



**[The Litigation Process for Public Entities:
From Discovery to Done]**

Presented by

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Overview

This session will examine the following, from the collaborative efforts of the attorneys and public entity risk managers/adjusters:

- **The inception of litigation and government tort claims**
- **State Court versus Federal Court litigation process**

Overview

- **Expected discovery during the course of litigation**
- **Expected hearings during the process of litigation**
- **The use of experts**
- **Settlement process and statutory offers**
- **The preparation for trial and trial itself**

Overview

- **Public entity/adjuster participation in the process**

Receipt of a Claim

- Informal notification should trigger investigation
 - Verbal notice at the time of an incident should lead to immediate preservation of evidence and fact gathering
 - Open a file and begin documentation of claim
 - Even with an informal claim, retain all submissions by claimant and witnesses (Evidence Code §§1220-1222)

Formal Claim

- Government Code claim requirements:
 - Written claims required with 6 months (Gov. Code §§905, 905.2, 910, 910.2, 910.41)
 - Advise of defects in claim within 20 days of written claim, with 15 days thereafter to respond to deficiency (Gov. Code §§910, 910.8, 911)

Formal Claim (cont.)

- Entity must act on a proper written claim within 45 days after submission (additional 5 days by mail) (Gov. Code §9124)
- If claim is filed untimely, entity must raise timeliness defense within 45 days of claim submission (Gov. Code §911.3)
- If entity takes no action on a claim within 45 days, the claim is deemed rejected (Gov. Code §9124)

Formal Claim (cont.)

- Rejection Notice must give 6 month limitation to file a court action, or the 6 month limitation is waived (Gov. Code §§913, 945.6, *County of Alameda v. Superior Court* (1987) 195 Ca.3d 1283, 1286)
- Use the rejection notice language in Government Code Section 913

Formal Claim Practice Point

- Be sure not to intimidate or mislead the claimants in regard to filing formal claims, which can stop the time limitations to file the claim (e.g., *Fredrichsen v. City of Lakewood* (1971) 6 Cal.3d 353, 358-359)
 - Strongly consider having pre-printed claims forms available

Initiation of Formal Litigation

- Formal litigation starts with the filing of the Complaint, which requires the filing of a response (eventually, an Answer)
- Jurisdictional questions: Is it State or Federal court?
 - Federal Court: The response is due within 21 days after the Complaint (FRCP 12(a))
 - NOTE: This is a shorter time frame than State Court, which will give you 30 days to respond to the Complaint.

Initiation of Formal Litigation (cont.)

- In Federal Court, the parties can agree to extend time, but that extension requires a stipulation that the Court signs, granting a specific amount of additional time.
 - NOTE: This is different than in State Court, wherein State Court the parties can stipulate to extend time to answer without getting the judge to sign an order

Initiation of Formal Litigation (cont.)

- An Answer in Federal Court requires the defendant to go through each paragraph of the Complaint and either admit, deny, or state that the party lacks information and knowledge to admit or deny (FRCP 8)
- NOTE: This is different than an unverified State Complaint, where the public entity does not need to admit or deny each individual paragraph, but rather can serve a general denial as to all of the paragraphs.

Initiation of Formal Litigation (cont.)

- In Federal Court, instead of demurrers or motions to strike, the public entity can respond to the Complaint with a Motion to Dismiss for failure to state a cause of action (or a few other grounds, such as lack of jurisdiction or being too vague and uncertain) (FRCP 12(b))

Initiation of Formal Litigation (cont.)

- Removing a case from State Court to Federal Court
 - There are two ways that a case filed in State Court can be removed to Federal Court
 - If one of the parties is an out-of-state resident or corporation, that party can remove the case to Federal Court as a diversity removal (28 U.S.C. §1441, et. seq.)

Initiation of Formal Litigation (cont.)

- Practically speaking, Removal for Diversity of Parties will rarely apply to a public entity.
- The second way to remove a case to Federal Court is if the claim is actually a Federal Question Claim, such as civil rights violations under the Federal Constitution (28 U.S.C. §1441-1452)

State Court Cases

- These are the cases filed in California State court in all of the various counties
- Per the California Code of Civil Procedure, an Answer to the Complaint is due within 30 days, with the following particulars:

State Court Cases (cont.)

- In State Court, a public entity does not have to admit or deny each paragraph except in exceptional circumstances
- In State Court, the public entity can get extensions to answer informally and without court involvement
- In State Court, instead of a Rule 12 Motion, the public entity can attack a Complaint with a demurrer and/or a Motion to Strike

State Court Cases (cont.)

- As described below, in State Court, the defendant public entity can initiate discovery immediately, even before having been served with the Complaint (see, CCP §2030.101) while in Federal Court no discovery can be commenced until after there is an initial scheduling conference and initial disclosures take place, which generally takes weeks to months and is delayed during the FRCP process (FRCP 26, 16)

State Court Cases (cont.)

- Sometimes, discovery options can be a consideration in choosing which jurisdiction we prefer.

Differences Between State and Federal Court in Discovery

- Frequency of discovery: In Federal Court, most of the discovery is done by initial disclosures, where the parties voluntarily give the other side all of their information, and not through formal questioning under oath (FRCP 26)

Differences (cont.)

- The interrogatories are limited to 30 per party in Federal Court (FRCP 27, et. seq.)
- In State Court, there are unlimited forms of written discovery and largely unlimited depositions under the CCP

Differences (cont.)

- In Federal Court, an independent medical examination requires a court order, whereas in State Court, independent medical examinations (unless psychological) are done without a motion (FRCP 34, CCP 2032)

Differences (cont.)

- Practical and strategic considerations for Federal Court:
 - A Federal Court generally has a larger territory, which can mean one party of the other has a great travel burden to get to court and trial
 - The length of time between the filing of the Complaint and the trial date will be much longer in Federal Court than in State Court

Differences (cont.)

- It is generally believed that the Federal Court is more inclined to grant Summary Judgment Motions than the State Court. It is also believed that the Federal Court generally gives a greater amount of attention and research in reviews of significant legal issues, including Summary Judgments, than does the State Court

Differences (cont.)

- While there is no specific empirical evidence for this, many public entity attorneys believe that the Federal Court is more inclined to grant Summary Judgments, based upon the ability to control its own calendar, no “fast track” rules, the lifetime appointment of the judge, and the available court staff (including the magistrates) to dedicate their time to these motions

Costs and Expenses

- Being in Federal Court can drive up your costs
- Time lines for discovery: State Court time lines are well set out under the CCP and discovery ends 30 days before the trial (CCP §2024), whereas in Federal Court, it is a case-by-case scheduling date and they are usually must shorter time frames for discovery

Expert Discovery in State versus Federal

- While the expert deposition process is very similar in State versus Federal Court, in Federal Court, the expert disclosures require by the public entity (and the plaintiff) are much more detailed. In Federal Court, under FRCP 26, the expert designation has to include a report from the expert covering every area the expert may testify

Expert Discovery in State versus Federal (cont.)

- The Federal Court expert designation must also include a list of the depositions and trial testimony for the last several years. Some experts do not have these lists, and do not want to testify in Federal Court because of these requirements

Removal Considerations

- Considering whether to remove a case to Federal Court if you have the ability to do so:
 - Do you think you can win on Summary Judgment?
 - Do you think the location of the court house and the potential larger area for a jury pool will favor you?

Removal Considerations

- Do you think plaintiff's attorney's unfamiliarity with the Federal Court may benefit you?
- Do you think it benefits you to wait longer to get to trial?

The Discovery Process in Litigation

- Written discovery:
 - Interrogatories (CCP 2030, FRCP 33)
 - In State Court, you can send them as form interrogatories (Exhibit “A” to your handout) and specially-prepared contention interrogatories (Exhibit “B” to your handout)
 - In Federal Court, only special interrogatories are available limited to 25 questions (FRCP 33(a))
 - That means no subparts in Federal Court, like the State Court form interrogatories, so you get fewer answers in Federal Court.

The Discovery Process in Litigation (cont.)

- (Interrogatories) The parties have to answer these questions under oath, so the answers can be used as evidence, just like deposition or trial testimony (CCP §2030, FRCP 33)
- In State Court, we use these interrogatories to both get the basic information so we can send subpoenas and take other witness depositions and to set up motions and gather information on plaintiff contentions

The Discovery Process in Litigation (cont.)

- (Interrogatories) Towards the end of the case, the parties can serve a supplemental interrogatory in State Court (CCP §2030.070), to gain all updated information immediately before trial.
 - In Federal Court, there is a requirement to constantly supplement your initial disclosures by providing additional information and documents, but there is not an automatic right to a supplemental interrogatory.

The Discovery Process in Litigation (cont.)

- Practice Points for Interrogatories:
- Interrogatories are very effective to gather information. They are generally less effective as a method of impeachment at trial than as deposition testimony, but are very effective in sending to a party to have them spend 30 days reviewing records and send all the information where you can follow up and gather the evidence

The Discovery Process in Litigation (cont.)

- Serve the Form Interrogatories and Special Interrogatories in State Court

The Discovery Process In Litigation (cont.)

