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ATTORNEYS FOR PLAINTIFF

**ELECTRONICALLY
FILED**
*Superior Court of California,
County of San Francisco*
05/19/2016
Clerk of the Court
BY: WILLIAM TRUPEK
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
REPLY DECLARATION OF KEITH
MARTIN TO DEFENDANTS'
OPPOSITION TO PLAINTIFF'S
MOTION TO SET ASIDE ORDER
ADMISSIONS AND FOR MONETARY
SANCTION**

**Date: MAY 26, 2016
Time: 9:00 a.m.
Dept: 302**

I, Keith Martin, declare:

1. I am the Plaintiff in the above-referenced case.
2. I have reviewed the endorsed filed copy of the Substitution of Attorney Form, Exhibit 1, (Exhibit A, to Declaration of David Chen) and hereby declare that the handwriting on the document stating my name and address is **NOT** my handwriting.
3. The only handwriting on the document that is mine is my signature. This Substitution of Attorney Form was faxed or emailed to me in blank form, with instructions to sign and send it back to my then attorneys, Delfino, Green & Green, following my attorneys informing me that they would not continue with my case. I signed the document and sent

1 it back to Delfino, Green and Green, and that law firm filed the document. I did not
2 receive a copy of the filed document. I did not know the date on which the substitution of
3 attorney document was filed with the Court. The first time I saw the substitution of
4 attorney document was on May 12, 2016, when my current attorney emailed the
5 document to me.

6 4. I did not and would not have stated that my address was "1208 Sir Francis Drake Blvd
7 #2, San Anselmo, CA on 10/3/15 or 11/12/15, as I had moved from that address in July
8 2015.

9 5. On or about September 29, 2015, after my then attorneys, Delfino, Green and Green,
10 resolved my workers compensation case, they informed me they would no longer
11 represent me in my personal injury case. I immediately began looking for another
12 attorney.

13 6. On September 30, 2015, I consulted with Attorney Matthew White, located at 1000 4th
14 Street, San Rafael, CA. I delivered the files of my case to Mr. White. See Exhibit 2.

15 7. On or about October 8th, 2015, I received an email from Mr. White declining to take my
16 case and instructing me to come and pick up my papers. See Exhibit 3.

17 8. I never received any document from Defendants' Attorney entitled "Meet and Confer",
18 advising me that the Request for Admissions would be deemed "Admitted" if I did not
19 respond by a certain date. I was totally surprised when I received, after the hearing on
20 February 4, 2016, the Order Establishing Admissions and for Monetary Sanction that had
21 been entered. I had no knowledge that Defendants' attorney, who apparently knew that I
22 did not have an attorney, had quickly, following the mailing of the request for
23 admissions, sought the Order Establishing Admissions. I could not respond to the
24 admissions because I did not receive the admissions until after the Order was entered. As
25 mentioned in my previous declaration, I have no experience in responding to legal
26 documents, especially Request for Admissions and did not know the legal consequence
27 of failing to respond. When I received all the documents from the Defendants' Attorney, I
28 continued my frantic search for an attorney.

- 1 9. I searched for attorneys through Google and called various attorneys, including 1-800
2 number advertising attorneys. After I explained to the numerous attorneys that my case
3 had a lien from workers compensation, the attorneys declined to take the case.
- 4 10. Luckily, on about March 20, 2016, while visiting my mother in San Rafael, California, I
5 spoke with my mother's neighbor, Attorney Catherine Lagarde, and she referred me to
6 my current attorneys. I retained the Law Offices of Bonner and Bonner on March 21,
7 2016. The next day, March 22, 2016, I appeared for the deposition, which had been
8 ordered on February 4, 2016.
- 9 11. Again, as mentioned, I did not receive notice of the hearing on February 4, 2016 until
10 after the date of the hearing.
- 11 12. On January 20, 2016, I called Defendants' Attorney, Mr. Chen and gave him my new
12 address because I was receiving mail from him late as he had sent the mail to my old
13 address. I also told Mr. Chen that I was not represented by an attorney and was seeking
14 legal help with the case. During the telephone conversation, at no time did Mr. Chen
15 advise me that he had filed motions to compel my deposition and a Motion to Deem
16 Admissions Admitted. In fact, Mr. Chen did not make any mention whatsoever regarding
17 requests for admission. If Mr. Chen had told me during our telephone conversation that
18 he had mailed me request for admissions and that, if I did not respond to the request, he
19 would seek to have each request admitted and that would be detrimental to my case, I
20 would have taken action to notify the court that I was not represented by an attorney and
21 requested additional time to respond to the request for admissions. Mr. Chen never,
22 verbally or in writing, advised me that he would obtain an order to deem the request
23 admitted. During our telephone conversation, Mr. Chen did talk about notice for my
24 deposition, but not a word about request for admissions or the consequences for failing to
25 respond to request for admissions. See Exhibit 4,(Exhibit B to my previous declaration).
- 26 13. After Mr. Chen received my correct address, he sent a notice of deposition to my correct
27 address to take my deposition on February 11, 1016. I showed up on that date for the
28

