding the bases of these defenses. Please supplement accordingly.

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First, it is not clear what 5 Star means by "the entire denial." 5 Star have asserted **seventy (70)** different affirmative defenses in their Answer, and the interrogatory requires that they identify "each" individually.

Second, 5 Star's claim that all seventy of their affirmative defenses are "based on the fact that there was no any kind of employment relationship" is clearly false. 5 Star's Answer includes several defenses that plainly *assume* an employment relationship, including "Plaintiff Properly Compensated," "Failure to Perform Job Duties," and "Timely Payment of Wages." Others do not even relate to employment at all (e.g., violation of the "Excessive Fines Clause").

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5 Star's responses are entirely deficient. First, it is not clear why Defendants included the referenced declaration. No such declaration is required by any rule, nor is it useful to Defendants. Second, even assuming that 5 Star's answers by reference to the declaration were permissible, the answers provided in the declaration are themselves not code compliant, as they make none of the affirmations required by CCP § 2031.230. Third, Defendant's blanket assertion of a total lack of

documents is clearly false, as they have produced the document identified as “Exhibit 01,” titled “Agreement for Training Services.” Although Defendant gives no explanation as to why this document was included, it is responsive to at least RFP No. 44. Lastly, the one document that *was* produced fails to comply with CCP § 2031.280. There is no indication as to which request number it is responsive to, nor is it Bates stamped. Please supplement accordingly.

III. CONCLUSION

As set forth above, Defendants’ responses have grossly violated the Court’s Order compelling responses. If no sufficient information is provided, Plaintiff will be left with no other option but to file a Motion for Issue, Evidence and/or Terminating Sanctions, or in the Alternative Monetary Sanctions, against Defendants pursuant to Code of Civil Procedure section 2030.300, subdivision (e), for failure to obey the Court’s Order. Per the rules of Department 52, “[i]f an informal resolution is not reached after meeting and conferring, then either party may request that the court conduct an informal discovery conference for the purpose of discussing discovery matters in dispute between the parties.” If no resolution is accomplished here, Plaintiff will request such a conference, and file his motion thereafter if necessary.

Defendants’ evasive tactics and wholesale disregard for the requirements of the California Code of Civil Procedure are disappointing—especially in light of the fact that these requests were served nearly seven months ago, and Defendants have already been ordered to provide compliant responses. We request that Defendants provide supplemental responses **no later than Friday, March 10, 2023.**

With kind regards,

LOYR, APC



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