

AMENDED IN SENATE SEPTEMBER 1, 1995

AMENDED IN SENATE JUNE 28, 1995

AMENDED IN ASSEMBLY MAY 15, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1225**

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**Introduced by Committee on Judiciary as presented by  
Assembly Member Morrow on behalf of the Committee  
(Alby, Archie-Hudson, Battin, Figueroa, House, Isenberg,  
Knight, Knowles, Kuehl, and Sher)**

February 23, 1995

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An act to amend Sections 116.340, 116.820, 404, 685.090, 708.120, 1013, 1013a, 1141.18, 1218, 2019, ~~2025, 2030, 2031, and 2033~~ *and 2025* of, and to add Sections 116.745 and 403 to, the Code of Civil Procedure, to add Section 1152.6 to the Evidence Code, to amend Section 12021 of the Fish and Game Code, to amend Section 1328 of ~~the Penal Code, and to add Section 11205.1 to the Vehicle~~ *the Penal* Code, relating to court operations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1225, as amended, Committee on Judiciary. Court operations.

Existing law governing court operations provides for motions to vacate a judgment of a small claims court, substitute service, consolidation of related cases filed in different courts, extensions of time following the service of documents by specified means in civil actions, the

appointment of arbitrators, proof of service in civil actions, the powers of a court to punish acts of contempt, limitations on discovery in civil actions, mediation in civil actions, certain penalty assessments under the Fish and Game Code, the subpoena of a peace officer to testify as a witness, and certain traffic violator fees.

This bill would make a nonsubstantive change regarding motions to vacate a small claims court judgment, revise provisions for substitute service in small claims court, revise provisions for the consolidation of related cases filed in different courts, revise various provisions regarding extension of time following the service of documents by specified means, authorize *certain* retired court commissioners to act as arbitrators, add provisions governing the proof of time of service by the clerk of the court by mail, authorize a court to order a party held in contempt to pay reasonable attorney’s fees and costs incurred by the party initiating contempt proceedings, revise provisions allowing further discovery for specific purposes, ~~provide for the stay of discovery proceedings upon the filing of a motion for a protective order~~ *revise provisions for the subpoena of documents described in a deposition notice*, prohibit the filing or consideration of findings by a mediator without the written agreement of the parties, except as specified, revise the imposition of penalty assessments under the Fish and Game Code, *and* revise provisions for service of a subpoena requiring a peace officer to testify as a witness, ~~and revise provisions for the imposition of certain traffic violator fees.~~

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 116.340 of the Code of Civil
- 2 Procedure is amended to read:
- 3 116.340. (a) Service of the claim and order on the
- 4 defendant may be made by any one of the following
- 5 methods:



1 (1) The clerk may cause a copy of the claim and order  
2 to be mailed to the defendant by any form of mail  
3 providing for a return receipt.

4 (2) The plaintiff may cause a copy of the claim and  
5 order to be delivered to the defendant in person.

6 (3) The plaintiff may cause service of a copy of the  
7 claim and order to be made by substituted service as  
8 provided in subdivision (a) or (b) of Section 415.20  
9 without the need to attempt personal service on the  
10 defendant. For these purposes, substituted service as  
11 provided in subdivision (b) of Section 415.20 may be  
12 made at the office of the sheriff or marshal who shall  
13 deliver a copy of the claim and order to any person  
14 authorized by the defendant to receive service, as  
15 provided in Section 416.90, who is at least 18 years of age,  
16 and thereafter mailing a copy of the claim and order to  
17 the defendant's usual mailing address.

18 (4) The clerk may cause a copy of the claim to be  
19 mailed, the order to be issued, and a copy of the order to  
20 be mailed as provided in subdivision (b) of Section  
21 116.330.

22 (b) Service of the claim and order on the defendant  
23 shall be completed at least 10 days before the hearing date  
24 if the defendant resides within the county in which the  
25 action is filed, or at least 15 days before the hearing date  
26 if the defendant resides outside the county in which the  
27 action is filed.

28 (c) Service by the methods described in subdivision  
29 (a) shall be deemed complete on the date that the  
30 defendant signs the mail return receipt, on the date of the  
31 personal service, as provided in Section 415.20, or as  
32 established by other competent evidence, whichever  
33 applies to the method of service used.

34 (d) Service shall be made within this state, except as  
35 provided in subdivisions (e) and (f).

36 (e) The owner of record of real property in California  
37 who resides in another state and who has no lawfully  
38 designated agent in California for service of process may  
39 be served by any of the methods described in this section  
40 if the claim relates to that property.



1 (f) Service on the Director of the Department of  
2 Motor Vehicles, and notice to the defendant, if made by  
3 any of the methods permitted in this section for service  
4 of a claim and order, shall satisfy the requirements of  
5 Sections 17450 to 17461, inclusive, of the Vehicle Code, on  
6 constructive service on a nonresident owner or operator  
7 of a motor vehicle involved in an accident in this state.

8 (g) If an action is filed against a principal and his or her  
9 guaranty or surety pursuant to a guarantor or suretyship  
10 agreement, a reasonable attempt shall be made to  
11 complete service on the principal. If service is not  
12 completed on the principal, the action shall be  
13 transferred to the court of appropriate jurisdiction.

14 SEC. 1.5. Section 116.745 is added to the Code of Civil  
15 Procedure, to read:

16 116.745. The clerk shall charge and collect fees for the  
17 filing of a motion to vacate, as provided by Section 26830  
18 of the Government Code.

19 SEC. 2. Section 116.820 of the Code of Civil Procedure  
20 is amended to read:

21 116.820. (a) The judgment of a small claims court  
22 may be enforced as provided in Title 9 (commencing  
23 with Section 680.010) of Part 2 and in Sections 674 and  
24 1174 on the enforcement of judgments of other courts. A  
25 judgment of the superior court after a hearing on appeal,  
26 and after transfer to the small claims court under  
27 subdivision (d) of Section 116.780, may be enforced like  
28 other judgments of the small claims court, as provided in  
29 Title 9 (commencing with Section 680.010) of Part 2 and  
30 in Sections 674 and 1174 on the enforcement of judgments  
31 of other courts.

32 (b) Fees as provided in Sections 26828 and 26834 of the  
33 Government Code shall be charged and collected by the  
34 clerk for the issuance of a writ of execution, an order of  
35 examination of a judgment debtor, or an abstract of  
36 judgment.

37 (c) The prevailing party in any action subject to this  
38 chapter is entitled to the costs of enforcing the judgment  
39 and accrued interest.



1 SEC. 3. Section 403 is added to the Code of Civil  
2 Procedure, to read:

3 403. The court may, on motion, transfer an action to  
4 a court in another county for consolidation with an action  
5 involving a common question of law or fact within the  
6 meaning of Section 404. The motion to transfer the action  
7 shall be supported by an affidavit stating facts to show that  
8 the actions meet the standards specified in Section 404.1.  
9 Notice of the motion shall be served on all parties to both  
10 actions, and any party to either action may file papers  
11 opposing the motion within the time permitted by rule  
12 of court adopted by the Judicial Council.

13 The clerk shall send the Judicial Council a copy of any  
14 order transferring an action pursuant this section. The  
15 Judicial Council may adopt rules to implement this  
16 section, including rules prescribing procedures for  
17 preventing duplicative or conflicting transfer orders  
18 issued by different courts.

19 SEC. 3.2. Section 404 of the Code of Civil Procedure  
20 is amended to read:

21 404. When civil actions sharing a common question of  
22 fact or law are pending in different courts, the presiding  
23 or sole judge of any such court, on his or her own motion  
24 or the motion of any party supported by an affidavit  
25 stating facts showing that the actions meet the standards  
26 specified in Section 404.1 and that the actions are  
27 complex, as defined by the Judicial Council, may request  
28 the Chair of the Judicial Council to assign a judge to  
29 determine whether coordination of the actions is  
30 appropriate and a judge shall be so assigned to make that  
31 determination.

32 Notwithstanding any other provision of law, when civil  
33 actions sharing a common question of fact or law are  
34 pending in a superior court and in a municipal or justice  
35 court of the same county, the superior court may, on the  
36 motion of any party supported by an affidavit stating facts  
37 showing that the actions meet the standards specified in  
38 Section 404.1, order transfer from the municipal or justice  
39 court and consolidation of the actions in the superior  
40 court.



1 SEC. 3.4. Section 685.090 of the Code of Civil  
2 Procedure is amended to read:

3 685.090. (a) Costs are added to and become a part of  
4 the judgment:

5 (1) Upon the filing of an order allowing the costs  
6 pursuant to this chapter.

7 (2) If a memorandum of costs is filed pursuant to  
8 Section 685.070 and no motion to tax is made, upon the  
9 expiration of the time for making the motion.

10 (3) As specified in Section 685.095.

11 (b) The costs added to the judgment pursuant to this  
12 section are included in the principal amount of the  
13 judgment remaining unsatisfied.

14 (c) If a writ or earnings withholding order is  
15 outstanding at the time the costs are added to the  
16 judgment pursuant to this section, the levying officer  
17 shall add the amount of those costs to the amount to be  
18 collected pursuant to the writ or earnings withholding  
19 order if the levying officer receives either of the following  
20 before the writ or earnings withholding order is returned:

21 (1) A certified copy of the court order allowing the  
22 costs.

23 (2) A certificate from the clerk of the court that the  
24 costs have been added to the judgment where the costs  
25 have been added to the judgment after a memorandum  
26 of costs has been filed pursuant to Section 685.070 and no  
27 motion to tax has been made within the time allowed for  
28 making the motion.

29 (d) The levying officer shall include the costs  
30 described in subdivision (c) in the amount of the sale or  
31 collection distributed to the judgment creditor only if the  
32 levying officer receives the certified copy of the court  
33 order or the clerk's certificate before the distribution is  
34 made.

35 SEC. 3.6. Section 708.120 of the Code of Civil  
36 Procedure is amended to read:

37 708.120. (a) Upon ex parte application by a judgment  
38 creditor who has a money judgment and proof by the  
39 judgment creditor by affidavit or otherwise to the  
40 satisfaction of the proper court that a third person has



1 possession or control of property in which the judgment  
2 debtor has an interest or is indebted to the judgment  
3 debtor in an amount exceeding two hundred fifty dollars  
4 (\$250), the court shall make an order directing the third  
5 person to appear before the court, or before a referee  
6 appointed by the court, at a time and place specified in  
7 the order, to answer concerning such property or debt.  
8 The affidavit in support of the judgment creditor's  
9 application may be based on the affiant's information and  
10 belief.

11 (b) Not less than 10 days prior to the date set for the  
12 examination, a copy of the order shall be:

13 (1) Served personally on the third person.

14 (2) Served personally or by mail on the judgment  
15 debtor.

16 (c) If the property in the third person's possession or  
17 control in which the judgment debtor has an interest or  
18 the debt owed by the third person to the judgment debtor  
19 is described in the affidavit or application for an order  
20 under subdivision (a) in a manner reasonably adequate  
21 to permit it to be identified, service of the order on the  
22 third person creates a lien on the judgment debtor's  
23 interest in the property or on the debt for a period of one  
24 year from the date of the order unless extended or sooner  
25 terminated by the court.

26 (d) The judgment debtor may claim that all or any  
27 portion of the property or debt is exempt from  
28 enforcement of a money judgment by application to the  
29 court on noticed motion, filed with the court and  
30 personally served on the judgment creditor not later than  
31 three days before the date set for the examination. The  
32 judgment debtor shall execute an affidavit in support of  
33 the application that includes all of the matters set forth in  
34 subdivision (b) of Section 703.520. If a claim of exemption  
35 is made pursuant to this section, a notice of opposition to  
36 the claim of exemption is not required. The court shall  
37 determine any claim of exemption made pursuant to this  
38 section. Failure of the judgment debtor to make a claim  
39 of exemption does not preclude the judgment debtor  
40 from later claiming the exemption unless the property or



1 debt is described in the order in a manner reasonably  
2 adequate to permit it to be identified and the judgment  
3 debtor receives notice of the examination proceeding at  
4 least 10 days before the date set for the examination.

5 (e) An order made pursuant to subdivision (a) shall  
6 contain the following statements in 14-point boldface  
7 type if printed or in capital letters if typed:

8 (1) “NOTICE TO PERSON SERVED. If you fail to  
9 appear at the time and place specified in this order, you  
10 may be subject to arrest and punishment for contempt of  
11 court and the court may make an order requiring you to  
12 pay the reasonable attorney’s fees incurred by the  
13 judgment creditor in this proceeding.”

14 (2) “NOTICE TO JUDGMENT DEBTOR. The person  
15 in whose favor the judgment was entered in this action  
16 claims that the person to be examined pursuant to this  
17 order has possession or control of property which is yours  
18 or owes you a debt. This property or debt is as follows:  
19 (Description of property or debt).

20 If you claim that all or any portion of this property or debt  
21 is exempt from enforcement of the money judgment, you  
22 must file your exemption claim in writing with the court  
23 and personally serve a copy on the judgment creditor not  
24 later than three days before the date set for the  
25 examination. You must appear at the time and place set  
26 for this examination to establish your claim of exemption  
27 or your exemption may be waived.”

28 (f) An order made pursuant to subdivision (a) is not  
29 effective unless, at the time it is served on the third  
30 person, the person serving the order tenders to the third  
31 person fees for the mileage necessary to be traveled from  
32 the third person’s residence to the place of examination.  
33 The mileage fees shall be in the same amount generally  
34 provided for witnesses when legally required to attend  
35 civil proceedings in the court where the examination  
36 proceeding is to be conducted.

37 SEC. 3.8. Section 1013 of the Code of Civil Procedure  
38 is amended to read:

39 1013. (a) In case of service by mail, the notice or  
40 other paper must be deposited in a post office, mailbox,



1 subpost office, substation, or mail chute, or other like  
2 facility regularly maintained by the United States Postal  
3 Service, in a sealed envelope, with postage paid,  
4 addressed to the person on whom it is to be served, at the  
5 office address as last given by that person on any  
6 document filed in the cause and served on the party  
7 making service by mail; otherwise at that party's place of  
8 residence. The service is complete at the time of the  
9 deposit, but any period of notice and any right or duty to  
10 do any act or make any response within any period or on  
11 a date certain after the service of the document, which  
12 time period or date is prescribed by statute or rule of  
13 court, shall be extended five days, upon service by mail,  
14 if the place of address is within the State of California, 10  
15 days if the place of address is outside the State of  
16 California but within the United States, and 20 days if the  
17 place of address is outside the United States, but the  
18 extension shall not apply to extend the time for filing  
19 notice of intention to move for new trial, notice of  
20 intention to move to vacate judgment pursuant to Section  
21 663a, or notice of appeal. This extension applies in the  
22 absence of a specific exception provided for by this  
23 section or other statute or rule of court.

24 (b) The copy of the notice or other paper served by  
25 mail pursuant to this chapter shall bear a notation of the  
26 date and place of mailing or be accompanied by an  
27 unsigned copy of the affidavit or certificate of mailing.

28 (c) In case of service by Express Mail, the notice or  
29 other paper must be deposited in a post office, mailbox,  
30 subpost office, substation, or mail chute, or other like  
31 facility regularly maintained by the United States Postal  
32 Service for receipt of Express Mail, in a sealed envelope,  
33 with Express Mail postage paid, addressed to the person  
34 on whom it is to be served, at the office address as last  
35 given by that person on any document filed in the cause  
36 and served on the party making service by Express Mail;  
37 otherwise at that party's place of residence. In case of  
38 service by another method of delivery providing for  
39 overnight delivery, the notice or other paper must be  
40 deposited in a box or other facility regularly maintained

1 by the express service carrier, or delivered to an  
2 authorized courier or driver authorized by the express  
3 service carrier to receive documents, in an envelope or  
4 package designated by the express service carrier with  
5 delivery fees paid or provided for, addressed to the  
6 person on whom it is to be served, at the office address as  
7 last given by that person on any document filed in the  
8 cause and served on the party making service; otherwise  
9 at that party's place of residence. The service is complete  
10 at the time of the deposit, but any period of notice and any  
11 right or duty to do any act or make any response within  
12 any period or on a date certain after the service of the  
13 document served by Express Mail or other method of  
14 delivery providing for overnight delivery shall be  
15 extended by two court days, but the extension shall not  
16 apply to extend the time for filing notice of intention to  
17 move for new trial, notice of intention to move to vacate  
18 judgment pursuant to Section 663a, or notice of appeal.  
19 This extension applies in the absence of a specific  
20 exception provided for by this section or other statute or  
21 rule of court.

