

**SUPERIOR COURT, STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA**

**Department 16**

**(Dept 16 is now hearing cases that were formerly in Dept 2)**

**Honorable Amber Rosen, Presiding**

Felicia Samoy, Courtroom Clerk  
191 North First Street, San Jose, CA 95113  
Telephone: 408.882.2270

**DATE: 08-13-24    TIME: 9 A.M.**

**All those intending to speak at the hearing are requested to appear in person or by video. Parties are asked NOT to appear by telephone only.**

**To contest the ruling, call (408) 808-6856 before 4:00 P.M.**

Make sure to let the other side know before 4:00 P.M. that you plan to contest the ruling, in accordance with California Rule of Court 3.1308(a)(1) and Local Rule 8.E.

**The prevailing party shall prepare the order unless otherwise ordered. (See California Rule of Court 3.1312.)**

**TO CONTEST THE RULING: Before 4:00 p.m. today you must notify the:**

- (1) Court by calling (408) 808-6856 and
- (2) Other side by phone or email that you plan to appear and contest the ruling  
(California Rule of Court 3.1308(a)(1) and Local Rule 8.E.)

**TO APPEAR AT THE HEARING:** The Court will call the cases of those who appear in person first. If you appear virtually, please use video. To access the link, click on the below link or copy and paste into your internet browser and scroll down to Department 16.

[https://www.scscourt.org/general\\_info/ra\\_teams/video\\_hearings\\_teams.shtml](https://www.scscourt.org/general_info/ra_teams/video_hearings_teams.shtml). You must use the current link.

**FINAL ORDERS:** The prevailing party shall prepare the order unless otherwise ordered. (See California Rule of Court 3.1312.)

**COURT REPORTERS:** The Court no longer provides official court reporters. If any party wants a court reporter, the appropriate form must be submitted. See court website for policy and forms.

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LINE #	CASE #	CASE TITLE	RULING
<a href="#">LINE 1</a>	21CV392258 Hearing: Order of Examination	Hsin Chu vs Hak Chun Ng	It does not appear that a proper proof of service has been filed. All parties are to appear for the hearing. If all parties appear, the Court will administer the oath and the examination will take place off line. If the debtor does not appear, the matter will be continued to allow proper notice. If there is no appearance by the moving party, the matter will be ordered off calendar.
<a href="#">LINE 2</a>	23CV412053 Hearing: Order of Examination	Rossi Hamerslough Reischl & Chuck vs Dipali Shah	All parties are to appear for the hearing. If all parties appear, the Court will administer the oath and the examination will take place off line. If there is no appearance by the moving party, the matter will be ordered off calendar.

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<a href="#">LINE 3</a>	2000-7-CV-401591 Hearing: Order of Examination	National Credit Vs Anima	All parties are to appear for the hearing. If all parties appear, the Court will administer the oath and the examination will take place off line. If there is no appearance by the moving party, the matter will be ordered off calendar.
<a href="#">LINE 4</a>	23CV410156 Motion: Demurrer and Motion to Strike	ESP/Environmentally Safe Products and Procedures vs Signia Hotel Management LLC et al	Off Calendar.
<a href="#">LINE 5</a>	23CV410156 Motion: Strike	ESP/Environmentally Safe Products and Procedures vs Signia Hotel Management LLC et al	Off Calendar.
<a href="#">LINE 6</a>	24CV430182 Hearing: Demurrer	Deborah Sharpe vs Brian Chesky et al	Off calendar due to stay.
<a href="#">LINE 7</a>	19CV345772 Motion: Summary Judgment/Adjudication	Thien Tran vs Tam Nguyen et al	At Plaintiff's request, the motion remains on calendar, but no tentative decision is given, as judgment was already granted for Defendant.
<a href="#">LINE 8</a>	23CV419569 Motion: Compel	Chinan Zhang et al vs Bethany Liou et al	See Tentative Ruling. Plaintiffs shall submit the final order.

