

## ONLINE SERVICES

## Tentative Rulings

### DEPARTMENT 52 LAW AND MOTION RULINGS

Please notify Department 52 via email at [smcdept52@lacourt.org](mailto:smcdept52@lacourt.org) and indicate that the parties are submitting on the tentative ruling.

Please provide the attorney's name and represented party. Please notify the opposing side via email if submitting on the Court's tentative ruling.

**Case Number:** 22STCV21852 **Hearing Date:** January 19, 2023 **Dept:** 52

**Plaintiff Dylan Yeiser-Fodness's Motions to Compel: (1) Defendant 5 Star K-9 Academy, Inc. to Respond to Discovery, and (2) Defendant Ekaterina Korotun to Respond to Discovery**

Plaintiff Dylan Yeiser-Fodness moves to compel defendants 5 Star K-9 Academy, Inc. and Ekaterina Korotun to serve responses to form interrogatories – general, form interrogatories – employment law, special interrogatories, and requests for production.

#### *Order Compelling Responses*

When the responding party fails to timely respond to interrogatories or requests for production, the requesting party may move for an order compelling responses. (CCP §§ 2030.290(b) [interrogatories]; 2031.300(b) [request for production].) Failing to timely respond waives any objections. (CCP §§ 2030.290(a); 2031.300(a).)

Plaintiff served the discovery requests on defendants 5 Star K-9 Academy, Inc. and Ekaterina Korotun on August 17, 2022. (Ryu Decls., ¶ 4.) Neither defendant timely responded to the discovery requests. (Ryu Decls., ¶ 6.) Plaintiff is therefore entitled to an order compelling each defendant to serve verified responses without objections.

#### *Sanctions*

Plaintiff moves for monetary sanctions against each defendant for failing to respond to authorized discovery. Code of Civil Procedure section 2023.010(d) provides that “[f]ailing to respond or to submit to an authorized method of discovery” is a misuse of the discovery process subject to sanctions. The court cannot issue sanctions, however, without an independent authorizing statute. (*City of Los Angeles v. PricewaterhouseCoopers, LLC* (2022) 84 Cal.App.5th 466, 498-502.) Sections 2023.010 and 2023.030 are “definitional statutes” which, “standing alone or read together, do not authorize the court to impose sanctions in a particular case.” (*Id.* at p. 498.) Instead, sanctions require an independent authorizing statute, such as those governing each discovery method. (*Ibid.*)

For motions to compel responses to interrogatories or requests for production, the Discovery Act authorizes sanctions against someone “who unsuccessfully makes or opposes” such a motion or someone who disobeys “an order compelling answers.” (CCP §§ 2030.290(c), 2031.300(c).) Those circumstances do not apply because defendants did not oppose these motions. Instead of opposing, defendants each filed a “notice of legal impossibility to file opposition” because the clerk has entered their defaults. The court therefore denies plaintiff's request for sanctions.

*Disposition*

Plaintiff Dylan Yeiser-Fodness's motions are **denied** as to sanctions.

Plaintiff Dylan Yeiser-Fodness's motion to compel defendant 5 Star K-9 Academy, Inc. to serve responses to form interrogatories – general, form interrogatories – employment law, special interrogatories, and requests for production is **granted**. Defendant 5 Star K-9 Academy, Inc. is **ordered** to serve verified responses to form interrogatories – general, form interrogatories – employment law, special interrogatories, and requests for production, set one without objections within 30 days.

Plaintiff Dylan Yeiser-Fodness's motion to compel defendant Ekaterina Korotun to serve responses to form interrogatories – general, form interrogatories – employment law, special interrogatories, and requests for production is **granted**. Defendant Ekaterina Korotun is **ordered** to serve verified responses to form interrogatories – general, form interrogatories – employment law, special interrogatories, and requests for production, set one without objections within 30 days.