

1 DAVID W. CHEN, ESQ. – State Bar No. 184071
2 **STRATMAN, PATTERSON & HUNTER**
3 Mailing Address
P.O. Box 258829, Oklahoma City, OK 73125-8829
4 Physical Address
505 14th Street, Suite 400
Oakland, CA 94612-1913
Phone: (510) 457-3440
Fax: (510) 238-8968

6 Attorney for Defendants,
7 RICHARD BEE AND CAROL BEE

**ELECTRONICALLY
FILED**
*Superior Court of California,
County of San Francisco*
05/12/2016
Clerk of the Court
BY: NOELIA RIVERA
Deputy Clerk

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF SAN FRANCISCO**

12 KEITH MARTIN,

13 Plaintiff,

14 vs.

15 RICHARD BEE and CAROL BEE,

16 Defendants.

Case No.: CGC-15-543473
UNLIMITED JURISDICTION

**DECLARATION OF DAVID CHEN IN
SUPPORT OF DEFENDANTS' OPPOSITION
TO PLAINTIFF'S MOTION TO VACATE
ORDER ESTABLISHING ADMISSIONS
AND FOR MONETARY SANCTIONS
AND EXHIBITS A-C**

DATE: MAY 26, 2016
TIME: 9:00 A.M.
DEPT: 302

20
21 I, DAVID W. CHEN, declare:

22 1. I am an attorney at law, duly licensed to practice in all Courts of the State of California, and
23 am a member of the law offices of STRATMAN, PATTERSON & HUNTER, attorneys of record for
24 Defendants, Richard Bee and Carol Bee, in the above-entitled matter. I am an employee of the Claims
25 Litigation Department, Farmers Insurance Exchange and Affiliates, Not a Partnership.

26 2. I am the attorney assigned with the responsibility for the file on this matter, and have
27 thoroughly reviewed its contents and am personally familiar with each of the facts set forth herein. If
28 called as a witness, I could and would competently testify concerning the following matters:

DECLARATION OF DAVID CHEN IN SUPPORT OF DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION TO VACATE ORDER
ESTABLISHING ADMISSIONS AND FOR MONETARY SANCTIONS AND EXHIBITS - 1

1 3. On November 12, 2015, plaintiff filed with the Court and served on defense counsel a
2 Substitution of Attorney form in which Keith Martin substituted himself as attorney of record *in pro per*.
3 In the document, the address written down for Keith Martin was 1208 Sir Francis Drake Blvd, #2, San
4 Anselmo, CA 94960. A true and correct copy of this document is attached as Exhibit A.

5 4. The Requests for Admission which are at issue in this motion were served approximately
6 on December 1, 2015 to plaintiff in pro per apparently at his prior address, 1208 Sir Francis Drake
7 Blvd. #2, San Anselmo, CA 94960.

8 4. Not having received any responses I served a motion to have requests for admissions deemed
9 admitted on January 4, 2016 to plaintiff in pro per at that same address to be heard on February 4,
10 2016..

11 5. As plaintiff had not previously appeared for deposition, I concurrently served a motion to
12 compel attendance at deposition that was also to be heard on February 4, 2016.

13 6. Without explanation as to what prompted plaintiff to call, on January 20, 2016 I received a
14 phone call from plaintiff in which he gave me his new address.

15 7. I confirmed our conversation in a letter dated January 20, 2016 a true and correct copy of
16 which is attached as Exhibit B. I advised Mr. Martin that the hearing date for such motions was
17 February 4, 2016 and that he must advise the Court of his new address. On January 20, 2016 I also
18 forwarded to Mr. Martin, by email, copies of the referenced motions.

19 8. During that conversation, defense counsel reminded plaintiff that he must provide responses
20 to the admissions, attend the deposition and that there are motions filed against him.

21 9. Despite his knowledge of the motions, Mr. Martin did not oppose them, did not appear at the
22 hearing, nor did he at that time serve me with any responses to the requests for admission.

23 10. On February 4, 2016, the Court granted the motions to Compel Plaintiff's Deposition and to
24 Deem Admissions Admitted.

25 11. I thereafter wrote to plaintiff on February 4, 2016 and served the Orders as well. A true and
26 correct copy of my letter of February 4, 2016 is attached hereto as Exhibit C.

27 12. Ultimately plaintiff's deposition went forward on March 22, 2016 with his new counsel in
28 attendance.

