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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

Defendants.

Complaint Filed: April 17, 2019
Trial Date: Not Scheduled

///

1 I, Thomas Rist, declare as follows:

2 1. I am an attorney licensed to practice before all of the courts in the State of
3 California. I have personal knowledge of the facts set forth in this declaration and, if called as a
4 witness, could and would testify competently to such facts under oath.

5 2. I have personal knowledge of the facts stated herein, and if called to testify, I will
6 do so.

7 3. This case is a simple trip and fall incident.

8 4. To date Defendants have served 578 individual discovery requests.

9 5. Defendants have conducted three depositions of the Plaintiff and are in the process
10 of scheduling a fourth deposition.

11 6. Attached as Exhibit 1 are Defendant's Requests for Admission, Set One.

12 7. Attached as Exhibit 2 are Defendant's Special Interrogatories, Set Two.

13 8. Attached as Exhibit 3 are Defendant's Requests for Admission, Set Two (without
14 attachments).

15 9. Attached as Exhibit 4 are Defendant's Special Interrogatories, Set Three.

16 10. Attached as Exhibit 5 are Defendant's Special Interrogatories, Set Four.

17 11. On May 2, 2017, Plaintiff Cuc Le went to Defendant SF San Diego, Inc.'s ("SF San
18 Diego") grocery store in the Linda Vista community of San Diego.

19 12. While shopping, she tripped and fell over a box holding merchandise that was
20 carelessly placed on the floor at the end of an aisle of waist-high displays.

21 13. Her injuries included multiple fractures that required surgery and months of painful
22 physical therapy provided to her in a nursing home.

23 14. To this day, she still has not fully recovered from her injuries.

24 15. This case was originally filed on April 17, 2019.

25 16. On May 28, 2019, Defendant served a first round of discovery on Plaintiff. These
26 consisted of form interrogatories, 35 special interrogatories, and 15 requests for production.

27 17. The case was originally set to go to trial on April 24, 2020.

1 18. In February, 2020, spaced out over a six-day time period, Defendant sequentially
2 served nine more sets of discovery consisting of 481 individual questions.

3 19. The following sets forth each set of discovery and the number associated with each
4 request:

Date	Description	Number of Requests
2/13/2020	Form Interrogatories, Set Two (17.1 only)	17.1 only
2/13/2020	Requests for Admission, Set One (1-74)	1-74
2/13/2020	Special Interrogatories, Set Two (36-218)	36-218
2/14/2020	Requests for Production, Set Two (16-86)	16-86
2/14/2020	Special Interrogatories, Set Three (219-250)	219-250
2/19/2020	Form Interrogatories, Set Three (17.1 only)	17.1 only
2/19/2020	Requests for Admission, Set Two	75-184
2/19/2020	Requests for Production, Set Three	87-94
2/19/2020	Special Interrogatories, Set Four	251 only

13 20. Counsel for the Plaintiff attempted on numerous occasions to meet and confer
14 regarding the discovery that was served via email, letter, and in-person meetings.

15 21. Attached as Exhibit 6 are meet and confer emails between counsel for the parties.

16 22. Attached as Exhibit 7 is a letter from counsel for Defendant dated April 20, 2020.

17 23. Attached as Exhibit 8 is a letter from counsel for Plaintiff dated April 23, 2020.

18 24. Attached as Exhibit 9 is a letter from counsel for Defendant dated April 24, 2020.

19 25. Attached as Exhibit 10 is a letter from counsel for Defendant dated May 22, 2020.

20 26. Attached as Exhibit 12 is a letter from counsel for Plaintiff dated May 22, 2020.

21 27. Defense counsel agreed at an in-person meeting that the discovery was excessive
22 and that some could be withdrawn, yet nothing was ever withdrawn until well after responses were
23 provided that preserved objections.

24 28. As a result of the Court closing on March 17, 2020, a motion for protective order
25 was not able to be filed.

26 29. Counsel instead served responses on the Defendant objecting to the number of
27 requests until such time as the present motion could be filed.
28

1 30. Even though several meet and confer letters and emails have gone back and forth
2 between counsel for the parties, to date the Defendant has only agreed to withdraw 83 of the
3 individual questions (17% of the total). This includes 68 special interrogatories and 15 requests
4 for admission.

5 31. Plaintiff has attempted to meet and confer on this issue and stated clearly in person
6 and in correspondence that the excess discovery should be withdrawn.

7 32. Plaintiff has, contemporaneously with the filing of this motion, served amended
8 discovery responses that respond to the first 35 requests for admission as well as any requests for
9 admission that ask for admission of the genuineness of documents.

10 33. Plaintiff has additionally responded to the Requests for Production, even though
11 most of them are ridiculous requests asking for documents (medical records) that the Defendants
12 already have in their possession.

13 34. Plaintiff has incurred reasonable costs and attorney fees for bringing this Motion
14 for Protective Order, consisting of 10.7 hours at \$650 per hour for a total of \$6,955.

15 35. Pursuant to CCP §§ 2016.040, 2030.090(a), and 2033.080(a), the undersigned has
16 made a reasonable and good faith attempt to resolve the issues outside of Court.

17 I declare under penalty of perjury under the laws of the State of California that the
18 foregoing is true and correct.

19 Executed: May 28, 2020 in San Diego, California.

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21 

22 _____
23 Thomas Rist
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Exhibit 1

Attorneys for Defendant,
SF SAN DIEGO INC dba SF SUPERMARKET

1438.104 4813-8323-6788.1

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1:

Admit your son Quoc Than is paid through In-Home Support Services to assist you with your in-home needs.

REQUEST FOR ADMISSION NO. 2:

Admit that prior to May 2, 2017 your son Quoc Than was paid through In-Home Support Services to assist you with your in-home needs.

REQUEST FOR ADMISSION NO. 3:

Admit your son Quoc Than is paid through In-Home Support Services to assist you with your household cleaning.

REQUEST FOR ADMISSION NO. 4:

Admit that prior to May 2, 2017 your son Quoc Than was paid through In-Home Support Services to assist you with your household cleaning.

REQUEST FOR ADMISSION NO. 5:

Admit your son Quoc Than is paid through In-Home Support Services to assist you with making your bed.

REQUEST FOR ADMISSION NO. 6:

Admit that prior to May 2, 2017 your son Quoc Than was paid through In-Home Support Services to assist you with making your bed.

REQUEST FOR ADMISSION NO. 7:

Admit your son Quoc Than is paid through In-Home Support Services to assist you with vacuuming your home.

REQUEST FOR ADMISSION NO. 8:

Admit that prior to May 2, 2017 your son Quoc Than was paid through In-Home Support Services to assist you with vacuuming your home.

REQUEST FOR ADMISSION NO. 9:

Admit your son Quoc Than is paid through In-Home Support Services to assist you with your laundry.

REQUEST FOR ADMISSION NO. 10:

Admit that prior to May 2, 2017 your son Quoc Than was paid through In-Home Support Services to assist you with your laundry.

REQUEST FOR ADMISSION NO. 11:

Admit your son Quoc Than is paid through In-Home Support Services to assist you with your cooking.

REQUEST FOR ADMISSION NO. 12:

Admit that prior to May 2, 2017 your son Quoc Than was paid through In-Home Support Services to assist your cooking.

REQUEST FOR ADMISSION NO. 13:

Admit that prior to May 2, 2017 you applied for In-Home Support Services because you could no longer care for yourself.

REQUEST FOR ADMISSION NO. 14:

Admit you have to confirm the hours of care your son Quoc Than provides for you before he receives payment through In-Home Support Services.

REQUEST FOR ADMISSION NO. 15:

Admit you do not know what caused you to fall on May 2, 2017.

REQUEST FOR ADMISSION NO. 16:

Admit you fell immediately after you left the shopping cart you were pushing to shop with at Thuan Phat Supermarket on May 2, 2017.

REQUEST FOR ADMISSION NO. 17:

Admit you do not remember what you were doing in the minute prior to falling on May 2, 2017.

REQUEST FOR ADMISSION NO. 18:

Admit you were not paying attention to where you were walking at the time you fell on May 2, 2017.

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REQUEST FOR ADMISSION NO. 19:

Admit you were not reaching over your right shoulder for an item of produce at the time you tripped and fell.

REQUEST FOR ADMISSION NO. 20:

Admit you tripped and fell on May 2, 2107 due to the slippers you wore that day.

REQUEST FOR ADMISSION NO. 21:

Admit you would have seen the box of pears in the area in which you fell on May 2, 2017 if you were paying attention to your surroundings.

REQUEST FOR ADMISSION NO. 22:

Admit you never made contact with a box of pears prior to falling on May 2, 2017.

REQUEST FOR ADMISSION NO. 23:

Admit you do not know which one of your legs allegedly collided with a wood pedestal on May 2, 2017.

REQUEST FOR ADMISSION NO. 24:

Admit you do not know which one of your legs allegedly collided with a box on May 2, 2017.

REQUEST FOR ADMISSION NO. 25:

Admit YOU ("YOU" refers to the responding party, and includes the agents, employees, attorneys, accountants, investigators, and anyone else acting on behalf of the responding party) told Dr. Sidney Levine on May 16, 2019 at a personal injury evaluation that your right foot caught on something on the floor just prior to falling on May 2, 2017.

REQUEST FOR ADMISSION NO. 26:

Admit you have no recollection of any part of your body coming into contact with anything at the store that caused you to fall on May 2, 2017.

REQUEST FOR ADMISSION NO. 27:

Admit you fell on May 2, 2017 because you lost your balance after leaving your shopping cart.

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REQUEST FOR ADMISSION NO. 28:

Admit you have shopped at Thuan Phat Supermarket more than 5 times prior to May 2, 2017.

REQUEST FOR ADMISSION NO. 29:

Admit you used the shopping cart on May 2, 2017 to keep you from falling.

REQUEST FOR ADMISSION NO. 30:

Admit your son retrieved a shopping cart for you on May 2, 2017 prior to you entering Thuan Phat Supermarket.

REQUEST FOR ADMISSION NO. 31:

Admit your son wanted to accompany you into Thuan Phat Supermarket on May 2, 2017 but you told him to wait outside.

REQUEST FOR ADMISSION NO. 32:

Admit you have not attempted suicide since falling on May 2, 2017.

REQUEST FOR ADMISSION NO. 33:

Admit you used a cane when walking within the 10 years prior to May 2, 2017.

REQUEST FOR ADMISSION NO. 34:

Admit you used a walker to walk within the 10 years prior to May 2, 2017.

REQUEST FOR ADMISSION NO. 35:

Admit you used a wheelchair within the 10 years prior to May 2, 2017.

REQUEST FOR ADMISSION NO. 36:

Admit you were diagnosed with major depression disorder within the 10 years prior to May 2, 2017.

REQUEST FOR ADMISSION NO. 37:

Admit you suffer from cervical disc disease.

REQUEST FOR ADMISSION NO. 38:

Admit you suffer from arthritis.

REQUEST FOR ADMISSION NO. 39:

Admit you suffer from chronic hepatitis.

1 **REQUEST FOR ADMISSION NO. 40:**

2 Admit you suffered from knee pain within the 10 years prior to May 2, 2017.

3 **REQUEST FOR ADMISSION NO. 41:**

4 Admit you suffered from shoulder pain within the 10 years prior to May 2, 2017.

5 **REQUEST FOR ADMISSION NO. 42:**

6 Admit you suffered from back pain within the 10 years prior to May 2, 2017.

7 **REQUEST FOR ADMISSION NO. 43:**

8 Admit you needed assistance to cook at home within the 10 years prior to May 2, 2017.

9 **REQUEST FOR ADMISSION NO. 44:**

10 Admit you needed assistance to clean at home within the 10 years prior to May 2, 2017.

11 **REQUEST FOR ADMISSION NO. 45:**

12 Admit you needed assistance to use the bathroom within the 10 years prior to May 2, 2017.

13 **REQUEST FOR ADMISSION NO. 46:**

14 Admit you used a cane when walking within the 5 years prior to May 2, 2017.

15 **REQUEST FOR ADMISSION NO. 47:**

16 Admit you used a walker to walk within the 5 years prior to May 2, 2017.

17 **REQUEST FOR ADMISSION NO. 48:**

18 Admit you used a wheelchair within the 5 years prior to May 2, 2017.

19 **REQUEST FOR ADMISSION NO. 49:**

20 Admit that paramedics have responded to your residence at least once after May 2, 2017
21 due to abdominal pain unrelated to your fall on May 2, 2017.

