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## **WHAT IS A GENERAL OBJECTION?**

**By Katherine Gallo**

**ANSWER:** *A fictional document. A non-existent objection neither based in statutory authority nor found in case law. A statement by a party during the discovery phase that they will neither be held to the Code of Civil Procedure nor the rules of evidence.*

In my years as a discovery referee, I have found that lawyers have gotten into the bad habit of inserting a preamble in their responses to interrogatories, requests for production and requests for admissions. These preambles often state the obvious as to what their rights are as responding parties. However, many times these preambles state general objections to the entirety of the propounded discovery and insert rights that are contrary to the obligations of the Discovery Act, the evidence code and current case law. Even though several interrogatories, requests for documents and request for admissions may be objectionable on the same ground they may not be objected to as a group. See Hogan and Weber, California Civil Discovery (2d. ed. 2009) §51

Furthermore, the Discovery Act does not authorize such a preamble or general objections. Instead the Discovery Act requires the party to respond in writing to each interrogatory, request for production of document and request for admission whether it is a response or an objection. The relevant code sections demonstrating a party's obligations in responding to these discovery devices are below with emphasis added:

### **INTERROGATORIES**

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**§ 2030.210. Written responses to interrogatories; How made; Format**

- (a) The party to whom interrogatories have been propounded shall respond in writing under oath separately to **each** interrogatory by any of the following:
- (1) An answer containing the information sought to be discovered.
  - (2) An exercise of the party's option to produce writings.
  - (3) An objection to the particular interrogatory.
- (b) In the first paragraph of the response immediately below the title of the case, there shall appear the identity of the responding party, the set number, and the identity of the propounding party.
- (c) **Each** answer, exercise of option, or objection in the response shall bear the same identifying number or letter and be in the same sequence as the corresponding interrogatory, but the text of that interrogatory need not be repeated

**§ 2030.220. Completeness of responses to interrogatories**

- (a) **Each** answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits.
- (b) If **an interrogatory** cannot be answered completely, it shall be answered to the extent possible.
- (c) If the responding party does not have personal knowledge sufficient to respond fully to an **interrogatory**, that party shall so state, but shall make a reasonable and good faith effort to obtain the information by inquiry to other natural persons or organizations, except where the information is equally available to the propounding party.

**§ 2030.240. Answer to unobjectionable portion of interrogatory;**

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### **Objection and grounds therefor**

- (a) If only a part of **an interrogatory** is objectionable, the remainder of the interrogatory shall be answered.
- (b) If an objection is made to **an interrogatory or to a part of an interrogatory**, the specific ground for the objection shall be set forth clearly in the response. If an objection is based on a claim of privilege, the particular privilege invoked shall be clearly stated. If an objection is based on a claim that the information sought is protected work product under Chapter 4 (commencing with Section 2018.010), that claim shall be expressly asserted.

## **RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS**

### **§ 2031.210. Nature and format of response**

- (a) The party to whom a demand for inspection, copying, testing, or sampling has been directed shall respond separately to **each** item or category of item by any of the following:
  - (1) A statement that the party will comply with the **particular demand** for inspection, copying, testing, or sampling by the date set for the inspection, copying, testing, or sampling pursuant to paragraph (2) of subdivision (c) of Section 2031.030 and any related activities.
  - (2) A representation that the party lacks the ability to comply with the demand for inspection, copying, testing, or sampling of a **particular item or category of item**.
  - (3) An objection to **the particular demand** for inspection, copying, testing, or sampling.
- (b) In the first paragraph of the response immediately below the title of the case, there shall appear the identity of the responding party, the set number, and the identity of the demanding party.

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(c) **Each** statement of compliance, **each** representation, and **each** objection in the response shall bear the same number and be in the same sequence as the corresponding item or category in the demand, but the text of that item or category need not be repeated.

(d) If a party objects to the discovery of electronically stored information on the grounds that it is from a source that is not reasonably accessible because of undue burden or expense and that the responding party will not search the source in the absence of an agreement with the demanding party or court order, the responding party shall identify in its response the types or categories of sources of electronically stored information that it asserts are not reasonably accessible. By objecting and identifying information of a type or category of source or sources that are not reasonably accessible, the responding party preserves any objections it may have relating to that electronically stored information.

