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Attorneys for Plaintiff DYLAN YEISER-FODNESS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DYLAN YEISER-FODNESS, an individual, Plaintiff, v. MASTER DOG TRAINING, a California corporation; 5 STAR K-9 ACADEMY, INC., a California corporation; Ekaterina Korotun, an individual; and DOES 1 through 25, inclusive, Defendants.	Case No.: 22STCV21852 *[Assigned for All Purposes to the Hon. Armen Tamzarian, Dept. 52]* **PLAINTIFF'S SUPPLEMENTAL OPPOSITION TO DEFENDANTS' MOTION TO COMPEL ARBITRATION AND TO STAY OR DISMISS PROCEEDINGS** Date: May 4, 2023 Time: 9:00 a.m. Place: Dept. 52 Complaint Filed: July 6, 2022 Trial Date: February 7, 2024

Plaintiff Dylan Yeiser-Fodness ("Plaintiff") respectfully submits the below Supplemental Opposition to Defendant Master Dog Training's ("Defendant") Motion to Compel Arbitration and To Stay or Dismiss Proceedings, per the Court's order of April 12, 2023:

I. ADDITIONAL ARGUMENTS

A. Defendants Failed to File a Reply

Despite Defendants' *extremely untimely* service of the Notice of Motion and Motion, Plaintiff timely filed his opposition to Defendants' Motion on March 29, 2023. Defendants' reply to Plaintiff's opposition was due on April 5, 2023. Yet, to date, Defendants have not filed any reply, and therefore have not responded to any of Plaintiff's arguments in his original opposition. Failure to file a reply may be taken as an admission of the lack of merit of a party's original motion. (*See Redevelopment Agency v. Commission on State Mandates*, 43 Cal. App. 4th 1188, 1193 n.2 (declining to question the trial court's construal of the "absence of a reply memo as an admission of the lack of merit of its original motion"); *see also Naif v. Mazzei,* 2020 U.S. Dist. LEXIS 87212 at *17 [citing counsel's failure to timely file reply papers in support of a reduction in counsel's fee award].) Especially in light of Defendants' repeated dilatory tactics and failure to abide by this Court's direct orders, this Court should construe their failure to file a reply as an admission of the lack of merit of their original motion.

II. CONCLUSION

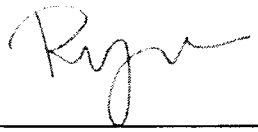
For the foregoing reasons, Plaintiff respectfully requests that the Court deny Defendants' Motion in its entirety with prejudice. In the alternative, Plaintiff respectfully requests that the Court impose a stay on Plaintiff's action until an arbitration is completed in accordance with the order to arbitrate.

Respectfully submitted,

[Signature on next page.]

Dated: April 21, 2023

LOYR, APC



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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 April 21, 2023, I served the following documents in a sealed envelope on the interested party as follows:

PLAINTIFF'S SUPPLEMENTAL OPPOSITION TO DEFENDANTS' MOTION TO COMPEL ARBITRATION AND TO STAY OR DISMISS PROCEEDINGS

Natalia Foley
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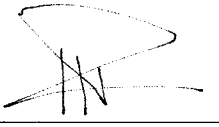
Anaheim CA 92808

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 harley.phleger@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 April 21, 2023, in Los Angeles, California.



Harley Phleger