- Request for Production of Documents:
Unlimited requests can be made in
State and Federal Court for documents
(CCP §2031, FRCP 34)

The Discovery Process in Litigation (cont.)

- (Requests for Production) Unlike a subpoena, Requests for Production require the party to produce those documents in their possession, custody or control (control means the documents the school district employee can obtain from the district or from the liability pool)

The Discovery Process in Litigation (cont.)

- (Requests for Production) These are specially-prepared requests on a case-by-case basis, and please see Exhibit “C” in your materials

The Discovery Process in Litigation (cont.)

- (Requests for Production) Practically speaking, the plaintiff is going to produce to you those documents that they want to produce (in an injury case, the plaintiff will produce to you the records from after the injury, and will not produce the records from before the injury, but rather will simply refer you to the interrogatories where they listed their own doctors)

The Discovery Process in Litigation (cont.)

- (Requests for Production) These are very useful and you should ask for all of the records in Requests for Production, with a thought being that a plaintiff does not produce critical records and you do not get them from another source, you can move to exclude them

The Discovery Process in Litigation (cont.)

■ Subpoenas

- These are subpoenas that you will send to non-parties in order to obtain records. They are available in State and Federal Court (CCP §1985 et. seq., FRCP 45 et. seq.)

The Discovery Process in Litigation (cont.)

- (Subpoenas) Once you have some indication that another party might have records, such as the plaintiff's doctors, the plaintiff's employer, prior cases in which the plaintiff was involved, or even law enforcement records, serve subpoenas to get the records

The Discovery Process in Litigation (cont.)

- (Subpoenas) A subpoena is generally served through a simple subpoena service/ copy company, which goes to the office where the records are stored and copies them, though technically the subpoena can require the party to bring or mail the records to you

The Discovery Process in Litigation (cont.)

- (Subpoenas) The subpoena is the effective way to gather all records, not just those that the plaintiff wants to provide to you
- If any party objects to a subpoena, it is the burden of that party to go to court and seek a motion to quash the subpoena

The Discovery Process in Litigation (cont.)

- (Subpoenas) Use the interrogatories and deposition testimony to identify the places where you should send subpoenas and gather all of the records. Subpoenas are effective ways to gather un-doctored records not protected by the plaintiff

The Discovery Process in Litigation (cont.)

- Requests for Admission
 - These are written requests that require the party to either admit or deny critical facts in a case (CCP §2033, FRCP 36)
 - Requests for Admission can be used in either State or Federal Court, in unlimited numbers

The Discovery Process in Litigation (cont.)

- Requests for Admission are effective to conclusively determine an issue for trial (for instance, if a plaintiff gets a defendant to “admit” liability, pursuant to these requests, then the matter is admitted conclusively for the entire case)

The Discovery Process in Litigation (cont.)

- (Requests for Admission) In State Court, if a party does not admit a matter in response to Request for Admission, and that matter is subsequently deemed to be proven true at trial, the party can obtain attorneys' fees for the amount of work and effort that was required to prove the matter at trial, under CCP Section 2033.420

The Discovery Process in Litigation (cont.)

- There are no similar attorneys' fees provisions in Federal Court for Request for Admissions

The Discovery Process in Litigation (cont.)

- Requests for Admission are not always used, though when there is a matter you want to make sure it can be admitted at trial (such as authentication of a document or piece of evidence), they can be very useful to the public entity

The Discovery Process in Litigation (cont.)

■ Depositions

- The most effective means of setting your case up for resolution or trial
- In State Court, there are unlimited depositions available for as many witnesses as needed, though the depositions are limited to 7 hours of total testimony time (there is an exception that the 7 hours does not apply to employment cases) (CCP §2025.290)

The Discovery Process in Litigation (cont.)

- (Depositions) In Federal Court, the parties are limited to ten depositions per party, unless they get a judge's order otherwise (FRCP 30)
- In Federal Court, the deposition is also limited to 7 hours, during one day (FRCP 30(d))

The Discovery Process in Litigation (cont.)

- Depositions of parties are set up by service of a deposition notice, a sample of which is attached to your materials as Exhibit “D”
- A deposition of a non-party requires a subpoena
- Deposition testimony is the same as trial testimony (FRCP 30, CCP 2025)

The Discovery Process in Litigation (cont.)

- The deposition testimony may be used at trial for any purpose against a party
- Deposition testimony can be used at all hearings and mediations, and can be used to impeach any witness. It can also be relied upon by the experts
- You can request documents to be brought to a deposition (Exhibit “D”)

The Discovery Process in Litigation (cont.)

- (Depositions) Practically speaking, the most important piece of your case presentation is in the deposition testimony.
- For public entity employees, they need to be prepared for their depositions. You should do the following:

The Discovery Process in Litigation (cont.)

- (Depositions: Employee preparations)
Let employees take the time away from regular work duties that they need to meet with attorneys and be fully prepared to give their testimony. The public employees' testimony can make or break the case.
- Make sure that the employees understand what the case is about and why they are being asked to be deposed

The Discovery Process in Litigation (cont.)

- (Deposition Strategy of PLAINTIFF)
Extensive preparation time should go into deposing the plaintiff. There are two strategic reasons to depose a plaintiff or a key witness in the case
 - To gather information so that further subpoenas and other depositions can be taken

The Discovery Process in Litigation (cont.)

- (Deposition Strategy of PLAINTIFF)
To set up the testimony so that it can be used to win the case (effective examination and cross-examination)
- Once a witnesses' testimony is pinned in by his or her deposition, that has really set the parameters for the case and is very difficult for a party to talk his or her way out of their deposition testimony given under oath

The Discovery Process in Litigation (cont.)

- (Deposition Strategy of PLAINTIFF)
A representative of the public entity can be present for these depositions. Sometimes that is strategically very helpful

The Discovery Process in Litigation (cont.)

- Independent Medical Examinations
 - These are examinations by the experts that are used to examine a plaintiff for medical or psychological reasons and are available in both State Court and Federal Court (CCP §2032, FRCP 35)

The Discovery Process in Litigation (cont.)

- (IME) In Federal Court, an order of the judge allowing the exam is required for physical or mental exams, and in State Court, physical exams can be noticed as a matter of right, while mental exams require either a stipulation of the parties, or an order of the court (FRCP 35, CCP 2032)

The Discovery Process in Litigation (cont.)

- (IME) Only the defendant takes these examinations of the plaintiff
- They are expensive (you have to pay for the expert to perform the examination), and in both State and Federal Court, it is required that the doctor write up a report

The Discovery Process in Litigation (cont.)

- (IME) Consideration of whether to do an IME:
 - If the plaintiff is making an injury claim, unless the injury is concluded with full resolution, and the plaintiff's own doctors will give you testimony that is helpful to your case (which you confirm under oath), you need to have these IMEs performed

The Discovery Process in Litigation (cont.)

■ Private Investigation

- Investigators can be used in either State or Federal Court, including private investigators
- Generally, the private investigator findings and reports can be protected under the attorney/client and work product privileges, until the time that you decide that you are going to disclose the information in order to use it at trial

The Discovery Process in Litigation (cont.)

- Private Investigatory Considerations:
 - Note that in Federal Court the judges can order the disclosure of your privilege investigator information at an earlier date
- Your investigators cannot communicate directly with the plaintiff. They can perform background checks, video tape the plaintiff's activities, speak to other witnesses regarding the plaintiff, and other informal investigation

The Discovery Process in Litigation (cont.)

- Social media searches
 - This is an emerging area of discovery law and rules. The parameters are not all in place. As a practice point:
 - Public domains that the plaintiffs allow anyone to visit and see on line are things that your investigators can view and print out, but you cannot communicate with the parties through social media. You can only print them out and use them later

The Discovery Process in Litigation (cont.)

- Further Social Media Searches:
 - Your investigators should not attempt to “friend” the plaintiff or in any way engage in communications that flow to the plaintiff. You should simply look at public social media, and do not attempt to access restricted social media
 - We do ask for social media print outs and information in our written discovery, and we can ask about social media postings and access in depositions

The Discovery Process in Litigation (cont.)

- California Public Records Act Requests (Gov. Code §6250, et seq.)
- We often see these before the litigation is filed, followed by Requests for Production during litigation
- There are certain exemptions that apply. These are more used by plaintiffs to gather discovery from the defense before litigation and sometimes during litigation

The Discovery Process in Litigation (cont.)

- If the CPRA request is made during litigation, we still use the CPRA exemptions (including the litigation document exemption) in responding during litigation

Pre-Trial Process

- Summary: At this point, we had the Government Tort Claim, the Complaint and response, all of our written discovery has been exchanged, we have served subpoenas and we have taken depositions. We have also done whatever investigation was needed

Pre-Trial Process (cont.)

- If the plaintiff is not complying with information, we can bring motions to compel in both Federal and State courts, asking the judge to give us access to the information
 - Motions to Compel
 - Motions to Sanction
 - Money Sanctions
 - Evidentiary Sanctions
 - Issue Sanctions
 - Termination Sanction

Pre-Trial Process (cont.)