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**The prevailing party shall prepare the order unless otherwise ordered. (See California Rule of Court 3.1312.)**

<a href="#">LINE 9</a>	23CV425892 Motion: Compel	Marlon Hernandez et al vs Temuulen Dambaryenchin et al	Defendants move to compel discovery responses. Plaintiffs have failed to respond to the discovery requests, failed to respond to meet and confer efforts of defense counsel, and failed to oppose the motion to compel. Accordingly, Plaintiffs are ordered to provide complete, verified, objection-free responses to defendants' Form Interrogatories, Set One, Special Interrogatories, Set One, and to produce the requested documents pursuant to the Request for Production of Documents, Set One, within 15 days of receipt of the final order. Defendants' request for sanctions against plaintiffs Marlon H. Hernandez and Jackeline Ester Rivas De Rivas in the amount of \$400 is GRANTED and shall be due and payable to defense counsel within 15 days of receipt of the final order. Defendants shall submit the final order.
<a href="#">LINE 10</a>	20CV366611 Motion: Withdraw as attorney	JOSE MONTES et al vs DURAN & VENABLES, INC. et al	Parties, including plaintiffs and plaintiffs' counsel, are required to appear at the hearing for withdrawal of plaintiffs' counsel. If Plaintiffs' counsel fails to appear, the matter will go off calendar.
<a href="#">LINE 11</a>	23CV410594 Hearing: Petition to release Mechanics Lien	Cahalan Properties LLC et al vs Pacific Construction & Management et al	OFF CALENDAR.
<a href="#">LINE 12</a>			

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<a href="#">LINE 13</a>			
<a href="#">LINE 14</a>			
<a href="#">LINE 15</a>			
<a href="#">LINE 16</a>			
<a href="#">LINE 17</a>			

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## Calendar Line 8

**Case Name:** *Zhang, et al. v. Liou, et al.*

**Case No:** 23CV419569

Currently before the Court is Plaintiffs Sisi Xu, Lihong Chen and Chinan Zhang's ("Plaintiffs") motion to compel further responses to form interrogatories propounded to Defendant Xiao Chen ("Defendant" or "Chen")

### **FACTUAL AND PROCEDURAL BACKGROUND**

This is a voidable/fraudulent transfer case arising under Civil Code sections 3439.04, subdivision (a)(1), 3439.04, subdivision (a)(2), and 3439.05. The First Amended Complaint ("FAC") alleges that in 2015, Plaintiffs invested \$550,000 each in GCRC Diamond Creek LP, a limited partnership managed by defendant Bethany Liou ("Liou"). (FAC at ¶ 21.) Plaintiffs allege that they discovered Liou's fraudulent mismanagement of funds at the detriment of investors, including Plaintiffs and filed suit for breach of contract, breach of fiduciary duty and fraud. (FAC at ¶¶ 22, 24.) Default judgment was entered against Liou in Santa Clara County under case no. 22CV395989, with \$950,318.50 awarded to each Plaintiff for a total of \$2,850,955.50. (FAC at ¶ 27.)

The FAC further alleges that Liou created LLCs to hide her personal assets. (FAC at p. 5:16.) Plaintiffs contend Liou transferred property acquired by her as a single person to herself as a married woman with separate property. (FAC at ¶ 32.) Her husband subsequently transferred his interest in the property to Liou. (FAC at ¶ 33.) Plaintiffs allege Grande LLC and Sabercat LLC were created with Liou as the sole managing member for the purpose of executing further transfers. (FAC at ¶¶ 34, 35.) The property was transferred from Liou to Grande LLC and then to Sabercat LLC. (FAC at ¶¶ 36, 37.) Plaintiffs allege that all transfers occurred while the original action was pending for no or minimal consideration. (FAC at ¶¶ 32, 33, 36, 37.)