1 14. During plaintiff's deposition on March 22, 2016, plaintiff's counsel asked defense counsel
2 to stipulate to withdraw the admissions. I did not stipulate to plaintiff's withdrawal of the admissions.
3 Plaintiff's counsel indicated that he would file a motion for relief.

4 15. With a trial date set for September 6, 2015 and not having received a motion to withdraw
5 the admission, defendants filed their motion for summary judgment in this matter on April 20, 2016
6 which is scheduled to be heard on July 6, 2016. This was almost a month after plaintiff's counsel
7 indicated that he would be filing his motion for relief.

8 16. It was only after the summary judgment was served, that plaintiff drafted and served this
9 motion to withdraw the request for admission.

10 17. Should the court consider this motion, the entire complexity and analysis of the case will
11 have to be revised. Defense will ultimately be required to expend significant additional sums of money
12 on discovery and expert disclosure. Significant expenses will have to be incurred to move forward to
13 trial. This constitutes significant prejudice.

14
15 I declare under penalty of perjury under the laws of the State of California that the foregoing is
16 true and correct. Executed this 11th day of May, 2016, at Oakland, CA.

17
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19 

20 DAVID W. CHEN, Declarant
21
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EXHIBIT “A”

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): William Green SBN 129816 Deffino Green & Green 1010 B Street, #320 San Rafael, CA 94901 TELEPHONE NO.: 415-442-4646 FAX NO. (Optional): 415-442-4802 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff, Keith Martin		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
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: CITY AND ZIP CODE: San Francisco 94102 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) 637-7495**

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]

(SIGNATURE OF FORMER ATTORNEY)

6. ☐ I consent to this substitution.

Date:

(TYPE OR PRINT NAME)

[Signature]

(SIGNATURE OF NEW ATTORNEY)

(See evidence for proof of service by mail)

Page 1 of 2

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PROOF OF SERVICE

I, Elissa Ruiz, declare that:

I am employed in the County of Marin, city of San Rafael, State of California; I am over the age of eighteen years and not a party to the within cause; my business address is 1010 B Street, Suite 320, San Rafael, CA 94901.

On November 12, 2015, I served the following document(s):

SUBSTITUTION OF ATTORNEY

in said cause, on the following interested parties:

David W. Chen, Esq.
Stratman, Patterson & Hunter
P.O. Box 258829
Oklahoma City, OK 73125-8829

Said service was performed in the following manner:

☒ **BY U.S. POSTAL SERVICE (Mail):** I placed such document(s) in a sealed envelope addressed as noted above, with first-class mail postage thereon fully prepaid, for collection and mailing at San Rafael, California, on this date.

☐ **BY EXPRESS MAIL SERVICE (UPS or Federal Express):** I placed such document(s) in a sealed envelope addressed as noted above, for collection and mailing by express mail service at San Rafael, California, on this date.

☐ **BY U.S. POSTAL SERVICE CERTIFIED (Mail):** I placed such document(s) in a sealed envelope addressed as noted above, with first-class mail postage and certified mail fees, plus the appropriate U.S. Certified Mail card thereon fully prepaid, for collection and mailing at San Rafael, California, on this date.

☐ **BY PERSONAL SERVICE:** I hand delivered such envelope to the address[es] listed above on this date.

☐ **BY FACSIMILE:** I transmitted said document(s) by a facsimile machine to the parties at the number(s) indicated above on this date.

☐ **BY EMAIL:** Pursuant to Rules 2.260 et seq., and agreement of counsel, I transmitted the above-described document by electronic transmission (email) to the above listed electronic address. The transmission originated from bill@dgglaw.com and was reported as complete and without error.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

Executed November 12, 2015, at San Rafael, California.