- We then move to the other processes in the case that help us establish our theories and get the case resolved

Mediation

- Mediations are settlement sessions, where the parties agree to hire a professional mediator in an attempt to settle the case
- In many counts, including Fresno County, some form of alternative dispute resolution is required by the court before trial, and mediation is almost always the process chosen

Mediation (cont.)

- Mediation is not a process where testimony is given or one side questions the other. Rather, it is a session where settlement discussions are run through a mediator, and you can either accept or reject the settlements. There are no rulings made and no determinations as to what a case is worth

Mediation (cont.)

- Mediation is a much better alternative dispute resolution option than an Arbitration or some other form of non-binding judicial process. Arbitrations require testimony, and you have to reveal your evidence and how it will be presented. You do not control the outcome of an arbitration

Mediation (cont.)

- In a Mediation, you decide what you want to tell the mediator and how much to offer

Mandatory Settlement Conferences

- Mandatory Settlement Conferences
 - In Federal and State Court, the judges will set Mandatory Settlement Conferences
 - Generally the mediators are more effective in getting the cases settled, than are the judges

Mandatory Settlement Conferences (cont.)

- Mandatory Settlement Conferences can be effective as against the plaintiff, simply because “reality is setting in” and they have to go to the court house and go through the stress of being in the court room

Statutory Offers

- CCP Section 998 in State Court
 - If the party does not beat the offer at trial, the defense can have any judgment in favor of the plaintiff reduced by the amount of expert costs and hard trial costs (but not attorneys' fees)
 - Any amount left over after the verdict is reduced to zero is owed by the plaintiff back to the public entity

Statutory Offers (cont.)

- In State Court, a statutory CCP Section 998 Offer to Compromise can require resolution by release and dismissal

Statutory Offers (cont.)

- In Federal Court, a statutory offer under Rule 68 can be made to the plaintiff, and if the plaintiff fails to accept the offer and does worse at trial, it has the same effect as State Court (the costs and expert fees can be reduced from any verdict and the plaintiff will owe the remainder to the public entity)

Statutory Offer (cont.)

- FRCP 68, however, will result in a “judgment” being entered in favor of the plaintiff, which is then “satisfied” when the payment is made. In Federal Court, Rule 68 cannot be accomplished by a release and dismissal

Statutory Offer (cont.)

- Practically speaking, in State Court, you want to effectively use these 998 Offers. In Federal Court, it is much more difficult to do so given the judgment rule. The public entity has to be involved in the decision for a Federal Court Rule 68 Offer

Expert Disclosures

- In State and Federal Court, at the designated time, you disclose your expert witnesses (FRCP 26, CCP 2034)
 - These are retained experts (those whom you have hired for the case) and non-retained experts (such as treating doctors, whom you did not hire, but whom you will call to trial and ask expert opinions)

Expert Disclosures (cont.)

- Anyone you don't list in your expert disclosures, is going to be excluded from giving expert testimony (with a few exceptions, including whether they were listed by another party and deposed in the case)

Expert Disclosures (cont.)

- In State and Federal Court, for expert witnesses, you have to describe their testimony and make then available for their depositions.
 - As discussed earlier, in Federal Court, the expert has to write a report and has to give a list of prior testimony (FRCP 26)

Trial Phase

- Someone from the public entity needs to be present at all times during the trial
- The public entity needs to designate the people early on who will be the witnesses at trial. These people need to be prepared and kept up to speed

Trial Phase (cont.)

- Trials can be by jury or by judge, and in Federal Court, you need to preserve your right to a jury trial in the Answer
- Public entity witnesses need to be presentable at the time of trial. When in doubt, hire a consultant

Trial Phase (cont.)

- Always note that settlements can happen at any time, before trial, during trial, or even after trial

Summary Judgment Motions

- These are brought in State and Federal Court (CCP §437, FRCP 56)
 - Summary Judgment motions are not like Demurrers or Motions to Strike and rather, they must be based on admissible evidence.

Summary Judgment Motions (Cont.)

- This motion requires declarations.
- In order to bring a Summary Judgment Motions based on admissible evidence, there usually has to be some discovery conducted. The usual evidentiary attachments include deposition testimony, interrogatory testimony and the pleadings (often the Complaint)

Summary Judgment Motions (cont.)

- The Summary Judgment Motion is usually a very collaborative process, with the public entity and the attorneys working together to gather the evidence and get the declarations to attach to the motion.

Summary Judgment Motions (cont.)

- The Motion for Summary Judgment, if granted, is a judgment that is entered in favor of a party without the need for trial and can conclude the case
 - You can get a Motion for Summary Adjudication, which is a judgment as to only some of the causes of action, while others continue

Summary Judgment Motions (cont.)

- If there is a colorable Motion for Summary Judgment, the attorney and public entity should bring the motion, because it is an effective tool against the plaintiff to lower expectations and attempt to resolve issues

Conclusion Thoughts

- The public entity needs to be involved in each phase of the case
- There are things that the counsel will do without interaction from the public entity and the liability pool, including sending subpoenas, taking witness depositions, and issuing discovery

Conclusion Thoughts (cont.)

- For those matters where the public entity and the risk management pool are not involved, summaries are created and generally sent to the risk management pool to keep everyone up to speed on the case

Conclusion Thoughts (cont.)

- Public entity cases are usually fact specific, so the constant interaction as things take place (communications about deposition testimony, describing and analyzing the records and evidence, discussing witness presentation) are all things that should happen together

Questions

THANK YOU

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EXHIBIT "A"

- (2) **INCIDENT** means (insert your definition here or on a separate, attached sheet labeled "Sec. 4(a)(2)"): _____

(b) **YOU OR ANYONE ACTING ON YOUR BEHALF** includes you, your agents, your employees, your insurance companies, their agents, their employees, your attorneys, your accountants, your investigators, and anyone else acting on your behalf.

(c) **PERSON** includes a natural person, firm, association, organization, partnership, business, trust, limited liability company, corporation, or public entity.

(d) **DOCUMENT** means a writing, as defined in Evidence Code section 250, and includes the original or a copy of handwriting, typewriting, printing, photostats, photographs, electronically stored information, and every other means of recording upon any tangible thing and form of communicating or representation, including letters, words, pictures, sounds, or symbols, or combinations of them.

(e) **HEALTH CARE PROVIDER** includes any **PERSON** referred to in Code of Civil Procedure section 667.7(e)(3).

(f) **ADDRESS** means the street address, including the city, state, and zip code.

Sec. 5. Interrogatories

The following interrogatories have been approved by the Judicial Council under Code of Civil Procedure section 2033.710:

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1.0 Identity of Persons Answering These Interrogatories
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200.0 Employment Law [See separate form DISC-002]
Family Law [See separate form FL-145]

1.0 Identity of Persons Answering These Interrogatories

- 1.1 State the name, **ADDRESS**, telephone number, and relationship to you of each **PERSON** who prepared or assisted in the preparation of the responses to these interrogatories. (Do not identify anyone who simply typed or reproduced the responses.)

2.0 General Background Information—individual

- 2.1 State:
- your name;
 - every name you have used in the past; and
 - the dates you used each name.
- 2.2 State the date and place of your birth.
- 2.3 At the time of the **INCIDENT**, did you have a driver's license? If so state:
- the state or other issuing entity;
 - the license number and type;
 - the date of issuance; and
 - all restrictions.
- 2.4 At the time of the **INCIDENT**, did you have any other permit or license for the operation of a motor vehicle? If so, state:
- the state or other issuing entity;
 - the license number and type;
 - the date of issuance; and
 - all restrictions.
- 2.5 State:
- your present residence **ADDRESS**;
 - your residence **ADDRESSES** for the past five years; and
 - the dates you lived at each **ADDRESS**.
- 2.6 State:
- the name, **ADDRESS**, and telephone number of your present employer or place of self-employment; and
 - the name, **ADDRESS**, dates of employment, job title, and nature of work for each employer or self-employment you have had from five years before the **INCIDENT** until today.
- 2.7 State:
- the name and **ADDRESS** of each school or other academic or vocational institution you have attended, beginning with high school;
 - the dates you attended;
 - the highest grade level you have completed; and
 - the degrees received.
- 2.8 Have you ever been convicted of a felony? If so, for each conviction state:
- the city and state where you were convicted;
 - the date of conviction;
 - the offense; and
 - the court and case number.
- 2.9 Can you speak English with ease? If not, what language and dialect do you normally use?
- 2.10 Can you read and write English with ease? If not, what language and dialect do you normally use?