22 **REQUEST FOR ADMISSION NO. 50:**

23 Admit you have sought no treatment for any suicidal ideation you claim you have as the
24 result of your fall on May 2, 2017.

25 **REQUEST FOR ADMISSION NO. 51:**

26 Admit you described your pain as a 3 out of 10 to doctors at UCSD in August 2017.

27 **REQUEST FOR ADMISSION NO. 52:**

28 Admit you described your pain as a 3 out of 10 to doctors at UCSD in October 2017.

1 **REQUEST FOR ADMISSION NO. 53:**

2 Admit you suffered from knee pain within the 5 years prior to May 2, 2017.

3 **REQUEST FOR ADMISSION NO. 54:**

4 Admit you suffered from shoulder pain within the 5 years prior to May 2, 2017.

5 **REQUEST FOR ADMISSION NO. 55:**

6 Admit you suffered from back pain within the 5 years prior to May 2, 2017.

7 **REQUEST FOR ADMISSION NO. 56:**

8 Admit you needed assistance to cook at home within the 5 years prior to May 2, 2017.

9 **REQUEST FOR ADMISSION NO. 57:**

10 Admit you needed assistance to clean at home within the 5 years prior to May 2, 2017.

11 **REQUEST FOR ADMISSION NO. 58:**

12 Admit you needed assistance to use the bathroom within the 5 years prior to May 2, 2017.

13 **REQUEST FOR ADMISSION NO. 59:**

14 Admit you used a cane when walking within the 2 years prior to May 2, 2017.

15 **REQUEST FOR ADMISSION NO. 60:**

16 Admit you used a walker to walk within the 2 years prior to May 2, 2017.

17 **REQUEST FOR ADMISSION NO. 61:**

18 Admit you used a wheelchair within the 2 years prior to May 2, 2017.

19 **REQUEST FOR ADMISSION NO. 62:**

20 Admit the only pain you have complained about to your son Quoc Than relating to your fall
21 on May 2, 2017 has been in the areas where you suffered fractured bones.

22 **REQUEST FOR ADMISSION NO. 63:**

23 Admit that after October 2017 you never complained to any doctor that you suffered pain as
24 the result of your fall on May 2, 2017.

25 **REQUEST FOR ADMISSION NO. 64:**

26 Admit that your liver disease caused you pain after May 2, 2017.

27 **REQUEST FOR ADMISSION NO. 65:**

28 Admit that your chronic hepatitis caused you pain after May 2, 2017.

1 **REQUEST FOR ADMISSION NO. 66:**

2 Admit you suffered from knee pain within the 2 years prior to May 2, 2017.

3 **REQUEST FOR ADMISSION NO. 67:**

4 Admit you suffered from shoulder pain within the 2 years prior to May 2, 2017.

5 **REQUEST FOR ADMISSION NO. 68:**

6 Admit you suffered from back pain within the 2 years prior to May 2, 2017.

7 **REQUEST FOR ADMISSION NO. 69:**

8 Admit you needed assistance to cook at home within the 2 years prior to May 2, 2017.

9 **REQUEST FOR ADMISSION NO. 70:**

10 Admit you needed assistance to clean at home within the 2 years prior to May 2, 2017.

11 **REQUEST FOR ADMISSION NO. 71:**

12 Admit you needed assistance to use the bathroom within the 2 years prior to May 2, 2017.

13 **REQUEST FOR ADMISSION NO. 72:**

14 Admit you have exaggerated the extent of your injuries that you claim to have suffered
15 from your fall on May 2, 2017.

16 **REQUEST FOR ADMISSION NO. 73:**

17 Admit EXHIBIT A is a true and correct copy of a photograph edited by your attorney
18 (photograph with circle and arrow).

19 **REQUEST FOR ADMISSION NO. 74:**

20 Admit EXHIBIT A was produced in discovery in response to Propounding Party's earlier
21 discovery requests.

23 Dated: February 13, 2020

BREMER WHYTE BROWN & O'MEARA LLP

25 By:



Alex M. Giannetto
Scott D. Hoy
Attorneys for Defendant
SF SAN DIEGO INC dba SF
SUPERMARKET

DECLARATION OF SCOTT HOY

I, Scott Hoy, declare as follows:

1. I am an attorney at law duly licensed to practice before all of the courts in the State of California. I am a member of the law firm of BREMER WHYTE BROWN & O'MEARA LLP, counsel of record for Defendant SF SAN DIEGO INC dba SF SUPERMARKET in this action. I have personal knowledge of the facts set forth in this Declaration and, if called as a witness, could and would testify competently to such facts under oath.

2. I am propounding to Plaintiff CUC KIM LE the attached set of Requests for Admission, Set One (1).

3. This set of Requests for Admission will cause the total number of requests propounded to the party to whom they are directed to exceed the number of requests permitted by Code of *Civil Procedure* § 2033.050(a). In conjunction with Requests for Admission, Set One (1), I am also propounding Special Interrogatories, Set Two (2); and Form Interrogatories, Set Two (2).

4. I am familiar with the issues and previous discovery conducted by all the parties in this case.

5. I have propounded a total of seventy-four (74) Requests for Admission to this party on behalf of Defendant SF SAN DIEGO INC dba SF SUPERMARKET.

6. I have personally examined each of the questions in this set of Requests for Admission.

7. The number of questions is warranted under Code of *Civil Procedure* § 2033.050 because of the complexity and quantity of the existing and potential issues in this case, and because these Requests for Admission will allow the responding party the opportunity to conduct an inquiry, investigation, or search of files or records to supply the information sought.

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8. None of the questions in this Requests for Admission is being propounded for any improper purpose, such as to harass the party or the attorney for the party to whom it is directed, or to cause any unnecessary delay or needless increase in the cost of litigation.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 13th day of February 2020, at San Diego, California.


Scott Hoy

Exhibit 2

BREMER WHYTE BROWN & O'MEARA LLP
Alex M. Giannetto, State Bar No. 259757
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Attorneys for Defendant,
SF SAN DIEGO INC dba SF SUPERMARKET

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

CUC KIM LE,	)	Case No. 37-2019-00019958-CU-PO-CTL
)	
Plaintiff,	)	DEFENDANT SF SAN DIEGO INC dba
	)	SF SUPERMARKET'S SPECIAL
vs.	)	INTERROGATORIES TO PLAINTIFF
	)	CUC KIM LE, SET TWO
SF SAN DIEGO INC dba SF SUPERMARKET)	
and DOES 1 to 50,	)	Complaint Filed: April 17, 2019
)	
Defendant.)	

PROPOUNDING PARTY: Defendant, SF SAN DIEGO INC dba SF SUPERMARKET

RESPONDING PARTY: Plaintiff, CUC KIM LE

SET NO.: Two (2)

Pursuant to California Code of Civil Procedure §2030.010, *et seq.*, Defendant, SF SAN DIEGO INC dba SF SUPERMARKET, ("Propounding Party") hereby propounds to Plaintiff, CUC KIM LE the following written Special Interrogatories, each of which shall be answered fully, separately, in writing, under oath. Plaintiff shall produce said responses to the law offices of BREMER WHYTE BROWN & O'MEARA LLP, located at 501 West Broadway, Suite 1700, San Diego, California 92101, within thirty (30) days from the date of service of these interrogatories.

Each answer must be as complete and straightforward as the information reasonably available to you permits. If a Special Interrogatory cannot be answered fully, answer to the extent possible. Whenever a Special Interrogatory may be answered by referring to a document, the document may be attached as an exhibit to the response and referred to in the response. If the document is more than one page, refer to the page and section where the answer to the Special Interrogatory can be found.

DEFINITIONS

1. "YOU, YOUR, or PLAINTIFF" refers to the responding party, and includes the agents, employees, attorneys, accountants, investigators, and anyone else acting on behalf of the responding party.

2. "INCIDENT" refers to facts and circumstances described in the Complaint involving an alleged incident on or about May 2, 2017 at the Thuan Phat Supermarket located on 6935 Linda Vista Rd., in the City and County of San Diego, State of California, causing injuries and damages, and the circumstances and events surrounding the alleged accident giving rise to this action or proceeding.

3. "HEALTH CARE PROVIDER" includes any PERSON referred to in Code of Civil Procedure Section 667.7(e)(3), including, without limitation, licensed medical doctors, hospitals, clinics, physicians, medical providers, nurses, medical assistants, therapists or other medical, psychological, psychiatrists, and/or any other similar persons.

4. "TREATMENT" means health care, consultation, examination, treatment, service, counseling or therapy.

5. "DISABILITY" means and refers to inability to perform or pursue activities because of a physical or mental impairment.

6. The terms "DOCUMENT" OR "DOCUMENTS" shall have the same meaning as the term "writing" as defined in California Evidence Code § 250 and which means and includes, by way of example only and without limitation, the following: handwriting, type writing, printing, photostating, photographing, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, billings, sounds, or symbols,

1 or combinations thereof.

2 **SPECIAL INTERROGATORIES**

3 **SPECIAL INTERROGATORY NO. 36:**

4 Please state the name, address, and telephone number of the In-Home Support Services
5 provider that pays YOUR son Quoc Than to assist YOU with YOUR in-home needs.

6 **SPECIAL INTERROGATORY NO. 37:**

7 Do YOU contend that YOU suffer hip pain as a result of the INCIDENT?

8 **SPECIAL INTERROGATORY NO. 38:**

9 If YOU contend that YOU suffer hip pain as a result of the INCIDENT, please state all
10 facts that support YOUR contention.

11 **SPECIAL INTERROGATORY NO. 39:**

12 If YOU contend that YOU suffer hip pain as a result of the INCIDENT, please identify all
13 persons by name, address, and telephone number that have knowledge of the facts upon which you
14 base YOUR contention.

15 **SPECIAL INTERROGATORY NO. 40:**

16 If YOU contend that YOU suffer hip pain as a result of the INCIDENT, please identify all
17 DOCUMENTS that support YOUR contention.

18 **SPECIAL INTERROGATORY NO. 41:**

19 Do YOU contend that YOU did not experience leg pain prior to the INCIDENT?

20 **SPECIAL INTERROGATORY NO. 42:**

21 If YOU contend that YOU suffer leg pain as a result of the INCIDENT, please state all facts
22 that support YOUR contention.

23 **SPECIAL INTERROGATORY NO. 43:**

24 If YOU contend that YOU continue to suffer from leg pain as a result of the INCIDENT,
25 please identify all persons by name, address, and telephone number that have knowledge of the
26 facts upon which YOU base YOUR contention.

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1 **SPECIAL INTERROGATORY NO. 44:**

2 If YOU contend that YOU suffer leg pain as a result of the INCIDENT, please identify all
3 HEALTH CARE PROVIDERS that support YOUR contention.

4 **SPECIAL INTERROGATORY NO. 45:**

5 If YOU contend that YOU suffer leg pain as a result of the INCIDENT, please identify all
6 DOCUMENTS that support YOUR contention.

7 **SPECIAL INTERROGATORY NO. 46:**

8 Do YOU contend that YOU did not experience right leg pain prior to the INCIDENT?

9 **SPECIAL INTERROGATORY NO. 47:**

10 If YOU contend that YOU suffer from right leg pain as a result of the INCIDENT, please
11 state all facts that support YOUR contention.