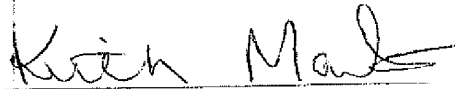
1 deposition, but was told he had reset the date. I appeared with my current attorney on
2 March 22, and was deposed.

3 14. After speaking with Mr. Chen on January 20, 2016, and receiving the documents from
4 him, I mistakenly believed I had time to retain an attorney as I told Mr. Chen that I was
5 not represented by an attorney. He did not tell me through the mandatory “meet and
6 confer” procedure that the Motion Establishing Admission would result in an Order
7 deeming the admissions of every element of each and every one of my claims admitted.

8 15. I respectfully request that this Court set aside the Order Establishing Admissions and for
9 Monetary Sanction as my case has merit and should be heard on the merits.

10 16. All exhibits attached hereto are true and correct originals or copies of the originals.
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1 I declare under the penalty of perjury under the Laws of the State of California that the
2 forgoing is true and correct. This Declaration was executed on May 17, 2016 at San
3 Anselmo, California.

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5 Keith Martin
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EXHIBIT 1

MC-050

ATTORNEY OR PARTY WITHOUT ATTORNEY please, State Bar number, and address: William Green SBN 129816 Delfino Green & Green 1010 B Street, #320 San Rafael, CA 94901 TELEPHONE NO.: 415-442-4646 FAX NO. (OPTIONAL) 415-442-4802		FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of San Francisco 11/12/2015 Clerk of the Court BY: NOELIA RIVERA Deputy Clerk
E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff, Keith Martin		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: CITY AND ZIP CODE: San Francisco 94162 BRANCH NAME: Civil		
CASE NAME: Keith Martin v. Richard Bee, et al.		
SUBSTITUTION OF ATTORNEY—CIVIL (Without Court Order)		CASE NUMBER: CGC 15 543473

THE COURT AND ALL PARTIES ARE NOTIFIED THAT (Name): **Keith Martin**

makes the following substitution:

1. Former legal representative ☐ Party represented self ☒ Attorney (name): **William Green, Esq.**
2. New legal representative ☒ Party is representing self ☐ Attorney
- a. Name: **Keith Martin** b. State Bar No. (if applicable):
- c. Address (number, street, city, ZIP, and law firm name, if applicable):
1208 Sir Francis Drake Blvd. # 2
San Anselmo, CA 94960
- d. Telephone No. (include area code): **(415) 637-2495**
3. The party making this substitution is a ☒ plaintiff ☐ defendant ☐ petitioner ☐ respondent ☐ other (specify):

NOTICE TO PARTIES APPLYING TO REPRESENT THEMSELVES

- Guardian
- Personal Representative
- Guardian ad litem
- Conservator
- Probate fiduciary
- Unincorporated association
- Trustee
- Corporation

If you are applying as one of the parties on this list, you may NOT act as your own attorney in most cases. Use this form to substitute one attorney for another attorney. SEEK LEGAL ADVICE BEFORE APPLYING TO REPRESENT YOURSELF.

NOTICE TO PARTIES WITHOUT ATTORNEYS

A party representing himself or herself may wish to seek legal assistance. Failure to take timely and appropriate action in this case may result in serious legal consequences.

4. I consent to this substitution.

 Date:
Keith Martin

(TYPE OR PRINT NAME)

10/3/15**Keith Martin**

(SIGNATURE OF PARTY)

5. ☒ I consent to this substitution.Date: **October 23, 2015****William Green, Esq.**

(TYPE OR PRINT NAME)

(SIGNATURE OF FORMER ATTORNEY)

6. ☐ I consent to this substitution.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF NEW ATTORNEY)

(See square for proof of service by mail)

Page 1 of 2

EXHIBIT 2

5/12/2016

Re: Keith Martin

PAGE 01/02

From: Matt White <mwhite@montywhitelaw.com>
To: keithnm008 <keithnm008@aol.com>
Subject: Re: Keith Martin
Date: Thu, Oct 8, 2015 8:20 am

No word. I'll follow up.

