Natalia Foley, Esq (SBN 295923)

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Attorney for Defendants

5 STAR K-9 ACADEMY, Inc

dba MASTER DOG TRAINING,

Ekaterina Korotun an individual

**THE SUPERIOR COURT OF CALIFORNIA**

**COUNTY OF LOS ANGELES**

**STANLEY MOSK COURTHOUSE**

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| DYLAN YEISER-FODNESS, an individual Plaintiff, vs.MASTER DOG TRAINING ET AL. Defendants. | )))))))))))))))))))) | Case No.: 22STCV21852Defendant 5 STAR K-9 ACADEMY, Inc dba MASTER DOG TRAINING,, NOTICE OF LEGAL IMPOSSIBILITY TO FILE OPPOSITION TO PLAINTIFF’S MOTION TO COMPEL DEFENDANT EKATERINA KOROTUN TO RESPOND TO THE FIRST SET OF PLAINTIFF’S FORM INTERROGATORIES—GENERAL, SET ONE, FORM INTERROGATORIES— EMPLOYMENT LAW, SET ONE, SPECIAL INTERROGATORIES, SET ONE, AND REQUESTS FOR PRODUCTION, SET ONE; Supporting Declaration by attorney Natalia Foley Date of Hearing: 01/19/2023 Time of Hearing: 9:00 AMDepartment: 52, Room 510Judge: Hon. Armen TamzarianDate Action Filed: 07/06/2022Trial Date: not set |

PLEASE TAKE A NOTICE that Defendant 5 STAR K-9 ACADEMY, Inc dba MASTER DOG TRAINING, is in default entered by clerk on 10/3/2022. The clerk's entry of default cuts off the defendant's right to take further affirmative steps such as filing a pleading or motion except motion to set aside default. [(Garcia v. Politis, 192 Cal.); (Sporn v. Home Depot USA, Inc. (2005) 126 Cal.App.4th 1294, 1301 [24 Cal. Rptr. 3d 780)].

The defendant was never served with the notice of entry of default, and thus was unaware of default and therefore filed an answer on 10/11/2022 and Motion to compel arbitration on 10/14/2022. During the hearing on the Defendant’ motion to compel arbitration, Defendant’ attorney learned of the default by clerk. Defendant filed motion to set aside default, as allowed by law, and hearing on this motion is set for 01/26/2023. Until the decision of the court, Defendant cannot appear in the action and file an opposition to the Plaintiff discovery motion that was filed against the defendant after the default was entered.

DATE: 01/04/2021

Respectfully Submitted

LAW OFFICES OF NATALIA FOLEY

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 By Natalia Foley, Esq ( SBN 295923)

Attorney for Defendants

5 STAR K-9 ACADEMY, Inc

dba MASTER DOG TRAINING,

Ekaterina Korotun an individual

Natalia Foley, Esq (SBN 295923)

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Attorney for Defendants 5 STAR K-9 ACADEMY, Inc

dba MASTER DOG TRAINING, Ekaterina Korotun an individual

**THE SUPERIOR COURT OF CALIFORNIA**

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| --- | --- | --- |
| DYLAN YEISER-FODNESS, an individual Plaintiff, vs.MASTER DOG TRAINING ET AL. Defendants. | )))))))))))))))))) | Case No.: 22STCV21852Declaration by attorney Natalia Foley in support of Defendant 5 STAR K-9 ACADEMY, Inc dba MASTER DOG TRAINING, notice of legal impossibility to file opposition to plaintiff’s motion to compel defendant 5 Star K-9 Academy, Inc dba Master Dog Training to respond to the first set of plaintiff’s form interrogatories - general, set one, form interrogatories - employment law, set one, special interrogatories, set one, and requests for production, set one Date of Hearing: 01/19/2023 Time of Hearing: 9:00 AMDepartment: 52, Room 510Judge: Hon. Armen TamzarianDate Action Filed: 07/06/2022Trial Date: not set |

1. I am Natalia Foley, an attorney at law duly admitted to practice in the State of California and attorney of record for the defendants 5 STAR K-9 ACADEMY, Inc dba MASTER DOG TRAINING, and EKATERINA KOROTUN an individual (hereinafter collectively – “Defendants”) and make this declaration in support of Defendant 5 STAR K-9 ACADEMY, Inc

dba MASTER DOG TRAINING, notice of legal impossibility to file opposition to plaintiff’s discovery motion.