12 **SPECIAL INTERROGATORY NO. 48:**

13 If YOU contend that YOU suffer right leg pain as a result of the INCIDENT, please
14 identify all persons by name, address, and telephone number that have knowledge of the facts upon
15 which YOU base YOUR contention.

16 **SPECIAL INTERROGATORY NO. 49:**

17 If YOU contend that YOU suffer right leg pain as a result of the INCIDENT, please
18 identify all HEALTH CARE PROVIDERS that support YOUR contention.

19 **SPECIAL INTERROGATORY NO. 50:**

20 If YOU contend that YOU suffer right leg pain as a result of the INCIDENT, please
21 identify all DOCUMENTS that support YOUR contention.

22 **SPECIAL INTERROGATORY NO. 51:**

23 Do YOU contend that YOU did not experience left knee pain prior to the INCIDENT?

24 **SPECIAL INTERROGATORY NO. 52:**

25 If YOU contend that YOU suffer left knee pain as a result of the INCIDENT, please state
26 all facts that support YOUR contention.

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1 **SPECIAL INTERROGATORY NO. 53:**

2 If YOU contend that YOU suffer left knee pain as a result of the INCIDENT, please
3 identify all persons by name, address, and telephone number that have knowledge of the facts upon
4 which YOU base YOUR contention.

5 **SPECIAL INTERROGATORY NO. 54:**

6 If YOU contend that YOU suffer left knee pain as a result of the INCIDENT, please
7 identify all HEALTH CARE PROVIDERS that support YOUR contention.

8 **SPECIAL INTERROGATORY NO. 55:**

9 If YOU contend that YOU suffer left knee pain as a result of the INCIDENT, please
10 identify all DOCUMENTS that support YOUR contention.

11 **SPECIAL INTERROGATORY NO. 56:**

12 Do YOU contend that YOU did not experience right knee pain prior to the INCIDENT?

13 **SPECIAL INTERROGATORY NO. 57:**

14 If YOU contend that YOU suffer right knee pain as a result of the INCIDENT, please state
15 all facts that support YOUR contention.

16 **SPECIAL INTERROGATORY NO. 58:**

17 If YOU contend that YOU suffer right knee pain as a result of the INCIDENT, please
18 identify all persons by name, address, and telephone number that have knowledge of the facts upon
19 which YOU base YOUR contention.

20 **SPECIAL INTERROGATORY NO. 59:**

21 If YOU contend that YOU suffer right knee pain as a result of the INCIDENT, please
22 identify all HEALTH CARE PROVIDERS that support YOUR contention.

23 **SPECIAL INTERROGATORY NO. 60:**

24 If YOU contend that YOU suffer right knee pain as a result of the INCIDENT, please
25 identify all DOCUMENTS that support YOUR contention.

26 **SPECIAL INTERROGATORY NO. 61:**

27 Do YOU contend that YOU did not experience right shoulder pain prior to the INCIDENT?

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1 **SPECIAL INTERROGATORY NO. 62:**

2 If YOU contend that YOU suffer right shoulder pain as a result of the INCIDENT, please
3 state all facts that support YOUR contention.

4 **SPECIAL INTERROGATORY NO. 63:**

5 If YOU contend that YOU suffer right shoulder pain as a result of the INCIDENT, please
6 identify all persons by name, address, and telephone number that have knowledge of the facts upon
7 which YOU base YOUR contention.

8 **SPECIAL INTERROGATORY NO. 64:**

9 If YOU contend that YOU suffer right shoulder pain as a result of the INCIDENT, please
10 identify all HEALTH CARE PROVIDERS that support YOUR contention.

11 **SPECIAL INTERROGATORY NO. 65:**

12 If YOU contend that YOU suffer right shoulder pain as a result of the INCIDENT, please
13 identify all DOCUMENTS that support YOUR contention.

14 **SPECIAL INTERROGATORY NO. 66:**

15 Do YOU contend that YOU did not experience left shoulder pain prior to the INCIDENT?

16 **SPECIAL INTERROGATORY NO. 67:**

17 If YOU contend that YOU suffer left shoulder pain as a result of the INCIDENT, please
18 state all facts that support YOUR contention.

19 **SPECIAL INTERROGATORY NO. 68:**

20 If YOU contend that YOU suffer left shoulder pain as a result of the INCIDENT, please
21 identify all persons by name, address, and telephone number that have knowledge of the facts upon
22 which you base YOUR contention.

23 **SPECIAL INTERROGATORY NO. 69:**

24 If YOU contend that YOU suffer left shoulder pain as a result of the INCIDENT, please
25 identify all HEALTH CARE PROVIDERS that support YOUR contention.

26 **SPECIAL INTERROGATORY NO. 70:**

27 If YOU contend that YOU suffer left shoulder pain as a result of the INCIDENT, please
28 identify all DOCUMENTS that support YOUR contention.

1 **SPECIAL INTERROGATORY NO. 71:**

2 Do YOU contend that YOU did not experience depression prior to the INCIDENT?

3 **SPECIAL INTERROGATORY NO. 72:**

4 If YOU contend that YOU suffer depression as a result of the INCIDENT, please state all
5 facts that support YOUR contention.

6 **SPECIAL INTERROGATORY NO. 73:**

7 If YOU contend that YOU suffer depression as a result of the INCIDENT, please identify
8 all persons by name, address, and telephone number that have knowledge of the facts upon which
9 YOU base YOUR contention.

10 **SPECIAL INTERROGATORY NO. 74:**

11 If YOU contend that YOU suffer depression as a result of the INCIDENT, please identify
12 all HEALTH CARE PROVIDERS that support YOUR contention.

13 **SPECIAL INTERROGATORY NO. 75:**

14 If YOU contend that YOU suffer depression as a result of the INCIDENT, please identify
15 all DOCUMENTS that support YOUR contention.

16 **SPECIAL INTERROGATORY NO. 76:**

17 Do YOU contend that YOU did not experience feeling sad due to YOUR decline in health
18 prior to the INCIDENT?

19 **SPECIAL INTERROGATORY NO. 77:**

20 If YOU contend YOU feel sad as a result of the INCIDENT, please state all facts that
21 support YOUR contention.

22 **SPECIAL INTERROGATORY NO. 78:**

23 If YOU contend YOU feel sad as a result of the INCIDENT, please identify all persons by
24 name, address, and telephone number that have knowledge of the facts upon which you base
25 YOUR contention.

26 **SPECIAL INTERROGATORY NO. 79:**

27 If YOU contend YOU feel sad as a result of the INCIDENT, please identify all HEALTH
28 CARE PROVIDERS that support YOUR contention.

1 **SPECIAL INTERROGATORY NO. 80:**

2 If YOU contend YOU feel sad as a result of the INCIDENT, please identify all
3 DOCUMENTS that support YOUR contention.

4 **SPECIAL INTERROGATORY NO. 81:**

5 Do YOU contend YOU did not experience feeling hopeless prior to the INCIDENT?

6 **SPECIAL INTERROGATORY NO. 82:**

7 If YOU contend YOU feel hopeless as a result of the INCIDENT, please state all facts that
8 support YOUR contention.

9 **SPECIAL INTERROGATORY NO. 83:**

10 If YOU contend YOU feel hopeless as a result of the INCIDENT, please identify all
11 persons by name, address, and telephone number that have knowledge of the facts upon which you
12 base YOUR contention.

13 **SPECIAL INTERROGATORY NO. 84:**

14 If YOU contend YOU feel hopeless as a result of the INCIDENT, please identify all
15 HEALTH CARE PROVIDERS that support YOUR contention.

16 **SPECIAL INTERROGATORY NO. 85:**

17 If YOU contend YOU feel hopeless as a result of the INCIDENT, please identify all
18 DOCUMENTS that support YOUR contention.

19 **SPECIAL INTERROGATORY NO. 86:**

20 If YOU contend YOU suffer from a "markedly diminished interest or pleasure in any, or
21 all, activities" as a result of the INCIDENT, please state all facts that support YOUR contention.

22 **SPECIAL INTERROGATORY NO. 87:**

23 If YOU contend YOU suffer from a "markedly diminished interest or pleasure in any, or
24 all, activities" as a result of the INCIDENT, please identify all persons by name, address, and
25 telephone number that have knowledge of the facts upon which you base YOUR contention.

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1 **SPECIAL INTERROGATORY NO. 88:**

2 If YOU contend YOU suffer from a “markedly diminished interest or pleasure in any, or
3 all, activities” as a result of the INCIDENT, please identify all HEALTH CARE PROVIDERS that
4 support YOUR contention.

5 **SPECIAL INTERROGATORY NO. 89:**

6 If YOU contend YOU suffer from a “markedly diminished interest or pleasure in any, or
7 all, activities” as a result of the INCIDENT, please identify all DOCUMENTS that support YOUR
8 contention.

9 **SPECIAL INTERROGATORY NO. 90:**

10 Do YOU contend YOU did not experience a decrease in appetite prior to the INCIDENT?

11 **SPECIAL INTERROGATORY NO. 91:**

12 If YOU contend YOU suffer from a decrease in appetite as a result of the INCIDENT,
13 please state all facts that support YOUR contention.

14 **SPECIAL INTERROGATORY NO. 92:**

15 If YOU contend YOU suffer from a decrease in appetite as a result of the INCIDENT,
16 please identify all persons by name, address, and telephone number that have knowledge of the
17 facts upon which you base YOUR contention.

18 **SPECIAL INTERROGATORY NO. 93:**

19 If YOU contend YOU suffer from a decrease in appetite as a result of the INCIDENT,
20 please identify all HEALTH CARE PROVIDERS that support YOUR contention.

21 **SPECIAL INTERROGATORY NO. 94:**

22 If YOU contend YOU suffer from a decrease in appetite as a result of the INCIDENT,
23 please identify all DOCUMENTS that support YOUR contention.

24 **SPECIAL INTERROGATORY NO. 95:**

25 Do YOU contend that YOU never suffered from insomnia prior to the INCIDENT?

26 **SPECIAL INTERROGATORY NO. 96:**

27 If YOU contend YOU suffer from insomnia as a result of the INCIDENT, please state all
28 facts that support YOUR contention.

1 **SPECIAL INTERROGATORY NO. 97:**

2 If YOU contend YOU suffer from insomnia as a result of the INCIDENT, please identify
3 all persons by name, address, and telephone number that have knowledge of the facts upon which
4 YOU base YOUR contention.

5 **SPECIAL INTERROGATORY NO. 98:**

6 If YOU contend YOU suffer from insomnia as a result of the INCIDENT, please identify
7 all HEALTH CARE PROVIDERS that support YOUR contention.

8 **SPECIAL INTERROGATORY NO. 99:**

9 If YOU contend YOU suffer from insomnia as a result of the INCIDENT, please identify
10 all DOCUMENTS that support YOUR contention.

11 **SPECIAL INTERROGATORY NO. 100:**

12 Please state all individuals who told YOU that YOU suffer from psychomotor agitation as a
13 result of the INCIDENT?

14 **SPECIAL INTERROGATORY NO. 101:**

15 If YOU contend YOU suffer from psychomotor agitation as a result of the INCIDENT,
16 please state all facts that support YOUR contention.

17 **SPECIAL INTERROGATORY NO. 102:**

18 If YOU contend YOU suffer from psychomotor agitation as a result of the INCIDENT,
19 please identify all persons by name, address, and telephone number that have knowledge of the
20 facts upon which you base YOUR contention.

21 **SPECIAL INTERROGATORY NO. 103:**

22 If YOU contend YOU suffer from psychomotor agitation as a result of the INCIDENT,
23 please identify all HEALTH CARE PROVIDERS that support YOUR contention.