22 (d) The copy of the notice or other paper served by  
23 Express Mail or another means of delivery providing for  
24 overnight delivery pursuant to this chapter shall bear a  
25 notation of the date and place of deposit or be  
26 accompanied by an unsigned copy of the affidavit or  
27 certificate of deposit.

28 (e) Service by facsimile transmission shall be  
29 permitted only where the parties agree and a written  
30 confirmation of that agreement is made. The Judicial  
31 Council may adopt rules implementing the service of  
32 documents by facsimile transmission and may provide a  
33 form for the confirmation of the agreement required by  
34 this subdivision. In case of service by facsimile  
35 transmission, the notice or other paper must be  
36 transmitted to a facsimile machine maintained by the  
37 person on whom it is served at the facsimile machine  
38 telephone number as last given by that person on any  
39 document which he or she has filed in the cause and  
40 served on the party making the service. The service is



1 complete at the time of transmission, but any period of  
2 notice and any right or duty to do any act or make any  
3 response within any period or on a date certain after the  
4 service of the document, which time period or date is  
5 prescribed by statute or rule of court, shall be extended,  
6 after service by facsimile transmission, by two court days,  
7 but the extension shall not apply to extend the time for  
8 filing notice of intention to move for new trial, notice of  
9 intention to move to vacate judgment pursuant to Section  
10 663a, or notice of appeal. This extension applies in the  
11 absence of a specific exception provided for by this  
12 section or other statute or rule of court.

13 (f) The copy of the notice or other paper served by  
14 facsimile transmission pursuant to this chapter shall bear  
15 a notation of the date and place of transmission and the  
16 facsimile telephone number to which transmitted or be  
17 accompanied by an unsigned copy of the affidavit or  
18 certificate of transmission which shall contain the  
19 facsimile telephone number to which the notice or other  
20 paper was transmitted.

21 (g) Subdivisions (b), (d), and (f) are directory.

22 SEC. 4. Section 1013a of the Code of Civil Procedure  
23 is amended to read:

24 1013a. Proof of service by mail may be made by one  
25 of the following methods:

26 (1) An affidavit setting forth the exact title of the  
27 document served and filed in the cause, showing the  
28 name and residence or business address of the person  
29 making the service, showing that he or she is a resident  
30 of or employed in the county where the mailing occurs,  
31 that he or she is over the age of 18 years and not a party  
32 to the cause, and showing the date and place of deposit  
33 in the mail, the name and address of the person served as  
34 shown on the envelope, and also showing that the  
35 envelope was sealed and deposited in the mail with the  
36 postage thereon fully prepaid.

37 (2) A certificate setting forth the exact title of the  
38 document served and filed in the cause, showing the  
39 name and business address of the person making the  
40 service, showing that he or she is an active member of the

1 State Bar of California and is not a party to the cause, and  
2 showing the date and place of deposit in the mail, the  
3 name and address of the person served as shown on the  
4 envelope, and also showing that the envelope was sealed  
5 and deposited in the mail with the postage thereon fully  
6 prepaid.

7 (3) An affidavit setting forth the exact title of the  
8 document served and filed in the cause, showing (A) the  
9 name and residence or business address of the person  
10 making the service, (B) that he or she is a resident of, or  
11 employed in, the county where the mailing occurs, (C)  
12 that he or she is over the age of 18 years and not a party  
13 to the cause, (D) that he or she is readily familiar with the  
14 business' practice for collection and processing of  
15 correspondence for mailing with the United States Postal  
16 Service, (E) that the correspondence would be deposited  
17 with the United States Postal Service that same day in the  
18 ordinary course of business, (F) the name and address of  
19 the person served as shown on the envelope, and the date  
20 and place of business where the correspondence was  
21 placed for deposit in the United States Postal Service, and  
22 (G) that the envelope was sealed and placed for  
23 collection and mailing on that date following ordinary  
24 business practices. Service made pursuant to this  
25 paragraph, upon motion of a party served, shall be  
26 presumed invalid if the postal cancellation date or  
27 postage meter date on the envelope is more than one day  
28 after the date of deposit for mailing contained in the  
29 affidavit.

30 (4) In case of service by the clerk of a court of record,  
31 a certificate by that clerk setting forth the exact title of  
32 the document served and filed in the cause, showing the  
33 name of the clerk and the name of the court of which he  
34 or she is the clerk, and that he or she is not a party to the  
35 cause, and showing the date and place of deposit in the  
36 mail, the name and address of the person served as shown  
37 on the envelope, and also showing that the envelope was  
38 sealed and deposited in the mail with the postage thereon  
39 fully prepaid. This form of proof is sufficient for service  
40 of process in which the clerk or deputy clerk signing the



1 certificate places the document for collection and mailing  
2 on the date shown thereon, so as to cause it to be mailed  
3 in an envelope so sealed and so addressed on that date  
4 following standard court practices. Service made  
5 pursuant to this paragraph, upon motion of a party served  
6 and a finding of good cause by the court, shall be deemed  
7 to have occurred on the date of postage cancellation or  
8 postage meter imprint as shown on the envelope if that  
9 date is more than one day after the date of deposit for  
10 mailing contained in the certificate.

11 SEC. 5. Section 1141.18 of the Code of Civil Procedure  
12 is amended to read:

13 1141.18. (a) Arbitrators shall be retired judges,  
14 retired court commissioners *who were licensed to*  
15 *practice law prior to their appointment as a*  
16 *commissioner*, or members of the State Bar, and shall sit  
17 individually. A judge may also serve as an arbitrator  
18 without compensation. People who are not attorneys may  
19 serve as arbitrators upon the stipulation of all parties.

20 (b) The Judicial Council rules shall provide for the  
21 compensation, if any, of arbitrators, except that no  
22 compensation shall be paid prior to the filing of the award  
23 by the arbitrator, or prior to the settlement of the case by  
24 the parties. Compensation for arbitrators shall, unless  
25 waived in whole or in part, be one hundred fifty dollars  
26 (\$150) per case, or one hundred fifty dollars (\$150) per  
27 day, whichever is greater, except that the board of  
28 supervisors of a county or a city and county may set a  
29 higher level of compensation for that county or city and  
30 county.

31 (c) The board of governors of the State Bar shall  
32 provide by rule for the method of selection of arbitrators  
33 after consulting with administrative committees  
34 established pursuant to Rule 1603 of the Judicial  
35 Arbitration Rules for Civil Cases and with county bar  
36 associations in counties where there are no administrative  
37 committees. These rules shall provide for specialized  
38 panels and shall become operative upon approval of the  
39 Judicial Council.

1 (d) Any party may request the disqualification of the  
2 arbitrator selected for his or her case on the grounds and  
3 by the procedures specified in Section 170.1 or 170.6. A  
4 request for disqualification of an arbitrator on grounds  
5 specified in Section 170.6 shall be made within five days  
6 of the naming of the arbitrator. An arbitrator shall  
7 disqualify himself or herself, upon demand of any party  
8 to the arbitration made before the conclusion of the  
9 arbitration proceedings on any of the grounds specified  
10 in Section 170.1.

11 SEC. 5.5. Section 1218 of the Code of Civil Procedure  
12 is amended to read:

13 1218. (a) Upon the answer and evidence taken, the  
14 court or judge shall determine whether the person  
15 proceeded against is guilty of the contempt charged, and  
16 if it be adjudged that he or she is guilty of the contempt,  
17 a fine may be imposed on him or her not exceeding one  
18 thousand dollars (\$1,000), or he or she may be imprisoned  
19 not exceeding five days, or both. In addition, a person who  
20 is subject to a court order as a party to the action, or any  
21 agent of this person, who is adjudged guilty of contempt  
22 for violating that court order may be ordered to pay to the  
23 party initiating the contempt proceeding the reasonable  
24 attorney's fees and costs incurred by this party in  
25 connection with the contempt proceeding.

26 (b) No party, who is in contempt of a court order or  
27 judgment in a dissolution of marriage or legal separation  
28 action, shall be permitted to enforce such an order or  
29 judgment, by way of execution or otherwise, either in the  
30 same action or by way of a separate action, against the  
31 other party. This restriction shall not affect nor apply to  
32 the enforcement of child or spousal support orders.

33 (c) In any court action in which a party is found in  
34 contempt of court for failure to comply with a court order  
35 pursuant to the Family Code, or Sections 11350 to 11476.1,  
36 inclusive, of the Welfare and Institutions Code, the court  
37 shall order the following:

38 (1) Upon a first finding of contempt, the court shall  
39 order the contemner to perform community service of up



1 to 120 hours, or to be imprisoned up to 120 hours, for each  
2 count of contempt.

3 (2) Upon the second finding of contempt, the court  
4 shall order the contemner to perform community service  
5 of up to 120 hours, in addition to ordering imprisonment  
6 of the contemner up to 120 hours, for each count of  
7 contempt.

8 (3) Upon the third or any subsequent finding of  
9 contempt, the court shall order both of the following:

10 (A) The court shall order the contemner to serve a  
11 term of imprisonment of up to 240 hours, and to perform  
12 community service of up to 240 hours, for each count of  
13 contempt.

14 (B) The court shall order the contemner to pay an  
15 administrative fee, not to exceed the actual cost of the  
16 contemner's administration and supervision, while  
17 assigned to a community service program pursuant to this  
18 paragraph.

19 (4) The court shall take parties' employment  
20 schedules into consideration when ordering either  
21 community service or imprisonment, or both.

22 SEC. 6. Section 2019 of the Code of Civil Procedure is  
23 amended to read:

24 2019. (a) Any party may obtain discovery by one or  
25 more of the following methods:

- 26 (1) Oral and written depositions.
- 27 (2) Interrogatories to a party.
- 28 (3) Inspections of documents, things, and places.
- 29 (4) Physical and mental examinations.
- 30 (5) Requests for admissions.
- 31 (6) Simultaneous exchanges of expert trial witness  
32 information.

33 (b) The court shall restrict the frequency or extent of  
34 use of these discovery methods if it determines either of  
35 the following:

- 36 (1) The discovery sought is unreasonably cumulative  
37 or duplicative, or is obtainable from some other source  
38 that is more convenient, less burdensome, or less  
39 expensive.



1 (2) The selected method of discovery is unduly  
2 burdensome or expensive, taking into account the needs  
3 of the case, the amount in controversy, and the  
4 importance of the issues at stake in the litigation.

5 The court may make these determinations pursuant to  
6 a motion for a protective order by a party or other  
7 affected person. This motion shall be accompanied by a  
8 declaration stating facts showing a good faith attempt at  
9 an informal resolution of each issue presented by the  
10 motion.

11 The court shall impose a monetary sanction under  
12 Section 2023 against any party, person, or attorney who  
13 unsuccessfully makes or opposes a motion for a protective  
14 order, unless it finds that the one subject to the sanction  
15 acted with substantial justification or that other  
16 circumstances make the imposition of the sanction unjust.

17 (c) Unless there is a rule of the Judicial Council, or a  
18 local court rule or local uniform written policy to the  
19 contrary, the methods of discovery may be used in any  
20 sequence, and the fact that a party is conducting  
21 discovery, whether by deposition or another method,  
22 shall not operate to delay the discovery of any other party.  
23 However, on motion and for good cause shown, the court  
24 may establish the sequence and timing of discovery for  
25 the convenience of parties and witnesses and in the  
26 interests of justice.

27 (d) In any action alleging the misappropriation of a  
28 trade secret under the Uniform Trade Secrets Act (Title  
29 5 (commencing with Section 3426) of Part 1 of Division  
30 4 of the Civil Code), before commencing discovery  
31 relating to the trade secret, the party alleging the  
32 misappropriation shall identify the trade secret with  
33 reasonable particularity subject to any orders that may be  
34 appropriate under Section 3426.5 of the Civil Code.

35 (e) Section 1013 shall be applicable to any method of  
36 discovery or service of a motion for discovery provided  
37 for in this article.

38 SEC. 7. Section 2025 of the Code of Civil Procedure is  
39 amended to read:



1 2025. (a) Any party may obtain discovery within the  
2 scope delimited by Section 2017, and subject to the  
3 restrictions set forth in Section 2019, by taking in  
4 California the oral deposition of any person, including any  
5 party to the action. The person deposed may be a natural  
6 person, an organization such as a public or private  
7 corporation, a partnership, an association, or a  
8 governmental agency.

9 (b) Subject to subdivisions (f) and (t), an oral  
10 deposition may be taken as follows:

11 (1) The defendant may serve a deposition notice  
12 without leave of court at any time after that defendant  
13 has been served or has appeared in the action, whichever  
14 occurs first.

15 (2) The plaintiff may serve a deposition notice without  
16 leave of court on any date that is 20 days after the service  
17 of the summons on, or appearance by, any defendant.  
18 However, on motion with or without notice, the court, for  
19 good cause shown, may grant to a plaintiff leave to serve  
20 a deposition notice on an earlier date.

21 (c) A party desiring to take the oral deposition of any  
22 person shall give notice in writing in the manner set forth  
23 in subdivision (d). However, where under subdivision  
24 (d) of Section 2020 only the production by a nonparty of  
25 business records for copying is desired, a copy of the  
26 deposition subpoena shall serve as the notice of  
27 deposition. The notice of deposition shall be given to  
28 every other party who has appeared in the action. The  
29 deposition notice, or the accompanying proof of service,  
30 shall list all the parties or attorneys for parties on whom  
31 it is served.

32 Where, as defined in subdivision (a) of Section 1985.3,  
33 the party giving notice of the deposition is a subpoenaing  
34 party, and the deponent is a witness commanded by a  
35 deposition subpoena to produce personal records of a  
36 consumer, the subpoenaing party shall serve on that  
37 consumer (1) a notice of the deposition, (2) the notice of  
38 privacy rights specified in subdivision (e) of Section  
39 1985.3, and (3) a copy of the deposition subpoena.



1 (d) The deposition notice shall state all of the  
2 following:

3 (1) The address where the deposition will be taken.

4 (2) The date of the deposition, selected under  
5 subdivision (f), and the time it will commence.

6 (3) The name of each deponent, and the address and  
7 telephone number, if known, of any deponent who is not  
8 a party to the action. If the name of the deponent is not  
9 known, the deposition notice shall set forth instead a  
10 general description sufficient to identify the person or  
11 particular class to which the person belongs.

12 (4) The specification with reasonable particularity of  
13 any materials or category of materials to be produced by  
14 the deponent.

15 (5) Any intention to record the testimony by  
16 audiotape or videotape, in addition to recording the  
17 testimony by the stenographic method as required by  
18 paragraph (1) of subdivision (l).

19 (6) Any intention to reserve the right to use at trial a  
20 videotape deposition of a treating or consulting physician  
21 or of any expert witness under paragraph (4) of  
22 subdivision (u). In this event, the operator of the  
23 videotape camera shall be a person who is authorized to  
24 administer an oath, and shall not be financially interested  
25 in the action or be a relative or employee of any attorney  
26 of any of the parties.

27 If the deponent named is not a natural person, the  
28 deposition notice shall describe with reasonable  
29 particularity the matters on which examination is  
30 requested. In that event, the deponent shall designate  
31 and produce at the deposition those of its officers,  
32 directors, managing agents, employees, or agents who are  
33 most qualified to testify on its behalf as to those matters  
34 to the extent of any information known or reasonably  
35 available to the deponent. A deposition subpoena shall  
36 advise a nonparty deponent of its duty to make this  
37 designation, and shall describe with reasonable  
38 particularity the matters on which examination is  
39 requested.



1 If the attendance of the deponent is to be compelled by  
2 service of a deposition subpoena under Section 2020, an  
3 identical copy of that subpoena shall be served with the  
4 deposition notice.