- 2.11 At the time of the **INCIDENT** were you acting as an agent or employee for any **PERSON**? If so, state:
- the name, **ADDRESS**, and telephone number of that **PERSON**; and
 - a description of your duties.
- 2.12 At the time of the **INCIDENT** did you or any other person have any physical, emotional, or mental disability or condition that may have contributed to the occurrence of the **INCIDENT**? If so, for each person state:
- the name, **ADDRESS**, and telephone number;
 - the nature of the disability or condition; and
 - the manner in which the disability or condition contributed to the occurrence of the **INCIDENT**.
- 2.13 Within 24 hours before the **INCIDENT** did you or any person involved in the **INCIDENT** use or take any of the following substances: alcoholic beverage, marijuana, or other drug or medication of any kind (prescription or not)? If so, for each person state:
- the name, **ADDRESS**, and telephone number;
 - the nature or description of each substance;
 - the quantity of each substance used or taken;
 - the date and time of day when each substance was used or taken;
 - the **ADDRESS** where each substance was used or taken;
 - the name, **ADDRESS**, and telephone number of each person who was present when each substance was used or taken; and
 - the name, **ADDRESS**, and telephone number of any **HEALTH CARE PROVIDER** who prescribed or furnished the substance and the condition for which it was prescribed or furnished.

3.0 General Background Information—Business Entity

- 3.1 Are you a corporation? If so, state:
- the name stated in the current articles of incorporation;
 - all other names used by the corporation during the past 10 years and the dates each was used;
 - the date and place of incorporation;
 - the **ADDRESS** of the principal place of business; and
 - whether you are qualified to do business in California.
- 3.2 Are you a partnership? If so, state:
- the current partnership name;
 - all other names used by the partnership during the past 10 years and the dates each was used;
 - whether you are a limited partnership and, if so, under the laws of what jurisdiction;
 - the name and **ADDRESS** of each general partner; and
 - the **ADDRESS** of the principal place of business.
- 3.3 Are you a limited liability company? If so, state:
- the name stated in the current articles of organization;
 - all other names used by the company during the past 10 years and the date each was used;
 - the date and place of filing of the articles of organization;
 - the **ADDRESS** of the principal place of business; and
 - whether you are qualified to do business in California.
- 3.4 Are you a joint venture? If so, state:
- the current joint venture name;
 - all other names used by the joint venture during the past 10 years and the dates each was used;
 - the name and **ADDRESS** of each joint venturer; and
 - the **ADDRESS** of the principal place of business.
- 3.5 Are you an unincorporated association? If so, state:
- the current unincorporated association name;
 - all other names used by the unincorporated association during the past 10 years and the dates each was used; and
 - the **ADDRESS** of the principal place of business.
- 3.6 Have you done business under a fictitious name during the past 10 years? If so, for each fictitious name state:
- the name;
 - the dates each was used;
 - the state and county of each fictitious name filing; and
 - the **ADDRESS** of the principal place of business.
- 3.7 Within the past five years has any public entity registered or licensed your business? If so, for each license or registration:
- identify the license or registration;
 - state the name of the public entity; and
 - state the dates of issuance and expiration.

4.0 Insurance

- 4.1 At the time of the **INCIDENT**, was there in effect any policy of insurance through which you were or might be insured in any manner (for example, primary, pro-rata, or excess liability coverage or medical expense coverage) for the damages, claims, or actions that have arisen out of the **INCIDENT**? If so, for each policy state:
- the kind of coverage;
 - the name and **ADDRESS** of the insurance company;
 - the name, **ADDRESS**, and telephone number of each named insured;
 - the policy number;
 - the limits of coverage for each type of coverage contained in the policy;
 - whether any reservation of rights or controversy or coverage dispute exists between you and the insurance company; and
 - the name, **ADDRESS**, and telephone number of the custodian of the policy.
- 4.2 Are you self-insured under any statute for the damages, claims, or actions that have arisen out of the **INCIDENT**? If so, specify the statute.

5.0 [Reserved]

6.0 Physical, Mental, or Emotional Injuries

- 6.1 Do you attribute any physical, mental, or emotional injuries to the **INCIDENT**? (If your answer is "no," do not answer interrogatories 6.2 through 6.7).
- 6.2 Identify each injury you attribute to the **INCIDENT** and the area of your body affected.

- 6.3 Do you still have any complaints that you attribute to the **INCIDENT**? If so, for each complaint state:
- a description;
 - whether the complaint is subsiding, remaining the same, or becoming worse; and
 - the frequency and duration.
- 6.4 Did you receive any consultation or examination (except from expert witnesses covered by Code of Civil Procedure sections 2034.210–2034.310) or treatment from a **HEALTH CARE PROVIDER** for any injury you attribute to the **INCIDENT**? If so, for each **HEALTH CARE PROVIDER** state:
- the name, **ADDRESS**, and telephone number;
 - the type of consultation, examination, or treatment provided;
 - the dates you received consultation, examination, or treatment; and
 - the charges to date.
- 6.5 Have you taken any medication, prescribed or not, as a result of injuries that you attribute to the **INCIDENT**? If so, for each medication state:
- the name;
 - the **PERSON** who prescribed or furnished it;
 - the date it was prescribed or furnished;
 - the dates you began and stopped taking it; and
 - the cost to date.
- 6.6 Are there any other medical services necessitated by the injuries that you attribute to the **INCIDENT** that were not previously listed (for example, ambulance, nursing, prosthetics)? If so, for each service state:
- the nature;
 - the date;
 - the cost; and
 - the name, **ADDRESS**, and telephone number of each provider.
- 6.7 Has any **HEALTH CARE PROVIDER** advised that you may require future or additional treatment for any injuries that you attribute to the **INCIDENT**? If so, for each injury state:
- the name and **ADDRESS** of each **HEALTH CARE PROVIDER**;
 - the complaints for which the treatment was advised; and
 - the nature, duration, and estimated cost of the treatment.

7.0 Property Damage

- 7.1 Do you attribute any loss of or damage to a vehicle or other property to the **INCIDENT**? If so, for each item of property:
- describe the property;
 - describe the nature and location of the damage to the property;

- state the amount of damage you are claiming for each item of property and how the amount was calculated; and
- if the property was sold, state the name, **ADDRESS**, and telephone number of the seller, the date of sale, and the sale price.

- 7.2 Has a written estimate or evaluation been made for any item of property referred to in your answer to the preceding interrogatory? If so, for each estimate or evaluation state:
- the name, **ADDRESS**, and telephone number of the **PERSON** who prepared it and the date prepared;
 - the name, **ADDRESS**, and telephone number of each **PERSON** who has a copy of it; and
 - the amount of damage stated.
- 7.3 Has any item of property referred to in your answer to interrogatory 7.1 been repaired? If so, for each item state:
- the date repaired;
 - a description of the repair;
 - the repair cost;
 - the name, **ADDRESS**, and telephone number of the **PERSON** who repaired it;
 - the name, **ADDRESS**, and telephone number of the **PERSON** who paid for the repair.

8.0 Loss of Income or Earning Capacity

- 8.1 Do you attribute any loss of income or earning capacity to the **INCIDENT**? (If your answer is "no," do not answer interrogatories 8.2 through 8.8).
- 8.2 State:
- the nature of your work;
 - your job title at the time of the **INCIDENT**; and
 - the date your employment began.
- 8.3 State the last date before the **INCIDENT** that you worked for compensation.
- 8.4 State your monthly income at the time of the **INCIDENT** and how the amount was calculated.
- 8.5 State the date you returned to work at each place of employment following the **INCIDENT**.
- 8.6 State the dates you did not work and for which you lost income as a result of the **INCIDENT**.
- 8.7 State the total income you have lost to date as a result of the **INCIDENT** and how the amount was calculated.
- 8.8 Will you lose income in the future as a result of the **INCIDENT**? If so, state:
- the facts upon which you base this contention;
 - an estimate of the amount;
 - an estimate of how long you will be unable to work; and
 - how the claim for future income is calculated.

9.0 Other Damages

- 9.1 Are there any other damages that you attribute to the **INCIDENT**? If so, for each item of damage state:
- the nature;
 - the date it occurred;
 - the amount; and
 - the name, **ADDRESS**, and telephone number of each **PERSON** to whom an obligation was incurred.
- 9.2 Do any **DOCUMENTS** support the existence or amount of any item of damages claimed in interrogatory 9.1? If so, describe each document and state the name, **ADDRESS**, and telephone number of the **PERSON** who has each **DOCUMENT**.

10.0 Medical History

- 10.1 At any time before the **INCIDENT** did you have complaints or injuries that involved the same part of your body claimed to have been injured in the **INCIDENT**? If so, for each state:
- a description of the complaint or injury;
 - the dates it began and ended; and
 - the name, **ADDRESS**, and telephone number of each **HEALTH CARE PROVIDER** whom you consulted or who examined or treated you.
- 10.2 List all physical, mental, and emotional disabilities you had immediately before the **INCIDENT**. (*You may omit mental or emotional disabilities unless you attribute any mental or emotional injury to the **INCIDENT**.*)
- 10.3 At any time after the **INCIDENT**, did you sustain injuries of the kind for which you are now claiming damages? If so, for each incident giving rise to an injury state:
- the date and the place it occurred;
 - the name, **ADDRESS**, and telephone number of any other **PERSON** involved;
 - the nature of any injuries you sustained;
 - the name, **ADDRESS**, and telephone number of each **HEALTH CARE PROVIDER** who you consulted or who examined or treated you; and
 - the nature of the treatment and its duration.