24 **SPECIAL INTERROGATORY NO. 104:**

25 If YOU contend YOU suffer from psychomotor agitation as a result of the INCIDENT,
26 please identify all DOCUMENTS that support YOUR contention.

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1 **SPECIAL INTERROGATORY NO. 105:**

2 If YOU contend YOU suffer from fatigue as a result of the INCIDENT, please state all
3 facts that support YOUR contention.

4 **SPECIAL INTERROGATORY NO. 106:**

5 If YOU contend YOU suffer from fatigue as a result of the INCIDENT, please identify all
6 persons by name, address, and telephone number that have knowledge of the facts upon which you
7 base YOUR contention.

8 **SPECIAL INTERROGATORY NO. 107:**

9 If YOU contend YOU suffer from fatigue as a result of the INCIDENT, please identify all
10 HEALTH CARE PROVIDERS that support YOUR contention.

11 **SPECIAL INTERROGATORY NO. 108:**

12 If YOU contend YOU suffer from fatigue as a result of the INCIDENT, please identify all
13 DOCUMENTS that support YOUR contention.

14 **SPECIAL INTERROGATORY NO. 109:**

15 Please describe how YOU have experienced feelings of worthlessness as a result the
16 INCIDENT?

17 **SPECIAL INTERROGATORY NO. 110:**

18 If YOU contend YOU experience feelings of worthlessness as a result of the INCIDENT,
19 please state all facts that support YOUR contention.

20 **SPECIAL INTERROGATORY NO. 111:**

21 If YOU contend YOU experience feelings of worthlessness as a result of the INCIDENT,
22 please identify all persons by name, address, and telephone number that have knowledge of the
23 facts upon which you base YOUR contention.

24 **SPECIAL INTERROGATORY NO. 112:**

25 If YOU contend YOU experience feelings of worthlessness as a result of the INCIDENT,
26 please identify all HEALTH CARE PROVIDERS that support YOUR contention.

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1 **SPECIAL INTERROGATORY NO. 113:**

2 If YOU contend YOU experience feelings of worthlessness as a result of the INCIDENT,
3 please identify all DOCUMENTS that support YOUR contention.

4 **SPECIAL INTERROGATORY NO. 114:**

5 Please describe how YOU have experienced recurrent thoughts of death as a result of the
6 INCIDENT?

7 **SPECIAL INTERROGATORY NO. 115:**

8 If YOU contend YOU experience recurrent thoughts of death as a result of the INCIDENT,
9 please state all facts that support YOUR contention.

10 **SPECIAL INTERROGATORY NO. 116:**

11 If YOU contend YOU experience recurrent thoughts of death as a result of the INCIDENT,
12 please identify all persons by name, address, and telephone number that have knowledge of the
13 facts upon which you base YOUR contention.

14 **SPECIAL INTERROGATORY NO. 117:**

15 If YOU contend YOU experience recurrent thoughts of death as a result of the INCIDENT,
16 please identify all HEALTH CARE PROVIDERS that support YOUR contention.

17 **SPECIAL INTERROGATORY NO. 118:**

18 If YOU contend YOU experience recurrent thoughts of death as a result of the INCIDENT,
19 please identify all DOCUMENTS that support YOUR contention.

20 **SPECIAL INTERROGATORY NO. 119:**

21 Please describe YOUR recurrent suicidal ideation as a result of the INCIDENT?

22 **SPECIAL INTERROGATORY NO. 120:**

23 If YOU contend YOU suffer from recurrent suicidal ideation as a result of the INCIDENT,
24 please state all facts that support YOUR contention.

25 **SPECIAL INTERROGATORY NO. 121:**

26 If YOU contend YOU suffer from recurrent suicidal ideation as a result of the INCIDENT,
27 please identify all persons by name, address, and telephone number that have knowledge of the
28 facts upon which you base YOUR contention.

1 **SPECIAL INTERROGATORY NO. 122:**

2 If YOU contend YOU suffer from recurrent suicidal ideation as a result of the INCIDENT,
3 please identify all HEALTH CARE PROVIDERS that support YOUR contention.

4 **SPECIAL INTERROGATORY NO. 123:**

5 If YOU contend YOU suffer from recurrent suicidal ideation as a result of the INCIDENT,
6 please identify all DOCUMENTS that support YOUR contention.

7 **SPECIAL INTERROGATORY NO. 124:**

8 If YOU contend YOU are unable to “stand for more than one or two minutes” as a result of
9 the INCIDENT, please state all facts that support YOUR contention.

10 **SPECIAL INTERROGATORY NO. 125:**

11 If YOU contend YOU are unable to “stand for more than one or two minutes” as a result of
12 the INCIDENT, please identify all persons by name, address, and telephone number that have
13 knowledge of the facts upon which you base YOUR contention.

14 **SPECIAL INTERROGATORY NO. 126:**

15 If YOU contend YOU are unable to “stand for more than one or two minutes” as a result of
16 the INCIDENT, please identify all HEALTH CARE PROVIDERS that support YOUR contention.

17 **SPECIAL INTERROGATORY NO. 127:**

18 If YOU contend YOU are unable to “stand for more than one or two minutes” as a result of
19 the INCIDENT, please identify all DOCUMENTS that support YOUR contention.

20 **SPECIAL INTERROGATORY NO. 128:**

21 If YOU contend YOU are unable to “walk for more than ten to fifteen steps” as a result of
22 the INCIDENT, please state all facts that support YOUR contention.

23 **SPECIAL INTERROGATORY NO. 129:**

24 If YOU contend YOU are unable to “walk for more than ten to fifteen steps” as a result of
25 the INCIDENT, please identify all persons by name, address, and telephone number that have
26 knowledge of the facts upon which you base YOUR contention.

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1 **SPECIAL INTERROGATORY NO. 130:**

2 If YOU contend YOU are unable to “walk for more than ten to fifteen steps” as a result of
3 the INCIDENT, please identify all HEALTH CARE PROVIDERS that support YOUR contention.

4 **SPECIAL INTERROGATORY NO. 131:**

5 If YOU contend YOU are unable to “walk for more than ten to fifteen steps” as a result of
6 the INCIDENT, please identify all DOCUMENTS that support YOUR contention.

7 **SPECIAL INTERROGATORY NO. 132:**

8 Do YOU contend YOU were able to cook for yourself without assistance in the 10 years
9 prior to the INCIDENT?

10 **SPECIAL INTERROGATORY NO. 133:**

11 If YOU contend YOU are unable to cook for yourself as a result of the INCIDENT, please
12 state all facts that support YOUR contention.

13 **SPECIAL INTERROGATORY NO. 134:**

14 If YOU contend YOU are unable to cook for yourself as a result of the INCIDENT, please
15 identify all persons by name, address, and telephone number that have knowledge of the facts upon
16 which YOU base YOUR contention.

17 **SPECIAL INTERROGATORY NO. 135:**

18 If YOU contend YOU are unable to cook for yourself as a result of the INCIDENT, please
19 identify all HEALTH CARE PROVIDERS that support YOUR contention.

20 **SPECIAL INTERROGATORY NO. 136:**

21 If YOU contend YOU are unable to cook for yourself as a result of the INCIDENT, please
22 identify all DOCUMENTS that support YOUR contention.

23 **SPECIAL INTERROGATORY NO. 137:**

24 Please describe every limitation you had in caring for yourself in the 10 years prior to the
25 INCIDENT?

26 **SPECIAL INTERROGATORY NO. 138:**

27 If YOU contend YOU can no longer care for yourself as a result of the INCIDENT, please
28 state all facts that support YOUR contention.

1 **SPECIAL INTERROGATORY NO. 139:**

2 If YOU contend YOU can no longer care for yourself as a result of the INCIDENT, please
3 identify all persons by name, address, and telephone number that have knowledge of the facts upon
4 which YOU base YOUR contention.

5 **SPECIAL INTERROGATORY NO. 140:**

6 If YOU contend YOU can no longer care for yourself as a result of the INCIDENT, please
7 identify all HEALTH CARE PROVIDERS that support YOUR contention.

8 **SPECIAL INTERROGATORY NO. 141:**

9 If YOU contend YOU can no longer care for yourself as a result of the INCIDENT, please
10 identify all DOCUMENTS that support YOUR contention.

11 **SPECIAL INTERROGATORY NO. 142:**

12 Do YOU contend YOU were able to do YOUR own laundry without assistance in the 10
13 years prior to the INCIDENT?

14 **SPECIAL INTERROGATORY NO. 143:**

15 If YOU contend YOU are unable to do YOUR own laundry as a result of the INCIDENT,
16 please state all facts that support YOUR contention.

17 **SPECIAL INTERROGATORY NO. 144:**

18 If YOU contend YOU are unable to do YOUR own laundry as a result of the INCIDENT,
19 please identify all persons by name, address, and telephone number that have knowledge of the
20 facts upon which you base YOUR contention.

21 **SPECIAL INTERROGATORY NO. 145:**

22 If YOU contend YOU are unable to do YOUR own laundry as a result of the INCIDENT,
23 please identify all HEALTH CARE PROVIDERS that support YOUR contention.

24 **SPECIAL INTERROGATORY NO. 146:**

25 If YOU contend YOU are unable to do YOUR own laundry as a result of the INCIDENT,
26 please identify all DOCUMENTS that support YOUR contention.

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1 **SPECIAL INTERROGATORY NO. 147:**

2 Please state how much time YOU would spend gardening on average each week in the 5
3 years prior to the INCIDENT?

4 **SPECIAL INTERROGATORY NO. 148:**

5 If YOU contend YOU are unable to garden as a result of the INCIDENT, please state all
6 facts that support YOUR contention.

7 **SPECIAL INTERROGATORY NO. 149:**

8 If YOU contend YOU are unable to garden as a result of the INCIDENT, please identify all
9 persons by name, address, and telephone number that have knowledge of the facts upon which
10 YOU base YOUR contention.

11 **SPECIAL INTERROGATORY NO. 150:**

12 If YOU contend YOU are unable to garden as a result of the INCIDENT, please identify all
13 HEALTH CARE PROVIDERS that support YOUR contention.

14 **SPECIAL INTERROGATORY NO. 151:**

15 If YOU contend YOU are unable to garden as a result of the INCIDENT, please identify all
16 DOCUMENTS that support YOUR contention.

17 **SPECIAL INTERROGATORY NO. 152:**

18 Do YOU contend YOU cannot move YOUR arms in a hugging motion after the
19 INCIDENT?

20 **SPECIAL INTERROGATORY NO. 153:**

21 If YOU contend YOU are unable to hug YOUR family members as a result of the
22 INCIDENT, please state all facts that support YOUR contention.

23 **SPECIAL INTERROGATORY NO. 154:**

24 If YOU contend YOU are unable to hug YOUR family members as a result of the
25 INCIDENT, please identify all persons by name, address, and telephone number that have
26 knowledge of the facts upon which you base YOUR contention.

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1 **SPECIAL INTERROGATORY NO. 155:**

2 If YOU contend YOU are unable to hug YOUR family members as a result of the
3 INCIDENT, please identify all HEALTH CARE PROVIDERS that support YOUR contention.

4 **SPECIAL INTERROGATORY NO. 156:**

5 If YOU contend YOU are unable to hug YOUR family members as a result of the
6 INCIDENT, please identify all DOCUMENTS that support YOUR contention.

7 **SPECIAL INTERROGATORY NO. 157:**

8 Do YOU contend YOU were able to shower without assistance prior to the INCIDENT?

9 **SPECIAL INTERROGATORY NO. 158:**

10 If YOU contend YOU are unable to shower without assistance as a result of the
11 INCIDENT, please state all facts that support YOUR contention.