Elissa Ruiz

EXHIBIT “B”

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

Mailing Address
PO BOX 258829
Oklahoma City, OK, 73125-8829

Physical Address
505 14th Street, Suite 400
Oakland, CA 94612-1913

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

EXHIBIT “C”

Scott Caple Stratman
Managing Attorney

Frederick A. Patterson
David B. Hunter III

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

Law Offices of
STRATMAN, PATTERSON & HUNTER

Not a Partnership
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Please Reference Our File # in Your Correspondence
Documents Can be Sent to legaldocs@farmers.com

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Zachary Smith
Victoria E. Townsend
Sabrina M. Berdux
Nairi Paterson
P. Richard Colombatto
Ryan L. Kraft
Amy E. Bracher
Brennain J. Garber

February 4, 2016

Keith Martin
in Pro Per
1222 Sir Francis Drake Boulevard
San Anselmo, CA 94960-1760

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

Dear Mr. Martin:

The court today ordered your deposition to take place no later than February 14, 2016. To that end, I am going to offer February 10 at 1:30 p.m and February 11 at 1:30 p.m. The location will be 505 14th Street, suite 400, Oakland, CA 94806. If you do not get back to me by e-mail by the close of business on February 8, 2016, then I will set it for February 11, 2016 at 1:30 p.m.

Sincerely,



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

1 DAVID W. CHEN, ESQ. - State Bar No. 184071
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4 P.O. Box 258829, Oklahoma City, OK 73125-8829
5 Physical Address
6 505 14th Street, Suite 400
7 Oakland, CA 94612-1913
8 Phone: (510) 457-3440
9 Fax: (510) 238-8968

10 Attorney for Defendants,
11 **RICHARD BEE AND CAROL BEE**

ENDORSED
FILED
San Francisco County Superior Court

FEB - 4 2016

CLERK OF THE COURT
By: D. HERGEN
Deputy Clerk

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9
10 **FOR THE COUNTY OF SAN FRANCISCO**

11 **KEITH MARTIN,**

12 Plaintiff,

13 vs.

14 **RICHARD BEE and CAROL BEE,**

15 Defendants.
16

Case No.: CGC-15-543473
UNLIMITED JURISDICTION

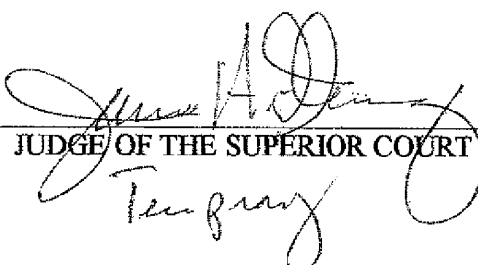
**ORDER ESTABLISHING ADMISSIONS AND
FOR MONETARY SANCTION**

17
18 Defendants' Motion for Order Establishing Admissions and for Monetary Sanctions was heard
19 on February 4, 2016, by Judge Pro Tem James Fleming of the above Court.
20

21 After considering the papers on file herein, IT IS HEREBY ORDERED, as follows:

22 The motion is unopposed. Accordingly, the truth of each matter specified in the request for
23 admission served on Plaintiff Keith Martin on December 1, 2015 is hereby deemed admitted. In
24 addition, Plaintiff Keith Martin shall pay sanctions of \$300, representing reasonable attorneys' fees and
25 costs incurred for making this motion, to Stratman, Patterson & Hunter, counsel to defendants Richard
26 Bee and Carol Bee, on or before February 24, 2016. Counsel for moving party shall submit an order
27 consistent with the foregoing.
28

DATED: Feb 4, 2016


JUDGE OF THE SUPERIOR COURT
Tem prary

1 DAVID W. CHEN, ESQ. – State Bar No. 184071
2 **STRATMAN, PATTERSON & HUNTER**
3 Mailing Address
4 P.O. Box 258829, Oklahoma City, OK 73125-8829
5 Physical Address
6 505 14th Street, Suite 400
7 Oakland, CA 94612-1913
8 Phone: (510) 457-3440
9 Fax: (510) 238-8968

10 Attorney for Defendants,
11 **RICHARD BEE AND CAROL BEE**

ENDORSED
FILED
San Francisco County Superior Court

FEB - 4 2016

CLERK OF THE COURT
By: C. HERBERT
Deputy Clerk

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF SAN FRANCISCO**

10 **KEITH MARTIN,**

11 Plaintiff,

12 vs.