11.0 Other Claims and Previous Claims

- 11.1 Except for this action, in the past 10 years have you filed an action or made a written claim or demand for compensation for your personal injuries? If so, for each action, claim, or demand state:
- the date, time, and place and location (closest street **ADDRESS** or intersection) of the **INCIDENT** giving rise to the action, claim, or demand;
 - the name, **ADDRESS**, and telephone number of each **PERSON** against whom the claim or demand was made or the action filed;

- the court, names of the parties, and case number of any action filed;
- the name, **ADDRESS**, and telephone number of any attorney representing you;
- whether the claim or action has been resolved or is pending; and
- a description of the injury.

- 11.2 In the past 10 years have you made a written claim or demand for workers' compensation benefits? If so, for each claim or demand state:
- the date, time, and place of the **INCIDENT** giving rise to the claim;
 - the name, **ADDRESS**, and telephone number of your employer at the time of the injury;
 - the name, **ADDRESS**, and telephone number of the workers' compensation insurer and the claim number;
 - the period of time during which you received workers' compensation benefits;
 - a description of the injury;
 - the name, **ADDRESS**, and telephone number of any **HEALTH CARE PROVIDER** who provided services; and
 - the case number at the Workers' Compensation Appeals Board.

12.0 Investigation—General

- 12.1 State the name, **ADDRESS**, and telephone number of each individual:
- who witnessed the **INCIDENT** or the events occurring immediately before or after the **INCIDENT**;
 - who made any statement at the scene of the **INCIDENT**;
 - who heard any statements made about the **INCIDENT** by any individual at the scene; and
 - who **YOU OR ANYONE ACTING ON YOUR BEHALF** claim has knowledge of the **INCIDENT** (except for expert witnesses covered by Code of Civil Procedure section 2034).
- 12.2 Have **YOU OR ANYONE ACTING ON YOUR BEHALF** interviewed any individual concerning the **INCIDENT**? If so, for each individual state:
- the name, **ADDRESS**, and telephone number of the individual interviewed;
 - the date of the interview; and
 - the name, **ADDRESS**, and telephone number of the **PERSON** who conducted the interview.
- 12.3 Have **YOU OR ANYONE ACTING ON YOUR BEHALF** obtained a written or recorded statement from any individual concerning the **INCIDENT**? If so, for each statement state:
- the name, **ADDRESS**, and telephone number of the individual from whom the statement was obtained;
 - the name, **ADDRESS**, and telephone number of the individual who obtained the statement;
 - the date the statement was obtained; and
 - the name, **ADDRESS**, and telephone number of each **PERSON** who has the original statement or a copy.

12.4 Do **YOU OR ANYONE ACTING ON YOUR BEHALF** know of any photographs, films, or videotapes depicting any place, object, or individual concerning the **INCIDENT** or plaintiff's injuries? If so, state:

- (a) the number of photographs or feet of film or videotape;
- (b) the places, objects, or persons photographed, filmed, or videotaped;
- (c) the date the photographs, films, or videotapes were taken;
- (d) the name, **ADDRESS**, and telephone number of the individual taking the photographs, films, or videotapes; and
- (e) the name, **ADDRESS**, and telephone number of each **PERSON** who has the original or a copy of the photographs, films, or videotapes.

12.5 Do **YOU OR ANYONE ACTING ON YOUR BEHALF** know of any diagram, reproduction, or model of any place or thing (except for items developed by expert witnesses covered by Code of Civil Procedure sections 2034.210–2034.310) concerning the **INCIDENT**? If so, for each item state:

- (a) the type (i.e., diagram, reproduction, or model);
- (b) the subject matter; and
- (c) the name, **ADDRESS**, and telephone number of each **PERSON** who has it.

12.6 Was a report made by any **PERSON** concerning the **INCIDENT**? If so, state:

- (a) the name, title, identification number, and employer of the **PERSON** who made the report;
- (b) the date and type of report made;
- (c) the name, **ADDRESS**, and telephone number of the **PERSON** for whom the report was made; and
- (d) the name, **ADDRESS**, and telephone number of each **PERSON** who has the original or a copy of the report.

12.7 Have **YOU OR ANYONE ACTING ON YOUR BEHALF** inspected the scene of the **INCIDENT**? If so, for each inspection state:

- (a) the name, **ADDRESS**, and telephone number of the individual making the inspection (except for expert witnesses covered by Code of Civil Procedure sections 2034.210–2034.310); and
- (b) the date of the inspection.

13.0 Investigation—Surveillance

13.1 Have **YOU OR ANYONE ACTING ON YOUR BEHALF** conducted surveillance of any individual involved in the **INCIDENT** or any party to this action? If so, for each surveillance state:

- (a) the name, **ADDRESS**, and telephone number of the individual or party;
- (b) the time, date, and place of the surveillance;
- (c) the name, **ADDRESS**, and telephone number of the individual who conducted the surveillance; and
- (d) the name, **ADDRESS**, and telephone number of each **PERSON** who has the original or a copy of any surveillance photograph, film, or videotape.

13.2 Has a written report been prepared on the surveillance? If so, for each written report state:

- (a) the title;
- (b) the date;
- (c) the name, **ADDRESS**, and telephone number of the individual who prepared the report; and
- (d) the name, **ADDRESS**, and telephone number of each **PERSON** who has the original or a copy.

14.0 Statutory or Regulatory Violations

14.1 Do **YOU OR ANYONE ACTING ON YOUR BEHALF** contend that any **PERSON** involved in the **INCIDENT** violated any statute, ordinance, or regulation and that the violation was a legal (proximate) cause of the **INCIDENT**? If so, identify the name, **ADDRESS**, and telephone number of each **PERSON** and the statute, ordinance, or regulation that was violated.

14.2 Was any **PERSON** cited or charged with a violation of any statute, ordinance, or regulation as a result of this **INCIDENT**? If so, for each **PERSON** state:

- (a) the name, **ADDRESS**, and telephone number of the **PERSON**;
- (b) the statute, ordinance, or regulation allegedly violated;
- (c) whether the **PERSON** entered a plea in response to the citation or charge and, if so, the plea entered; and
- (d) the name and **ADDRESS** of the court or administrative agency, names of the parties, and case number.

15.0 Denials and Special or Affirmative Defenses

15.1 Identify each denial of a material allegation and each special or affirmative defense in your pleadings and for each:

- (a) state all facts upon which you base the denial or special or affirmative defense;
- (b) state the names, **ADDRESSES**, and telephone numbers of all **PERSONS** who have knowledge of those facts; and
- (c) identify all **DOCUMENTS** and other tangible things that support your denial or special or affirmative defense, and state the name, **ADDRESS**, and telephone number of the **PERSON** who has each **DOCUMENT**.

16.0 Defendant's Contentions—Personal Injury

16.1 Do you contend that any **PERSON**, other than you or plaintiff, contributed to the occurrence of the **INCIDENT** or the injuries or damages claimed by plaintiff? If so, for each **PERSON**:

- (a) state the name, **ADDRESS**, and telephone number of the **PERSON**;
- (b) state all facts upon which you base your contention;
- (c) state the names, **ADDRESSES**, and telephone numbers of all **PERSONS** who have knowledge of the facts; and
- (d) identify all **DOCUMENTS** and other tangible things that support your contention and state the name, **ADDRESS**, and telephone number of the **PERSON** who has each **DOCUMENT** or thing.

16.2 Do you contend that plaintiff was not injured in the **INCIDENT**? If so:

- (a) state all facts upon which you base your contention;
- (b) state the names, **ADDRESSES**, and telephone numbers of all **PERSONS** who have knowledge of the facts; and
- (c) identify all **DOCUMENTS** and other tangible things that support your contention and state the name, **ADDRESS**, and telephone number of the **PERSON** who has each **DOCUMENT** or thing.