Matthew N. White
Monty White LLP
Direct Dial: 415-226-4040

On Oct 8, 2015, at 3:27 AM, keithnm008@aol.com wrote:

HI MATT,

ANY TRACTION ON YOUR EMAIL TO BILL?

-----Original Message-----

From: Matthew White <mwhite@montywhitelaw.com>
To: Bill Green <bill@dgglaw.com>
Cc: keithnm008 <keithnm008@aol.com>
Sent: Wed, Sep 30, 2015 5:15 pm
Subject: Keith Martin

Bill:

I met with Keith today. He understands that the workers compensation insurer, as part of the C&R, waived its lien on his third-party recovery. I went online (SF Superior) and saw that the insurer filed a lien in the case in June of this year, after the C & R. Do you have any insight on this? This would make a big difference to me. A workers compensation lien could eat up a large share of any settlement or verdict.

I also saw that there is a trial date set for March 14, 2016.

Do we know the defendant's policy limits?

Finally, do you get the impression that Farmers would negotiate on this case, or have they taken a pure "deny and defend" approach?

Keith is cc'd with this message.

Best-

Matt

NAT&BARBARA MARTIN

4157853343

08:46

05/12/2016

EXHIBIT 3

5/12/2016

Re: Keith Martin

PAGE 01/04

From: keithnm008 <keithnm008@aol.com>
To: mwhite <mwhite@montywhitelaw.com>
Subject: Re: Keith Martin
Date: Fri, Oct 9, 2015 4:31 pm

Thank you Matt,

I have an appointment Monday with Bill Green at 10:30 am I can come by after that appointment. You can leave the papers with your secretary.

Keith

NAT&BARBARA MARTIN

-----Original Message-----
From: Matthew White <mwhite@montywhitelaw.com>
To: keithnm008 <keithnm008@aol.com>
Cc: Bill Green <bill@dgglaw.com>; Darcy Joan Lichter <dlichter@montywhitelaw.com>
Sent: Thu, Oct 8, 2015 2:23 pm
Subject: Re: Keith Martin

Keith, I have not heard from Bill Green yet.

However, I did hear from the workers compensation carrier. They did in fact file a lien in your case for \$77,000.

41578593343

I am sorry that I cannot take on this case. Please know that this is just my own business decision; other lawyers will have other perspectives.

Bill is a good lawyer and if he decides to stay on the case, he will do a good job for you. If not, I'm sure he can recommend others who might be willing to consider taking this on.

09:02

I have all of your papers. Just let me know when you can come by and pick them up.

I did enjoy meeting and talking with you. I'm sorry we will not be working together.

Matt

05/12/2016

EXHIBIT 4

Scott Caple Stratman
Managing Attorney

Frederick A. Patterson
David E. Hunter III

John D. Hourihan
Edward J. Rodzewich
Robert M. Maltz

Law Offices of
STRATMAN, PATTERSON & HUNTER

Not a Partnership
Employees of Farmers Insurance Exchange,
a Member of the Farmers Insurance Group of Companies

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PO BOX 258829
Oklahoma City, OK, 73125-8829

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505 14th Street, Suite 400
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David W. Chen
Zachary Smith
Victoria E. Townsend
Sabrina M. Berdux
Nairi Paterson
P. Richard Colombatto
Ryan L. Kraft
Amy E. Bracher
Brennain J. Garber

Telephone (510) 457-3440
Facsimile: (510) 238-8968

Please Reference Our File # in Your Correspondence
Documents Can be Sent to legaldocs@farmers.com

January 20, 2016

Keith Martin
in Pro Per
1222 Sir Francis Drake Boulevard,
San Anselmo, CA 94960

Re: Martin v. Bee, et al.
Case No.: CGC-15-543473
Our File No.: 15-370008

Dear Mr. Martin:

This letter follows a telephone conversation we had today in which you provided me with your new address. Please be reminded that you must notify the Court of any address changes as the address on record with the Court is your official address for service of documents.

I am mailing you a courtesy copy of the Motion to Compel Plaintiff's Deposition and the Motion to Deem Admissions Admitted. The date of the hearing on both motions in February 4, 2016 at 9:00 a.m. in the Discovery Department at 400 McAllister Street, SF, CA.

Sincerely,



David W. Chen
Direct Line: (510) 457-3442
Cell: (510) 402-8918
Email: david.chen@farmersinsurance.com
DWC/dwc