5 (e) (1) The deposition of a natural person, whether or  
6 not a party to the action, shall be taken at a place that is,  
7 at the option of the party giving notice of the deposition,  
8 either within 75 miles of the deponent's residence, or  
9 within the county where the action is pending and within  
10 150 miles of the deponent's residence, unless the court  
11 orders otherwise under paragraph (3).

12 (2) The deposition of an organization that is a party to  
13 the action shall be taken at a place that is, at the option  
14 of the party giving notice of the deposition, either within  
15 75 miles of the organization's principal executive or  
16 business office in California, or within the county where  
17 the action is pending and within 150 miles of that office.  
18 The deposition of any other organization shall be taken  
19 within 75 miles of the organization's principal executive  
20 or business office in California, unless the organization  
21 consents to a more distant place. If the organization has  
22 not designated a principal executive or business office in  
23 California, the deposition shall be taken at a place that is,  
24 at the option of the party giving notice of the deposition,  
25 either within the county where the action is pending, or  
26 within 75 miles of any executive or business office in  
27 California of the organization.

28 (3) A party desiring to take the deposition of a natural  
29 person who is a party to the action or an officer, director,  
30 managing agent, or employee of a party may make a  
31 motion for an order that the deponent attend for  
32 deposition at a place that is more distant than that  
33 permitted under paragraph (1). This motion shall be  
34 accompanied by a declaration stating facts showing a  
35 reasonable and good faith attempt at an informal  
36 resolution of any issue presented by the motion.

37 In exercising its discretion to grant or deny this motion,  
38 the court shall take into consideration any factor tending  
39 to show whether the interests of justice will be served by



1 requiring the deponent's attendance at that more distant  
2 place, including, but not limited to, the following:

3 (A) Whether the moving party selected the forum.

4 (B) Whether the deponent will be present to testify at  
5 the trial of the action.

6 (C) The convenience of the deponent.

7 (D) The feasibility of conducting the deposition by  
8 written questions under Section 2028, or of using a  
9 discovery method other than a deposition.

10 (E) The number of depositions sought to be taken at  
11 a place more distant than that permitted under  
12 paragraph (1).

13 (F) The expense to the parties of requiring the  
14 deposition to be taken within the distance permitted  
15 under paragraph (1).

16 (G) The whereabouts of the deponent at the time for  
17 which the deposition is scheduled.

18 The order may be conditioned on the advancement by  
19 the moving party of the reasonable expenses and costs to  
20 the deponent for travel to the place of deposition.

21 The court shall impose a monetary sanction under  
22 Section 2023 against any party, person, or attorney who  
23 unsuccessfully makes or opposes a motion to increase  
24 travel limits for party-deponent, unless it finds that the  
25 one subject to the sanction acted with substantial  
26 justification or that other circumstances make the  
27 imposition of the sanction unjust.

28 (f) An oral deposition shall be scheduled for a date at  
29 least 10 days after service of the deposition notice. If, as  
30 defined in subdivision (a) of Section 1985.3, the party  
31 giving notice of the deposition is a subpoenaing party, and  
32 the deponent is a witness commanded by a deposition  
33 subpoena to produce personal records of a consumer, the  
34 deposition shall be scheduled for a date at least 20 days  
35 after issuance of that subpoena. However, in unlawful  
36 detainer actions, an oral deposition shall be scheduled for  
37 a date at least five days after service of the deposition  
38 notice, but not later than five days before trial.

39 On motion or ex parte application of any party or  
40 deponent, for good cause shown, the court may shorten



1 or extend the time for scheduling a deposition, *or may*  
2 *stay its taking until the determination of a motion for a*  
3 *protective order under subdivision (i).*

4 (g) Any party served with a deposition notice that  
5 does not comply with subdivisions (b) to (f), inclusive,  
6 waives any error or irregularity unless that party  
7 promptly serves a written objection specifying that error  
8 or irregularity at least three calendar days prior to the  
9 date for which the deposition is scheduled, on the party  
10 seeking to take the deposition and any other attorney or  
11 party on whom the deposition notice was served. If an  
12 objection is made three calendar days before the  
13 deposition date, the objecting party shall make personal  
14 service of that objection pursuant to Section 1011 on the  
15 party who gave notice of the deposition. Any deposition  
16 taken after the service of a written objection shall not be  
17 used against the objecting party under subdivision (u) if  
18 the party did not attend the deposition and if the court  
19 determines that the objection was a valid one.

20 In addition to serving this written objection, a party  
21 may also move for an order staying the taking of the  
22 deposition and quashing the deposition notice. This  
23 motion shall be accompanied by a declaration stating  
24 facts showing a reasonable and good faith attempt at an  
25 informal resolution of any issue presented by the motion.  
26 The taking of the deposition is stayed pending the  
27 determination of this motion.

28 The court shall impose a monetary sanction under  
29 Section 2023 against any party, person, or attorney who  
30 unsuccessfully makes or opposes a motion to quash a  
31 deposition notice, unless it finds that the one subject to  
32 the sanction acted with substantial justification or that  
33 other circumstances make the imposition of the sanction  
34 unjust.

35 (h) (1) The service of a deposition notice under  
36 subdivision (c) is effective to require any deponent who  
37 is a party to the action or an officer, director, managing  
38 agent, or employee of a party to attend and to testify, as  
39 well as to produce any document or tangible thing for  
40 inspection and copying.



1 (2) The attendance and testimony of any other  
2 deponent, as well as the production by the deponent of  
3 any document or tangible thing for inspection and  
4 copying, requires the service on the deponent of a  
5 deposition subpoena under Section 2020.

6 (i) Before, during, or after a deposition, any party, any  
7 deponent, or any other affected natural person or  
8 organization may promptly move for a protective order.  
9 The motion shall be accompanied by a declaration stating  
10 facts showing a reasonable and good faith attempt at an  
11 informal resolution of each issue presented by the motion.

12 The court, for good cause shown, may make any order  
13 that justice requires to protect any party, deponent, or  
14 other natural person or organization from unwarranted  
15 annoyance, embarrassment, or oppression, or undue  
16 burden and expense. This protective order may include,  
17 but is not limited to, one or more of the following  
18 directions:

19 (1) That the deposition not be taken at all.

20 (2) That the deposition be taken at a different time.

21 (3) That a videotape deposition of a treating or  
22 consulting physician or of any expert witness, intended  
23 for possible use at trial under paragraph (4) of subdivision  
24 (u), be postponed until the moving party has had an  
25 adequate opportunity to prepare, by discovery  
26 deposition of the deponent, or other means, for  
27 cross-examination.

28 (4) That the deposition be taken at a place other than  
29 that specified in the deposition notice, if it is within a  
30 distance permitted by subdivision (e).

31 (5) That the deposition be taken only on certain  
32 specified terms and conditions.

33 (6) That the deponent's testimony be taken by  
34 written, instead of oral, examination.

35 (7) That the method of discovery be interrogatories to  
36 a party instead of an oral deposition.

37 (8) That the testimony be recorded in a manner  
38 different from that specified in the deposition notice.

39 (9) That certain matters not be inquired into.



1 (10) That the scope of the examination be limited to  
2 certain matters.

3 (11) That all or certain of the writings or tangible  
4 things designated in the deposition notice not be  
5 produced, inspected, or copied.

6 (12) That designated persons, other than the parties to  
7 the action and their officers and counsel, be excluded  
8 from attending the deposition.

9 (13) That a trade secret or other confidential research,  
10 development, or commercial information not be  
11 disclosed or be disclosed only to specified persons or only  
12 in a specified way.

13 (14) That the parties simultaneously file specified  
14 documents enclosed in sealed envelopes to be opened as  
15 directed by the court.

16 (15) That the deposition be sealed and thereafter  
17 opened only on order of the court.

18 If the motion for a protective order is denied in whole  
19 or in part, the court may order that the deponent provide  
20 or permit the discovery against which protection was  
21 sought on those terms and conditions that are just.

22 The court shall impose a monetary sanction under  
23 Section 2023 against any party, person, or attorney who  
24 unsuccessfully makes or opposes a motion for a protective  
25 order, unless it finds that the one subject to the sanction  
26 acted with substantial justification or that other  
27 circumstances make the imposition of the sanction unjust.

28 ~~The filing of a motion for a protective order under this~~  
29 ~~subdivision shall stay the commencement of a deposition,~~  
30 ~~and any production of books, documents, or other things~~  
31 ~~at the deposition, until five days after the hearing on the~~  
32 ~~motion or until such other time as the court may order.~~  
33 ~~In order for the stay to apply, the party or witness shall file~~  
34 ~~and personally serve the motion at least two court days~~  
35 ~~before the noticed deposition date and the party or~~  
36 ~~witness shall designate a hearing date not more than 20~~  
37 ~~days after filing the notice of motion or on the earliest~~  
38 ~~available date thereafter on the court's calendar. For~~  
39 ~~purposes of this section, any such motion served less than~~



1 ~~five days before the noticed deposition date shall be~~  
2 ~~personally served.~~

3 (j) (1) If the party giving notice of a deposition fails to  
4 attend or proceed with it, the court shall impose a  
5 monetary sanction under Section 2023 against that party,  
6 or the attorney for that party, or both, and in favor of any  
7 party attending in person or by attorney, unless it finds  
8 that the one subject to the sanction acted with substantial  
9 justification or that other circumstances make the  
10 imposition of the sanction unjust.

11 (2) If a deponent does not appear for a deposition  
12 because the party giving notice of the deposition failed to  
13 serve a required deposition subpoena, the court shall  
14 impose a monetary sanction under Section 2023 against  
15 that party, or the attorney for that party, or both, in favor  
16 of any other party who, in person or by attorney, attended  
17 at the time and place specified in the deposition notice in  
18 the expectation that the deponent’s testimony would be  
19 taken, unless the court finds that the one subject to the  
20 sanction acted with substantial justification or that other  
21 circumstances make the imposition of the sanction unjust.

22 If a deponent on whom a deposition subpoena has been  
23 served fails to attend a deposition or refuses to be sworn  
24 as a witness, the court may impose on the deponent the  
25 sanctions described in subdivision (h) of Section 2020.

26 (3) If, after service of a deposition notice, a party to the  
27 action or an officer, director, managing agent, or  
28 employee of a party, or a person designated by an  
29 organization that is a party under subdivision (d),  
30 without having served a valid objection under subdivision  
31 (g), fails to appear for examination, or to proceed with it,  
32 or to produce for inspection any document or tangible  
33 thing described in the deposition notice, the party giving  
34 the notice may move for an order compelling the  
35 deponent’s attendance and testimony, and the  
36 production for inspection of any document or tangible  
37 thing described in the deposition notice. This motion (A)  
38 shall set forth specific facts showing good cause justifying  
39 the production for inspection of any document or  
40 tangible thing described in the deposition notice, and



1 ~~(B), except when the deponent fails to attend the~~  
2 ~~deposition and produce the documents or things~~  
3 ~~described in the deposition notice, shall be accompanied~~  
4 *(B) shall be accompanied* by a declaration stating facts  
5 showing a reasonable and good faith attempt at an  
6 informal resolution of each issue presented by it *or, when*  
7 *the deponent fails to attend the deposition and produce*  
8 *the documents or things described in the deposition*  
9 *notice, by a declaration stating that the petitioner has*  
10 *contacted the deponent to inquire about the*  
11 *nonappearance.* If this motion is granted, the court shall  
12 also impose a monetary sanction under Section 2023  
13 against the deponent or the party with whom the  
14 deponent is affiliated, unless it finds that the one subject  
15 to the sanction acted with substantial justification or that  
16 other circumstances make the imposition of the sanction  
17 unjust. On motion of any other party who, in person or by  
18 attorney, attended at the time and place specified in the  
19 deposition notice in the expectation that the deponent's  
20 testimony would be taken, the court shall also impose a  
21 monetary sanction under Section 2023, unless it finds that  
22 the one subject to the sanction acted with substantial  
23 justification or that other circumstances make the  
24 imposition of the sanction unjust.

25 If that party or party-affiliated deponent then fails to  
26 obey an order compelling attendance, testimony, and  
27 production, the court may make those orders that are just,  
28 including the imposition of an issue sanction, an evidence  
29 sanction, or a terminating sanction under Section 2023  
30 against that party deponent or against the party with  
31 whom the deponent is affiliated. In lieu of or in addition  
32 to this sanction, the court may impose a monetary  
33 sanction under Section 2023 against that deponent or  
34 against the party with whom that party deponent is  
35 affiliated, and in favor of any party who, in person or by  
36 attorney, attended in the expectation that the deponent's  
37 testimony would be taken pursuant to that order.

38 (k) Except as provided in paragraph (3) of subdivision  
39 (d) of Section 2020, the deposition shall be conducted  
40 under the supervision of an officer who is authorized to



1 administer an oath. This officer shall not be financially  
2 interested in the action and shall not be a relative or  
3 employee of any attorney of any of the parties, or of any  
4 of the parties. Any objection to the qualifications of the  
5 deposition officer is waived unless made before the  
6 deposition begins or as soon thereafter as the ground for  
7 that objection becomes known or could be discovered by  
8 reasonable diligence.

9 (l) (1) The deposition officer shall put the deponent  
10 under oath. Unless the parties agree or the court orders  
11 otherwise, the testimony, as well as any stated objections,  
12 shall be taken stenographically. The party noticing the  
13 deposition may also record the testimony by audiotape or  
14 videotape if the notice of deposition stated an intention  
15 also to record the testimony by either of those methods,  
16 or if all the parties agree that the testimony may also be  
17 recorded by either of those methods. Any other party, at  
18 that party's expense, may make a simultaneous audiotape  
19 or videotape record of the deposition, provided that other  
20 party promptly, and in no event less than three calendar  
21 days before the date for which the deposition is  
22 scheduled, serves a written notice of this intention to  
23 audiotape or videotape the deposition testimony on the  
24 party or attorney who noticed the deposition, on all other  
25 parties or attorneys on whom the deposition notice was  
26 served under subdivision (c), and on any deponent whose  
27 attendance is being compelled by a deposition subpoena  
28 under Section 2020. If this notice is given three calendar  
29 days before the deposition date, it shall be made by  
30 personal service under Section 1011. Examination and  
31 cross-examination of the deponent shall proceed as  
32 permitted at trial under the provisions of the Evidence  
33 Code.

34 (2) If the deposition is being recorded by means of  
35 audiotape or videotape, the following procedure shall be  
36 observed:

37 (A) The area used for recording the deponent's oral  
38 testimony shall be suitably large, adequately lighted, and  
39 reasonably quiet.



1 (B) The operator of the recording equipment shall be  
2 competent to set up, operate, and monitor the equipment  
3 in the manner prescribed in this subdivision. The  
4 operator may be an employee of the attorney taking the  
5 deposition unless the operator is also the deposition  
6 officer. However, if a videotape of deposition testimony  
7 is to be used under paragraph (4) of subdivision (u), the  
8 operator of the recording equipment shall be a person  
9 who is authorized to administer an oath, and shall not be  
10 financially interested in the action or be a relative or  
11 employee of any attorney of any of the parties, unless all  
12 parties attending the deposition agree on the record to  
13 waive these qualifications and restrictions.

14 (C) The operator shall not distort the appearance or  
15 the demeanor of participants in the deposition by the use  
16 of camera or sound recording techniques.

17 (D) The deposition shall begin with an oral or written  
18 statement on camera or on the audiotape that includes  
19 the operator's name and business address, the name and  
20 business address of the operator's employer, the date,  
21 time, and place of the deposition, the caption of the case,  
22 the name of the deponent, a specification of the party on  
23 whose behalf the deposition is being taken, and any  
24 stipulations by the parties.

25 (E) Counsel for the parties shall identify themselves  
26 on camera or on the audiotape.

27 (F) The oath shall be administered to the deponent on  
28 camera or on the audiotape.

29 (G) If the length of a deposition requires the use of  
30 more than one unit of tape, the end of each unit and the  
31 beginning of each succeeding unit shall be announced on  
32 camera or on the audiotape.

33 (H) At the conclusion of a deposition, a statement shall  
34 be made on camera or on the audiotape that the  
35 deposition is ended and shall set forth any stipulations  
36 made by counsel concerning the custody of the audiotape  
37 or videotape recording and the exhibits, or concerning  
38 other pertinent matters.

