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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **COUNTY OF SAN DIEGO**

15  
16 KARL BECK, individually and on behalf  
17 of all other similarly situated California  
residents,

18 Plaintiff,

19 vs.

20 POINT LOMA PATIENTS CONSUMER  
21 COOPERATIVE CORPORATION, a  
California corporation, ADAM KNOPF, an  
22 individual, JUSTUS H. HENKES IV, an  
individual, 419 CONSULTING INC, a  
23 California corporation, GOLDEN STATE  
GREENS LLC, a California LLC, FAR  
24 WEST MANAGEMENT LLC, a  
California LLC, FAR WEST  
25 OPERATING, LLC, a California LLC,  
FAR WEST STAFFING LLC, a California  
26 LLC, and DOES 1-50;

27 Defendants.  
28

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County of San Diego

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By E- Filing, Deputy Clerk

**CASE NO. 37-2017-00037524-CU-BT-CTL**

**CLASS ACTION**

**DEFENDANTS MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
OPPOSITION TO PLAINTIFF'S MOTION  
TO COMPEL SPECIAL  
INTERROGATORIES (SET ONE)**

[Imaged File]

Judge: Hon. Joel Wohlfeil

Dept.: C-73

Date: May 18, 2018

Time: 9:00 a.m.

Complaint Filed: October 6, 2017

Trial Date: March 1, 2019

1 Defendants Point Loma Patients Consumer Cooperative Corporation, Adam Knopf, Justus  
2 Henkes, 419 Consulting Inc., Golden State Greens, Far West Management, Far West Operating,  
3 and Far West Staffing (collectively “Defendants”) respectfully submit this memorandum of points  
4 and authorities in opposition to plaintiff Karl Beck's Motion to Compel Special Interrogatories  
5 (Set One) to All Defendants.

6  
7 **I. INTRODUCTION**

8 Plaintiff’s interrogatories contain improper definitions, instructions and subparts.  
9 Defendants appropriately objected, *but nonetheless proceeded to provide responsive information*  
10 *to each interrogatory*. Not satisfied, Plaintiff now moves to compel further responses to adhere to  
11 his definitions and instructions and to address each of the 56 subparts propounded on Defendants.

12 **II. THE RESPONSES HAVE BEEN VERIFIED**

13 Plaintiff Beck has propounded nearly forty sets of discovery on Defendants. In that crush  
14 of discovery, Defendants inadvertently overlooked verifications to their responses to special  
15 interrogatories, set one. Concurrent with the filing of this Opposition, Defendants are serving  
16 those verifications on Plaintiff’s counsel.

17 **III. PLAINTIFF'S INTERROGATORIES ARE PROCEDURALLY IMPROPER**

18 **a. The Interrogatories Improperly Include Preface and Instructions**

19 Each of Plaintiff’s first sets of interrogatories improperly include lengthy definitions and  
20 instructions that precede the interrogatories. The Code is clear that “[e]ach interrogatory shall be  
21 full and complete in an of itself. *No preface or instruction shall be included with a set of*  
22 *interrogatories* unless it has been approved [by Judicial Council for form interrogatories].” Cal.  
23 Code Civ. Proc. § 2030.060(d).

24 Defendants appropriately objected to these interrogatories on this basis. Subject to that  
25 appropriate objection, Defendants responded to the interrogatories in a *practical* fashion,  
26 construing each term *reasonably*, and providing substantive responses and information to each  
27 interrogatory.  
28

1                   **b. The Interrogatories Improperly Include Multiple Subparts**

2                   Interrogatories Nos. 1 and 4 to each Defendant specifically contain improper subparts.  
3                   These subparts, (a) – (d) for each interrogatory, are separately sub-numbered and set out below  
4                   the main interrogatory. The Code is clear that “[n]o specially prepared interrogatory shall contain  
5                   subparts, or a compound, conjunctive, or disjunctive question.” Cal. Code Civ. Proc. §  
6                   2030.060(f).

7                   Defendants appropriately objected to these interrogatories on this basis. Subject to that  
8                   appropriate objection, Defendants responded to the interrogatories in a *practical* fashion,  
9                   construing each term *reasonably*, and providing substantive responses and information to each  
10                  interrogatory.

11                  Plaintiff cites *Clement v. Alegre*, 177 Cal. App. 4<sup>th</sup> 1277 (2009) to argue that his use of  
12                  preface, instructions and subparts are proper. But that case does not so broadly hold, and is  
13                  inapposite in any event. In *Clement*, the responding party “deliberately misconstrued the  
14                  question” to provide evasive non-responses while re-defining the key term. *Id.* Here, conversely,  
15                  all Defendants interpreted the questions reasonably and practically, and provided responsive  
16                  information.