In relevant part, Plaintiffs allege that "on July 5, 2023, Liou executed a deed of trust to secure a \$1,000,000 debt against Property from Sabercat LLC to Defendant Tahoe Chateau Land Holding LLC, which is solely operated and managed by Defendant Xiao Chen." (FAC at ¶ 38.) Plaintiffs maintain that this was done intentionally by Defendant Chen to evade creditors such as themselves. (*Ibid.*) For each cause of action, Plaintiffs indicate that they were "harmed and continue to be harmed because Liou's transfers of the Property to Grande LLC and Sabercat LLC and from Sabercat LLC to Tahoe Chateau Land Holding LLC (with the knowledge and through facilitation of Xiao Chen to prevent Plaintiffs from obtaining payment of their judgment from Liou. On information and belief, Liou became insolvent as a result of the transfer of her Property." (FAC at ¶¶ 41, 49, 57.) Notably, Plaintiffs seek punitive damages for Defendant Chen's conduct characterized as "intentional, malicious, oppressive, and fraudulent . . . ." (FAC at p. 12, ¶ 7.) Plaintiffs further allege Defendant Liou, Defendant Chen, and the various entities involved are agents or alter egos of one another. (FAC at ¶¶ 10-18.)

Plaintiffs served Form Interrogatories ("FROGs") on Defendant Chen on January 19, 2024. On March 8, 2024, Defendant Chen provided verified responses but refused to answer the 2 series of the Form Interrogatories on privacy and relevancy grounds. Although Defendant Chen agreed to provide amended verified responses to the FROGs, he still refused

to respond to FROG Nos. 2.2 and 2.5 through 2.7 on the same privacy and relevancy grounds. Despite their efforts to meet and confer, the parties were unable to come to an agreement. On May 3, 2024, Plaintiffs filed the instant motion to compel responses to form interrogatories. Defendant Chen filed his opposition to the Motion to Compel on August 7, 2024. Plaintiffs filed their reply on August 7, 2024.

## **DISCUSSION**

### **I. Preliminary Matters**

#### **A. Timeliness**

Unless the parties have agreed to an extension in writing, a notice of a motion to compel further responses must be served, if at all, within 45 days of the service of the responses to the discovery requests. (Code Civ. Proc., §§ 2030.300, subd. (c) [interrogatories], 2031.310, subd. (c) [requests for production], 2033.290, subd. (c) [requests for admission].) This 45-day limit is extended if served by mail, overnight delivery, fax, or electronically. (See Code Civ. Proc., §§ 1010.6, subd. (a)(4) (b), 1013, subd. (a).)

The deadline by which a party must file a motion to compel further responses and is mandatory and quasi-jurisdictional, such that the court has no authority to grant a late motion. (See *Sexton v. Super. Ct.* (1997) 58 Cal.App.4th 1403, 1410; *Vidal Sassoon, Inc. v. Super Ct.* (1983) 147 Cal.App.3d 681, 685.) “Generally, ‘discovery deadlines are mandatory and [have been] treated ... as jurisdictional’ (*Weinstein v. Blumberg* (2018) 25 Cal.App.5th 316, 322, fn. 3), meaning trial courts can only deny untimely motions. (*Sexton v. Superior Court* (1997) 58 Cal.App.4th 1403, 1410.)” (*Thai v. Richmond City Center, L.P.* (2022) 86 Cal.App.5th 282, 291, fn. 5.)

Here, Plaintiffs originally propounded form interrogatories on January 19, 2024. (Declaration of Julie Bonnel Rogers (“Rogers Decl.”) at ¶ 5.) Defendant Chen provided verified responses to form interrogatories but refused to respond to interrogatories 2.2 and 2.5 through 2.7. (Rogers Decl. at ¶ 7.) The parties met and conferred with respect to these responses. (*Id.* at ¶ 8.) On April 1, 2024, Defendant Chen provided verified amended responses to the form interrogatories, this time listing interrogatories 2.2 and 2.5 through 2.7, but objecting to them on privacy and relevancy grounds. (*Id.* at ¶ 9.) Despite continued efforts to meet and confer, the parties were unable to reach an agreement. Counsel for Defendant Chen offered a reservation of right to file the motion to compel. (Declaration of Andrew Silva (“Silva Decl.”) at ¶ 9.) Counsel for Plaintiffs ultimately filed this motion on May 3, 2024 or 32 days after the verified amended responses listing and objecting to form interrogatories 2.2 and 2.5 through 2.7 were served. Accordingly, the motion is timely.

