{{ doc.date }}

VIA EMAIL ONLY to abrady@bradyschwartz.com

Mr. Alexander M. Brady

Brady, Schwartz & Kassell LLP

1145 5th Avenue, Suite 120

Houston, TX 34587

Re: Written Discovery Meet-and-Confer

Jones v. Smith et al.; Sacramento County Case No. 34-2021-00283458

Dear Mr. Brady,

Please consider this letter our initial outreach in a good faith attempt to meet-and-confer regarding your client’s discovery responses. Please promptly confirm your receipt of this letter{% if propose\_call\_or\_meeting %}, and allow me to suggest a {{ comma\_and\_list(propose\_call\_or\_meeting.true\_values(), and\_string='or').lower() }} to discuss this once you’ve had a chance to review and consider our position. If you’re amenable, please let me know your availability so we can coordinate scheduling{% endif %}.

**Background**

A recap of the timing and service of the discovery methods at issue in this letter now follows:

{%p for method in methods.true\_values() %}

On {{ disco\_svc\_date\_docx\_field }}, {{ propounder\_docx\_field }} propounded {{ method }}, Set {{ objection\_categories[method].set\_no }}, consisting of {{ objection\_categories[method].number\_propounded}} {{ language\_table[method][‘plural’] }} numbered {{ objection\_categories[method].start\_range }} through {{ objection\_categories[method].end\_range }}, on {{ responder\_docx\_field }} via {{ disco\_svc\_method\_docx\_field }}. On {{ responses\_svc\_date\_docx\_field }}, {{ responder\_docx\_field }} served responses by {{ responses\_svc\_method\_docx\_field }} consisting of {{ objection\_categories[method].responses\_type }}. Something about verification.

{%p if objection\_categories[method].responses\_untimely %}

{{ responder\_docx\_field }}’s responses were due to be served on xxxx, and are thus untimely. Unless {{ responder\_docx\_field }} affirmatively moves for relief, the Discovery Act is clear that all objections, including those based on privilege, are deemed waived, and that {{ responder\_docx\_field }} must serve substantive responses to yyyy’s {{ method }} without any objection recited therein.

{%p endif %}

{%p endfor %}

**Discovery Deficiencies**

Your client’s discovery responses fail to comply with the Civil Discovery Act for the reasons detailed below.

{%p for method in methods %}

{%p for ncr in objection\_categories[method].ncr.true\_values() %}

***{{*** ***method }} No. {{ ncr }}***

The {{ language\_table[method][‘singular’] }} read as follows:

xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

{{ responder\_docx\_field }}’s response to the above was:

yyyyyyyyyyyyyyyyyyyyyyyyyyyyyyyyyyyyyyyyy

This response fails to comply with the Discovery Act because {% for objection in objection\_categories[method].objections[ncr].selected.true\_values() %}{{r dataloader.load\_row(to\_int(objection))["Summary"] | inline\_markdown }}

{{r dataloader.load\_row(to\_int(objection))["Blurb"] | inline\_markdown }}{% endfor %}

{%p if objection\_categories[method].objections[ncr].add\_custom\_critique %}

{{ objection\_categories[method].objections[ncr].custom\_critique }}

{%p endif %}

{%p endfor %}

{%p endfor %}

**Proposed Resolution**

We have no desire to duke it out in law and motion, and our firm takes an uncommon approach our meet-and-confer obligation to “talk the matter over, compare…views, consult, and deliberate”[[1]](#footnote-1) in a good faith effort to resolve discovery disputes. If we’re wrong on any of these issues, we’ll cop to it. To that end, if you know of any legal authority or persuasive argument contrary to the positions taken above, please forward it promptly to my attention. I will thoroughly review and carefully consider any relevant authorities you produce, binding/precedential or not, including unpublished appellate opinions, trial court rulings, treatises/legal encyclopedias, practice guides, out-of-state authorities, and even law review articles.

{%p if discov.proposal\_list.any\_true() %}

We are earnest in our desire to resolve this matter without wasteful litigation. As long as we can procure the discovery to which our client is entitled, we willing to consider {{ discov.proposal\_list.true\_values() }} or any other solution you may propose.

{%p endif %}

**Meet-and-Confer & Litigation Timing**

We respectfully request that you do the following:

1. Email me back at your next reasonable opportunity to confirm that you’ve received and are reviewing this letter;
2. Not later than **{{ response\_deadline }}**, respond in writing to this letter with specific and on-point legal authority in support of any contrary position you may hold, or else serve verified, code-compliant further responses to {{ discov.propounder\_list }}’s {{ methods.true\_values() }};
3. {%p if request\_to\_extend\_MTC\_deadline %}
4. Confirm an agreement to continue CCP § 2031.310(b)’s 45-day Motion to Compel deadline until **{{ proposed\_MTC\_extension\_deadline }}** in order to give the parties sufficient time to confer on these issues.
5. {%p endif %}

We’re hopeful that reasonable minds will come to an agreement here, and we look forward to a cooperative and successful resolution of this matter.

Cordially,

{%p if doc.sign\_yes %}



{%p endif %}

Daniel R. Franklin

Managing Partner

1. *Ellis v. Toshiba Am. Info. Sys., Inc.* (2013) 218 Cal.App.4th 853, 880 [internal quotation marks, alterations, and ellipsis omitted].) [↑](#footnote-ref-1)