13 **RICHARD BEE and CAROL BEE,**

14 Defendants.

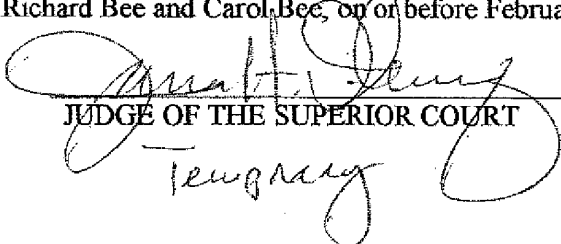
Case No.: CGC-15-543473
UNLIMITED JURISDICTION

**ORDER TO COMPEL PLAINTIFF'S
ATTENDANCE AT DEPOSITION AND
REQUEST FOR REASONABLE SANCTIONS
AND ATTORNEY FEES**

15 Defendants' Motion to Compel Plaintiff's Attendance at Deposition and Request for Reasonable
16 Sanctions and Attorney's Fees was heard on February 4, 2016, by Judge Pro Tem James Fleming of the
17 above Court. After considering the papers on file herein, IT IS HEREBY ORDERED, as follows:

18 The motion is unopposed. Accordingly, Plaintiff Keith Martin is ordered to attend a deposition at
19 the offices of Stratman, Patterson & Hunter, 505 14th Street, Suite 400, Oakland, CA 94612-1913, on
20 February 8, 2016, at 9:00 am or on another mutually convenient date on or before February 14, 2016. In
21 addition, Plaintiff Keith Martin shall pay sanctions of \$587, representing attorneys' fees and court
22 reporter's fees and expenses incurred for Plaintiff Keith Martin's failure to appear at the previously
23 noticed deposition and reasonable attorneys' fees and costs incurred for making this motion, to Stratman,
24 Patterson & Hunter, counsel to defendants Richard Bee and Carol Bee, on or before February 24, 2016.

25 DATED: Feb 4, 2016

26 
27 JUDGE OF THE SUPERIOR COURT
28 Temporary

1 Re: Martin v. Bee, et al.
2 Case Number: CGC-15-543473

3 **PROOF OF SERVICE**
4 **Code of Civil Procedure §§ 1013a, 2015.5**

5 I am a resident of the State of California and over the age of eighteen years, and not a party to the
6 within action. My business address is 505 14th Street, Suite 400, Oakland, CA 94612-1913. On May
7 11, 2016, I served the following document(s):

8 **DECLARATION OF DAVID CHEN IN SUPPORT OF DEFENDANTS'**
9 **OPPOSITION TO PLAINTIFF'S MOTION TO VACATE ORDER**
10 **ESTABLISHING ADMISSIONS AND FOR MONETARY SANCTIONS**
11 **AND EXHIBITS A - C**

12 ☒ By placing the document(s) listed above in a sealed envelope, addressed as set forth
13 below, and placing the envelope for collection and mailing in the place designated for
14 such in our offices, following ordinary business practices.

15 ☒ By transmitting via facsimile the document(s) listed above to the fax number(s) set
16 forth below on this date before 5:00 p.m.

17 ☐ By causing a true copy thereof to be personally delivered to the person(s) at the
18 address(es) set forth below.

19 ☒ By electronically serving the document(s) described above via a Court approved File
20 & Serve vendor on those recipients designated on the Transaction Receipt located on
21 the vendor's Website.

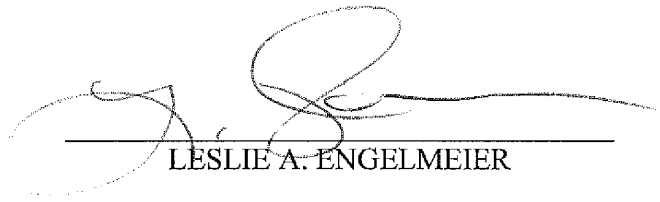
22 ☐ By electronically serving the document(s) to the electronic mail address set forth
23 below on this date before 5:00 p.m. pursuant to the signed stipulation of the parties
24 and consistent with Code of Civil Procedure section 1010.6(a)(2).

25 **SEE ATTACHED SERVICE LIST**

26 I am readily familiar with the firm's practice of collection and processing correspondence for
27 mailing with the United States Postal Service. Under that practice, it would be deposited with U.S.
28 Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I
am aware that on motion of the party served, service is presumed invalid if postal cancellation date or
postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true
and correct.

Executed on May 11, 2016, at Oakland, California.



LESLIE A. ENGELMEIER

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1 Re: Martin v. Bee, et al.
2 Case Number: CGC-15-543473

3 **SERVICE LIST**

4 Charles A. Bonner, Esq.
5 Law Offices of Bonner & Bonner
6 475 Gate Five Road, Suite 212
7 Sausalito, CA 94965
8 Attorney for Plaintiff, Keith Martin
9 Phone: (415) 331-3070
10 Fax: (415) 331-2738
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