#### **B. Meet and Confer**

A motion to compel further responses to interrogatories must be accompanied by a meet and confer declaration under Code of Civil Procedure section 2016.040. (Code Civ. Proc., §§ 2030.300, subd. (b).) “A meet and confer declaration in support of a motion shall state facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.” (Code Civ. Proc., § 2016.040.) A reasonable and good faith attempt at informal resolution requires that the parties present the merits of their respective positions with candor, specificity, and support. (*Townsend v. Super. Ct.* (1998) 61 Cal.App.4th 1431, 1435, 1439.) The level of effort at informal resolution which satisfies the “reasonable and good faith

attempt” standard depends upon the circumstances of the case. (*Obregon v. Super. Ct.* (1998) 67 Cal.App.4th 424, 431.)

Here, Plaintiffs filed a meet and confer declaration with respect to the motion evidencing sufficient meet and confer efforts on their part. (See Rogers Decl.) Any further meet and confer efforts would be fruitless.

### **C. Separate Statement**

Rules of Court, rule 3.1345(a)(1)-(3) provides that a motion to compel further responses to requests for admission, interrogatories, and requests for production requires a separate statement. The separate statement must contain all information necessary to evaluate the motion such as the text of the request and the factual and legal reasons advanced in support of the motion. (Rules of Court, rule 3.1345(a), (c).)

The separate statement must include--for each discovery request (e.g., each interrogatory, request for admission, deposition question, or inspection demand) to which a further response, answer, or production is requested--the following:

- (1) The text of the request, interrogatory, question, or inspection demand;
- (2) The text of each response, answer, or objection, and any further responses or answers;
- (3) A statement of the factual and legal reasons for compelling further responses, answers, or production as to each matter in dispute . . .

(Rules of Court, rule 3.1345(c).)

A court has discretion to summarily deny a discovery motion due to the absence of a proper separate statement. (*Mills v. U.S. Bank* (2008) 166 Cal.App.4th 871, 893.)

Here, Plaintiffs have provided a separate statement for the form interrogatories from which further responses are sought.

## **II. Analysis**

### **A. Legal Standard**

A responding party must provide non-evasive answers to interrogatories that are “as complete and straightforward...to the extent possible,” and, if after a reasonable and good faith effort to obtain the information they still cannot respond fully to an interrogatory, the responding party must so state in its response. (Code Civ. Proc., § 2030.220.) If the responding party provides incomplete or evasive answers, or objections without merit, the propounding party’s remedy is to seek a court order compelling a further response to the interrogatories. (Code Civ. Proc., § 2030.300.)

### **B. Merits of Motion**

#### **1. Form Interrogatories**

Plaintiffs move to compel responses to the following form interrogatories:



**Form Interrogatory 2.2**

State the date and place of your birth.

**Form Interrogatory 2.5**

State:

- (a) your present residence ADDRESS;
- (b) your residence ADDRESS for the past five years; and
- (c) the dates you lived at each ADDRESS.

**Form Interrogatory 2.6**

State:

- (a) the name, ADDRESS, and telephone number of your present employer or place of self-employment; and
- (b) 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.

**Form Interrogatory 2.7**

State:

- (a) the name and ADDRESS of each school or other academic or vocational institution you have attended, beginning with high school;
- (b) the dates you attended;
- (c) the highest grade level you have completed; and
- (d) the degrees received.

Defendant Chen has responded to each interrogatory with the same objection:

Responding Party objects to this interrogatory as it seeks information not relevant to the subject matter in the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. CCP § 2017.010. Responding Party also objects to this request because it seeks documents, the disclosure of which would constitute an unwarranted invasion of the affected person's constitutional, statutory, and/or common-law right of privacy and confidentiality.

(See Plaintiffs' Separate Statement of Discovery.)