2. According to the Plaintiff’ Motion to compel defendant 5 STAR K-9 ACADEMY, Inc dba MASTER DOG TRAINING to respond to the first set of plaintiff’s form interrogatories -general, set one, form interrogatories -employment law, set one, special interrogatories, set one, and requests for production, set one **(hereinafter – discovery motion),** Defendant 5 Star K-9 Academy, Inc dba Master Dog Training was properly served with the discovery motion on August 17, 2022 **(exhibit 01)** “by e-service to Natalia Foley at Law Offices of Natalia Foley”.

3. In his declaration attached to the discovery motion, attorney YOUNG W. RYU confirmed under the oath that my office was e-served with the discovery on 8/17/2022 **(exhibit 02).**

4. Both of the above statements are false, and made with the sole intent to mislead the court, because I would not be able to get any discovery service by either mail or email on August 17, 2022, since I contacted Plaintiff’ counsel for first time only on September 14, 2022.

5. It appears further that the copy of the proof of service for the discovery devices attached as a part of the exbibit to the Plaintiff’ discovery motion, indicates that Defendant 5 Star K-9 Academy, Inc dba Master Dog Training was served by mail on 8/17/2022, yet there is no signature on the proof of service **(exhibit 03).**

6. This statement is also a flagrant misrepresentations of material fact, because according to a certified mail receipt provided by the Plaintiff’ attorney, (**exhibit 04),** the discovery set was just mailed on 8/17/202 at 04:02 pm by USPS certified mail, and was actually delivered on 9/14/2022 **(exhibit 05).**

7. Should my client be allowed to oppose the Plaintiff’ discovery motion, my client would object **to the date of the service** of the discovery devises, because Plaintiff provided conflicting and mutually excluding information in this regard, and thus the service did not result in actual knowledge of the defendant of the discovery.

8. Further my client would object to the **mode of the delivery** which is, according to the plaintiff’, was made either by email or mail or certified mail, which makes it impossible to ascertain the due date of the responses, which makes the entire motion to compel discovery defective.

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

Date: 01/04/2023

Law Offices of Natalia Foley

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 By Natalia Foley, Esq ( SBN 295923)

Attorney for Defendants 5 STAR K-9 ACADEMY, Inc

dba MASTER DOG TRAINING, and Ekaterina Korotun an individual

**Exhibit 01**

**Exhibit 02**

**Exhibit 03**

**Exhibit 04**

**Exhibit 05**

PROOF OF SERVICE

|  |  |
| --- | --- |
| DYLAN YEISER-FODNESS vs. MASTER DOG TRAINING ET AL.  | Case No.: 22STCV21852 |

1. I, Irina Palees, am over the age of 18 and not a party of this cause. I am a resident of or employed in the county where the mailing occurred. My residence or business address is

***751 S Weir Canyon Rd Ste 157-455***

***Anaheim CA 92808***

 2. I served the following document:

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| --- |
| Defendant 5 Star K-9 Academy, Inc dba Master Dog Training, NOTICE OF LEGAL IMPOSSIBILITY TO FILE OPPOSITION TO PLAINTIFF’S NOTICE OF MOTION TO COMPEL DEFENDANT 5 Star K-9 Academy, Inc dba Master Dog Training TO RESPOND TO THE FIRST SET OF PLAINTIFF’S FORM INTERROGATORIES—GENERAL, SET ONE, FORM INTERROGATORIES— EMPLOYMENT LAW, SET ONE, SPECIAL INTERROGATORIES, SET ONE, AND REQUESTS FOR PRODUCTION, SET ONE; Supporting Declaration by attorney Natalia Foley |

by enclosing a true copy in a sealed envelope addressed to each person whose name and address is shown below and depositing the envelope in the US mail with the postage fully prepaid.

* Date of Mailing: 01/04/2023
* Place of Mailing: Los Angeles, CA

Name and Address of Person Served:

|  |  |
| --- | --- |
| Attorney for Plaintiff: | Attorney for Defendants: |
| Young W Ryu, EsqLOYR, APC1055 West 7th Street, Suite 2290Los Angeles CA 90017 | Natalia Foley, Esq Law Offices of Natalia Foley751 S Weir Canyon Rd Ste 157-455Anaheim CA 92808 |
|  |  |

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

Date: 01/04/2023

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 By Irina Palees,

 Legal assistant to attorney Natalia Foley