39 (I) A party intending to offer an audiotaped or  
40 videotaped recording of a deposition in evidence under



1 subdivision (u) shall notify the court and all parties in  
2 writing of that intent and of the parts of the deposition to  
3 be offered within sufficient time for objections to be  
4 made and ruled on by the judge to whom the case is  
5 assigned for trial or hearing, and for any editing of the  
6 tape. Objections to all or part of the deposition shall be  
7 made in writing. The court may permit further  
8 designations of testimony and objections as justice may  
9 require. With respect to those portions of an audiotaped  
10 or videotaped deposition that are not designated by any  
11 party or that are ruled to be objectionable, the court may  
12 order that the party offering the recording of the  
13 deposition at the trial or hearing suppress those portions,  
14 or that an edited version of the deposition tape be  
15 prepared for use at the trial or hearing. The original  
16 audiotape or videotape of the deposition shall be  
17 preserved unaltered. If no stenographic record of the  
18 deposition testimony has previously been made, the party  
19 offering a videotape or an audiotape recording of that  
20 testimony under subdivision (u) shall accompany that  
21 offer with a stenographic transcript prepared from that  
22 recording.

23 (3) In lieu of participating in the oral examination,  
24 parties may transmit written questions in a sealed  
25 envelope to the party taking the deposition for delivery  
26 to the deposition officer, who shall unseal the envelope  
27 and propound them to the deponent after the oral  
28 examination has been completed.

29 (m) (1) The protection of information from discovery  
30 on the ground that it is privileged or that it is protected  
31 work product under Section 2018 is waived unless a  
32 specific objection to its disclosure is timely made during  
33 the deposition.

34 (2) Errors and irregularities of any kind occurring at  
35 the oral examination that might be cured if promptly  
36 presented are waived unless a specific objection to them  
37 is timely made during the deposition. These errors and  
38 irregularities include, but are not limited to, those  
39 relating to the manner of taking the deposition, to the  
40 oath or affirmation administered, to the conduct of a



1 party, attorney, deponent, or deposition officer, or to the  
2 form of any question or answer. Unless the objecting  
3 party demands that the taking of the deposition be  
4 suspended to permit a motion for a protective order  
5 under subdivision (n), the deposition shall proceed  
6 subject to the objection.

7 (3) Objections to the competency of the deponent, or  
8 to the relevancy, materiality, or admissibility at trial of the  
9 testimony or of the materials produced are unnecessary  
10 and are not waived by failure to make them before or  
11 during the deposition.

12 (4) If a deponent fails to answer any question or to  
13 produce any document or tangible thing under the  
14 deponent's control that is specified in the deposition  
15 notice or a deposition subpoena, the party seeking that  
16 answer or production may adjourn the deposition or  
17 complete the examination on other matters without  
18 waiving the right at a later time to move for an order  
19 compelling that answer or production under subdivision  
20 (o).

21 (n) On demand of any party or the deponent, the  
22 deposition officer shall suspend the taking of testimony to  
23 enable that party or deponent to move for a protective  
24 order on the ground that the examination is being  
25 conducted in bad faith or in a manner that unreasonably  
26 annoys, embarrasses, or oppresses that deponent or party.  
27 This motion shall be accompanied by a declaration stating  
28 facts showing a reasonable and good faith attempt at an  
29 informal resolution of each issue presented by the motion.  
30 The court, for good cause shown, may terminate the  
31 examination or may limit the scope and manner of taking  
32 the deposition as provided in subdivision (i). If the order  
33 terminates the examination, the deposition shall not  
34 thereafter be resumed, except on order of the court.

35 The court shall impose a monetary sanction under  
36 Section 2023 against any party, person, or attorney who  
37 unsuccessfully makes or opposes a motion for this  
38 protective order, unless it finds that the one subject to the  
39 sanction acted with substantial justification or that other  
40 circumstances make the imposition of the sanction unjust.



1 (o) If a deponent fails to answer any question or to  
2 produce any document or tangible thing under the  
3 deponent's control that is specified in the deposition  
4 notice or a deposition subpoena, the party seeking  
5 discovery may move the court for an order compelling  
6 that answer or production. This motion shall be made no  
7 later than 60 days after the completion of the record of the  
8 deposition, and shall be accompanied by a declaration  
9 stating facts showing a reasonable and good faith attempt  
10 at an informal resolution of each issue presented by the  
11 motion. Notice of this motion shall be given to all parties,  
12 and to the deponent either orally at the examination, or  
13 by subsequent service in writing. If the notice of the  
14 motion is given orally, the deposition officer shall direct  
15 the deponent to attend a session of the court at the time  
16 specified in the notice. Not less than five days prior to the  
17 hearing on this motion, the moving party shall lodge with  
18 the court a certified copy of any parts of the stenographic  
19 transcript of the deposition that are relevant to the  
20 motion. If a deposition is recorded by audiotape or  
21 videotape, the moving party is required to lodge a  
22 certified copy of a transcript of any parts of the deposition  
23 that are relevant to the motion. If the court determines  
24 that the answer or production sought is subject to  
25 discovery, it shall order that the answer be given or the  
26 production be made on the resumption of the deposition.

27 The court shall impose a monetary sanction under  
28 Section 2023 against any party, person, or attorney who  
29 unsuccessfully makes or opposes a motion to compel  
30 answer or production, unless it finds that the one subject  
31 to the sanction acted with substantial justification or that  
32 other circumstances make the imposition of the sanction  
33 unjust.

34 If a deponent fails to obey an order entered under this  
35 subdivision, the failure may be considered a contempt of  
36 court. In addition, if the disobedient deponent is a party  
37 to the action or an officer, director, managing agent, or  
38 employee of a party, the court may make those orders  
39 that are just against the disobedient party, or against the  
40 party with whom the disobedient deponent is affiliated,



1 including the imposition of an issue sanction, an evidence  
2 sanction, or a terminating sanction under Section 2023. In  
3 lieu of or in addition to this sanction, the court may  
4 impose a monetary sanction under Section 2023 against  
5 that party deponent or against any party with whom the  
6 deponent is affiliated.

7 (p) Unless the parties agree otherwise, the testimony  
8 at any deposition recorded by stenographic means shall  
9 be transcribed. The party noticing the deposition shall  
10 bear the cost of that transcription, unless the court, on  
11 motion and for good cause shown, orders that the cost be  
12 borne or shared by another party. Any other party, at that  
13 party's expense, may obtain a copy of the transcript.  
14 Stenographic notes of depositions shall be retained by the  
15 reporter for a period of not less than eight years from the  
16 date of the deposition, where no transcript is produced,  
17 and not less than one year from the date on which the  
18 transcript is produced. Those notes may be either on  
19 paper or electronic media, as long as it allows for  
20 satisfactory production of a transcript at any time during  
21 the periods specified. At the request of any other party to  
22 the action, including a party who did not attend the  
23 taking of the deposition testimony, any party who records  
24 or causes the recording of that testimony by means of  
25 audiotape or videotape shall promptly (1) permit that  
26 other party to hear the audiotape or to view the  
27 videotape, and (2) furnish a copy of the audiotape or  
28 videotape to that other party on receipt of payment of the  
29 reasonable cost of making that copy of the tape.

30 If the testimony at the deposition is recorded both  
31 stenographically, and by audiotape or videotape, the  
32 stenographic transcript is the official record of that  
33 testimony for the purpose of the trial and any subsequent  
34 hearing or appeal.

35 (q) (1) If the deposition testimony is stenographically  
36 recorded, the deposition officer shall send written notice  
37 to the deponent and to all parties attending the  
38 deposition when the original transcript of the testimony  
39 for each session of the deposition is available for reading,  
40 correcting, and signing, unless the deponent and the



1 attending parties agree on the record that the reading,  
2 correcting, and signing of the transcript of the testimony  
3 will be waived or that the reading, correcting, and signing  
4 of a transcript of the testimony will take place after the  
5 entire deposition has been concluded or at some other  
6 specific time. For 30 days following each such notice,  
7 unless the attending parties and the deponent agree on  
8 the record or otherwise in writing to a longer or shorter  
9 time period, the deponent may change the form or the  
10 substance of the answer to a question, and may either  
11 approve the transcript of the deposition by signing it, or  
12 refuse to approve the transcript by not signing it.

13 Alternatively, within this same period, the deponent  
14 may change the form or the substance of the answer to  
15 any question and may approve or refuse to approve the  
16 transcript by means of a letter to the deposition officer  
17 signed by the deponent which is mailed by certified or  
18 registered mail with return receipt requested. A copy of  
19 that letter shall be sent by first-class mail to all parties  
20 attending the deposition. For good cause shown, the  
21 court may shorten the 30-day period for making changes,  
22 approving, or refusing to approve the transcript.

23 The deposition officer shall indicate on the original of  
24 the transcript, if the deponent has not already done so at  
25 the office of the deposition officer, any action taken by the  
26 deponent and indicate on the original of the transcript,  
27 the deponent's approval of, or failure or refusal to  
28 approve, the transcript. The deposition officer shall also  
29 notify in writing the parties attending the deposition of  
30 any changes which the deponent timely made in person.  
31 If the deponent fails or refuses to approve the transcript  
32 within the allotted period, the deposition shall be given  
33 the same effect as though it had been approved, subject  
34 to any changes timely made by the deponent. However,  
35 on a seasonable motion to suppress the deposition,  
36 accompanied by a declaration stating facts showing a  
37 reasonable and good faith attempt at an informal  
38 resolution of each issue presented by the motion, the  
39 court may determine that the reasons given for the failure



1 or refusal to approve the transcript require rejection of  
2 the deposition in whole or in part.

3 The court shall impose a monetary sanction under  
4 Section 2023 against any party, person, or attorney who  
5 unsuccessfully makes or opposes a motion to suppress a  
6 deposition, unless it finds that the one subject to the  
7 sanction acted with substantial justification or that other  
8 circumstances make the imposition of the sanction unjust.

9 (2) If there is no stenographic transcription of the  
10 deposition, the deposition officer shall send written  
11 notice to the deponent and to all parties attending the  
12 deposition that the recording is available for review,  
13 unless the deponent and all these parties agree on the  
14 record to waive the hearing or viewing of an audiotape  
15 or videotape recording of the testimony. For 30 days  
16 following this notice the deponent, either in person or by  
17 signed letter to the deposition officer, may change the  
18 substance of the answer to any question.

19 The deposition officer shall set forth in a writing to  
20 accompany the recording any changes made by the  
21 deponent, as well as either the deponent's signature  
22 identifying the deposition as his or her own, or a  
23 statement of the deponent's failure to supply the  
24 signature, or to contact the officer within the allotted  
25 period. When a deponent fails to contact the officer  
26 within the allotted period, or expressly refuses by a  
27 signature to identify the deposition as his or her own, the  
28 deposition shall be given the same effect as though  
29 signed. However, on a seasonable motion to suppress the  
30 deposition, accompanied by a declaration stating facts  
31 showing a reasonable and good faith attempt at an  
32 informal resolution of each issue presented by the motion,  
33 the court may determine that the reasons given for the  
34 refusal to sign require rejection of the deposition in whole  
35 or in part.

36 The court shall impose a monetary sanction under  
37 Section 2023 against any party, person, or attorney who  
38 unsuccessfully makes or opposes a motion to suppress a  
39 deposition, unless it finds that the one subject to the



1 sanction acted with substantial justification or that other  
2 circumstances make the imposition of the sanction unjust.

3 (r) The deposition officer shall certify on the  
4 transcript of the deposition, or in the writing  
5 accompanying an audiotaped or videotaped deposition as  
6 described in paragraph (2) of subdivision (q), that the  
7 deponent was duly sworn and that the transcript or  
8 recording is a true record of the testimony given and of  
9 any changes made by the deponent.

10 (s) (1) The certified transcript of a deposition shall  
11 not be filed with the court. Instead, the deposition officer  
12 shall securely seal that transcript in an envelope or  
13 package endorsed with the title of the action and marked:  
14 “Deposition of (here insert name of deponent),” and  
15 shall promptly transmit it to the attorney for the party  
16 who noticed the deposition. This attorney shall store it  
17 under conditions that will protect it against loss,  
18 destruction, or tampering.

19 The attorney to whom the transcript of a deposition is  
20 transmitted shall retain custody of it until six months after  
21 final disposition of the action. At that time, the transcript  
22 may be destroyed, unless the court, on motion of any  
23 party and for good cause shown, orders that the transcript  
24 be preserved for a longer period.

25 (2) An audiotape or videotape record of deposition  
26 testimony, including a certified tape made by an operator  
27 qualified under subparagraph (B) of paragraph (2) of  
28 subdivision (l), shall not be filed with the court. Instead,  
29 the operator shall retain custody of that record and shall  
30 store it under conditions that will protect it against loss,  
31 destruction, or tampering, and preserve as far as  
32 practicable the quality of the tape and the integrity of the  
33 testimony and images it contains.

34 At the request of any party to the action, including a  
35 party who did not attend the taking of the deposition  
36 testimony, or at the request of the deponent, that  
37 operator shall promptly (A) permit the one making the  
38 request to hear or to view the tape on receipt of payment  
39 of a reasonable charge for providing the facilities for  
40 hearing or viewing the tape, and (B) furnish a copy of the



1 audiotape or the videotape recording to the one making  
2 the request on receipt of payment of the reasonable cost  
3 of making that copy of the tape.

4 The attorney or operator who has custody of an  
5 audiotape or videotape record of deposition testimony  
6 shall retain custody of it until six months after final  
7 disposition of the action. At that time, the audiotape or  
8 videotape may be destroyed or erased, unless the court,  
9 on motion of any party and for good cause shown, orders  
10 that the tape be preserved for a longer period.

11 (t) Once any party has taken the deposition of any  
12 natural person, including that of a party to the action,  
13 neither the party who gave, nor any other party who has  
14 been served with a deposition notice pursuant to  
15 subdivision (c) may take a subsequent deposition of that  
16 deponent. However, for good cause shown, the court may  
17 grant leave to take a subsequent deposition, and the  
18 parties, with the consent of any deponent who is not a  
19 party, may stipulate that a subsequent deposition be  
20 taken. This subdivision does not preclude taking one  
21 subsequent deposition of a natural person who has  
22 previously been examined (1) as a result of that person's  
23 designation to testify on behalf of an organization under  
24 subdivision (d), or (2) for the limited purpose of  
25 discovering pursuant to Section 485.230 the ~~identify~~  
26 *identity*, location, and value of property in which the  
27 deponent has an interest. *This subdivision does not*  
28 *authorize the taking of more than one deposition for the*  
29 *limited purpose of Section 485.230.*

30 (u) At the trial or any other hearing in the action, any  
31 part or all of a deposition may be used against any party  
32 who was present or represented at the taking of the  
33 deposition, or who had due notice of the deposition and  
34 did not serve a valid objection under subdivision (g), so  
35 far as admissible under the rules of evidence applied as  
36 though the deponent were then present and testifying as  
37 a witness, in accordance with the following provisions:

38 (1) Any party may use a deposition for the purpose of  
39 contradicting or impeaching the testimony of the



1 deponent as a witness, or for any other purpose permitted  
2 by the Evidence Code.

3 (2) An adverse party may use for any purpose, a  
4 deposition of a party to the action, or of anyone who at the  
5 time of taking the deposition was an officer, director,  
6 managing agent, employee, agent, or designee under  
7 subdivision (d) of a party. It is not ground for objection  
8 to the use of a deposition of a party under this paragraph  
9 by an adverse party that the deponent is available to  
10 testify, has testified, or will testify at the trial or other  
11 hearing.

12 (3) Any party may use for any purpose the deposition  
13 of any person or organization, including that of any party  
14 to the action, if the court finds any of the following:

15 (A) The deponent resides more than 150 miles from  
16 the place of the trial or other hearing.

17 (B) The deponent, without the procurement or  
18 wrongdoing of the proponent of the deposition for the  
19 purpose of preventing testimony in open court, is (i)  
20 exempted or precluded on the ground of privilege from  
21 testifying concerning the matter to which the deponent's  
22 testimony is relevant, (ii) disqualified from testifying,  
23 (iii) dead or unable to attend or testify because of existing  
24 physical or mental illness or infirmity, (iv) absent from  
25 the trial or other hearing and the court is unable to  
26 compel the deponent's attendance by its process, or (v)  
27 absent from the trial or other hearing and the proponent  
28 of the deposition has exercised reasonable diligence but  
29 has been unable to procure the deponent's attendance by  
30 the court's process.