**2. Legal Standard for Privacy and Relevance Objections**

A principal purpose of discovery is "to educate the parties concerning their claims and defenses so as to encourage settlements and to expedite and facilitate trial." (*Emerson Electric Co. v. Superior Court* (1997) 16 Cal.4th 1101, 1107.) "Unless otherwise limited by order of the court in accordance with this title, any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears

reasonably calculated to lead to the discovery of admissible evidence.” (Code. Civ. Proc., § 2017.010.)

The right to privacy under the California Constitution protects an individual’s “reasonable expectation of privacy against a serious invasion.” (*Pioneer Electronics, Inc. v. Sup. Ct.* (2007) 40 Cal.4th 360, 370.) In *Hill v. National Collegiate Athletic Assn.* (1994) 7 Cal.4th 1, the California Supreme Court announced a test for evaluating privacy concerns. “The party asserting a privacy right must establish a legally protected privacy interest, an objectively reasonable expectation of privacy in the given circumstances, and a threatened intrusion that is serious. [Citation.]

The party seeking information may raise in response whatever legitimate and important countervailing interests disclosure serves, while the party seeking information may raise in response whatever legitimate and important countervailing interests disclosure serves, while the party seeking protecting may identify feasible alternatives that serve the same interests or protective measures that would diminish the loss of privacy. A court must then balance these competing considerations. [Citations.]” (*Williams v. Super. Ct.* (2017) 3 Cal.5th 531, 541 (*Williams*).)

Where the right to privacy is asserted in the discovery context, the items sought must be “directly relevant” and “essential to the fair resolution” of the lawsuit. (*Alch v. Superior Court* (2008) 165 Cal.App.4th 1412, 1425 (*Alch*).) To establish direct relevance, “[i]t is not enough that the information might lead to relevant evidence,” which could be sufficient to establish general relevance for discovery purposes absent a privacy objection. (*Binder v. Superior Court* (1987) 196 Cal.App.3d 893, 901.) “Mere speculation as to the possibility that some portion of the records might be relevant to some substantive issue does not suffice.” (*Davis v. Superior Court* (1992) 7 Cal.App.4th 1008, 1017.) Furthermore, discovery will not be ordered if the information sought is available from other sources or through less intrusive means. (*Allen v. Super Ct.* (1984) 151 Cal.App.3d 447, 449.)

### 3. Arguments of the Parties

In bringing this motion to compel, Plaintiffs argue Defendant Chen’s objections are unjustified. Plaintiffs argue that the threat of a data breach is not a serious intrusion of privacy under *Hill* because discovery is not typically filed with the court, and that responses can be provided pursuant to a protective order to ensure confidentiality and prevent public disclosure. (Plaintiffs’ Memorandum of Points and Authorities (“Plaintiffs’ MPA”) at pp. 3:21-4:5.) Plaintiffs assert that responses to these 2 series interrogatories are relevant because Defendant Chen maintains a “secretive and guarded” business relationship with Liou, which may extend to the United States and Asia. (Plaintiffs’ MPA at pp. 5:1-7:11.) Plaintiffs specifically note that Defendant Chen’s address and residence are relevant and necessary for deposition. (*Id.* at p. 5:18-24.) Plaintiffs contend Defendant Chen’s employment as addressed in form interrogatory 2.6 is relevant because they have alleged that Defendant Chen, Defendant Liou, and the various entities involved are agents and alter egos of one another. (*Id.* at p.6:7-15.) Plaintiffs also argue that Defendant Chen’s employment and education are relevant to understanding his level of sophistication in executing business transactions such as the one alleged in the First Amended Complaint. (*Id.* at pp. 6:26-7:1.)