12 **SPECIAL INTERROGATORY NO. 159:**

13 If YOU contend YOU are unable to shower without assistance as a result of the
14 INCIDENT, please identify all persons by name, address, and telephone number that have
15 knowledge of the facts upon which you base YOUR contention.

16 **SPECIAL INTERROGATORY NO. 160:**

17 If YOU contend YOU are unable to shower without assistance as a result of the
18 INCIDENT, please identify all HEALTH CARE PROVIDERS that support YOUR contention.

19 **SPECIAL INTERROGATORY NO. 161:**

20 If YOU contend YOU are unable to shower without assistance as a result of the
21 INCIDENT, please identify all DOCUMENTS that support YOUR contention.

22 **SPECIAL INTERROGATORY NO. 162:**

23 Do YOU contend YOU were able to bathe without assistance prior to the INCIDENT?

24 **SPECIAL INTERROGATORY NO. 163:**

25 If YOU contend YOU are unable to bathe without assistance as a result of the INCIDENT,
26 please state all facts that support YOUR contention.

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1 **SPECIAL INTERROGATORY NO. 164:**

2 If YOU contend YOU are unable to bathe without assistance as a result of the INCIDENT,
3 please identify all persons by name, address, and telephone number that have knowledge of the
4 facts upon which YOU base YOUR contention.

5 **SPECIAL INTERROGATORY NO. 165:**

6 If YOU contend YOU are unable to bathe without assistance as a result of the INCIDENT,
7 please identify all HEALTH CARE PROVIDERS that support YOUR contention.

8 **SPECIAL INTERROGATORY NO. 166:**

9 If YOU contend YOU are unable to bathe without assistance as a result of the INCIDENT,
10 please identify all DOCUMENTS that support YOUR contention.

11 **SPECIAL INTERROGATORY NO. 167:**

12 Do YOU contend YOU were able to go to the bathroom without assistance prior to the
13 INCIDENT?

14 **SPECIAL INTERROGATORY NO. 168:**

15 If YOU contend YOU are unable to go to the bathroom without assistance as a result of the
16 INCIDENT, please state all facts that support YOUR contention.

17 **SPECIAL INTERROGATORY NO. 169:**

18 If YOU contend YOU are unable to go to the bathroom without assistance as a result of the
19 INCIDENT, please identify all persons by name, address, and telephone number that have
20 knowledge of the facts upon which you base YOUR contention.

21 **SPECIAL INTERROGATORY NO. 170:**

22 If YOU contend YOU are unable to go to the bathroom without assistance as a result of the
23 INCIDENT, please identify all HEALTH CARE PROVIDERS that support YOUR contention.

24 **SPECIAL INTERROGATORY NO. 171:**

25 If YOU contend YOU are unable to go to the bathroom without assistance as a result of the
26 INCIDENT, please identify all DOCUMENTS that support YOUR contention.

27 **SPECIAL INTERROGATORY NO. 172:**

28 Please state why YOU live with YOUR adult sons.

1 **SPECIAL INTERROGATORY NO. 173:**

2 Please state how long YOU have lived with YOUR sons prior to the INCIDENT.

3 **SPECIAL INTERROGATORY NO. 174:**

4 Do YOU own YOUR residence?

5 **SPECIAL INTERROGATORY NO. 175:**

6 Does anyone who lives with YOU have full-time employment?

7 **SPECIAL INTERROGATORY NO. 176:**

8 Please state the name, address, and telephone number of YOUR son Quoc Than's
9 employer(s).

10 **SPECIAL INTERROGATORY NO. 177:**

11 Please state the name, address, and telephone number of YOUR son Dung Than's
12 employer(s).

13 **SPECIAL INTERROGATORY NO. 178:**

14 Please state the name, address, and telephone number of YOUR son Tuan Than's
15 employer(s).

16 **SPECIAL INTERROGATORY NO. 179:**

17 Please state the name, address, and telephone number of YOUR son Binh Than's
18 employer(s).

19 **SPECIAL INTERROGATORY NO. 180:**

20 State how much time YOU spend in YOUR wheelchair on average in a day.

21 **SPECIAL INTERROGATORY NO. 181:**

22 If YOU contend YOU are in a wheelchair most of the day as a result of the INCIDENT,
23 please state all facts that support YOUR contention.

24 **SPECIAL INTERROGATORY NO. 182:**

25 If YOU contend YOU are in a wheelchair most of the day as a result of the INCIDENT,
26 please identify all persons by name, address, and telephone number that have knowledge of the
27 facts upon which you base YOUR contention.

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1 **SPECIAL INTERROGATORY NO. 183:**

2 If YOU contend YOU are in a wheelchair most of the day as a result of the INCIDENT,
3 please identify all HEALTH CARE PROVIDERS that support YOUR contention.

4 **SPECIAL INTERROGATORY NO. 184:**

5 If YOU contend YOU are in a wheelchair most of the day as a result of the INCIDENT,
6 please identify all DOCUMENTS that support YOUR contention.

7 **SPECIAL INTERROGATORY NO. 185:**

8 If YOU contend YOU were bedridden for nearly three months as a result of the
9 INCIDENT, please state all facts that support YOUR contention.

10 **SPECIAL INTERROGATORY NO. 186:**

11 If YOU contend YOU were bedridden for nearly three months as a result of the
12 INCIDENT, please identify all persons by name, address, and telephone number that have
13 knowledge of the facts upon which YOU base YOUR contention.

14 **SPECIAL INTERROGATORY NO. 187:**

15 If YOU contend YOU were bedridden for nearly three months as a result of the
16 INCIDENT, please identify all HEALTH CARE PROVIDERS that support YOUR contention.

17 **SPECIAL INTERROGATORY NO. 188:**

18 If YOU contend YOU were bedridden for nearly three months as a result of the
19 INCIDENT, please identify all DOCUMENTS that support YOUR contention.

20 **SPECIAL INTERROGATORY NO. 189:**

21 Do YOU contend YOU suffer from headaches as a result of the INCIDENT?

22 **SPECIAL INTERROGATORY NO. 190:**

23 If YOU contend YOU suffer from headaches as a result of the INCIDENT, please state all
24 facts that support YOUR contention.

25 **SPECIAL INTERROGATORY NO. 191:**

26 If YOU contend YOU suffer from headaches as a result of the INCIDENT, please identify
27 all persons by name, address, and telephone number that have knowledge of the facts upon which
28 YOU base YOUR contention.

1 **SPECIAL INTERROGATORY NO. 192:**

2 If YOU contend YOU suffer from headaches as a result of the INCIDENT, please identify
3 all HEALTH CARE PROVIDERS that support YOUR contention.

4 **SPECIAL INTERROGATORY NO. 193:**

5 If YOU contend YOU suffer from headaches as a result of the INCIDENT, please identify
6 all DOCUMENTS that support YOUR contention.

7 **SPECIAL INTERROGATORY NO. 194:**

8 Do YOU contend that YOU suffer from dizziness as a result of the INCIDENT?

9 **SPECIAL INTERROGATORY NO. 195:**

10 If YOU contend YOU suffer from dizziness as a result of the INCIDENT, please state all
11 facts that support YOUR contention.

12 **SPECIAL INTERROGATORY NO. 196:**

13 If YOU contend YOU suffer from dizziness as a result of the INCIDENT, please identify
14 all persons by name, address, and telephone number that have knowledge of the facts upon which
15 YOU base YOUR contention.

16 **SPECIAL INTERROGATORY NO. 197:**

17 If YOU contend YOU suffer from dizziness as a result of the INCIDENT, please identify
18 all HEALTH CARE PROVIDERS that support YOUR contention.

19 **SPECIAL INTERROGATORY NO. 198:**

20 If YOU contend YOU suffer from dizziness as a result of the INCIDENT, please identify
21 all DOCUMENTS that support YOUR contention.

22 **SPECIAL INTERROGATORY NO. 199:**

23 Do YOU contend YOU need chiropractic TREATMENT as a result of the INCIDENT?

24 **SPECIAL INTERROGATORY NO. 200:**

25 If YOU contend YOU need chiropractic TREATMENT as a result of the INCIDENT,
26 please state all facts that support YOUR contention.

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1 **SPECIAL INTERROGATORY NO. 201:**

2 If YOU contend YOU need chiropractic TREATMENT as a result of the INCIDENT,
3 please identify all persons by name, address, and telephone number that have knowledge of the
4 facts upon which YOU base YOUR contention.

5 **SPECIAL INTERROGATORY NO. 202:**

6 If YOU contend YOU need chiropractic TREATMENT as a result of the INCIDENT,
7 please identify all HEALTH CARE PROVIDERS that support YOUR contention.

8 **SPECIAL INTERROGATORY NO. 203:**

9 If YOU contend YOU need chiropractic TREATMENT as a result of the INCIDENT,
10 please identify all DOCUMENTS that support YOUR contention.

11 **SPECIAL INTERROGATORY NO. 204:**

12 Do YOU contend YOU need physical therapy TREATMENT as a result of the
13 INCIDENT?

14 **SPECIAL INTERROGATORY NO. 205:**

15 If YOU contend YOU need physical therapy TREATMENT as a result of the INCIDENT,
16 please state all facts that support YOUR contention.

17 **SPECIAL INTERROGATORY NO. 206:**

18 If YOU contend YOU need physical therapy TREATMENT as a result of the INCIDENT,
19 please identify all persons by name, address, and telephone number that have knowledge of the
20 facts upon which YOU base YOUR contention.

21 **SPECIAL INTERROGATORY NO. 207:**

22 If YOU contend YOU need physical therapy TREATMENT as a result of the INCIDENT,
23 please identify all HEALTH CARE PROVIDERS that support YOUR contention.

24 **SPECIAL INTERROGATORY NO. 208:**

25 If YOU contend YOU need physical therapy TREATMENT as a result of the INCIDENT,
26 please identify all DOCUMENTS that support YOUR contention.

27 **SPECIAL INTERROGATORY NO. 209:**

28 Have YOU sought psychiatric TREATMENT as a result of the INCIDENT?

1 **SPECIAL INTERROGATORY NO. 210:**

2 If YOU contend YOU need psychiatric TREATMENT as a result of the INCIDENT, please
3 state all facts that support YOUR contention.

4 **SPECIAL INTERROGATORY NO. 211:**

5 If YOU contend YOU need psychiatric TREATMENT as a result of the INCIDENT, please
6 identify all persons by name, address, and telephone number that have knowledge of the facts upon
7 which YOU base YOUR contention.

8 **SPECIAL INTERROGATORY NO. 212:**

9 If YOU contend YOU need psychiatric TREATMENT as a result of the INCIDENT, please
10 identify all HEALTH CARE PROVIDERS that support YOUR contention.

11 **SPECIAL INTERROGATORY NO. 213:**

12 If YOU contend YOU need psychiatric TREATMENT as a result of the INCIDENT, please
13 identify all DOCUMENTS that support YOUR contention.

14 **SPECIAL INTERROGATORY NO. 214:**

15 Do YOU contend YOU will need additional surgeries as a result of the INCIDENT?

16 **SPECIAL INTERROGATORY NO. 215:**

17 If YOU contend YOU will need additional surgeries as a result of the INCIDENT, please
18 state all facts that support YOUR contention.

19 **SPECIAL INTERROGATORY NO. 216:**

20 If YOU contend YOU need additional surgeries as a result of the INCIDENT, please
21 identify all persons by name, address, and telephone number that have knowledge of the facts upon
22 which YOU base YOUR contention.

23 **SPECIAL INTERROGATORY NO. 217:**

24 If YOU contend YOU need additional surgeries as a result of the INCIDENT, please
25 identify all HEALTH CARE PROVIDERS that support YOUR contention.