- 16.3 Do you contend that the injuries or the extent of the injuries claimed by plaintiff as disclosed in discovery proceedings thus far in this case were not caused by the **INCIDENT**? If so, for each injury:
- identify it;
 - state all facts upon which you base your contention;
 - state the names, **ADDRESSES**, and telephone numbers of all **PERSONS** who have knowledge of the facts; and
 - identify all **DOCUMENTS** and other tangible things that support your contention and state the name, **ADDRESS**, and telephone number of the **PERSON** who has each **DOCUMENT** or thing.
- 16.4 Do you contend that any of the services furnished by any **HEALTH CARE PROVIDER** claimed by plaintiff in discovery proceedings thus far in this case were not due to the **INCIDENT**? If so:
- identify each service;
 - state all facts upon which you base your contention;
 - state the names, **ADDRESSES**, and telephone numbers of all **PERSONS** who have knowledge of the facts; and
 - identify all **DOCUMENTS** and other tangible things that support your contention and state the name, **ADDRESS**, and telephone number of the **PERSON** who has each **DOCUMENT** or thing.
- 16.5 Do you contend that any of the costs of services furnished by any **HEALTH CARE PROVIDER** claimed as damages by plaintiff in discovery proceedings thus far in this case were not necessary or unreasonable? If so:
- identify each cost;
 - state all facts upon which you base your contention;
 - state the names, **ADDRESSES**, and telephone numbers of all **PERSONS** who have knowledge of the facts; and
 - identify all **DOCUMENTS** and other tangible things that support your contention and state the name, **ADDRESS**, and telephone number of the **PERSON** who has each **DOCUMENT** or thing.
- 16.6 Do you contend that any part of the loss of earnings or income claimed by plaintiff in discovery proceedings thus far in this case was unreasonable or was not caused by the **INCIDENT**? If so:
- identify each part of the loss;
 - state all facts upon which you base your contention;
 - state the names, **ADDRESSES**, and telephone numbers of all **PERSONS** who have knowledge of the facts; and
 - identify all **DOCUMENTS** and other tangible things that support your contention and state the name, **ADDRESS**, and telephone number of the **PERSON** who has each **DOCUMENT** or thing.
- 16.7 Do you contend that any of the property damage claimed by plaintiff in discovery Proceedings thus far in this case was not caused by the **INCIDENT**? If so:
- identify each item of property damage;
 - state all facts upon which you base your contention;
 - state the names, **ADDRESSES**, and telephone numbers of all **PERSONS** who have knowledge of the facts; and
 - identify all **DOCUMENTS** and other tangible things that support your contention and state the name, **ADDRESS**, and telephone number of the **PERSON** who has each **DOCUMENT** or thing.
- 16.8 Do you contend that any of the costs of repairing the property damage claimed by plaintiff in discovery proceedings thus far in this case were unreasonable? If so:
- identify each cost item;
 - state all facts upon which you base your contention;
 - state the names, **ADDRESSES**, and telephone numbers of all **PERSONS** who have knowledge of the facts; and
 - identify all **DOCUMENTS** and other tangible things that support your contention and state the name, **ADDRESS**, and telephone number of the **PERSON** who has each **DOCUMENT** or thing.
- 16.9 Do **YOU OR ANYONE ACTING ON YOUR BEHALF** have any **DOCUMENT** (for example, insurance bureau index reports) concerning claims for personal injuries made before or after the **INCIDENT** by a plaintiff in this case? If so, for each plaintiff state:
- the source of each **DOCUMENT**;
 - the date each claim arose;
 - the nature of each claim; and
 - the name, **ADDRESS**, and telephone number of the **PERSON** who has each **DOCUMENT**.
- 16.10 Do **YOU OR ANYONE ACTING ON YOUR BEHALF** have any **DOCUMENT** concerning the past or present physical, mental, or emotional condition of any plaintiff in this case from a **HEALTH CARE PROVIDER** not previously identified (except for expert witnesses covered by Code of Civil Procedure sections 2034.210–2034.310)? If so, for each plaintiff state:
- the name, **ADDRESS**, and telephone number of each **HEALTH CARE PROVIDER**;
 - a description of each **DOCUMENT**; and
 - the name, **ADDRESS**, and telephone number of the **PERSON** who has each **DOCUMENT**.
- 17.0 Responses to Request for Admissions**
- 17.1 Is your response to each request for admission served with these interrogatories an unqualified admission? If not, for each response that is not an unqualified admission:
- state the number of the request;
 - state all facts upon which you base your response;
 - state the names, **ADDRESSES**, and telephone numbers of all **PERSONS** who have knowledge of those facts; and
 - identify all **DOCUMENTS** and other tangible things that support your response and state the name, **ADDRESS**, and telephone number of the **PERSON** who has each **DOCUMENT** or thing.
- 18.0 [Reserved]**
- 19.0 [Reserved]**
- 20.0 How the Incident Occurred—Motor Vehicle**
- 20.1 State the date, time, and place of the **INCIDENT** (closest street **ADDRESS** or intersection).
- 20.2 For each vehicle involved in the **INCIDENT**, state:
- the year, make, model, and license number;
 - the name, **ADDRESS**, and telephone number of the driver;

- (c) the name, **ADDRESS**, and telephone number of each occupant other than the driver;
- (d) the name, **ADDRESS**, and telephone number of each registered owner;
- (e) the name, **ADDRESS**, and telephone number of each lessee;
- (f) the name, **ADDRESS**, and telephone number of each owner other than the registered owner or lien holder; and
- (g) the name of each owner who gave permission or consent to the driver to operate the vehicle.
- 20.3 State the **ADDRESS** and location where your trip began and the **ADDRESS** and location of your destination.
- 20.4 Describe the route that you followed from the beginning of your trip to the location of the **INCIDENT**, and state the location of each stop, other than routine traffic stops, during the trip leading up to the **INCIDENT**.
- 20.5 State the name of the street or roadway, the lane of travel, and the direction of travel of each vehicle involved in the **INCIDENT** for the 500 feet of travel before the **INCIDENT**.
- 20.6 Did the **INCIDENT** occur at an intersection? If so, describe all traffic control devices, signals, or signs at the intersection.
- 20.7 Was there a traffic signal facing you at the time of the **INCIDENT**? If so, state:
- (a) your location when you first saw it;
- (b) the color;
- (c) the number of seconds it had been that color; and
- (d) whether the color changed between the time you first saw it and the **INCIDENT**.
- 20.8 State how the **INCIDENT** occurred, giving the speed, direction, and location of each vehicle involved:
- (a) just before the **INCIDENT**;
- (b) at the time of the **INCIDENT**; and (c) just after the **INCIDENT**.
- 20.9 Do you have information that a malfunction or defect in a vehicle caused the **INCIDENT**? If so:
- (a) identify the vehicle;
- (b) identify each malfunction or defect;
- (c) state the name, **ADDRESS**, and telephone number of each **PERSON** who is a witness to or has information about each malfunction or defect; and
- (d) state the name, **ADDRESS**, and telephone number of each **PERSON** who has custody of each defective part.
- 20.10 Do you have information that any malfunction or defect in a vehicle contributed to the injuries sustained in the **INCIDENT**? If so:
- (a) identify the vehicle;
- (b) identify each malfunction or defect;
- (c) state the name, **ADDRESS**, and telephone number of each **PERSON** who is a witness to or has information about each malfunction or defect; and
- (d) state the name, **ADDRESS**, and telephone number of each **PERSON** who has custody of each defective part.
- 20.11 State the name, **ADDRESS**, and telephone number of each owner and each **PERSON** who has had possession since the **INCIDENT** of each vehicle involved in the **INCIDENT**.
- 25.0 [Reserved]
- 30.0 [Reserved]
- 40.0 [Reserved]
- 50.0 Contract
- 50.1 For each agreement alleged in the pleadings:
- (a) identify each **DOCUMENT** that is part of the agreement and for each state the name, **ADDRESS**, and telephone number of each **PERSON** who has the **DOCUMENT**;
- (b) state each part of the agreement not in writing, the name, **ADDRESS**, and telephone number of each **PERSON** agreeing to that provision, and the date that part of the agreement was made;
- (c) identify all **DOCUMENTS** that evidence any part of the agreement not in writing and for each state the name, **ADDRESS**, and telephone number of each **PERSON** who has the **DOCUMENT**;
- (d) identify all **DOCUMENTS** that are part of any modification to the agreement, and for each state the name, **ADDRESS**, and telephone number of each **PERSON** who has the **DOCUMENT**;
- (e) state each modification not in writing, the date, and the name, **ADDRESS**, and telephone number of each **PERSON** agreeing to the modification, and the date the modification was made;
- (f) identify all **DOCUMENTS** that evidence any modification of the agreement not in writing and for each state the name, **ADDRESS**, and telephone number of each **PERSON** who has the **DOCUMENT**.
- 50.2 Was there a breach of any agreement alleged in the pleadings? If so, for each breach describe and give the date of every act or omission that you claim is the breach of the agreement.
- 50.3 Was performance of any agreement alleged in the pleadings excused? If so, identify each agreement excused and state why performance was excused.
- 50.4 Was any agreement alleged in the pleadings terminated by mutual agreement, release, accord and satisfaction, or novation? If so, identify each agreement terminated, the date of termination, and the basis of the termination.
- 50.5 Is any agreement alleged in the pleadings unenforceable? If so, identify each unenforceable agreement and state why it is unenforceable.
- 50.6 Is any agreement alleged in the pleadings ambiguous? If so, identify each ambiguous agreement and state why it is ambiguous.
- 60.0 [Reserved]

EXHIBIT "B"

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5 Attorneys for Cross-Defendant, JANE DOE

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 COUNTY OF SANTA CRUZ

10 JAN SMITH,
11 Plaintiff,
12
13 v.
14 JANE DOE,
15 Defendant.

Case No. 123456
SPECIAL INTERROGATORIES

16 PROPOUNDING PARTY : Defendant, JANE DOE
17 RESPONDING PARTY : Plaintiff, JAN SMITH
18 SET NUMBER: One (1)

19
20 **PRELIMINARY STATEMENT**

21 PLEASE TAKE NOTICE that pursuant to the provisions of Section 2030 of the California
22 Code of Civil Procedures, you are required within thirty days of service hereof, to answer separately
23 and fully, in WRITING, under oath, the following interrogatories according to such information as is
24 known or available to you, your employees, REPRESENTATIVES, investigators or by your attorneys
25 or their agents, REPRESENTATIVES or investigators.