Defendant makes a blanket assertion of the right to informational privacy, but also argues the threat of data breach constitutes a serious intrusion under *Hill*. (Defendant's Memorandum of Points and Authorities ("Defendants' MPA") at pp. 4:26-5-7.) Defendant's counsel references his own data breach by AT&T as a basis for the Court to consider. (Silva Decl. at ¶¶ 10-11; Exhibits 3&4.) Defendant further argues that neither he nor Tahoe Chateau Land Holding LLC ("TCLH") were parties to the original action resulting in a default judgment against Liou. (Defendant's MPA at p. 5:13-14.) Defendant maintains Plaintiffs can instead obtain necessary information through the use of supplemental interrogatories and requests for admission. (*Id.* at p. 6:6-15.) Additionally, Defendant Chen attests that he is not related to Liou and does not have any familial relationship with Liou in the United States or Asia. (Declaration of Xiao Chen ("Chen Decl.") at ¶¶ 10, 11.) He further attests that Liou does not have any interest in TCLH, and that he does not have any interest in any of the entities owned by Liou. (Chen Decl. at ¶¶ 12, 13.) He claims that he has never been employed by these entities, and did not attend school with Liou. (*Id.* at ¶¶ 14, 15.) He has indicated that TCLH is in the business of real estate investment. (*Id.* at ¶ 17.)

In reply, Plaintiffs urge that Defendant Chen's privacy objection based on the threat of a data breach holds the serious implication of all other litigants choosing to respond to background form interrogatories in the same way. (Plaintiffs' Reply Brief at p. 3:3-8.) Plaintiffs object to paragraphs 10, 11, and Exhibits 3 and 4 to the Declaration of Andrew Silva on the grounds that his personal experiences with a data breach are irrelevant as they do not pertain to Defendant Chen and are not in the context of civil litigation that include the prospect of a protective order. (*Id.* at pp. 5:18-6:6.) Plaintiffs further object to paragraphs 6, 7, 9, and 16 of Defendant Chen's declaration on the grounds that these assertions lack foundation, call for expert testimony, are speculative, and draw improper legal conclusions. (*Id.* at pp. 4:1-5:17.)

#### 4. Disposition

The Court does not find the threat of a data breach to be a serious intrusion of privacy under these circumstances. Additionally, as indicated by Plaintiffs, discovery responses are not typically filed with the Court. Any concerns raised by Defendant Chen can be cured through a protective order as offered by Plaintiffs to preserve confidentiality and prevent public disclosure of the information at issue. Counsel's assertion of his personal experiences of a data breach with AT&T are irrelevant. Accordingly, the Court sustains Plaintiffs' objections with respect to the Declaration of Andrew Silva.

The Court agrees that a blanket privacy objection without substantial justification to form interrogatories seeking basic information bears the risk of establishing precedent that would otherwise permit litigants to evade responses that are otherwise designed to fulfill the purpose for which this process is designed. As stated above, the principal purpose of discovery is to educate the parties with respect to their claims and defenses. Therefore, the information requested here need only be reasonably calculated to lead to the discovery of admissible evidence, and not directly relevant.

The crux of the allegations against Defendant Chen are that as an agent or alter ego of Liou, he intentionally facilitated Liou's execution of a deed of trust to secure a \$1,000,000 against the property from Sabercat LLC to TCLH, which is solely operated and managed by him (FAC at ¶ 38.) In essence, Plaintiffs aver that Defendant Chen has assisted Liou in becoming insolvent, thereby affecting their ability to enforce the judgment on Liou.

As such, Plaintiffs' discovery purportedly seeks information that clarifies the nature of these transactions and relationship between these parties that would lead to the discovery of admissible evidence. Plaintiffs' discovery also seeks basic information that would aid in the coordination of litigation such as Defendant Chen's residence or address to determine the location for service in the absence of counsel, or for an in-person deposition.

Although Defendant Chen attests that he has no familial relationship with Liou, this does not preclude the possibility of a business relationship with Liou in the United States or Asia. While Defendant Chen further attests that he holds no interest in the entities at issue, including TCLH, and is not employed by any of these entities, an affirmative response as to his place of employment as requested in form interrogatory 2.6 may seek to clarify the scope of the allegations raised by the operative complaint in this regard.

