



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

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Case Number: CGC-15-543473

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ORDER

KEITH MARTIN VS. RICHARD BEE ET AL

001C05487471

Instructions:

Please place this sheet on top of the document to be scanned.

CHARLES A. BONNER, ESQ. SB# 85413
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ATTORNEYS FOR PLAINTIFF

FILED
Superior Court of California
County of San Francisco

JUL 26 2016

CLERK OF THE COURT
BY: *[Signature]* Deputy Clerk

SUPERIOR COURT OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN FRANCISCO
UNLIMITED JURISDICTION

KEITH MARTIN,

Plaintiff,

vs.

RICHARD BEE and CAROL BEE,

Defendants.

Case No.: CGC-15-543473

DISCOVERY

**ORDER ON MOTION TO VACATE
ORDER ESTABLISHING REQUESTS
FOR ADMISSION AND FOR
MONETARY SANCTION**

Date: June 13, 2016

Time: 9:30 a.m.

Dept: 302

This matter came on regularly before the Court for hearing June 13, 2016, Charles A. Bonner, appeared on behalf of Plaintiff, Keith Martin and David Chen appeared on behalf of Defendants, Richard Bee and Carol Bee.

The Court, having reviewed the moving and opposing papers and having heard the oral argument of counsel hereby adopts the Tentative Ruling as follows:

PLAINTIFF KEITH MARTIN'S Motion To Vacate Order Establishing Admissions And For Monetary Sanctions GRANTED. A court may permit withdrawal or amendment of an admission if it determines that the admission was the result of mistake, inadvertence, or excusable neglect, and that the party who obtained the admission will not be substantially prejudiced in maintaining that party's action or defense on the merits. (CCP Section

1 2033.300(b).). Here, the court was presented with a "motion to vacate" under CCP Section 473
2 and treats the motion as having been brought alternatively under CCP Section 2033.300(a),(b).
3 To prevail on a motion to withdraw or amend deemed admissions, the moving party has the
4 burden to establish "mistake, inadvertence, or excusable neglect" under section 2033.300, or
5 "mistake, inadvertence, surprise, or excusable neglect" under section 473(b). *New Albertsons*
6 *Inc. v. Superior Court* (2008) 168 Cal.App.4th 1403,1420. The court finds that Plaintiff has
7 satisfied his burden based upon his former counsel providing the Court and Defendant's counsel
8 with an incorrect address on the Substitution of Attorney. In addition, the interests of justice
9 favor matters being heard on the merits, not procedural artifice. Plaintiff was not in violation of
10 any existing Order to provide responses and in fact provided responses on April 21, 2016. (*St.*
11 *Mary v. Superior Court* (2014) 223 Cal.App.4th 762, 784)

12 SEE EXHIBIT "A" RE
13 Approved as to Form: COMPLIANCE WITH CRC 3.1312

14 _____
15 David W. Chen, Esq.
16 Attorney for Defendants

17 IT IS SO ORDERED:

18 DATED: 7/21/16

19 JUDGE OF THE SUPERIOR COURT
20 Suzanne Bolanos

LAW OFFICES OF BONNER & BONNER
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July 14, 2016

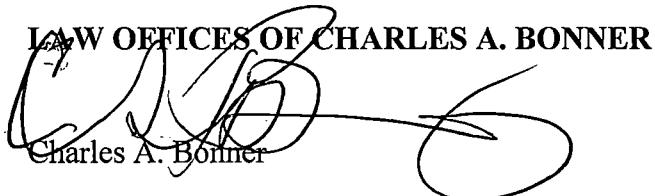
SAN FRANCISCO SUPERIOR COURT
400 MCALLISTER STREET, ROOM 103
SAN FRANCISCO, CA 94102

RE: MARTIN v RICHARD BEE & CAROL BEE
SAN FRANCISCO SUPERIOR NO.: CGC-15-543473

Dear Clerk, Room 103:

Enclosed please find the proposed order granting plaintiff's motion to vacate the order establishing Requests for Admission and for Monetary Sanctions in the above referenced case. It was mailed to opposing counsel to approve as to form on June 16, 2016(See enclosed letter). As of this date, I have not received his signature of approval. Therefore, please file and return in the enclosed envelope.

Very truly yours,

LAW OFFICES OF CHARLES A. BONNER

Charles A. Bonner

CAB:cab
Enclosure

EXHIBIT "A"

LAW OFFICES OF BONNER & BONNER
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June 16, 2016

DAVID W. CHEN, ESQ.
STRATMAN, PATTERSON & HUNTER
505 14th STREET, SUITE 400
OAKLAND, CA 94612

RE: MARTIN v RICHARD BEE & CAROL BEE
SAN FRANCISCO SUPERIOR NO.: CGC-15-543473

Dear Mr. Chen.

Enclosed please find the order granting plaintiff's motion to vacate the order establishing Requests for Admission and for Monetary Sanctions. Please approve as to form and return to my office at your earliest convenience.

Very truly yours,

LAW OFFICES OF CHARLES A. BONNER

Charles A. Bonner

CAB:cab
Enclosure