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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **FOR THE COUNTY OF LOS ANGELES**

11 DYLAN YEISER-FODNESS, an
12 individual,

13 Plaintiff,

14 v.

15 MASTER DOG TRAINING, a
16 California corporation; 5 STAR K-9
17 ACADEMY, INC., a California
18 corporation; EKATERINA KOROTUN,
19 an individual; and DOES 1 through
20 25, inclusive,

21 Defendants.

Case No.: 22STCV21852

*[Assigned for All Purposes to the Hon.
Armen Tamzarian, Dept. 52]*

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PLAINTIFF'S REPLY TO
DEFENDANTS' NOTICE OF LEGAL
IMPOSSIBILITY TO FILE AN
OPPOSITION TO PLAINTIFF'S
MOTION TO COMPEL DISCOVERY
RESPONSES**

Date: January 19, 2023

Time: 9:00 a.m.

Place: Dept. 52

Complaint Filed: July 6, 2022

Trial Date: None set

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Plaintiff Dylan Yeiser-Fodness (“Plaintiff”) submits the following
3 Memorandum of Points and Authorities in support of his Reply to Defendants Master
4 Dog Training, 5 Star K-9 Academy, Inc., (“5 Star”) and Ekaterina Korotun (“Korotun”)
5 (collectively “Defendants”) Notice of Legal Impossibility to File an Opposition to
6 Plaintiff’s Motion to Compel Discovery Responses (the “Notice”).

7 **I. INTRODUCTION**

8 This action was filed on July 6, 2022. On August 17, 2022, Plaintiff served his
9 First Written Discovery Requests upon the Defendants via Certified Mail. The last
10 day for Defendants to respond to the First Written Discovery Requests was
11 September 21, 2022. On September 21, 2022, Plaintiff filed Requests for Entries of
12 Default (the “Requests”) as to Defendants Korotun and 5 Star. Those Requests were
13 granted and defaults were entered against Korotun and 5 Star on October 3, 2022.
14 On December 28, 2022, Plaintiff filed his Motion to Compel Discovery Responses from
15 Defendants 5 Star and Korotun (the “Motion”). On December 30, 2022, Defendants
16 filed their Notice of Legal Impossibility to File an Opposition to Plaintiff’s Motion (the
17 “Notice”). Plaintiff hereby submits his Memorandum of Points and Authorities in
18 support of his Reply to Defendants’ Notice.

19 **II. ARGUMENT**

20 In sum, Plaintiff respectfully requests the Court grant his Motion for the
21 reasons articulated below.

22 **A. Defendants’ Argument of Legal Impossibility Is Groundless**

23 Rather than filing an Opposition to Plaintiff’s Motion, Defendants’ claim that
24 “the clerk’s entry of default cuts off the defendant’s right to take further affirmative
25 steps, such as filing a pleading or motion except motion to set aside default.” (Def’s
26 Notice at 1.) While this claim is true, it does not apply here to prevent Defendant’s
27 filing an Opposition.

1 Defendants cite to two cases: *Garcia v. Politis*, (2nd Dist. 2011) 192
2 Cal.App.4th 1474 [Defendants do not provide a complete citation, nor a pin cite], and
3 *Sporn v. Home Depot USA, Inc.*, (4th Dist. 2005), 126 Cal.App.4th 1294, 1301.

4 *Garcia* concerned the question of whether “a plaintiff who obtains a default
5 judgment by written declaration entitled to seek statutory attorney fees by means of
6 a postjudgment motion.” (192 Cal.App.4th at 1476.) The answer was “no.” (*Id.*) The
7 case did not discuss a *Defendant’s* ability to file motions post-default, and certainly
8 did not address whether a Defendant could *oppose* any such motion filed by a
9 Plaintiff.

10 *Sporn* does contain the above-quoted statement in Defendants’ Notice—but it
11 does not support its application in this instance. *Sporn* concerned a Defendant who
12 filed a motion to set aside default after the statutory deadline. (126 Cal.App.4th at
13 1297.) The Defendant’s motion was denied, Defendant appealed, and the Court
14 affirmed the denial. (*Id.*) The above-quoted statement was made in support of the
15 claim that, post-default, the defaulted party was not entitled to further notice of any
16 motions or other papers. (*Id.* at 1301.) But while the quoted language does prevent
17 Defendant from taking any “*affirmative* steps, such as filing a pleading or motion,”
18 (emphasis added), it does not speak to a Defendant’s ability to take the *responsive*
19 step of *opposing* a motion.

20 **III. CONCLUSION**

21 For the foregoing reasons, Plaintiff respectfully requests that the Court grant
22 his Motion in its entirety.

23 Respectfully submitted,

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28 [Signatures on next page.]

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Dated: January 11, 2023

LOYR, APC



Young W. Ryu, Esq.
Joshua Park, Esq.
Henna H. Choi, Esq.
Attorneys for Plaintiff DYLAN YEISER-
FODNESS

PROOF OF SERVICE

I am over 18 years old and not a party to this action. My business address is 1055 West 7th Street, Suite 2290, Los Angeles, California 90017.

On January 11, 2023, I served the following documents in a sealed envelope on the interested party as follows:

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF’S REPLY TO DEFENDANTS’ NOTICE OF LEGAL IMPOSSIBILITY TO FILE AN OPPOSITION TO PLAINTIFF’S MOTION TO COMPEL DISCOVERY RESPONSES

Natalia Foley
nfoleylaw@gmail.com
LAW OFFICES OF NATALIA FOLEY
751 S Weir Canyon Rd Ste 157-455
Anaheim CA 92808

Attorney for Defendants


BY U.S. MAIL:

I enclosed the foregoing document in a sealed envelope to the interest parties at the address listed above and deposited the sealed envelope for collection and mailing following my firm’s ordinary business practices. I am readily familiar with my firm’s business practices for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit.

BY ELECTRONIC SERVICE:

My electronic service address is martha.gutierrez@loywr.com. Per the parties’ agreement, through their respective counsel, to accept electronic service and pursuant to California Code of Civil Procedure section 1010.6, I served the foregoing document on the interested party at the electronic service addresses (e-mail addresses) listed above and did not receive Notice of Failure

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on January 11, 2023, in Los Angeles, California.



Martha Gutierrez