31 (C) Exceptional circumstances exist that make it  
32 desirable to allow the use of any deposition in the interests  
33 of justice and with due regard to the importance of  
34 presenting the testimony of witnesses orally in open  
35 court.

36 (4) Any party may use a videotape deposition of a  
37 treating or consulting physician or of any expert witness  
38 even though the deponent is available to testify if the  
39 deposition notice under subdivision (d) reserved the  
40 right to use the deposition at trial, and if that party has



1 complied with subparagraph (I) of paragraph (2) of  
2 subdivision (l).

3 (5) Subject to the requirements of this section, a party  
4 may offer in evidence all or any part of a deposition, and  
5 if the party introduces only part of the deposition, any  
6 other party may introduce any other parts that are  
7 relevant to the parts introduced.

8 (6) Substitution of parties does not affect the right to  
9 use depositions previously taken.

10 (7) When an action has been brought in any court of  
11 the United States or of any state, and another action  
12 involving the same subject matter is subsequently  
13 brought between the same parties or their  
14 representatives or successors in interest, all depositions  
15 lawfully taken and duly filed in the initial action may be  
16 used in the subsequent action as if originally taken in that  
17 subsequent action. A deposition previously taken may  
18 also be used as permitted by the Evidence Code.

19 ~~SEC. 8. Section 2030 of the Code of Civil Procedure is~~  
20 ~~amended to read:~~

21 ~~2030. (a) Any party may obtain discovery within the~~  
22 ~~scope delimited by Section 2017, and subject to the~~  
23 ~~restrictions set forth in Section 2019, by propounding to~~  
24 ~~any other party to the action written interrogatories to be~~  
25 ~~answered under oath.~~

26 ~~(b) A defendant may propound interrogatories to a~~  
27 ~~party to the action without leave of court at any time. A~~  
28 ~~plaintiff may propound interrogatories to a party without~~  
29 ~~leave of court at any time that is 10 days after the service~~  
30 ~~of the summons on, or in unlawful detainer actions five~~  
31 ~~days after service of the summons on or appearance by,~~  
32 ~~that party, whichever occurs first. However, on motion~~  
33 ~~with or without notice, the court, for good cause shown,~~  
34 ~~may grant leave to a plaintiff to propound interrogatories~~  
35 ~~at an earlier time.~~

36 ~~(c) (1) A party may propound to another party (1) 35~~  
37 ~~specially prepared interrogatories, and (2) any additional~~  
38 ~~number of official form interrogatories, as described in~~  
39 ~~Section 2033.5, that are relevant to the subject matter of~~  
40 ~~the pending action. Except as provided in paragraph (8),~~



1 no party shall, as a matter of right, propound to any other  
 2 party more than 35 specially prepared interrogatories. If  
 3 the initial set of interrogatories does not exhaust this limit,  
 4 the balance may be propounded in subsequent sets.  
 5 Unless a declaration as described in paragraph (3) has  
 6 been made, a party need only respond to the first 35  
 7 specially prepared interrogatories served, if that party  
 8 states an objection to the balance, under paragraph (3)  
 9 of subdivision (f), on the ground that the limit has been  
 10 exceeded.

11 (2) Subject to the right of the responding party to seek  
 12 a protective order under subdivision (e), any party who  
 13 attaches a supporting declaration as described in  
 14 paragraph (3) may propound a greater number of  
 15 specially prepared interrogatories to another party if this  
 16 greater number is warranted because of any of the  
 17 following:

18 (A) The complexity or the quantity of the existing and  
 19 potential issues in the particular case.

20 (B) The financial burden on a party entailed in  
 21 conducting the discovery by oral deposition.

22 (C) The expedience of using this method of discovery  
 23 to provide to the responding party the opportunity to  
 24 conduct an inquiry, investigation, or search of files or  
 25 records to supply the information sought.

26 If the responding party seeks a protective order on the  
 27 ground that the number of specially prepared  
 28 interrogatories is unwarranted, the propounding party  
 29 shall have the burden of justifying the number of these  
 30 interrogatories.

31 (3) Any party who is propounding or has propounded  
 32 more than 35 specially prepared interrogatories to any  
 33 other party shall attach to each set of those interrogatories  
 34 a declaration containing substantially the following:

35

DECLARATION FOR ADDITIONAL DISCOVERY

36

—

37

I, \_\_\_\_\_, declare:

38



1 ~~1. I am (a party to this action or proceeding appearing~~  
2 ~~in propria persona) (presently the attorney for~~  
3 ~~\_\_\_\_\_, a party to this action or proceeding).~~

4 ~~2. I am propounding to \_\_\_\_\_ the attached set of~~  
5 ~~interrogatories.~~

6 ~~3. This set of interrogatories will cause the total~~  
7 ~~number of specially prepared interrogatories~~  
8 ~~propounded to the party to whom they are directed to~~  
9 ~~exceed the number of specially prepared interrogatories~~  
10 ~~permitted by paragraph (1) of subdivision (c) of Section~~  
11 ~~2030 of the Code of Civil Procedure.~~

12 ~~4. I have previously propounded a total of \_\_\_\_\_~~  
13 ~~interrogatories to this party, of which \_\_\_\_\_~~  
14 ~~interrogatories were not official form interrogatories.~~

15 ~~5. This set of interrogatories contains a total of \_\_\_\_\_~~  
16 ~~specially prepared interrogatories.~~

17 ~~6. I am familiar with the issues and the previous~~  
18 ~~discovery conducted by all of the parties in the case.~~

19 ~~7. I have personally examined each of the questions in~~  
20 ~~this set of interrogatories.~~

21 ~~8. This number of questions is warranted under~~  
22 ~~paragraph (2) of subdivision (c) of Section 2030 of the~~  
23 ~~Code of Civil Procedure because \_\_\_\_\_. (Here state~~  
24 ~~each factor described in paragraph (2) of subdivision (c)~~  
25 ~~that is relied on, as well as the reasons why any factor~~  
26 ~~relied on is applicable to the instant lawsuit.)~~

27 ~~9. None of the questions in this set of interrogatories~~  
28 ~~is being propounded for any improper purpose, such as~~  
29 ~~to harass the party, or the attorney for the party, to whom~~  
30 ~~it is directed, or to cause unnecessary delay or needless~~  
31 ~~increase in the cost of litigation.~~

32 ~~I declare under penalty of perjury under the laws of~~  
33 ~~California that the foregoing is true and correct, and that~~  
34 ~~this declaration was executed on \_\_\_\_\_.~~

35 \_\_\_\_\_  
36 \_\_\_\_\_

(Signature)

37 \_\_\_\_\_  
38 Attorney for \_\_\_\_\_  
39 \_\_\_\_\_



1 ~~(4) A party propounding interrogatories shall number~~  
2 ~~each set of interrogatories consecutively. In the first~~  
3 ~~paragraph immediately below the title of the case, there~~  
4 ~~shall appear the identity of the propounding party, the set~~  
5 ~~number, and the identity of the responding party. Each~~  
6 ~~interrogatory in a set shall be separately set forth and~~  
7 ~~identified by number or letter.~~

8 ~~(5) Each interrogatory shall be full and complete in~~  
9 ~~and of itself. No preface or instruction shall be included~~  
10 ~~with a set of interrogatories unless it has been approved~~  
11 ~~under Section 2033.5. Any term specially defined in a set~~  
12 ~~of interrogatories shall be typed with all letters~~  
13 ~~capitalized wherever that term appears. No specially~~  
14 ~~prepared interrogatory shall contain subparts, or a~~  
15 ~~compound, conjunctive, or disjunctive question.~~

16 ~~(6) An interrogatory may relate to whether another~~  
17 ~~party is making a certain contention, or to the facts,~~  
18 ~~witnesses, and writings on which a contention is based. An~~  
19 ~~interrogatory is not objectionable because an answer to~~  
20 ~~it involves an opinion or contention that relates to fact or~~  
21 ~~the application of law to fact, or would be based on~~  
22 ~~information obtained or legal theories developed in~~  
23 ~~anticipation of litigation or in preparation for trial.~~

24 ~~(7) An interrogatory may not be made a continuing~~  
25 ~~one so as to impose on the party responding to it a duty~~  
26 ~~to supplement an answer to it that was initially correct~~  
27 ~~and complete with later acquired information.~~

28 ~~(8) In addition to the number of interrogatories~~  
29 ~~permitted by paragraphs (1) and (2), a party may~~  
30 ~~propound a supplemental interrogatory to elicit any later~~  
31 ~~acquired information bearing on all answers previously~~  
32 ~~made by any party in response to interrogatories (1)~~  
33 ~~twice prior to the initial setting of a trial date, and (2)~~  
34 ~~subject to the time limits on discovery proceedings and~~  
35 ~~motions provided in Section 2024, once after the initial~~  
36 ~~setting of a trial date. However, on motion, for good cause~~  
37 ~~shown, the court may grant leave to a party to propound~~  
38 ~~an additional number of supplemental interrogatories.~~

39 ~~(d) The party propounding interrogatories shall serve~~  
40 ~~a copy of them (1) on the party to whom they are~~



1 directed, and (2) on all other parties who have appeared  
2 in the action, unless the court on motion with or without  
3 notice has relieved that party from this requirement on  
4 its determination that service on all other parties would  
5 be unduly expensive or burdensome.

6 (e) When interrogatories have been propounded, the  
7 responding party, and any other party or affected natural  
8 person or organization may promptly move for a  
9 protective order. This motion shall be accompanied by a  
10 declaration stating facts showing a reasonable and good  
11 faith attempt at an informal resolution of each issue  
12 presented by the motion.

13 The court, for good cause shown, may make any order  
14 that justice requires to protect any party or other natural  
15 person or organization from unwarranted annoyance,  
16 embarrassment, or oppression, or undue burden and  
17 expense. This protective order may include, but is not  
18 limited to, one or more of the following directions:

19 (1) That the set of interrogatories, or particular  
20 interrogatories in the set, need not be answered.

21 (2) That, contrary to the representations made in a  
22 declaration submitted under paragraph (3) of  
23 subdivision (c), the number of specially prepared  
24 interrogatories is unwarranted.

25 (3) That the time specified in subdivision (h) to  
26 respond to the set of interrogatories, or to particular  
27 interrogatories in the set, be extended.

28 (4) That the response be made only on specified terms  
29 and conditions.

30 (5) That the method of discovery be an oral deposition  
31 instead of interrogatories to a party.

32 (6) That a trade secret or other confidential research,  
33 development, or commercial information not be  
34 disclosed or be disclosed only in a certain way.

35 (7) That some or all of the answers to interrogatories  
36 be sealed and thereafter opened only on order of the  
37 court.

38 If the motion for a protective order is denied in whole  
39 or in part, the court may order that the party provide or



~~1 permit the discovery against which protection was sought  
2 on terms and conditions that are just.~~

~~3 The court shall impose a monetary sanction under  
4 Section 2023 against any party, person, or attorney who  
5 unsuccessfully makes or opposes a motion for a protective  
6 order, unless it finds that the one subject to the sanction  
7 acted with substantial justification or that other  
8 circumstances made the imposition of the sanction  
9 unjust.~~

~~10 The filing of a motion for a protective order under this  
11 subdivision shall stay the time to respond to the set of  
12 interrogatories which have been propounded until five  
13 days after the hearing on the motion, or until such other  
14 time as the court may order. In order for the stay to apply,  
15 the responding party shall file and serve the motion at  
16 least five court days before the response to the  
17 interrogatories is required under subdivision (h) or (i)  
18 and the responding party shall designate a hearing date  
19 not more than 20 days after filing the notice of motion or  
20 on the earliest available date thereafter on the court's  
21 calendar.~~

~~22 (f) The party to whom interrogatories have been  
23 propounded shall respond in writing under oath  
24 separately to each interrogatory by (1) an answer  
25 containing the information sought to be discovered, (2)  
26 an exercise of the party's option to produce writings, or  
27 (3) an objection to the particular interrogatory. In the  
28 first paragraph of the response immediately below the  
29 title of the case, there shall appear the identity of the  
30 responding party, the set number, and the identity of the  
31 propounding party. Each answer, exercise of option, or  
32 objection in the response shall bear the same identifying  
33 number or letter and be in the same sequence as the  
34 corresponding interrogatory, but the text of that  
35 interrogatory need not be repeated.~~

~~36 (1) Each answer in the response shall be as complete  
37 and straightforward as the information reasonably  
38 available to the responding party permits. If an  
39 interrogatory cannot be answered completely, it shall be  
40 answered to the extent possible. If the responding party~~



1 ~~does not have personal knowledge sufficient to respond~~  
2 ~~fully to an interrogatory, that party shall so state, but shall~~  
3 ~~make a reasonable and good faith effort to obtain the~~  
4 ~~information by inquiry to other natural persons or~~  
5 ~~organizations, except where the information is equally~~  
6 ~~available to the propounding party.~~

7 ~~(2) If the answer to an interrogatory would necessitate~~  
8 ~~the preparation or the making of a compilation, abstract,~~  
9 ~~audit, or summary of or from the documents of the party~~  
10 ~~to whom the interrogatory is directed, and if the burden~~  
11 ~~or expense of preparing or making it would be~~  
12 ~~substantially the same for the party propounding the~~  
13 ~~interrogatory as for the responding party, it is a sufficient~~  
14 ~~answer to that interrogatory to refer to this subdivision~~  
15 ~~and to specify the writings from which the answer may be~~  
16 ~~derived or ascertained. This specification shall be in~~  
17 ~~sufficient detail to permit the propounding party to~~  
18 ~~locate and to identify, as readily as the responding party~~  
19 ~~can, the documents from which the answer may be~~  
20 ~~ascertained. The responding party shall then afford to the~~  
21 ~~propounding party a reasonable opportunity to examine,~~  
22 ~~audit, or inspect these documents and to make copies,~~  
23 ~~compilations, abstracts, or summaries of them.~~

24 ~~(3) If only a part of an interrogatory is objectionable,~~  
25 ~~the remainder of the interrogatory shall be answered. If~~  
26 ~~an objection is made to an interrogatory or to a part of an~~  
27 ~~interrogatory, the specific ground for the objection shall~~  
28 ~~be set forth clearly in the response. If an objection is based~~  
29 ~~on a claim of privilege, the particular privilege invoked~~  
30 ~~shall be clearly stated. If an objection is based on a claim~~  
31 ~~that the information sought is protected work product~~  
32 ~~under Section 2018, that claim shall be expressly asserted.~~

33 ~~(g) The party to whom the interrogatories are~~  
34 ~~directed shall sign the response under oath unless the~~  
35 ~~response contains only objections. If that party is a public~~  
36 ~~or private corporation, or a partnership, association, or~~  
37 ~~governmental agency, one of its officers or agents shall~~  
38 ~~sign the response under oath on behalf of that party. If the~~  
39 ~~officer or agent signing the response on behalf of that~~  
40 ~~party is an attorney acting in that capacity for the party,~~



1 that party waives any lawyer-client privilege and any  
2 protection for work product under Section 2018 during  
3 any subsequent discovery from that attorney concerning  
4 the identity of the sources of the information contained  
5 in the response. The attorney for the responding party  
6 shall sign any responses that contain an objection.

7 (h) Within 30 days after service of interrogatories, or  
8 in unlawful detainer actions within five days after service  
9 of interrogatories the party to whom the interrogatories  
10 are propounded shall serve the original of the response to  
11 them on the propounding party, unless on motion of the  
12 propounding party the court has shortened the time for  
13 response, or unless on motion of the responding party the  
14 court has extended the time for response. In unlawful  
15 detainer actions, the party to whom the interrogatories  
16 are propounded shall have five days from the date of  
17 service to respond unless on motion of the propounding  
18 party the court has shortened the time for response. The  
19 party to whom the interrogatories are propounded shall  
20 also serve a copy of the response on all other parties who  
21 have appeared in the action, unless the court on motion  
22 with or without notice has relieved that party from this  
23 requirement on its determination that service on all other  
24 parties would be unduly expensive or burdensome.