**§ 2031.220. Statement regarding compliance in whole or in part**

A statement that the party to whom a demand for inspection, copying, testing, or sampling has been directed will comply with the **particular demand** shall state that the production, inspection, copying, testing, or sampling, and related activity demanded, will be allowed either in whole or in part, and that all documents or things in the **demand category** that are in the possession, custody, or control of that party and to which no objection is being made will be included in the production.

**§ 2031.230. Representation of inability to comply**

A representation of inability to comply with the **particular demand** for inspection, copying, testing, or sampling shall affirm that a diligent search and a reasonable inquiry has been made in an effort to comply with that demand. This statement shall also specify whether the inability to comply is because the **particular item or category** has never existed, has been destroyed, has been

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lost, misplaced, or stolen, or has never been, or is no longer, in the possession, custody, or control of the responding party. The statement shall set forth the name and address of any natural person or organization known or believed by that party to have possession, custody, or control of that **item or category of item**.

**§ 2031.240. Statement of compliance or inability to comply when part of demand objectionable; Legislative intent regarding privilege log**

(a) If only **part of an item or category of item** in a demand for inspection, copying, testing, or sampling is objectionable, the response shall contain a statement of compliance, or a representation of inability to comply with respect to the remainder of that item or category.

(b) If the responding party objects to the demand for inspection, copying, testing, or sampling of an **item or category of item**, the response shall do both of the following:

(1) Identify with particularity any document, tangible thing, land, or electronically stored information falling within any **category of item** in the demand to which an objection is being made.

(2) Set forth clearly the extent of, and the specific ground for, the objection. If an objection is based on a claim of privilege, the particular privilege invoked shall be stated. If an objection is based on a claim that the information sought is protected work product under Chapter 4 (commencing with Section 2018.010), that claim shall be expressly asserted.

(c)

(1) If an objection is based on a claim of privilege or a claim that the information sought is protected work product, the response shall provide sufficient factual information for other parties to evaluate the merits of that claim, including, if necessary, a privilege log.

(2) It is the intent of the Legislature to codify the concept of a privilege log as that term is used in California case law. Nothing in this subdivision shall be

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construed to constitute a substantive change in case law.

### **REQUESTS FOR ADMISSION**

#### **§ 2033.210. Response in writing; Format**

- (a) The party to whom requests for admission have been directed shall respond in writing under oath separately to **each** request.
- (b) **Each** response shall answer the substance of the requested admission, or set forth an objection to the particular request.
- (c) In the first paragraph of the response immediately below the title of the case, there shall appear the identity of the responding party, the set number, and the identity of the requesting party.
- (d) **Each** answer or objection in the response shall bear the same identifying number or letter and be in the same sequence as the corresponding request, but the text of the particular request need not be repeated.

#### **§ 2033.220. Completeness of responses; Reasonable inquiry**

- (a) **Each** answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.
- (b) **Each** answer shall:
  - (1) Admit so much of the matter involved in the request as is true, either as expressed in the request itself or as reasonably and clearly qualified by the responding party.
  - (2) Deny so much of the matter involved in the request as is untrue.
  - (3) Specify so much of the matter involved in the request as to the truth of which the responding party lacks sufficient information or knowledge.
- (c) If a responding party gives lack of information or knowledge as a reason for a failure to admit **all or part of a request for admission**, that party shall state in the answer that a reasonable inquiry concerning the matter in the particular request has been made, and that the information known or readily

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obtainable is insufficient to enable that party to admit the matter.

**§ 2033.230. Objections to part of request; Grounds for objections**

(a) If only a **part of a request** for admission is objectionable, the remainder of the request shall be answered.

(b) If an objection is made to a **request or to a part of a request**, the specific ground for the objection shall be set forth clearly in the response. If an objection is based on a claim of privilege, the particular privilege invoked shall be clearly stated. If an objection is based on a claim that the matter as to which an admission is requested is protected work product under Chapter 4 (commencing with Section 2018.010), that claim shall be expressly asserted.

As can be seen from the relevant statutes regarding responding to interrogatories, requests for production of documents and requests for admissions, a party cannot use a general objection to protect them like an umbrella from their own failure to raise appropriate objections to specific questions. Once the general objection is disregarded, a responding party's objections to the specific interrogatory or request are either made, or the objections are deemed waived.

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