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1 **SPECIAL INTERROGATORY NO. 218:**

2 If YOU contend YOU need additional surgeries as a result of the INCIDENT, please
3 identify all DOCUMENTS that support YOUR contention.
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5 Dated: February 13, 2020

BREMER WHYTE BROWN & O'MEARA LLP

7 By: _____

8 Alex M. Giannetto
9 Scott D. Hoy
10 Attorneys for Defendant
11 SF SAN DIEGO INC dba SF
12 SUPERMARKET
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DECLARATION OF SCOTT HOY

I, Scott Hoy, declare as follows:

1. I am an attorney at law duly licensed to practice before all of the courts in the State of California. I am a member of the law firm of BREMER WHYTE BROWN & O'MEARA LLP, counsel of record for Defendant SF SAN DIEGO INC dba SF SUPERMARKET in this action. I have personal knowledge of the facts set forth in this Declaration and, if called as a witness, could and would testify competently to such facts under oath.

2. I am propounding to Plaintiff CUC KIM LE the attached set of Special Interrogatories, Set Two (2).

3. This set of Special Interrogatories will cause the total number of requests propounded to the party to whom they are directed to exceed the number of requests permitted by Code of *Civil Procedure* § 2033.050(a). In conjunction with Special Interrogatories, Set Two (2), I am also propounding Requests for Admission, Set One (1); and Form Interrogatories, Set Two (2).

4. I am familiar with the issues and previous discovery conducted by all the parties in this case.

5. I have propounded a total of two hundred and eighteen (218) Special Interrogatories to this party on behalf of Defendant SF SAN DIEGO INC dba SF SUPERMARKET.

6. I have personally examined each of the questions in this set of Special Interrogatories.

7. The number of questions is warranted under Code of *Civil Procedure* § 2033.050 because of the complexity and quantity of the existing and potential issues in this case, and because these Special Interrogatories will allow the responding party the opportunity to conduct an inquiry, investigation, or search of files or records to supply the information sought.

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8. None of the questions in this Set of Special Interrogatories is being propounded for any improper purpose, such as to harass the party or the attorney for the party to whom it is directed, or to cause any unnecessary delay or needless increase in the cost of litigation.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 13th day of February 2020, at San Diego, California.



Scott Hoy

Exhibit 3

BREMER WHYTE BROWN & O'MEARA LLP
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Attorneys for Defendant,
SF SAN DIEGO INC dba SF SUPERMARKET

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

CUC KIM LE,	)	Case No. 37-2019-00019958-CU-PO-CTL
)	
Plaintiff,	)	DEFENDANT SF SAN DIEGO INC dba
	)	SF SUPERMARKET'S REQUESTS FOR
vs.	)	ADMISSION TO PLAINTIFF CUC KIM
	)	LE, SET TWO
SF SAN DIEGO INC dba SF SUPERMARKET)	
and DOES 1 to 50,	)	Complaint Filed: April 17, 2019
)	
Defendant.)	

PROPOUNDING PARTY: Defendant, SF SAN DIEGO INC dba SF SUPERMARKET

RESPONDING PARTY: Plaintiff, CUC KIM LE

SET NO.: Two (2)

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REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 75:

Admit that the medical record from Mid-City Community Clinic dated 9/23/2010, attached hereto as Number 75, is genuine.

REQUEST FOR ADMISSION NO. 76:

Admit that the medical record from Mid-City Community Clinic dated 9/23/2010, attached hereto as Number 75, indicates YOU wanted Dr. Boyd to fill out paper so that YOU can have help at home. The words "YOU" or "YOUR" shall mean Plaintiff Cuc Le, her representatives, agents, assignees, attorneys, relatives, predecessors-in-interest, affiliates, employees, and any other person or entity acting or purporting to act on her behalf.

REQUEST FOR ADMISSION NO. 77:

Admit that YOU told Dr. Boyd YOU wanted help at home on or around 9/23/2010.

REQUEST FOR ADMISSION NO. 78:

Admit that the medical record from Mid-City Community Clinic dated 9/23/2010, attached hereto as Number 75, indicates YOU wanted help cleaning the house.

REQUEST FOR ADMISSION NO. 79:

Admit that YOU told Dr. Boyd YOU wanted help cleaning the house on or around 9/23/2010.

REQUEST FOR ADMISSION NO. 80:

Admit that the medical record from Mid-City Community Clinic dated 9/23/2010, attached hereto as Number 75, indicates YOU wanted help being taken to doctor visits.

REQUEST FOR ADMISSION NO. 81:

Admit that YOU told Dr. Boyd YOU wanted help being taken to doctor visits on or around 9/23/2010.

REQUEST FOR ADMISSION NO. 82:

Admit that the medical record from Mid-City Community Clinic dated 9/23/2010, attached hereto as Number 75, indicates YOU wanted help going to the bathroom.

1 **REQUEST FOR ADMISSION NO. 83:**

2 Admit that YOU told Dr. Boyd YOU wanted help going to the bathroom on or around
3 9/23/2010.

4 **REQUEST FOR ADMISSION NO. 84:**

5 Admit that the medical record from Mid-City Community Clinic dated 10/07/2010, attached
6 hereto as Number 84, is genuine.

7 **REQUEST FOR ADMISSION NO. 85:**

8 Admit that the medical record from Mid-City Community Clinic dated 10/07/2010, attached
9 hereto as Number 84, indicates YOUR legs were weak.

10 **REQUEST FOR ADMISSION NO. 86:**

11 Admit that YOU told Dr. Boyd YOUR legs were weak on or around 10/07/2010.

12 **REQUEST FOR ADMISSION NO. 87:**

13 Admit that the medical record from Mid-City Community Clinic dated 10/07/2010, attached
14 hereto as Number 84, indicates YOU needed help picking up medicines at the pharmacy and
15 grocery.

16 **REQUEST FOR ADMISSION NO. 88:**

17 Admit that YOU told Dr. Boyd that YOU needed help picking up medicines that the
18 pharmacy and grocery on or around 10/07/2010.

19 **REQUEST FOR ADMISSION NO. 89:**

20 Admit that the medical record from Mid-City Community Clinic dated 12/01/2010, attached
21 hereto as Number 89, is genuine.

22 **REQUEST FOR ADMISSION NO. 90:**

23 Admit that the medical record from Mid-City Community Clinic dated 12/01/2010, attached
24 hereto as Number 89, indicates YOU requested help in obtaining in-home supportive services.

25 **REQUEST FOR ADMISSION NO. 91:**

26 Admit that YOU requested help in obtaining in-home supportive services on or around
27 12/01/2010.

28

REQUEST FOR ADMISSION NO. 92:

Admit that the medical record from Mid-City Community Clinic dated 12/01/2010, attached hereto as Number 89, indicates YOU were advised to return to the clinic if YOUR depression worsens.

REQUEST FOR ADMISSION NO. 93:

Admit that YOU were depressed on or around 12/01/2010 because of YOUR decline in health and inability to care for yourself.

REQUEST FOR ADMISSION NO. 94:

Admit that the medical record from Mid-City Community Clinic dated 12/01/2010, attached hereto as Number 89, indicates YOU were assessed with "major depressive disorder."

REQUEST FOR ADMISSION NO. 95:

Admit that the medical record from UC San Diego Medical Center dated 1/1/2011, attached hereto as Number 95, is genuine.

REQUEST FOR ADMISSION NO. 96:

Admit that the medical record from UC San Diego Medical Center dated 1/1/2011, attached hereto as Number 95, indicates YOU have a history of knee pain beginning in 2009-2010.

REQUEST FOR ADMISSION NO. 97:

Admit that YOU have experienced knee pain since at least 2009-2010.

REQUEST FOR ADMISSION NO. 98:

Admit that the medical record from UC San Diego Medical Center dated 1/1/2011, attached hereto as Number 95, indicates YOU use a walker and cane at home.

REQUEST FOR ADMISSION NO. 99:

Admit that YOU used a walker and cane at home at least as early as January 11, 2011.

REQUEST FOR ADMISSION NO. 100:

Admit that the medical record from Mid-City Community Clinic dated 3/1/2011, attached hereto as Number 100, is genuine.

REQUEST FOR ADMISSION NO. 101:

Admit that the medical record from Mid-City Community Clinic dated 3/1/2011, attached

1 hereto as Number 100, indicates YOU reported knee pain.

2 **REQUEST FOR ADMISSION NO. 102:**

3 Admit that YOU told Dr. Boyd YOU had knee pain on or around 3/1/2011.

4 **REQUEST FOR ADMISSION NO. 103:**

5 Admit that the medical record from Mid-City Community Clinic dated 2/1/2012, attached
6 hereto as Number 103, is genuine.

7 **REQUEST FOR ADMISSION NO. 104:**

8 Admit that the medical record from Mid-City Community Clinic dated 2/1/2012, attached
9 hereto as Number 103, indicates YOU walk with a walker and cane.

10 **REQUEST FOR ADMISSION NO. 105:**

11 Admit that the medical record from Mid-City Community Clinic dated 2/1/2012, attached
12 hereto as Number 103, indicates YOUR son cooks and cleans for YOU.

13 **REQUEST FOR ADMISSION NO. 106:**

14 Admit that YOU walked with a walker and cane on at least as early as February 1, 2012.

15 **REQUEST FOR ADMISSION NO. 107:**

16 Admit that YOU told Dr. Boyd YOUR son cooks and cleans for YOU.

17 **REQUEST FOR ADMISSION NO. 108:**

18 Admit that the medical record from Mid-City Community Clinic dated 7/2/2013, attached
19 hereto as Number 108, is genuine.

20 **REQUEST FOR ADMISSION NO. 109:**

21 Admit that the medical record from Mid-City Community Clinic dated 7/2/2013, attached
22 hereto as Number 108, indicates YOU complained of left shoulder pain.

23 **REQUEST FOR ADMISSION NO. 110:**

24 Admit that YOU told Dr. Boyd YOU had left shoulder pain on or around 7/2/2013.

25 **REQUEST FOR ADMISSION NO. 111:**

26 Admit that the medical record from Mid-City Community Clinic dated 7/2/2013, attached
27 hereto as Number 108, indicates YOU walked with a walker.

28

1 **REQUEST FOR ADMISSION NO. 112:**

2 Admit that YOU walked with a walker on or around July 2, 2013.

3 **REQUEST FOR ADMISSION NO. 113:**

4 Admit that the medical record from Mid-City Community Clinic dated 8/17/2015, attached
5 hereto as Number 113, is genuine.

6 **REQUEST FOR ADMISSION NO. 114:**

7 Admit that the medical record from Mid-City Community Clinic dated 8/17/2015, attached
8 hereto as Number 113, indicates YOU had chronic pain in YOUR right shoulder.

9 **REQUEST FOR ADMISSION NO. 115:**

10 Admit that YOU had been experiencing chronic pain in YOUR right shoulder on or around
11 8/17/2015.

12 **REQUEST FOR ADMISSION NO. 116:**

13 Admit that YOU told Ms. Howe that YOU were experiencing pain in YOUR right shoulder
14 on or around 8/17/2015.

15 **REQUEST FOR ADMISSION NO. 117:**

16 Admit that the medical record from Mid-City Community Clinic dated 6/14/2016, attached
17 hereto as Number 117, is genuine.

18 **REQUEST FOR ADMISSION NO. 118:**

19 Admit that the medical record from Mid-City Community Clinic dated 6/14/2016, attached
20 hereto as Number 117, indicates YOU took Naproxen for intermittent joint pains.

21 **REQUEST FOR ADMISSION NO. 119:**

22 Admit that YOU told Dr. Shirin that YOU took Naproxen for intermittent joint pains on or
23 around 6/14/16.

24 **REQUEST FOR ADMISSION NO. 120:**

25 Admit that the medical record from UC San Diego Medical Center dated 5/2/2017, attached
26 hereto as Number 120, is genuine.

27 **REQUEST FOR ADMISSION NO. 121:**

28 Admit that the medical record from UC San Diego Medical Center dated 5/2/2017, attached

hereto as Number 120, indicates YOU told medical personnel YOU tripped over a "log".