Likewise, information regarding Defendant Chen's schooling may also seek to clarify his sophistication in executing the alleged business transaction to aid in proving or even disproving the request for punitive damages. Defendant Chen's assertion that his schooling bears no relevance on the alleged business transaction is speculative and an improper legal conclusion. The Court sustains this objection, as well as all other objections raised by Plaintiffs.

Accordingly, Plaintiffs' motion to compel further responses to Form Interrogatory Nos. 2.2, 2.5, 2.6, and 2.7 is GRANTED. Defendant shall provide code-compliant responses without objection within 15 days of receipt of the Court's final order.

### **C. Request for Sanctions**

In connection with the motion to compel, Plaintiffs request monetary sanctions in the amount of \$5,370. (See Supplemental Declaration of Julie Bonnel-Rogers.)

Plaintiffs cite Code of Civil Procedure section 2023.010, which describes acts constituting abuse of the discovery process. Plaintiff relies on Code of Civil Procedure section 2030.290, subdivision (c) in seeking monetary sanctions; however, this statute authorizes monetary sanctions for a motion to compel initial responses to interrogatories. The applicable statute here instead is Code of Civil Procedure, section 2030.300, subdivision (d), which governs further response to interrogatories and provides "The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel a further response to interrogatories, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust." Although Plaintiffs rely on the wrong statute, there is still a statutory basis for attorneys' fees.

Plaintiffs seeks a total of \$5,370 in monetary sanctions against Defendant and his counsel of record. The amount is based on 4.2 hours preparing the motion, four hours preparing the reply papers, and an anticipated one hour to prepare for oral argument and attend the hearing. Additionally, the amount includes a \$60 filing fee for filing the instant motion, as well as one hour of paralegal time billed at \$250 per hour. Plaintiffs' counsel bills at \$550 per hour.

Plaintiffs have made a code-compliant request for monetary sanctions and, as the prevailing party, Plaintiffs are entitled to monetary sanctions unless Plaintiffs acted with substantial justification or imposition of sanctions would be unjust. Plaintiffs contend, among other things, that Defendant refused the offer of a protective order, failed to meet and confer in good faith, and propounded the same discovery on Plaintiffs that he now refuses to answer. (Plaintiffs' Reply Brief at p. 6:23-7:3.)

It should be noted that the parties have made a good faith effort to meet and confer and that Defendant did offer a reservation of right to file the Motion to Compel to allow more time for the parties to come to an agreement. However, the form interrogatories were originally propounded on January 19, 2024 and this motion followed five months later. Defendant has had ample time and opportunity to consider providing responses subject to a protective order as offered by Plaintiff. This proposed alternative could have obviated the need for a motion altogether.

Nonetheless, Plaintiffs request an excessive amount in monetary sanctions for a motion to compel further responses involving only four form interrogatory requests for basic information. Accordingly, the Court will reduce the sanctions request. The Court will order sanctions in the amount of \$1,960, consisting of 2 hours preparing the motion, 1 hours drafting a reply at \$550 per hour, one hour of paralegal time, plus the \$60 filing fee. The Court does not award anticipated expenses, and thus, fees associated with oral argument preparation are omitted from calculation. (See *Tucker v. Pacific Bell Mobile Services* (2010) 186 Cal.App.4th 1548, 1551 [the court awards sanctions only for expenses actually incurred, not for anticipated expenses].) Accordingly, Plaintiffs' request for sanctions is GRANTED, in part. Defendant and his counsel of record shall pay \$1,960 to Plaintiffs' counsel within 15 calendar days of receipt of the Court's final order.

### **CONCLUSION**

The motion to compel further responses is GRANTED. Defendant Xiao Chen is ordered to provide responses without objection to Form Interrogatory Nos. 2.2, 2.5, 2.6, and 2.7 to Plaintiffs' counsel within 15 calendar days of receipt of the Court's final order. Plaintiffs' request for attorneys' fees is GRANTED IN PART in the amount of \$1,960. Defendant is ordered to pay \$1,960 to Plaintiffs' counsel within 15 days of receipt of the Court's order is filed.

Plaintiffs shall submit the final order.

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