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III.

ARGUMENT

A. THE COURT IS AUTHORIZED TO GRANT THIS MOTION TO COMPEL
RESPONSES BECAUSE OF _____'S BLATANT FAILURE TO COMPLY
WITH THE DISCOVERY ACT

Code of Civil Procedure § 2031.300(b), states in pertinent part that if a party fails to respond to a demand for inspection of documents, the propounding party may move the court for an order compelling responses. There is no time limit for bringing the motion to compel. The party to whom the inspection demand is directed also waives any objection to the demand unless the party's failure to serve a response was due to "mistake, inadvertence, or excusable neglect." *Code of Civil Procedure* § 2031.300(a). In addition, the court "shall" impose monetary sanctions against a party who unsuccessfully opposes a motion to compel unless it finds that the party acted "with substantial justification" or other circumstances render sanctions "unjust." *Code of Civil Procedure* § 2031.300(c).

The moving party is also not required to show a "reasonable and good faith attempt" to resolve the matter informally with opposing counsel before filing the motion. *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 404 (2007).

No separate statement is required when no response has been provided to the discovery. *California Rule of Court* 3.1345(b).

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Construction Disputes Thomas J. Kelleher, Brian G. Corgan, William E. Dorris, 2002-01-01 All areas of construction litigation are covered in this two volume set starting with case analysis pretrial activities and special forum issues The authors continue with an in depth discussion of the difficult presentation issues for delay and acceleration claims lost productivity claims and establishing damages The final section of the text covers trial and other issues including direct and cross examination appeals and settlement and releases Practical examples of and checklists for the drafting of many of the key documents used in construction litigation are also included

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