REQUEST FOR ADMISSION NO. 122:

Admit that YOU told medical personnel YOU tripped over a "log" on or around May 2, 2017.

REQUEST FOR ADMISSION NO. 123:

Admit that the medical record from UC San Diego Medical Center dated 5/2/2017, attached hereto as Number 120, indicates YOU did not lose consciousness after YOU fell on or around May 2, 2017.

REQUEST FOR ADMISSION NO. 124:

Admit that YOU did not lose consciousness after YOU fell on or around May 2, 2017.

REQUEST FOR ADMISSION NO. 125:

Admit that YOU were previously diagnosed with a fractured tibia in 2010.

REQUEST FOR ADMISSION NO. 126:

Admit that YOU fractured YOUR tibia in 2010.

REQUEST FOR ADMISSION NO. 127:

Admit that the medical record from UC San Diego Medical Center dated 5/2/2017, attached hereto as Number 120 indicates YOU injured YOUR left shoulder on the way down to the ground.

REQUEST FOR ADMISSION NO. 128:

Admit that the medical record from UC San Diego Medical Center dated 5/2/2017, attached hereto as Number 120 indicates states YOU held YOUR left arm out to avoid hitting YOUR head.

REQUEST FOR ADMISSION NO. 129:

Admit that the medical record from UC San Diego Medical Center dated 5/2/2017, attached hereto as Number 120, indicates YOU denied hitting YOUR head when YOU fell.

REQUEST FOR ADMISSION NO. 130:

Admit that YOU did not hit YOUR head when YOU fell on May 2, 2017.

REQUEST FOR ADMISSION NO. 131:

Admit that the medical record from UC San Diego Medical Center dated 5/16/2017, attached hereto as Number 131, is genuine.

1 **REQUEST FOR ADMISSION NO. 132:**

2 Admit that the medical record from UC San Diego Medical Center dated 5/16/2017,
3 attached hereto as Number 131, indicates YOU had no femur/hip pain at that time.

4 **REQUEST FOR ADMISSION NO. 133:**

5 Admit that the medical record from UC San Diego Medical Center dated 5/16/2017,
6 attached hereto as Number 131, indicates YOU had severe shoulder pain at that time.

7 **REQUEST FOR ADMISSION NO. 134:**

8 Admit that the medical record from UC San Diego Medical Center dated 5/16/2017,
9 attached hereto as Number 131, indicates YOUR pain score was an 8 out of 10 at that time.

10 **REQUEST FOR ADMISSION NO. 135:**

11 Admit that YOU UC San Diego Medical personnel on 5/16/2017 that YOU had no
12 femur/hip pain at that time.

13 **REQUEST FOR ADMISSION NO. 136:**

14 Admit that YOU UC San Diego Medical personnel on 5/16/2017 that YOUR pain was an 8
15 out of 10 at that time.

16 **REQUEST FOR ADMISSION NO. 137:**

17 Admit that the medical record from UC San Diego Medical Center dated 6/13/2017,
18 attached hereto as Number 137, is genuine.

19 **REQUEST FOR ADMISSION NO. 138:**

20 Admit that the medical record from UC San Diego Medical Center dated 6/13/2017,
21 attached hereto as Number 137, indicates YOU had intermittent pain in both YOUR left shoulder
22 and right thigh.

23 **REQUEST FOR ADMISSION NO. 139:**

24 Admit that YOU told Dr. Schwartz YOU had intermittent pain in YOUR left shoulder on or
25 around 6/13/2017.

26 **REQUEST FOR ADMISSION NO. 140:**

27 Admit that YOU told Dr. Schwartz YOU had intermittent pain in YOUR right thigh on or
28 around 6/13/2017.

1 **REQUEST FOR ADMISSION NO. 141:**

2 Admit that the medical record from UC San Diego Medical Center dated 6/13/2017,
3 attached hereto as Number 137, indicates YOUR pain was a 5 out of 10 at that time.

4 **REQUEST FOR ADMISSION NO. 142:**

5 Admit that YOU told Dr. Schwartz that YOUR pain was a 5 out of 10 on or around
6 6/13/2017.

7 **REQUEST FOR ADMISSION NO. 143:**

8 Admit that the medical record from UC San Diego Medical Center dated 6/13/2017,
9 attached hereto as Number 137, indicates YOUR pain was intermittent, dull, worse with activity,
10 less with rest.

11 **REQUEST FOR ADMISSION NO. 144:**

12 Admit that YOU told Dr. Schwartz YOUR pain was intermittent, dull, worse with activity,
13 less with rest on or around 6/13/2017.

14 **REQUEST FOR ADMISSION NO. 145:**

15 Admit that the medical record from UC San Diego Medical Center dated 8/8/2017, attached
16 hereto as Number 145, is genuine.

17 **REQUEST FOR ADMISSION NO. 146:**

18 Admit that the medical record from UC San Diego Medical Center dated 8/8/2017, attached
19 hereto as Number 145, indicates YOUR pain had decreased.

20 **REQUEST FOR ADMISSION NO. 147:**

21 Admit that YOU told Dr. Schwartz that the pain in YOUR right arm had improved on or
22 around 8/8/2017.

23 **REQUEST FOR ADMISSION NO. 148:**

24 Admit that YOU told Dr. Schwartz YOU could walk "very far" on or around 8/8/2017.

25 **REQUEST FOR ADMISSION NO. 149:**

26 Admit that YOU told Dr. Schwartz YOUR pain was 3 out of 10 on or around 8/8/2017.

27 **REQUEST FOR ADMISSION NO. 150:**

28 Admit that the medical record from UC San Diego Medical Center dated 10/09/2017,

1 attached hereto as Number 150, is genuine.

2 **REQUEST FOR ADMISSION NO. 151:**

3 Admit that the medical record from UC San Diego Medical Center dated 10/09/2017,
4 attached hereto as Number 150, indicates YOUR pain was improving at that time.

5 **REQUEST FOR ADMISSION NO. 152:**

6 Admit that YOU told Dr. Yang that YOUR pain was improving on or around 10/09/2017.

7 **REQUEST FOR ADMISSION NO. 153:**

8 Admit that the medical record from UC San Diego Medical Center dated 10/09/2017,
9 attached hereto as Number 150, indicates that YOU walked with a cane.

10 **REQUEST FOR ADMISSION NO. 154:**

11 Admit that YOU walked with a cane on or around October 9, 2017.

12 **REQUEST FOR ADMISSION NO. 155:**

13 Admit that the medical record from UC San Diego Medical Center dated 10/09/2017,
14 attached hereto as Number 150, indicates that YOU had been taking NSAIDs for pain.

15 **REQUEST FOR ADMISSION NO. 156:**

16 Admit that YOU had been taking NSAIDs for pain on or around October 9, 2017.

17 **REQUEST FOR ADMISSION NO. 157:**

18 Admit that the medical record from UC San Diego Medical Center dated 10/09/2017,
19 attached hereto as Number 150, lists YOUR pain score as zero (0) at that time.

20 **REQUEST FOR ADMISSION NO. 158:**

21 Admit that YOU told Dr. Yang YOUR pain was a zero (0) on or around 10/09/17.

22 **REQUEST FOR ADMISSION NO. 159:**

23 Admit that the medical record from UC San Diego Medical Center dated 10/10/2017,
24 attached hereto as Number 159, is genuine.

25 **REQUEST FOR ADMISSION NO. 160:**

26 Admit that the medical record from UC San Diego Medical Center dated 10/10/2017,
27 attached hereto as Number 159, indicates YOU were working on left shoulder motion with a
28 physical therapist.

REQUEST FOR ADMISSION NO. 161:

Admit that the medical record from UC San Diego Medical Center dated 10/10/2017, attached hereto as Number 159, indicates YOU were doing better.

REQUEST FOR ADMISSION NO. 162:

Admit that the medical record from UC San Diego Medical Center dated 10/10/2017, attached hereto as Number 159, indicates that YOUR pain score was 3 out of 10 at that time.

REQUEST FOR ADMISSION NO. 163:

Admit that YOU reported YOUR pain at a level of 3 out of 10 on or around 10/10/17.

REQUEST FOR ADMISSION NO. 164:

Admit that YOU were doing exercises at home on or around 10/10/17.

REQUEST FOR ADMISSION NO. 165:

Admit that the medical record from UC San Diego Medical Center dated 10/10/2017, attached hereto as Number 159, indicates YOUR injuries were healed as of that date.

REQUEST FOR ADMISSION NO. 166:

Admit that the injuries YOU sustained as result of falling on May 2, 2017 were healed on or around October 10, 2017.

REQUEST FOR ADMISSION NO. 167:

Admit that the medical record from Mid-City Medical Clinic dated 2/27/2018, attached hereto as Number 167, is genuine.

REQUEST FOR ADMISSION NO. 168:

Admit that the medical record from Mid-City Medical Clinic dated 2/27/2018, attached hereto as Number 167, indicates YOU denied feeling depressed.

REQUEST FOR ADMISSION NO. 169:

Admit that YOU were not depressed on or around 2/27/2018.

REQUEST FOR ADMISSION NO. 170:

Admit that the medical record from Mid-City Medical Clinic dated 2/27/2018, attached hereto as Number 167, indicates YOU denied feeling hopeless.

REQUEST FOR ADMISSION NO. 171:

Admit that YOU did not feel hopeless on or around 2/27/2018.

REQUEST FOR ADMISSION NO. 172:

Admit that the medical record from Mid-City Medical Clinic dated 2/27/2018, attached hereto as Number 167, indicates YOU did not appear to be in acute distress.

REQUEST FOR ADMISSION NO. 173:

Admit that YOU were not in acute distress on or around February 27, 2018.

REQUEST FOR ADMISSION NO. 174:

Admit that the medical record from Mid-City Medical Clinic dated 7/19/2018, attached hereto as Number 174, is genuine.

REQUEST FOR ADMISSION NO. 175:

Admit that the medical record from Mid-City Medical Clinic dated 7/19/2018, attached hereto as Number 174, indicates YOU reported no complaints at that time.

REQUEST FOR ADMISSION NO. 176:

Admit that YOU did not report any complaints to Dr. Poast on or around February 27, 2018.

REQUEST FOR ADMISSION NO. 177:

Admit that the medical record from Mid-City Medical Clinic dated 1/15/2019, attached hereto as Number 177, is genuine.

REQUEST FOR ADMISSION NO. 178:

Admit that the medical record from Mid-City Medical Clinic dated 1/15/2019, attached hereto as Number 177, indicates YOUR total score for the depression screening was zero (0) at that time.

REQUEST FOR ADMISSION NO. 179:

Admit that YOU denied having little interest or pleasure in doing things on or around 1/15/2019.

REQUEST FOR ADMISSION NO. 180:

Admit that YOU denied feeling down, depressed, or hopeless on or around 1/15/2019.

1 **REQUEST FOR ADMISSION NO. 181:**

2 Admit that the medical record from Mid-City Medical Clinic dated 1/15/2019, attached
3 hereto as Number 177, indicates YOU experienced 2 months of a headache on YOUR left side.

4 **REQUEST FOR ADMISSION NO. 182:**

5 Admit that YOU told Dr. Poast that YOU experienced a headache for 2 months on YOUR
6 left side on or around 1/15/2019.

7 **REQUEST FOR ADMISSION NO. 183:**

8 Admit that the medical record from Mid-City Medical Clinic dated 1/15/2019, attached
9 hereto as Number 177, indicates that YOUR headache was a new condition.

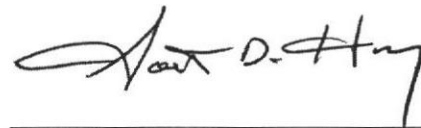
10 **REQUEST FOR ADMISSION NO. 184:**

11 Admit that the headache YOU reported on or around 1/15/2019 to medical personnel at
12 Mid-City Community Clinic was unrelated to YOUR fall on May 2, 2017.