26 In answering these interrogatories, you are required to make a diligent search of your records
27 and of other papers and materials in your possession or available to you or your representatives.
28

1 If you cannot answer the following interrogatories in full, after exercising due diligence to
2 secure the requested information, so state and answer to the extent possible, specifying your inability
3 to answer the remainder, and stating the investigation made by you to ascertain the answer and
4 whatever information or knowledge you have concerning the unanswered portion. If your answer is
5 qualifying a particular comment, please set forth the details and qualifications.

6 Whenever any WRITINGS must be described, they shall be identified by date, author,
7 addresses, title subject, title of documents (contract, invoice, etc.) and physical description. The name
8 and address of the present custodian of any described document is also requested.

9 "WRITING" shall mean handwriting, typewriting, printing, photostating, photographing, video
10 and/or audio tape and/or film, and every other means of recording upon any tangible thing any form of
11 communication or representation, including letters, words, pictures, sounds or symbols, or
12 combinations thereof.

13 "DESCRIBE EACH WRITING" shall mean provide a summary or gist of each writing,
14 IDENTIFY the writer, author or creator of each WRITING, date of each WRITING, location of each
15 copy and original, and length of pages, or number of photos or length of tape of film.

16 "PERSON shall mean any natural PERSON, partnership, corporation, agency or other form of
17 legal entity.

18 "REPRESENTATIVE" shall include all agents, employees officials, officers, executives,
19 directors, owners, attorneys and their employees and agents.

20 "IDENTIFY" shall mean provide the name, address and telephone number, job title and job
21 address of each PERSON identified.

22 "COMPLAINT" shall mean and refers to the COMPLAINT on file herein.

23 "INCIDENT" shall mean the circumstances and events surrounding the alleged accident,
24 injury, or other occurrence or breach of contract giving rise to this action or proceeding.

25
26 **SPECIAL INTERROGATORY NO. 1:**

27 Please state all facts which support your First Cause of Action for breach of contract.

28 ///

1 **SPECIAL INTERROGATORY NO. 2:**

2 Please list the names, addresses and telephone numbers of all persons or entities who do or
3 may have information or facts to support your First Cause of Action for Breach of Contract.

4 **SPECIAL INTERROGATORY NO. 3:**

5 Please identify all documents, writings and tangible items (to include photographs, videos,
6 CDs, DVDs, computer-generated and stored documents and imagery, social media printouts,
7 electronic data, documents and writings of all kinds) which reference and/or support your First Cause
8 of Action for Breach of Contract.

9 **SPECIAL INTERROGATORY NO. 4:**

10 Please state all facts which support your Second Cause of Action for negligence.

11 **SPECIAL INTERROGATORY NO. 5:**

12 Please list the names, addresses and telephone numbers of all persons or entities who do or
13 may have information or facts to support your Second Cause of Action for negligence.

14 **SPECIAL INTERROGATORY NO. 6:**

15 Please identify all documents, writings and tangible items (to include photographs, videos,
16 CDs, DVDs, computer-generated and stored documents and imagery, social media printouts,
17 electronic data, documents and writings of all kinds) which reference and/or support your Second
18 Cause of Action for negligence.

19 **SPECIAL INTERROGATORY NO. 7:**

20 Please state all facts which support your Third Cause of Action for deceptive advertising.

21 **SPECIAL INTERROGATORY NO. 8:**

22 Please list the names, addresses and telephone numbers of all persons or entities who do or
23 may have information or facts to support your Third Cause of Action for deceptive advertising.

24 **SPECIAL INTERROGATORY NO. 9:**

25 Please identify all documents, writings and tangible items (to include photographs, videos,
26 CDs, DVDs, computer-generated and stored documents and imagery, social media printouts,
27 electronic data, documents and writings of all kinds) which reference and/or support your Third Cause
28 of Action for deceptive advertising.

1 **SPECIAL INTERROGATORY NO. 10:**

2 Please state all facts which support your Fourth Cause of Action for unfair business practices.

3 **SPECIAL INTERROGATORY NO. 11:**

4 Please list the names, addresses and telephone numbers of all persons or entities who do or
5 may have information or facts to support your Fourth Cause of Action for unfair business practices.

6 **SPECIAL INTERROGATORY NO. 12:**

7 Please identify all documents, writings and tangible items (to include photographs, videos,
8 CDs, DVDs, computer-generated and stored documents and imagery, social media printouts,
9 electronic data, documents and writings of all kinds) which reference and/or support your Fourth
10 Cause of Action for unfair business practices.

11 **SPECIAL INTERROGATORY NO. 13:**

12 Please state all facts which support your Fifth Cause of Action for rescission.

13 **SPECIAL INTERROGATORY NO. 14:**

14 Please list the names, addresses and telephone numbers of all persons or entities who do or
15 may have information or facts to support your Fifth Cause of Action for rescission.

16 **SPECIAL INTERROGATORY NO. 15:**

17 Please identify all documents, writings and tangible items (to include photographs, videos,
18 CDs, DVDs, computer-generated and stored documents and imagery, social media printouts,
19 electronic data, documents and writings of all kinds) which reference and/or support your Fifth Cause
20 of Action for rescission.

21 **SPECIAL INTERROGATORY NO. 16:**

22 Please state, with specificity, how you fell and were injured falling, as stated in your
23 Complaint.

24 **SPECIAL INTERROGATORY NO. 17:**

25 Please state, with specificity, the location in your house where you alleged to have fallen due
26 to defendant's conduct, as stated in your Complaint.

27 **SPECIAL INTERROGATORY NO. 18:**

28 Please state, with specificity, the date and time when you fell in your house and were injured

1 as stated in your Complaint.

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Dated: February 14, 2018

McCORMICK, BARSTOW, SHEPPARD,
WAYTE & CARRUTH LLP

By: _____
Anthony N. DeMaria
Defendant, JANE DOE

61202-00129 4753740.1

EXHIBIT "C"

1 McCormick, Barstow, Sheppard,
Wayte & Carruth LLP
2 Anthony N. DeMaria, #177894
anthony.demaria@mccormickbarstow.com
3 7647 North Fresno Street
Fresno, California 93720
4 Telephone: (559) 433-1300
Facsimile: (559) 433-2300

5 Attorneys for Defendant, JANE DOE

6
7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 COUNTY OF SANTA CRUZ
9

10 JAN SMITH,

11 Plaintiff,

12 v.

13 JANE DOE,

14 Defendant.
15

Case No. 123456

**REQUEST FOR PRODUCTION OF
DOCUMENTS**

16 PROPOUNDING PARTY : Defendant, JANE DOE

17 RESPONDING PARTY : Plaintiff, JAN SMITH

18 SET NUMBER: One (1)

19
20 REQUEST IS HEREBY MADE by defendant, JANE DOE, that you identify, produce and
21 permit the inspection, copying, or photocopying of the following items:

22 1. Please produce all documents and writings items (to include photographs, videos, CDs,
23 DVDs, computer-generated and stored documents and imagery, social media printouts, electronic
24 data, documents and writings of all kinds) identified in your response to Special Interrogatory No. 3.

25 2. Please produce all documents and writings items (to include photographs, videos, CDs,
26 DVDs, computer-generated and stored documents and imagery, social media printouts, electronic
27 data, documents and writings of all kinds) identified in your response to Special Interrogatory No. 6.

28 3. Please produce all documents and writings items (to include photographs, videos, CDs,

1 DVDs, computer-generated and stored documents and imagery, social media printouts, electronic
2 data, documents and writings of all kinds) identified in your response to Special Interrogatory No. 9.

3 4. Please produce all documents and writings items (to include photographs, videos, CDs,
4 DVDs, computer-generated and stored documents and imagery, social media printouts, electronic
5 data, documents and writings of all kinds) identified in your response to Special Interrogatory No. 12.

6 5. Please produce all documents and writings items (to include photographs, videos, CDs,
7 DVDs, computer-generated and stored documents and imagery, social media printouts, electronic
8 data, documents and writings of all kinds) identified in your response to Special Interrogatory No. 15.

9 6. Please produce all documents and writings (to include photographs, videos, CDs,
10 DVDs, computer-generated and stored documents and imagery, social media printouts, electronic
11 data, documents and writings of all kinds) which state, reference or constitute agreements (to include
12 contracts, change orders and/or any other form of agreement) between you and JANE DOE or any of
13 its agents and employees.

14 7. Please produce all documents and writings which state, reference or constitute
15 communications of any kind between you and JANE DOE and/or any of its employees or agents (to
16 include photographs, videos, CDs, DVDs, computer-generated and stored documents and imagery,
17 social media printouts, electronic data, documents and writings of all kinds).

18 8. Please produce all documents and writings which state, reference or constitute any and
19 all communications between you and Wells Fargo regarding any and all lines of credit, credit cards
20 and/or payments made to or made available to (or recovered from) either Your Bank or JANE DOE
21 regarding any work performed on your roof or house (to include any and all communications where
22 you requested or discussed revocation or return or any payments made to JANE DOE) (to include
23 photographs, videos, CDs, DVDs, computer-generated and stored documents and imagery, social
24 media printouts, electronic data, documents and writings of all kinds).