25 (i) The party propounding interrogatories and the  
26 responding party may agree to extend the time for  
27 service of a response to a set of interrogatories, or to  
28 particular interrogatories in a set, to a date beyond that  
29 provided in subdivision (h). This agreement may be  
30 informal, but it shall be confirmed in a writing that  
31 specifies the extended date for service of a response.  
32 Unless this agreement expressly states otherwise, it is  
33 effective to preserve to the responding party the right to  
34 respond to any interrogatory to which the agreement  
35 applies in any manner specified in subdivision (f).

36 (j) The interrogatories and the response thereto shall  
37 not be filed with the court. The propounding party shall  
38 retain both the original of the interrogatories, with the  
39 original proof of service affixed to them, and the original  
40 of the sworn response until six months after final



1 ~~disposition of the action. At that time, both originals may~~  
2 ~~be destroyed, unless the court on motion of any party and~~  
3 ~~for good cause shown orders that the originals be~~  
4 ~~preserved for a longer period.~~

5 ~~(k) If a party to whom interrogatories have been~~  
6 ~~directed fails to serve a timely response, that party waives~~  
7 ~~any right to exercise the option to produce writings under~~  
8 ~~subdivision (f), as well as any objection to the~~  
9 ~~interrogatories, including one based on privilege or on~~  
10 ~~the protection for work product under Section 2018.~~  
11 ~~However, the court, on motion, may relieve that party~~  
12 ~~from this waiver on its determination that (1) the party~~  
13 ~~has subsequently served a response that is in substantial~~  
14 ~~compliance with subdivision (f), and (2) the party's~~  
15 ~~failure to serve a timely response was the result of~~  
16 ~~mistake, inadvertence, or excusable neglect.~~

17 ~~The party propounding the interrogatories may move~~  
18 ~~for an order compelling response to the interrogatories.~~  
19 ~~The court shall impose a monetary sanction under~~  
20 ~~Section 2023 against any party, person, or attorney who~~  
21 ~~unsucessfully makes or opposes a motion to compel a~~  
22 ~~response to interrogatories, unless it finds that the one~~  
23 ~~subject to the sanction acted with substantial justification~~  
24 ~~or that other circumstances make the imposition of the~~  
25 ~~sanction unjust. If a party then fails to obey an order~~  
26 ~~compelling answers, the court may make those orders~~  
27 ~~that are just, including the imposition of an issue sanction,~~  
28 ~~an evidence sanction, or a terminating sanction under~~  
29 ~~Section 2023. In lieu of or in addition to that sanction, the~~  
30 ~~court may impose a monetary sanction under Section~~  
31 ~~2023.~~

32 ~~(l) If the propounding party, on receipt of a response~~  
33 ~~to interrogatories, deems that (1) an answer to a~~  
34 ~~particular interrogatory is evasive or incomplete, (2) an~~  
35 ~~exercise of the option to produce documents under~~  
36 ~~paragraph (2) of subdivision (f) is unwarranted or the~~  
37 ~~required specification of those documents is inadequate,~~  
38 ~~or (3) an objection to an interrogatory is without merit or~~  
39 ~~too general, that party may move for an order compelling~~  
40 ~~a further response. This motion shall be accompanied by~~



1 a declaration stating facts showing a reasonable and good  
2 faith attempt at an informal resolution of each issue  
3 presented by the motion.

4 Unless notice of this motion is given within 45 days of  
5 the service of the response, or any supplemental  
6 response, or on or before any specific later date to which  
7 the propounding party and the responding party have  
8 agreed in writing, the propounding party waives any  
9 right to compel a further response to the interrogatories.

10 The court shall impose a monetary sanction under  
11 Section 2023 against any party, person, or attorney who  
12 unsuccessfully makes or opposes a motion to compel a  
13 further response to interrogatories, unless it finds that the  
14 one subject to the sanction acted with substantial  
15 justification or that other circumstances make the  
16 imposition of the sanction unjust.

17 If a party then fails to obey an order compelling further  
18 response to interrogatories, the court may make those  
19 orders that are just, including the imposition of an issue  
20 sanction, an evidence sanction, or a terminating sanction  
21 under Section 2023. In lieu of or in addition to that  
22 sanction, the court may impose a monetary sanction  
23 under Section 2023.

24 (m) Without leave of court, a party may serve an  
25 amended answer to any interrogatory that contains  
26 information subsequently discovered, inadvertently  
27 omitted, or mistakenly stated in the initial interrogatory.  
28 At the trial of the action, the propounding party or any  
29 other party may use the initial answer under subdivision  
30 (n), and the responding party may then use the amended  
31 answer.

32 The party who propounded an interrogatory to which  
33 an amended answer has been served may move for an  
34 order that the initial answer to that interrogatory be  
35 deemed binding on the responding party for the purpose  
36 of the pending action. This motion shall be accompanied  
37 by a declaration stating facts showing a reasonable and  
38 good faith attempt at an informal resolution of each issue  
39 presented by the motion. The court shall grant this  
40 motion if it determines that (1) the initial failure of the



1 ~~responding party to answer the interrogatory correctly~~  
2 ~~has substantially prejudiced the party who propounded~~  
3 ~~the interrogatory, (2) the responding party has failed to~~  
4 ~~show substantial justification for the initial answer to that~~  
5 ~~interrogatory, and (3) the prejudice to the propounding~~  
6 ~~party cannot be cured either by a continuance to permit~~  
7 ~~further discovery or by the use of the initial answer under~~  
8 ~~subdivision (n).~~

9 ~~The court shall impose a monetary sanction under~~  
10 ~~Section 2023 against any party, person, or attorney who~~  
11 ~~unsucessfully makes or opposes a motion to deem~~  
12 ~~binding an initial answer to an interrogatory, unless it~~  
13 ~~finds that the one subject to the sanction acted with~~  
14 ~~substantial justification or that other circumstances make~~  
15 ~~the imposition of the sanction unjust.~~

16 ~~(n) At the trial or any other hearing in the action, so~~  
17 ~~far as admissible under the rules of evidence, the~~  
18 ~~propounding party or any party other than the~~  
19 ~~responding party may use any answer or part of an~~  
20 ~~answer to an interrogatory only against the responding~~  
21 ~~party. It is not ground for objection to the use of an answer~~  
22 ~~to an interrogatory that the responding party is available~~  
23 ~~to testify, has testified, or will testify at the trial or other~~  
24 ~~hearing.~~

25 ~~SEC. 9. Section 2031 of the Code of Civil Procedure is~~  
26 ~~amended to read:~~

27 ~~2031. (a) Any party may obtain discovery within the~~  
28 ~~scope delimited by Section 2017, and subject to the~~  
29 ~~restrictions set forth in Section 2019, by inspecting~~  
30 ~~documents, tangible things, and land or other property~~  
31 ~~that are in the possession, custody, or control of any other~~  
32 ~~party to the action.~~

33 ~~(1) A party may demand that any other party produce~~  
34 ~~and permit the party making the demand, or someone~~  
35 ~~acting on that party's behalf, to inspect and to copy a~~  
36 ~~document that is in the possession, custody, or control of~~  
37 ~~the party on whom the demand is made.~~

38 ~~(2) A party may demand that any other party produce~~  
39 ~~and permit the party making the demand, or someone~~  
40 ~~acting on that party's behalf, to inspect and to~~



1 ~~photograph, test, or sample any tangible things that are~~  
2 ~~in the possession, custody, or control of the party on~~  
3 ~~whom the demand is made.~~

4 ~~(3) A party may demand that any other party allow the~~  
5 ~~party making the demand, or someone acting on that~~  
6 ~~party's behalf, to enter on any land or other property that~~  
7 ~~is in the possession, custody, or control of the party on~~  
8 ~~whom the demand is made, and to inspect and to~~  
9 ~~measure, survey, photograph, test, or sample the land or~~  
10 ~~other property, or any designated object or operation on~~  
11 ~~it.~~

12 ~~(b) A defendant may make a demand for inspection~~  
13 ~~without leave of court at any time. A plaintiff may make~~  
14 ~~a demand for inspection without leave of court at any~~  
15 ~~time that is 10 days after the service of the summons on,~~  
16 ~~or in unlawful detainer actions within five days after~~  
17 ~~service of the summons on or appearance by, the party to~~  
18 ~~whom the demand is directed, whichever occurs first.~~  
19 ~~However, on motion with or without notice, the court, for~~  
20 ~~good cause shown, may grant leave to a plaintiff to make~~  
21 ~~an inspection demand at an earlier time.~~

22 ~~(c) A party demanding an inspection shall number~~  
23 ~~each set of demands consecutively. In the first paragraph~~  
24 ~~immediately below the title of the case, there shall appear~~  
25 ~~the identity of the demanding party, the set number, and~~  
26 ~~the identity of the responding party. Each demand in a~~  
27 ~~set shall be separately set forth, identified by number or~~  
28 ~~letter, and shall do all of the following:~~

29 ~~(1) Designate the documents, tangible things, or land~~  
30 ~~or other property to be inspected either by specifically~~  
31 ~~describing each individual item or by reasonably~~  
32 ~~particularizing each category of item.~~

33 ~~(2) Specify a reasonable time for the inspection that is~~  
34 ~~at least 30 days after service of the demand, or in unlawful~~  
35 ~~detainer actions at least five days after service of the~~  
36 ~~demand, unless the court for good cause shown has~~  
37 ~~granted leave to specify an earlier date.~~

38 ~~(3) Specify a reasonable place for making the~~  
39 ~~inspection, copying, and performing any related activity.~~



1 ~~(4) Specify any related activity that is being~~  
2 ~~demanded in addition to an inspection and copying, as~~  
3 ~~well as the manner in which that related activity will be~~  
4 ~~performed, and whether that activity will permanently~~  
5 ~~alter or destroy the item involved.~~

6 ~~(d) The party demanding an inspection shall serve a~~  
7 ~~copy of the inspection demand on the party to whom it~~  
8 ~~is directed and on all other parties who have appeared in~~  
9 ~~the action.~~

10 ~~(e) When an inspection of documents, tangible things~~  
11 ~~or places has been demanded, the party to whom the~~  
12 ~~demand has been directed, and any other party or~~  
13 ~~affected person or organization, may promptly move for~~  
14 ~~a protective order. This motion shall be accompanied by~~  
15 ~~a declaration stating facts showing a reasonable and good~~  
16 ~~faith attempt at an informal resolution of each issue~~  
17 ~~presented by the motion.~~

18 ~~The court, for good cause shown, may make any order~~  
19 ~~that justice requires to protect any party or other natural~~  
20 ~~person or organization from unwarranted annoyance,~~  
21 ~~embarrassment, or oppression, or undue burden and~~  
22 ~~expense. This protective order may include, but is not~~  
23 ~~limited to, one or more of the following directions:~~

24 ~~(1) That all or some of the items or categories of items~~  
25 ~~in the inspection demand need not be produced or made~~  
26 ~~available at all.~~

27 ~~(2) That the time specified in subdivision (h) to~~  
28 ~~respond to the set of inspection demands, or to a~~  
29 ~~particular item or category in the set, be extended.~~

30 ~~(3) That the place of production be other than that~~  
31 ~~specified in the inspection demand.~~

32 ~~(4) That the inspection be made only on specified~~  
33 ~~terms and conditions.~~

34 ~~(5) That a trade secret or other confidential research,~~  
35 ~~development, or commercial information not be~~  
36 ~~disclosed, or be disclosed only to specified persons or only~~  
37 ~~in a specified way.~~

38 ~~(6) That the items produced be sealed and thereafter~~  
39 ~~opened only on order of the court.~~



1 ~~If the motion for a protective order is denied in whole~~  
2 ~~or in part, the court may order that the party to whom the~~  
3 ~~demand was directed provide or permit the discovery~~  
4 ~~against which protection was sought on terms and~~  
5 ~~conditions that are just.~~

6 ~~The court shall impose a monetary sanction under~~  
7 ~~Section 2023 against any party, person, or attorney who~~  
8 ~~unsucessfully makes or opposes a motion for a protective~~  
9 ~~order, unless it finds that the one subject to the sanction~~  
10 ~~acted with substantial justification or that other~~  
11 ~~circumstances make the imposition of the sanction unjust.~~

12 ~~The filing of a motion for a protective order under this~~  
13 ~~subdivision shall stay the time to respond, or produce in~~  
14 ~~response, to the set of inspection demands which have~~  
15 ~~been propounded until at least five days after the hearing~~  
16 ~~on the motion, or until such other time as the court may~~  
17 ~~order. In order for the stay to apply, the responding party~~  
18 ~~shall file and serve the motion at least five court days~~  
19 ~~before the inspection demands is required under~~  
20 ~~subdivision (h) or (i) and the responding party shall~~  
21 ~~designate a hearing date not more than 20 days after filing~~  
22 ~~the notice of motion or on the earliest available date~~  
23 ~~thereafter on the court's calendar.~~

24 ~~(f) The party to whom an inspection demand has been~~  
25 ~~directed shall respond separately to each item or category~~  
26 ~~of item by a statement that the party will comply with the~~  
27 ~~particular demand for inspection and any related~~  
28 ~~activities, a representation that the party lacks the ability~~  
29 ~~to comply with the demand for inspection of a particular~~  
30 ~~item or category of item, or an objection to the particular~~  
31 ~~demand.~~

32 ~~In the first paragraph of the response immediately~~  
33 ~~below the title of the case, there shall appear the identity~~  
34 ~~of the responding party, the set number, and the identity~~  
35 ~~of the demanding party. Each statement of compliance,~~  
36 ~~each representation, and each objection in the response~~  
37 ~~shall bear the same number and be in the same sequence~~  
38 ~~as the corresponding item or category in the demand, but~~  
39 ~~the text of that item or category need not be repeated.~~



1 ~~(1) A statement that the party to whom an inspection~~  
2 ~~demand has been directed will comply with the~~  
3 ~~particular demand shall state that the production,~~  
4 ~~inspection, and related activity demanded will be allowed~~  
5 ~~either in whole or in part, and that all documents or things~~  
6 ~~in the demanded category that are in the possession,~~  
7 ~~custody, or control of that party and to which no objection~~  
8 ~~is being made will be included in the production.~~

9 ~~Any documents demanded shall either be produced as~~  
10 ~~they are kept in the usual course of business, or be~~  
11 ~~organized and labeled to correspond with the categories~~  
12 ~~in the demand. If necessary, the responding party at the~~  
13 ~~reasonable expense of the demanding party shall,~~  
14 ~~through detection devices, translate any data~~  
15 ~~compilations included in the demand into reasonably~~  
16 ~~usable form.~~

17 ~~(2) A representation of inability to comply with the~~  
18 ~~particular demand for inspection shall affirm that a~~  
19 ~~diligent search and a reasonable inquiry has been made~~  
20 ~~in an effort to comply with that demand. This statement~~  
21 ~~shall also specify whether the inability to comply is~~  
22 ~~because the particular item or category has never existed,~~  
23 ~~has been destroyed, has been lost, misplaced, or stolen, or~~  
24 ~~has never been, or is no longer, in the possession, custody,~~  
25 ~~or control of the responding party. The statement shall set~~  
26 ~~forth the name and address of any natural person or~~  
27 ~~organization known or believed by that party to have~~  
28 ~~possession, custody, or control of that item or category of~~  
29 ~~item.~~

30 ~~(3) If only part of an item or category of item in an~~  
31 ~~inspection demand is objectionable, the response shall~~  
32 ~~contain a statement of compliance, or a representation of~~  
33 ~~inability to comply with respect to the remainder of that~~  
34 ~~item or category. If the responding party objects to the~~  
35 ~~demand for inspection of an item or category of item, the~~  
36 ~~response shall (A) identify with particularity any~~  
37 ~~document, tangible thing, or land falling within any~~  
38 ~~category of item in the demand to which an objection is~~  
39 ~~being made, and (B) set forth clearly the extent of, and~~  
40 ~~the specific ground for, the objection. If an objection is~~



1 ~~based on a claim of privilege, the particular privilege~~  
2 ~~invoked shall be stated. If an objection is based on a claim~~  
3 ~~that the information sought is protected work product~~  
4 ~~under Section 2018, that claim shall be expressly asserted.~~