17                  **IV. DEFENDANTS PROVIDED SUBSTANTIVE RESPONSES**

18                  Subject to appropriate objections, all Defendants responded to the interrogatories at issue  
19                  in this motion in a practical fashion, construing each term reasonably, and providing substantive  
20                  responses and information to each interrogatory. More specifically:

21                  No. 1: Defendants provided the number, type and brand of each computer used by the  
22                  responding party. Plaintiff’s motion concedes Defendants provided this information.

23                  No. 4: Defendants identified by name the software programs on the responsive  
24                  computers. Plaintiff’s motion concedes Defendants provided this information. Defendants also  
25                  referred to “standard software that came with the computer”. Certain software is typically  
26                  included with HP, Mac or other brand computers, and Defendants referred to the same to ensure  
27                  completeness of the response. Requiring each defendant to inspect and catalog every software  
28                  program that came pre-installed on the dozens of computers at issue would be unduly

1 burdensome and oppressive, and not reasonably calculated to lead to the discovery of admissible  
2 evidence – objections Defendants asserted to these interrogatories.

3 Notably, Plaintiff *did not* propound an interrogatory seeking identification of which email  
4 program was used by a particular Defendant. Plaintiff inquired only as to software programs  
5 “installed” on each computer.

6 No. 6: None of the Defendants were aware of any cloud-based repositories of data used  
7 by the responding party, thus each Defendant responded with “none” to interrogatory No. 6. Not  
8 satisfied, Plaintiff re-argues the definition of terms and argues Defendants must supplement. For  
9 the reasons stated above, Defendants’ substantive responses were proper.

10 **V. PLAINTIFF’S SEPARATE STATEMENT IS DEFECTIVE**

11 Failure to include a conforming separate statement as required by the California Rules of  
12 Court is sufficient grounds for a trial court to deny a motion to compel further discovery  
13 responses. *Neary v. Regents of University of California*, 185 Cal. App. 3d 1136, 1145 (1986)  
14 (denial of motions to compel discovery because of a nonconforming separate statement.)

15 Plaintiff previously filed a motion to compel and failed entirely to include a separate  
16 statement. (ROA No. 50.) This Court’s March 23, 2018 Order admonished Plaintiff’s counsel in  
17 that regard, noting that it is “well within its discretion to deny this Motion on this ground alone”  
18 before electing not to do so. (ROA No. 81.)

19 This time, Plaintiff’s counsel did include a separate statement. However, it is a defective  
20 attempt to blend distinct interrogatory responses from eight defendants into one form separate  
21 statement. Plaintiff’s “combined” separate statement fails to conform to the California Rules of  
22 Court. The defects include:

- 23 • Interrogatories are not provided verbatim;
- 24 • Answers/objections are not provided verbatim.

25 (Cal. Rules of Ct., Rule 3.1345(c)(1),(2).)

26 Instead, this “combined” document merges interrogatories to all defendants into one  
27 section, pastes in definitions below the interrogatory when the same did not appear as such in the  
28 request, and then lists differing responses from each responding party.

1 In addition to the reasons discussed above, the Motion should be denied for Plaintiff's  
2 (repeated) failure to adhere to the rules with respect to the required Separate Statement.

3  
4 **VI. THE PARTIES MET AND CONFERRED IN PERSON**


5 Defendants did not "ignore" Plaintiff's March 12<sup>th</sup> meet and confer letter. The *very next*  
6 day counsel for Defendants emailed counsel for Plaintiff to indicate that a comprehensive meet  
7 and confer letter would be forthcoming. One day later – on March 14<sup>th</sup> – that letter was sent. (See  
8 Declaration of Tamara Leetham in Opposition to Motion to Compel, filed concurrently herewith,  
9 at ¶ 28-29.) Counsel for all parties then *met and conferred in person* at Plaintiff's counsel's  
10 offices on March 23, 2018, as acknowledged by Plaintiff's Motion. (*Id.* at ¶ 30.) All open  
11 discovery items were discussed, including the subjects addressed by these sets of interrogatories.  
12 Plaintiff's counsel was unwilling to compromise on any issue related to this motion. (*Id.* at ¶ 31.)  
13 The meeting, therefore, was wholly unsuccessful. This motion followed.

14 **V. CONCLUSION**

15 For the foregoing reasons, Defendants respectfully request the Court deny Plaintiff's  
16 motion in its entirety.


17 Dated: May 7, 2018

AUSTIN LEGAL GROUP, APC

19 By:   
20 \_\_\_\_\_  
21 Gina M. Austin/Tamara Leetham,  
22 Attorneys for PLPCC, Far West Operating,  
Far West Expansion, Far West Staffing,  
and Golden State Greens

23 Dated: May 7, 2018

DART LAW

24  
25 By:   
26 \_\_\_\_\_  
27 MATTHEW B. DART  
28 Attorney for Defendants Adam Knopf, and  
Justus Henkes, and 419 Consulting, Inc.