25 9. Any and all records, bills and statements and writings, as defined by Evidence Code
26 Section 250, of any doctor, physical therapist, chiropractor or other practitioner of the medical arts
27 who has examined or treated you for injuries, complaints, or ailments arising from the accident or
28 occurrence which gives rise to this lawsuit.

1 10. Any and all records, bills and statements and writings, as defined by Evidence Code
2 Section 250, of any doctor, physical therapist, chiropractor or other practitioner of the medical arts
3 who have examined or treated you ten years **preceding** the accident or occurrence which gives rise to
4 this lawsuit for any injury or illness to the same parts of your body claimed to be involved in the
5 subject lawsuit.

6 11. All color photographs, videotapes, and/or other pictures or computer/graphic
7 reproductions taken of the general area of the accident.

8 12. All color photographs, videotapes, and/or other pictures or computer/graphic
9 reproductions of the injuries plaintiff allegedly suffered as a result of the accident or occurrence which
10 gives rise to this lawsuit.

11 13. Please produce all documents and writings (to include photographs, videos, CDs,
12 DVDs, computer-generated and stored documents and imagery, social media printouts, electronic
13 data, documents and writings of all kinds) which state, reference, or show any and all
14 special/economic damages or losses that you have suffered as a result of Defendant's conduct in any
15 way, shape or form, whether it be medical billings and treatments, lost earnings, lost profits, cost to
16 perform repairs or work done on your house, or otherwise.

17
18 Request is hereby made that a verified, written response to this Request in conformity with the
19 provisions of Code of Civil Procedure Section 2031.210 *et. seq.* be served on Defendant within thirty
20 (30) days from the date of service of this Request. Said production is to be made at the law offices of
21 McCormick, Barstow, Sheppard, Wayte & Carruth, 7647 N. Fresno Street, Fresno, California, at the
22 hour of 5 p.m. thirty days from the date of service of this Request. If the requested items are mailed to
23 counsel and are received on or before the date above mentioned, said response need not be in the form
24 of a personal appearance.

25 Pursuant to California Code of Civil Procedure Section 2031, the responses shall identify the
26 category enumerated in the Request. Therefore, a separate response should be made by plaintiff as to
27 each enumerated category above. Additionally, pursuant to Code of Civil Procedure Section 2031,
28 plaintiff should verify his/her own Response to this Request. Verification of his/her response is in

1 effect a declaration that the party has disclosed all information which is available to him/her. If only
2 partial answers can be supplied, the answers should reveal all information then available to the party.
3 If a person cannot furnish details, he/she should set forth the efforts made to secure the information.
4 She cannot plead ignorance to information which can be obtained from sources under his/her control.
5 (See Deyo v. Kilbourne (1978) 84 Cal.App.3d 771.)

6 Such items as are requested above are believed to be in your custody, control or possession
7 and/or are available to you and are not privileged and are reasonably calculated to lead to the
8 discovery of admissible evidence.

9 This Request is made pursuant to Code of Civil Procedure Section 2031 to which reference is
10 hereby made.

11
12 Dated: February 14, 2018

McCORMICK, BARSTOW, SHEPPARD,
WAYTE & CARRUTH LLP

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15 By: _____
16 Anthony N. DeMaria
Defendant, JANE DOE

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EXHIBIT "D"

1 McCormick, Barstow, Sheppard,
Wayte & Carruth LLP
2 Anthony N. DeMaria, #177894
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3 7647 North Fresno Street
Fresno, California 93720
4 Telephone: (559) 433-1300
Facsimile: (559) 433-2300

5 Attorneys for Defendant, JANE DOE

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 COUNTY OF SANTA CRUZ

10 JAN SMITH,
11 Plaintiff,
12
13 v.
14 JANE DOE,
15 Defendant.

Case No. 123456

**NOTICE OF TAKING DEPOSITION OF
JAN SMITH WITH PRODUCTION OF
DOCUMENTS**

16 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD HEREIN:

17 NOTICE IS HEREBY GIVEN THAT Defendant will take the deposition of **JAN SMITH**
18 upon oral examination, on **February 14, 2018 at 11:00 A.M.**, at the office of Law Offices of John
19 Smith, 1234 Main Street, Santa Cruz, California, before a Certified Shorthand Reporter.

20 PLEASE TAKE FURTHER NOTICE that said deponent is required to produce at said time
21 and place, the following documents and things for copying and examination pursuant to the terms of
22 C.C.P. Sections 2025.280 and 2031.010:

23 1. Please produce all documents and writings items (to include photographs, videos, CDs, DVDs,
24 computer-generated and stored documents and imagery, social media printouts, electronic data,
25 documents and writings of all kinds) identified in your response to Special Interrogatory No. 3.

26 2. Please produce all documents and writings items (to include photographs, videos, CDs,
27 DVDs, computer-generated and stored documents and imagery, social media printouts, electronic
28

1 data, documents and writings of all kinds) identified in your response to Special Interrogatory No. 6.

2 3. Please produce all documents and writings items (to include photographs, videos, CDs,
3 DVDs, computer-generated and stored documents and imagery, social media printouts, electronic
4 data, documents and writings of all kinds) identified in your response to Special Interrogatory No. 9.

5 4. Please produce all documents and writings items (to include photographs, videos, CDs,
6 DVDs, computer-generated and stored documents and imagery, social media printouts, electronic
7 data, documents and writings of all kinds) identified in your response to Special Interrogatory No. 12.

8 5. Please produce all documents and writings items (to include photographs, videos, CDs,
9 DVDs, computer-generated and stored documents and imagery, social media printouts, electronic
10 data, documents and writings of all kinds) identified in your response to Special Interrogatory No. 15.

11 6. Please produce all documents and writings (to include photographs, videos, CDs,
12 DVDs, computer-generated and stored documents and imagery, social media printouts, electronic
13 data, documents and writings of all kinds) which state, reference or constitute agreements (to include
14 contracts, change orders and/or any other form of agreement) between you and JANE DOE or any of
15 its agents and employees.

16 7. Please produce all documents and writings which state, reference or constitute
17 communications of any kind between you and JANE DOE and/or any of its employees or agents (to
18 include photographs, videos, CDs, DVDs, computer-generated and stored documents and imagery,
19 social media printouts, electronic data, documents and writings of all kinds).

20 8. Please produce all documents and writings which state, reference or constitute any and
21 all communications between you and Wells Fargo regarding any and all lines of credit, credit cards
22 and/or payments made to or made available to (or recovered from) either Your Bank or JANE DOE
23 regarding any work performed on your roof or house (to include any and all communications where
24 you requested or discussed revocation or return or any payments made to JANE DOE) (to include
25 photographs, videos, CDs, DVDs, computer-generated and stored documents and imagery, social
26 media printouts, electronic data, documents and writings of all kinds).

27 9. Any and all records, bills and statements and writings, as defined by Evidence Code
28 Section 250, of any doctor, physical therapist, chiropractor or other practitioner of the medical arts

1 who has examined or treated you for injuries, complaints, or ailments arising from the accident or
2 occurrence which gives rise to this lawsuit.

3 10. Any and all records, bills and statements and writings, as defined by Evidence Code
4 Section 250, of any doctor, physical therapist, chiropractor or other practitioner of the medical arts
5 who have examined or treated you ten years **preceding** the accident or occurrence which gives rise to
6 this lawsuit for any injury or illness to the same parts of your body claimed to be involved in the
7 subject lawsuit.

8 11. All color photographs, videotapes, and/or other pictures or computer/graphic
9 reproductions taken of the general area of the accident.

10 12. All color photographs, videotapes, and/or other pictures or computer/graphic
11 reproductions of the injuries plaintiff allegedly suffered as a result of the accident or occurrence which
12 gives rise to this lawsuit.

13 13. Please produce all documents and writings (to include photographs, videos, CDs,
14 DVDs, computer-generated and stored documents and imagery, social media printouts, electronic
15 data, documents and writings of all kinds) which state, reference, or show any and all
16 special/economic damages or losses that you have suffered as a result of Defendant's conduct in any
17 way, shape or form, whether it be medical billings and treatments, lost earnings, lost profits, cost to
18 perform repairs or work done on your house, or otherwise.

19

20 PLEASE TAKE FURTHER NOTICE that under C.C.P. Sections 2025.220(a)(5),
21 2025.220(a)(6) and 2025.620(d), Defendant may record the testimony by stenographic method
22 through the instant visual display of testimony, and that the deposition may be videotaped and/or
23 audiotaped for possible use at trial.

24 If any interpreter is required to translate testimony, notice of the same must be given within
25 five days before the deposition date and the specific language and or dialect designated.

26 If said deposition is not completed on said date, the taking thereof will be continued from day
27 to day thereafter at the same place, Sundays and holidays excepted, until completed.

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1 Dated: February 14, 2018

McCORMICK, BARSTOW, SHEPPARD,
WAYTE & CARRUTH LLP

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By: _____
Anthony N. DeMaria
Defendant, JANE DOE

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