5 ~~(g) The party to whom the demand for inspection is~~  
6 ~~directed shall sign the response under oath unless the~~  
7 ~~response contains only objections. If that party is a public~~  
8 ~~or private corporation or a partnership or association or~~  
9 ~~governmental agency, one of its officers or agents shall~~  
10 ~~sign the response under oath on behalf of that party. If the~~  
11 ~~officer or agent signing the response on behalf of that~~  
12 ~~party is an attorney acting in that capacity for a party, that~~  
13 ~~party waives any lawyer-client privilege and any~~  
14 ~~protection for work product under Section 2018 during~~  
15 ~~any subsequent discovery from that attorney concerning~~  
16 ~~the identity of the sources of the information contained~~  
17 ~~in the response. The attorney for the responding party~~  
18 ~~shall sign any responses that contain an objection.~~

19 ~~(h) Within 20 days after service of an inspection~~  
20 ~~demand, or in unlawful detainer actions within five days~~  
21 ~~of an inspection demand, the party to whom the demand~~  
22 ~~is directed shall serve the original of the response to it on~~  
23 ~~the party making the demand, and a copy of the response~~  
24 ~~on all other parties who have appeared in the action,~~  
25 ~~unless on motion of the party making the demand the~~  
26 ~~court has shortened the time for response, or unless on~~  
27 ~~motion of the party to whom the demand has been~~  
28 ~~directed, the court has extended the time for response. In~~  
29 ~~unlawful detainer actions, the party to whom the demand~~  
30 ~~is directed shall have at least five days from the date of~~  
31 ~~service of the demand to respond unless on motion of the~~  
32 ~~party making the demand the court has shortened the~~  
33 ~~time for the response.~~

34 ~~(i) The party demanding an inspection and the~~  
35 ~~responding party may agree to extend the time for~~  
36 ~~service of a response to a set of inspection demands, or to~~  
37 ~~particular items or categories of items in a set, to a date~~  
38 ~~beyond that provided in subdivision (h). This agreement~~  
39 ~~may be informal, but it shall be confirmed in a writing~~  
40 ~~that specifies the extended date for service of a response.~~



1 ~~Unless this agreement expressly states otherwise, it is~~  
2 ~~effective to preserve to the responding party the right to~~  
3 ~~respond to any item or category of item in the demand to~~  
4 ~~which the agreement applies in any manner specified in~~  
5 ~~subdivision (f).~~

6 ~~(j) The inspection demand and the response to it shall~~  
7 ~~not be filed with the court. The party demanding an~~  
8 ~~inspection shall retain both the original of the inspection~~  
9 ~~demand, with the original proof of service affixed to it,~~  
10 ~~and the original of the sworn response until six months~~  
11 ~~after final disposition of the action. At that time, both~~  
12 ~~originals may be destroyed, unless the court, on motion~~  
13 ~~of any party and for good cause shown, orders that the~~  
14 ~~originals be preserved for a longer period.~~

15 ~~(k) If a party to whom an inspection demand has been~~  
16 ~~directed fails to serve a timely response to it, that party~~  
17 ~~waives any objection to the demand, including one based~~  
18 ~~on privilege or on the protection for work product under~~  
19 ~~Section 2018. However, the court, on motion, may relieve~~  
20 ~~that party from this waiver on its determination that (1)~~  
21 ~~the party has subsequently served a response that is in~~  
22 ~~substantial compliance with subdivision (f), and (2) the~~  
23 ~~party's failure to serve a timely response was the result of~~  
24 ~~mistake, inadvertence, or excusable neglect.~~

25 ~~The party making the demand may move for an order~~  
26 ~~compelling response to the inspection demand. The court~~  
27 ~~shall impose a monetary sanction under Section 2023~~  
28 ~~against any party, person, or attorney who unsuccessfully~~  
29 ~~makes or opposes a motion to compel a response to an~~  
30 ~~inspection demand, unless it finds that the one subject to~~  
31 ~~the sanction acted with substantial justification or that~~  
32 ~~other circumstances make the imposition of the sanction~~  
33 ~~unjust. If a party then fails to obey the order compelling~~  
34 ~~a response, the court may make those orders that are just,~~  
35 ~~including the imposition of an issue sanction, an evidence~~  
36 ~~sanction, or a terminating sanction under Section 2023. In~~  
37 ~~lieu of or in addition to that sanction, the court may~~  
38 ~~impose a monetary sanction under Section 2023.~~

39 ~~(l) If the party demanding an inspection, on receipt of~~  
40 ~~a response to an inspection demand, deems that (1) a~~



1 ~~statement of compliance with the demand is incomplete,~~  
2 ~~(2) a representation of inability to comply is inadequate,~~  
3 ~~incomplete, or evasive, or (3) an objection in the~~  
4 ~~response is without merit or too general, that party may~~  
5 ~~move for an order compelling further response to the~~  
6 ~~demand. This motion (1) shall set forth specific facts~~  
7 ~~showing good cause justifying the discovery sought by the~~  
8 ~~inspection demand, and (2) shall be accompanied by a~~  
9 ~~declaration stating facts showing a reasonable and good~~  
10 ~~faith attempt at an informal resolution of any issue~~  
11 ~~presented by it.~~

12 ~~Unless notice of this motion is given within 45 days of~~  
13 ~~the service of the response, or any supplemental~~  
14 ~~response, or on or before any specific later date to which~~  
15 ~~the demanding party and the responding party have~~  
16 ~~agreed in writing, the demanding party waives any right~~  
17 ~~to compel a further response to the inspection demand.~~

18 ~~The court shall impose a monetary sanction under~~  
19 ~~Section 2023 against any party, person, or attorney who~~  
20 ~~unsuccessfully makes or opposes a motion to compel~~  
21 ~~further response to an inspection demand, unless it finds~~  
22 ~~that the one subject to the sanction acted with substantial~~  
23 ~~justification or that other circumstances make the~~  
24 ~~imposition of the sanction unjust.~~

25 ~~If a party fails to obey an order compelling further~~  
26 ~~response, the court may make those orders that are just,~~  
27 ~~including the imposition of an issue sanction, an evidence~~  
28 ~~sanction, or a terminating sanction under Section 2023. In~~  
29 ~~lieu of or in addition to that sanction, the court may~~  
30 ~~impose a monetary sanction under Section 2023.~~

31 ~~(m) If a party filing a response to a demand for~~  
32 ~~inspection under subdivision (f) thereafter fails to permit~~  
33 ~~the inspection in accordance with that party's statement~~  
34 ~~of compliance, the party demanding the inspection may~~  
35 ~~move for an order compelling compliance.~~

36 ~~The court shall impose a monetary sanction under~~  
37 ~~Section 2023 against any party, person, or attorney who~~  
38 ~~unsuccessfully makes or opposes a motion to compel~~  
39 ~~compliance with an inspection demand, unless it finds~~  
40 ~~that the one subject to the sanction acted with substantial~~



1 justification or that other circumstances make the  
2 imposition of the sanction unjust.

3 If a party then fails to obey an order compelling  
4 inspection, the court may make those orders that are just,  
5 including the imposition of an issue sanction, an evidence  
6 sanction, or a terminating sanction under Section 2023. In  
7 lieu of or in addition to that sanction, the court may  
8 impose a monetary sanction under Section 2023.

9 SEC. 10. Section 2033 of the Code of Civil Procedure  
10 is amended to read:

11 2033. (a) Any party may obtain discovery within the  
12 scope delimited by Section 2017, and subject to the  
13 restrictions set forth in Section 2019, by a written request  
14 that any other party to the action admit the genuineness  
15 of specified documents, or the truth of specified matters  
16 of fact, opinion relating to fact, or application of law to  
17 fact. A request for admission may relate to a matter that  
18 is in controversy between the parties.

19 (b) A defendant may make requests for admission by  
20 a party without leave of court at any time. A plaintiff may  
21 make requests for admission by a party without leave of  
22 court at any time that is 10 days after the service of the  
23 summons on, or, in unlawful detainer actions, five days  
24 after the service of the summons on, or appearance by,  
25 that party, whichever occurs first. However, on motion  
26 with or without notice, the court, for good cause shown,  
27 may grant leave to a plaintiff to make requests for  
28 admission at an earlier time.

29 (c) (1) No party shall request, as a matter of right, that  
30 any other party admit more than 35 matters that do not  
31 relate to the genuineness of documents. If the initial set  
32 of admission requests does not exhaust this limit, the  
33 balance may be requested in subsequent sets. Unless a  
34 declaration as described in paragraph (3) has been made,  
35 a party need only respond to the first 35 admission  
36 requests served that do not relate to the genuineness of  
37 documents, if that party states an objection to the balance  
38 under paragraph (2) of subdivision (f) on the ground that  
39 the limit has been exceeded.



1 The number of requests for admission of the  
2 genuineness of documents is not limited except as justice  
3 requires to protect the responding party from  
4 unwarranted annoyance, embarrassment, oppression, or  
5 undue burden and expense.

6 (2) Subject to the right of the responding party to seek  
7 a protective order under subdivision (e), any party who  
8 attaches a supporting declaration as described in  
9 paragraph (3) may request a greater number of  
10 admissions by another party if the greater number is  
11 warranted by the complexity or the quantity of the  
12 existing and potential issues in the particular case.

13 If the responding party seeks a protective order on the  
14 ground that the number of requests for admission is  
15 unwarranted, the propounding party shall have the  
16 burden of justifying the number of requests for admission.

17 (3) Any party who is requesting or who has already  
18 requested more than 35 admissions not relating to the  
19 genuineness of documents by any other party shall attach  
20 to each set of requests for admissions a declaration  
21 containing substantially the following words:

22  
23 ~~DECLARATION FOR ADDITIONAL DISCOVERY~~

24  
25 I, \_\_\_\_\_, declare:

26 1. I am (a party to this action or proceeding appearing  
27 in propria persona) (presently the attorney for  
28 \_\_\_\_\_, a party to this action or proceeding).

29 2. I am propounding to \_\_\_\_\_ the attached set of  
30 requests for admission.

31 3. This set of requests for admission will cause the total  
32 number of requests propounded to the party to whom  
33 they are directed to exceed the number of requests  
34 permitted by paragraph (1) of subdivision (e) of Section  
35 2033 of the Code of Civil Procedure.

36 4. I have previously propounded a total of \_\_\_\_\_  
37 requests for admission to this party.

38 5. This set of requests for admission contains a total of  
39 \_\_\_\_\_ requests.



1 ~~6. I am familiar with the issues and the previous~~  
2 ~~discovery conducted by all of the parties in this case.~~

3 ~~7. I have personally examined each of the requests in~~  
4 ~~this set of requests for admission.~~

5 ~~8. This number of requests for admission is warranted~~  
6 ~~under paragraph (2) of subdivision (c) of Section 2033 of~~  
7 ~~the Code of Civil Procedure because \_\_\_\_\_. (Here~~  
8 ~~state the reasons why the complexity or the quantity of~~  
9 ~~issues in the instant lawsuit warrant this number of~~  
10 ~~requests for admission.)~~

11 ~~9. None of the requests in this set of requests is being~~  
12 ~~propounded for any improper purpose, such as to harass~~  
13 ~~the party, or the attorney for the party, to whom it is~~  
14 ~~directed, or to cause unnecessary delay or needless~~  
15 ~~increase in the cost of litigation.~~

16 ~~I declare under penalty of perjury under the laws of~~  
17 ~~California that the foregoing is true and correct, and that~~  
18 ~~this declaration was executed on \_\_\_\_\_.~~

19  
20 \_\_\_\_\_  
21 (Signature)  
22 Attorney for \_\_\_\_\_  
23

24 ~~(4) A party requesting admissions shall number each~~  
25 ~~set of requests consecutively. In the first paragraph~~  
26 ~~immediately below the title of the case, there shall appear~~  
27 ~~the identity of the party requesting the admissions, the set~~  
28 ~~number, and the identity of the requesting party, the set~~  
29 ~~number, and the identity of the responding party. Each~~  
30 ~~request for admission in a set shall be separately set forth~~  
31 ~~and identified by letter or number.~~

32 ~~(5) Each request for admission shall be full and~~  
33 ~~complete in and of itself. No preface or instruction shall~~  
34 ~~be included with a set of admission requests unless it has~~  
35 ~~been approved under Section 2033.5. Any term specially~~  
36 ~~defined in a request for admission shall be typed with all~~  
37 ~~letters capitalized whenever the term appears. No~~  
38 ~~request for admission shall contain subparts, or a~~  
39 ~~compound, conjunctive, or disjunctive request unless it~~  
40 ~~has been approved under Section 2033.5.~~



1 ~~(6) A party requesting an admission of the~~  
2 ~~genuineness of any documents shall attach copies of those~~  
3 ~~documents to the requests, and shall make the original of~~  
4 ~~those documents available for inspection on demand by~~  
5 ~~the party to whom the requests for admission are~~  
6 ~~directed.~~

7 ~~(7) No party shall combine in a single document~~  
8 ~~requests for admission with any other method of~~  
9 ~~discovery.~~

10 ~~(d) The party requesting admissions shall serve a copy~~  
11 ~~of them on the party to whom they are directed and on~~  
12 ~~all other parties who have appeared in the action.~~

13 ~~(e) When requests for admission have been made, the~~  
14 ~~responding party may promptly move for a protective~~  
15 ~~order. This motion shall be accompanied by a declaration~~  
16 ~~stating facts showing a reasonable and good faith attempt~~  
17 ~~at an informal resolution of each issue presented by the~~  
18 ~~motion.~~

19 ~~The court, for good cause shown, may make any order~~  
20 ~~that justice requires to protect any party from~~  
21 ~~unwarranted annoyance, embarrassment, oppression, or~~  
22 ~~undue burden and expense. This protective order may~~  
23 ~~include, but is not limited to, one or more of the following~~  
24 ~~directions:~~

25 ~~(1) That the set of admission requests, or particular~~  
26 ~~requests in the set, need not be answered at all.~~

27 ~~(2) That, contrary to the representations made in a~~  
28 ~~declaration submitted under paragraph (3) of~~  
29 ~~subdivision (e), the number of admission requests is~~  
30 ~~unwarranted.~~

31 ~~(3) That the time specified in subdivision (h) to~~  
32 ~~respond to the set of admission requests, or to particular~~  
33 ~~requests in the set, be extended.~~

34 ~~(4) That a trade secret or other confidential research,~~  
35 ~~development, or commercial information not be~~  
36 ~~admitted or be admitted only in a certain way.~~

37 ~~(5) That some or all of the answers to requests for~~  
38 ~~admission be sealed and thereafter opened only on order~~  
39 ~~of the court.~~



1 ~~If the motion for a protective order is denied in whole~~  
2 ~~or in part, the court may order that the responding party~~  
3 ~~provide or permit the discovery against which protection~~  
4 ~~was sought on terms and conditions that are just.~~

5 ~~The court shall impose a monetary sanction under~~  
6 ~~Section 2023 against any party, person, or attorney who~~  
7 ~~unsuccessfully makes or opposes a motion for a protective~~  
8 ~~order, unless it finds that the one subject to the sanction~~  
9 ~~acted with substantial justification or that other~~  
10 ~~circumstances make the imposition of the sanction unjust.~~

11 ~~The filing of a motion for a protective order under this~~  
12 ~~subdivision shall stay the time to respond to the set of~~  
13 ~~request for admissions which have been propounded~~  
14 ~~until five days after the hearing on the motion, or until~~  
15 ~~such other time as the court may order. In order for the~~  
16 ~~stay to apply, the responding party shall file and serve the~~  
17 ~~motion at least five court days before the response to the~~  
18 ~~request for admissions is required under subdivision (h)~~  
19 ~~or (i) and the responding party shall designate a hearing~~  
20 ~~date not more than 20 days after filing the notice of~~  
21 ~~motion or on the earliest available date thereafter on the~~  
22 ~~court's calendar.~~

23 ~~(f) The party to whom requests for admission have~~  
24 ~~been directed shall respond in writing under oath~~  
25 ~~separately to each request. Each response shall answer~~  
26 ~~the substance of the requested admission, or set forth an~~  
27 ~~objection to the particular request. In the first paragraph~~  
28 ~~of the response immediately below the title of the case,~~  
29 ~~there shall appear the identity of the responding party,~~  
30 ~~the set number, and the identity of the requesting party.~~  
31 ~~Each answer or objection in the response shall bear the~~  
32 ~~same identifying number or letter and be in the same~~  
33 ~~sequence as the corresponding request, but the text of the~~  
34 ~~particular request need not be repeated.~~

35 ~~(1) Each answer in the response shall be as complete~~  
36 ~~and straightforward as the information reasonably~~  
37 ~~available to the responding party permits. Each answer~~  
38 ~~shall (A) admit so much of the matter involved in the~~  
39 ~~request as is true, either as expressed in the request itself~~  
40 ~~or as reasonably and clearly qualified by the responding~~



1 party, (B) deny so much of the matter involved in the  
2 request as is untrue, and (C) specify so much of the  
3 matter involved in the request as to the truth of which the  
4 responding party lacks sufficient information or  
5 knowledge. If a responding party gives lack of  
6 information or knowledge as a reason for a failure to  
7 admit all or part of a request for admission, that party shall  
8 state in the answer that a reasonable inquiry concerning  
9 the matter in the particular request has been made, and  
10 that the information known or readily obtainable is  
11 insufficient to enable that party to admit the matter.

12 (2) If only a part of a request for admission is  
13 objectionable, the remainder of the request shall be  
14 answered. If an objection is made to a request or to a part  
15 of a request, the specific ground for the objection shall be  
16 set forth clearly in the response. If an objection is based  
17 on a claim of privilege, the particular privilege invoked  
18 shall be clearly stated. If an objection is based on a claim  
19 that the matter as to which an admission is requested is  
20 protected work product under Section 2018, that claim  
21 shall be expressly asserted.

22 (g) The party to whom the requests for admission are  
23 directed shall sign the response under oath, unless the  
24 response contains only objections. If that party is a public  
25 or private corporation, or a partnership or association or  
26 governmental agency, one of its officers or agents shall  
27 sign the response under oath on behalf of that party. If the  
28 officer or agent signing the response on behalf of that  
29 party is an attorney acting in that capacity for the party,  
30 that party waives any lawyer-client privilege and any  
31 protection for work product under Section 2018 during  
32 any subsequent discovery from that attorney concerning  
33 the identity of the sources of the information contained  
34 in the response. The attorney for the responding party  
35 shall sign any response that contains an objection.

36 (h) Within 30 days after service of requests for  
37 admission, or in unlawful detainer actions within five days  
38 after service of requests for admission, the party to whom  
39 the requests are directed shall serve the original of the  
40 response to them on the requesting party, and a copy of



1 ~~the response on all other parties who have appeared,~~  
2 ~~unless on motion of the requesting party the court has~~  
3 ~~shortened the time for response, or unless on motion of~~  
4 ~~the responding party the court has extended the time for~~  
5 ~~response. In unlawful detainer actions, the party to whom~~  
6 ~~the request is directed shall have at least five days from~~  
7 ~~the date of service to respond unless on motion of the~~  
8 ~~requesting party the court has shortened the time for~~  
9 ~~response.~~

10 ~~(i) The party requesting admissions and the~~  
11 ~~responding party may agree to extend the time for~~  
12 ~~service of a response to a set of admission requests, or to~~  
13 ~~particular requests in a set, to a date beyond that provided~~  
14 ~~in subdivision (h). This agreement may be informal, but~~  
15 ~~it shall be confirmed in a writing that specifies the~~  
16 ~~extended date for service of a response. Unless this~~  
17 ~~agreement expressly states otherwise, it is effective to~~  
18 ~~preserve to the responding party the right to respond to~~  
19 ~~any request for admission to which the agreement applies~~  
20 ~~in any manner specified in subdivision (f). Notice of this~~  
21 ~~agreement shall be given by the responding party to all~~  
22 ~~other parties who were served with a copy of the request.~~

23 ~~(j) The requests for admission and the response to~~  
24 ~~them shall not be filed with the court. The party~~  
25 ~~requesting admissions shall retain both the original of the~~  
26 ~~requests for admission, with the original proof of service~~  
27 ~~affixed to them, and the original of the sworn response~~  
28 ~~until six months after final disposition of the action. At~~  
29 ~~that time, both originals may be destroyed, unless the~~  
30 ~~court, on motion of any party and for good cause shown,~~  
31 ~~orders that the originals be preserved for a longer period.~~

32 ~~(k) If a party to whom requests for admission have~~  
33 ~~been directed fails to serve a timely response, that party~~  
34 ~~thereby waives any objection to the requests, including~~  
35 ~~one based on privilege or on the protection for work~~  
36 ~~product under Section 2018. However, the court, on~~  
37 ~~motion, may relieve that party from this waiver on its~~  
38 ~~determination that (1) the party has subsequently served~~  
39 ~~a response that is in substantial compliance with~~  
40 ~~subdivision (f), and (2) the party's failure to serve a~~



1 ~~timely response was the result of mistake, inadvertence,~~  
2 ~~or excusable neglect.~~

3 ~~The requesting party may move for an order that the~~  
4 ~~genuineness of any documents and the truth of any~~  
5 ~~matters specified in the requests be deemed admitted, as~~  
6 ~~well as for a monetary sanction under Section 2023. The~~  
7 ~~court shall make this order, unless it finds that the party~~  
8 ~~to whom the requests for admission have been directed~~  
9 ~~has served, before the hearing on the motion, a proposed~~  
10 ~~response to the requests for admission that is in~~  
11 ~~substantial compliance with paragraph (1) of subdivision~~  
12 ~~(f). It is mandatory that the court impose a monetary~~  
13 ~~sanction under Section 2023 on the party or attorney, or~~  
14 ~~both, whose failure to serve a timely response to requests~~  
15 ~~for admission necessitated this motion.~~

16 ~~(f) If the party requesting admissions, on receipt of a~~  
17 ~~response to the requests, deems that (1) an answer to a~~  
18 ~~particular request is evasive or incomplete, or (2) an~~  
19 ~~objection to a particular request is without merit or too~~  
20 ~~general, that party may move for an order compelling a~~  
21 ~~further response. The motion shall be accompanied by a~~  
22 ~~declaration stating facts showing a reasonable and good~~  
23 ~~faith attempt at an informal resolution of each issue~~  
24 ~~presented by the motion.~~

25 ~~Unless notice of this motion is given within 45 days of~~  
26 ~~the service of the response, or any supplemental~~  
27 ~~response, or any specific later date to which the~~  
28 ~~requesting party and the responding party have agreed~~  
29 ~~in writing, the requesting party waives any right to~~  
30 ~~compel further response to the requests for admission.~~

31 ~~The court shall impose a monetary sanction under~~  
32 ~~Section 2023 against any party, person, or attorney who~~  
33 ~~unsucessfully makes or opposes a motion to compel~~  
34 ~~further response, unless it finds that the one subject to the~~  
35 ~~sanction acted with substantial justification or that other~~  
36 ~~circumstances make the imposition of the sanction unjust.~~

37 ~~If a party then fails to obey an order compelling further~~  
38 ~~response to requests for admission, the court may order~~  
39 ~~that the matters involved in the requests be deemed~~



1 ~~admitted. In lieu of or in addition to this order, the court~~  
2 ~~may impose a monetary sanction under Section 2023.~~

3 ~~(m) A party may withdraw or amend an admission~~  
4 ~~made in response to a request for admission only on leave~~  
5 ~~of court granted after notice to all parties. The court may~~  
6 ~~permit withdrawal or amendment of an admission only if~~  
7 ~~it determines that the admission was the result of mistake,~~  
8 ~~inadvertence, or excusable neglect, and that the party~~  
9 ~~who obtained the admission will not be substantially~~  
10 ~~prejudiced in maintaining that party's action or defense~~  
11 ~~on the merits. The court may impose conditions on the~~  
12 ~~granting of the motion that are just, including, but not~~  
13 ~~limited to, an order that (1) the party who obtained the~~  
14 ~~admission be permitted to pursue additional discovery~~  
15 ~~related to the matter involved in the withdrawn or~~  
16 ~~amended admission, and (2) the costs of any additional~~  
17 ~~discovery be borne in whole or in part by the party~~  
18 ~~withdrawing or amending the admission.~~

19 ~~(n) Any matter admitted in response to a request for~~  
20 ~~admission is conclusively established against the party~~  
21 ~~making the admission in the pending action, unless the~~  
22 ~~court has permitted withdrawal or amendment of that~~  
23 ~~admission under subdivision (m). However, any~~  
24 ~~admission made by a party under this section is (1)~~  
25 ~~binding only on that party, and (2) made for the purpose~~  
26 ~~of the pending action only. It is not an admission by that~~  
27 ~~party for any other purpose, and it shall not be used in any~~  
28 ~~manner against that party in any other proceeding.~~

29 ~~(o) If a party fails to admit the genuineness of any~~  
30 ~~document or the truth of any matter when requested to~~  
31 ~~do so under this section, and if the party requesting that~~  
32 ~~admission thereafter proves the genuineness of that~~  
33 ~~document or the truth of that matter, the party~~  
34 ~~requesting the admission may move the court for an~~  
35 ~~order requiring the party to whom the request was~~  
36 ~~directed to pay the reasonable expenses incurred in~~  
37 ~~making that proof, including reasonable attorney's fees.~~  
38 ~~The court shall make this order unless it finds that (1) an~~  
39 ~~objection to the request was sustained or a response to it~~  
40 ~~was waived under subdivision (l), (2) the admission~~



1 ~~sought was of no substantial importance, (3) the party~~  
2 ~~failing to make the admission had reasonable ground to~~  
3 ~~believe that that party would prevail on the matter, or (4)~~  
4 ~~there was other good reason for the failure to admit.~~

5 ~~SEC. 11.~~

6 *SEC. 8.* Section 1152.6 is added to the Evidence Code,  
7 to read:

8 1152.6. A mediator may not file, and a court may not  
9 consider, any declaration or finding of any kind by the  
10 mediator, other than a required statement of agreement  
11 or nonagreement, unless all parties in the mediation  
12 expressly agree otherwise in writing *prior to*  
13 *commencement of the mediation.* However, this section  
14 shall not apply to mediation under Chapter 11  
15 (commencing with Section 3160) of Part 2 of Division 8  
16 of the Family Code.

17 ~~SEC. 12.~~

18 *SEC. 9.* Section 12021 of the Fish and Game Code is  
19 amended to read:

20 12021. (a) In addition to any assessment, fine,  
21 penalty, or forfeiture imposed pursuant to any other  
22 provision of law, an additional penalty of fifteen dollars  
23 (\$15) shall be added to any fine, penalty, or forfeiture  
24 imposed under this code for a violation of this code or a  
25 regulation adopted pursuant thereto. However, no more  
26 than one such additional penalty may be imposed in a  
27 single proceeding. The revenue from this penalty shall be  
28 transferred to, and deposited in, the Fish and Game  
29 Preservation Fund and used exclusively for the purposes  
30 of Section 13006.

31 (b) Subdivision (a) does not apply to a violation  
32 punishable pursuant to subdivision (b) of Section 12002.1,  
33 subdivision (b) of Section 12002.2, or any regulation  
34 relating to the wearing or display of a fishing license.

35 ~~SEC. 13.~~

36 *SEC. 10.* Section 1328 of the Penal Code is amended  
37 to read:

38 1328. (a) A subpoena may be served by any person,  
39 except that the defendant may not serve a subpoena in  
40 the criminal action to which he or she is a party, but a



1 peace officer shall serve in his or her county any subpoena  
2 delivered to him or her for service, either on the part of  
3 the people or of the defendant, and shall, without delay,  
4 make a written return of the service, subscribed by him  
5 or her, stating the time and place of service. The service  
6 is made by delivering a copy of the subpoena to the  
7 witness personally.

8 (b) When service is to be made on a minor, service  
9 shall be made on the minor's parent, guardian,  
10 conservator, or similar fiduciary, or if one of them cannot  
11 be located with reasonable diligence, then service shall be  
12 made on any person having the care or control of the  
13 minor or with whom the minor resides or by whom the  
14 minor is employed, unless the parent, guardian,  
15 conservator, or fiduciary or other specified person is the  
16 defendant, and on the minor if the minor is 12 years of age  
17 or older. The person so served shall have the obligation  
18 of producing the minor at the time and place designated  
19 in the subpoena. A willful failure to produce the minor is  
20 punishable as a contempt pursuant to Section 1218 of the  
21 Code of Civil Procedure. The person so served shall be  
22 allowed the fees and expenses that are provided for  
23 subpoenaed witnesses.

24 (c) Whenever any peace officer designated in Section  
25 830 is required as a witness before any court or magistrate  
26 in any action or proceeding in connection with a matter  
27 regarding an event or transaction which he or she has  
28 perceived or investigated in the course of his or her  
29 duties, a ~~subpoena~~ *criminal subpoena issued pursuant to*  
30 *this chapter* requiring his or her attendance may be  
31 served either by delivering a copy to the peace officer  
32 personally or by delivering two copies to his or her  
33 immediate superior or agent designated by his or her  
34 immediate superior to receive the service; or, in those  
35 counties where the local agencies have consented with  
36 the marshal's office *or sheriff's office, where appropriate,*  
37 to participate, by sending a copy by electronic means,  
38 including electronic mail, computer modem, facsimile, or  
39 other electronic means, to his or her immediate superior  
40 or agent designated by the immediate superior to receive



1 the service. If the service is made by electronic means, the  
2 immediate superior or agency designated by his or her  
3 immediate superior shall acknowledge receipt of the  
4 subpoena by telephone or electronic means to the sender  
5 of origin. If service is made upon the immediate superior  
6 or agent designated by the immediate superior, the  
7 immediate superior or the agent shall deliver a copy of  
8 the subpoena to the peace officer as soon as possible and  
9 in no event later than a time which will enable the peace  
10 officer to comply with the subpoena.

11 (d) If the immediate superior or his or her designated  
12 agent upon whom service is attempted to be made knows  
13 he or she will be unable to deliver a copy of the subpoena  
14 to the peace officer within a time which will allow the  
15 peace officer to comply with the subpoena, the  
16 immediate superior or agent may refuse to accept service  
17 of process and is excused from any duty, liability, or  
18 penalty arising in connection with the service, upon  
19 notifying the server of that fact.

20 (e) If the immediate superior or his or her agent is  
21 tendered service of a subpoena less than five working  
22 days prior to the date of hearing, and he or she is not  
23 reasonably certain he or she can complete the service, he  
24 or she may refuse acceptance.

25 (f) If the immediate superior or agent upon whom  
26 service has been made, subsequently determines that he  
27 or she will be unable to deliver a copy of the subpoena to  
28 the peace officer within a time which will allow the peace  
29 officer to comply with the subpoena, the immediate  
30 superior or agent shall notify the server or his or her office  
31 or agent not less than 48 hours prior to the hearing date  
32 indicated on the subpoena, and is thereby excused from  
33 any duty, liability, or penalty arising because of his or her  
34 failure to deliver a copy of the subpoena to the peace  
35 officer. The server, so notified, is therewith responsible  
36 for preparing the written return of service and for  
37 notifying the originator of the subpoena if required.

38 (g) Notwithstanding subdivision (c), in the case of  
39 peace officers employed by the California Highway  
40 Patrol, if service is made upon the immediate superior or



1 upon an agent designated by the immediate superior of  
2 the peace officer, the immediate superior or the agent  
3 shall deliver a copy of the subpoena to the peace officer  
4 on the officer's first workday following acceptance of  
5 service of process. In this case, failure of the immediate  
6 superior or the designated agent to deliver the subpoena  
7 shall not constitute a defect in service.

8 ~~SEC. 14. Section 11205.1 is added to the Vehicle Code;~~  
9 ~~to read:~~

10 ~~11205.1. The fee authorized in Section 11205 shall be~~  
11 ~~applicable only in those instances where a traffic violator~~  
12 ~~signs up for a traffic violator school pursuant to Section~~  
13 ~~42005 or attends any other court supervised or~~  
14 ~~court-approved program of traffic safety instruction.~~