13
14 Dated: February 21, 2020

BREMER WHYTE BROWN & O'MEARA LLP

15
16
17 By: _____



Alex M. Giannetto
Scott D. Hoy
Attorneys for Defendant
SF SAN DIEGO INC dba SF
SUPERMARKET

Exhibit 4

BREMER WHYTE BROWN & O'MEARA LLP
Alex M. Giannetto, State Bar No. 259757
agiannetto@bremerwhyte.com
Scott Hoy, State Bar No. 169606
shoy@bremerwhyte.com
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Suite 1700
San Diego, CA 92101
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Attorneys for Defendant,
SF San Diego Inc dba SF Supermarket

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

CUC KIM LE,	)	Case No. 37-2019-00019958-CU-PO-CTL
)	
Plaintiff,	)	DEFENDANT SF SAN DIEGO INC dba
	)	SF SUPERMARKET'S SPECIAL
vs.	)	INTERROGATORIES TO PLAINTIFF
	)	CUC KIM LE, SET THREE
SF SAN DIEGO INC dba SF SUPERMARKET)	
and DOES 1 to 50,	)	Complaint Filed: April 17, 2019
)	
Defendant.)	

PROPOUNDING PARTY: Defendant, SF SAN DIEGO INC. dba SF SUPERMARKET
RESPONDING PARTY: Plaintiff, CUC KIM LE
SET NO.: THREE (3)

Pursuant to California Code of Civil Procedure §2030.010, *et seq.*, Defendant, SF SAN DIEGO INC dba SF SUPERMARKET, ("Propounding Party") hereby propounds to Plaintiff, CUC KIM LE the following written Special Interrogatories, each of which shall be answered fully, separately, in writing, under oath. Plaintiff shall produce said responses to the law offices of BREMER WHYTE BROWN & O'MEARA LLP, located at 501 West Broadway, Suite 1700, San Diego, California 92101, within thirty (30) days from the date of service of these interrogatories.

Each answer must be as complete and straightforward as the information reasonably available

1 to you permits. If a Special Interrogatory cannot be answered fully, answer to the extent possible.
2 Whenever a Special Interrogatory may be answered by referring to a document, the document may
3 be attached as an exhibit to the response and referred to in the response. If the document is more
4 than one page, refer to the page and section where the answer to the Special Interrogatory can be
5 found.

6 DEFINITIONS

7 1. "YOU, YOUR, or PLAINTIFF" refers to the responding party, and includes the
8 agents, employees, attorneys, accountants, investigators, and anyone else acting on behalf of the
9 responding party.

10 2. "INCIDENT" refers to facts and circumstances described in the Complaint involving
11 an alleged incident on or about May 2, 2017 at the Thuan Phat Supermarket located on 6935 Linda
12 Vista Rd., in the City and County of San Diego, State of California, causing injuries and damages,
13 and the circumstances and events surrounding the alleged accident giving rise to this action or
14 proceeding.

15 3. "HEALTH CARE PROVIDER" includes any PERSON referred to in Code of Civil
16 Procedure Section 667.7(e)(3), including, without limitation, licensed medical doctors, hospitals,
17 clinics, physicians, medical providers, nurses, medical assistants, therapists or other medical,
18 psychological, psychiatrists, and/or any other similar persons.

19 4. "TREATMENT" means health care, consultation, examination, treatment, service,
20 counseling or therapy.

21 5. "DISABILITY" means and refers to inability to perform or pursue activities because
22 of a physical or mental impairment.

23 6. The terms "DOCUMENT" OR "DOCUMENTS" shall have the same meaning as the
24 term "writing" as defined in California Evidence Code § 250 and which means and includes, by way
25 of example only and without limitation, the following: handwriting, type writing, printing,
26 photostating, photographing, and every other means of recording upon any tangible thing, any form
27 of communication or representation, including letters, words, pictures, billings, sounds, or symbols,
28 or combinations thereof.

SPECIAL INTERROGATORIES

SPECIAL INTERROGATORY NO. 219:

Please describe all the in-home supportive services YOU received prior to the INCIDENT.

SPECIAL INTERROGATORY NO. 220:

Please identify all individuals with knowledge about the in-home supportive services YOU received prior to the INCIDENT.

SPECIAL INTERROGATORY NO. 221:

Please describe all the in-home supportive services YOU received after the INCIDENT.

SPECIAL INTERROGATORY NO. 222:

Please identify all individuals with knowledge about the in-home supportive services YOU received after the INCIDENT.

SPECIAL INTERROGATORY NO. 223:

Please describe how YOUR in-home supportive services were paid for.

SPECIAL INTERROGATORY NO. 224:

Please identify the facilitator of YOUR in-home supportive services.

SPECIAL INTERROGATORY NO. 225:

Please identify all individuals who were paid by Medicare to provide YOU in-home supportive services prior to the INCIDENT.

SPECIAL INTERROGATORY NO. 226:

Please identify all individuals who were paid by Medicare to provide YOU in-home supportive services after the INCIDENT.

SPECIAL INTERROGATORY NO. 227:

Please state how much each individual who provided YOU in-home supportive services funded by Medicare was paid.

SPECIAL INTERROGATORY NO. 228:

Please identify every person by name, address and telephone number who was paid to provide YOU with in home supportive services prior to May 2, 2017.

1 **SPECIAL INTERROGATORY NO. 229:**

2 Please identify every person by name, address and telephone number who was paid to
3 provide YOU with in home supportive services after May 2, 2017.

4 **SPECIAL INTERROGATORY NO. 230:**

5 Please state when YOU applied for in home supportive services for your own supportive
6 needs.

7 **SPECIAL INTERROGATORY NO. 231:**

8 Please state why YOU applied for in home supportive services for your own supportive
9 needs.

10 **SPECIAL INTERROGATORY NO. 232:**

11 Please identify every type of activity for which YOU have used in home supportive services
12 to assist YOU (i.e., cooking, cleaning, vacuuming, etc.)

13 **SPECIAL INTERROGATORY NO. 233:**

14 Please state why YOU believed you needed in home supportive services for your own
15 supportive needs prior to May 2, 2017.

16 **SPECIAL INTERROGATORY NO. 234:**

17 Please state how YOU decide which activities will be performed for payment pursuant to in
18 home supportive services.

19 **SPECIAL INTERROGATORY NO. 235:**

20 Please state how the activities to be performed for payment pursuant to in home supportive
21 services are communicated to the person performing the supportive services.

22 **SPECIAL INTERROGATORY NO. 236:**

23 Please state how many hours of in home supportive services YOU utilized in 2017 prior to
24 May 2, 2017.

25 **SPECIAL INTERROGATORY NO. 237:**

26 Please state how many hours of in home supportive services YOU utilized in 2017 after to
27 May 2, 2017.

28

1 **SPECIAL INTERROGATORY NO. 238:**

2 Please identify every activity that YOU claim you cannot perform after May 2, 2017 as the
3 result of the INCIDENT that would not be authorized as an in home supportive services task.

4 **SPECIAL INTERROGATORY NO. 239:**

5 Please identify every activity that YOU claim you cannot perform after May 2, 2017 as the
6 result of the INCIDENT that would not qualify as an in home supportive services activity.

7 **SPECIAL INTERROGATORY NO. 240:**

8 Please identify every type of task performed by YOUR in home supportive services
9 caregiver prior to May 2, 2017 which would entitle that person to payment under the in home
10 supportive services program.

11 **SPECIAL INTERROGATORY NO. 241:**

12 Please identify every type of task performed by YOUR in home supportive services
13 caregiver after May 2, 2017 which would entitle that person to payment under the in home
14 supportive services program.

15 **SPECIAL INTERROGATORY NO. 242:**

16 Please state what household activities, if any, YOUR in home services provider was not
17 allowed to perform for YOU under the terms and conditions of the in home supportive services
18 program prior to May 2, 2017.

19 **SPECIAL INTERROGATORY NO. 243:**

20 Please state what household activities, if any, YOUR in home services provider was not
21 allowed to perform for YOU under the terms and conditions of the in home supportive services
22 program after May 2, 2017.

23 **SPECIAL INTERROGATORY NO. 244:**

24 Please state what personal activities, if any, YOUR in home services provider was not
25 allowed to perform for YOU under the terms and conditions of the in home supportive services
26 program prior to May 2, 2017.

27

28

1 **SPECIAL INTERROGATORY NO. 245:**

2 Please state what personal activities, if any, YOUR in home services provider was not
3 allowed to perform for YOU under the terms and conditions of the in home supportive services
4 program after May 2, 2017.

5 **SPECIAL INTERROGATORY NO. 246:**

6 Please state who, if anyone, has to approve all activities performed by YOUR in home
7 supportive services caregiver.

8 **SPECIAL INTERROGATORY NO. 247:**

9 Please state who, if anyone, has to verify all hours worked by YOUR in home supportive
10 services caregiver.

11 **SPECIAL INTERROGATORY NO. 248:**

12 Please state when YOU believed you needed in home supportive services for your own
13 supportive needs prior to May 2, 2017.

14 **SPECIAL INTERROGATORY NO. 249:**

15 Please state what physical limitations YOU had prior to May 2, 2017 that made YOU
16 believe you needed in home supportive services for your own supportive needs.

17 **SPECIAL INTERROGATORY NO. 250:**

18 Do you contend YOU would not need in home supportive services if the INCIDENT on
19 May 2, 2017 never occurred?

20
21 Dated: February 14, 2020

BREMER WHYTE BROWN & O'MEARA LLP

22
23 By: 

Alex M. Giannetto
Scott Hoy
Attorneys for Defendant
SF San Diego Inc dba SF Supermarket

DECLARATION OF ALEX M. GIANNETTO

I, Alex M. Giannetto, declare as follows:

1. I am an attorney at law duly licensed to practice before all of the courts in the State of California. I am a member of the law firm of BREMER WHYTE BROWN & O'MEARA LLP, counsel of record for SF SAN DIEGO INC. DBA SF SUPERMARKET in this action. I have personal knowledge of the facts set forth in this Declaration and, if called as a witness, could and would testify competently to such facts under oath.

2. I am propounding to Plaintiff CUC KIM LE the attached set of Special Interrogatories, Set Three (3).

3. This set of Special Interrogatories will cause the total number of requests propounded to the party to whom they are directed to exceed the number of requests permitted by Code of *Civil Procedure* § 2033.050(a).

4. I am familiar with the issues and previous discovery conducted by all the parties in this case.

5. I have propounded a total of two hundred and fifty (250) Special Interrogatories to this party on behalf of Defendant SF SAN DIEGO INC dba SF SUPERMARKET.

6. I have personally examined each of the questions in this set of Special Interrogatories.

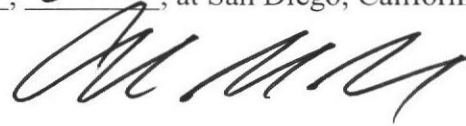
7. The number of questions is warranted under Code of *Civil Procedure* § 2033.050 because of the complexity and quantity of the existing and potential issues in this case, and because these Special Interrogatories will allow the responding party the opportunity to conduct an inquiry, investigation, or search of files or records to supply the information sought. Plaintiff does not speak English and her deposition is not yet complete. The reason her deposition is not complete is because she was improperly instructed to not answer questions that is still the subject of dispute. Also, Plaintiff's adult children could not be served with deposition subpoenas for an extended period of time and Plaintiff's counsel would not agree to produce them voluntarily. As a result, information through discovery has not been provided or significantly delayed. The subject

1 information being sought in these interrogatories was only recently disclosed in discovery via
2 deposition of one of Plaintiff's sons that finally produced himself for deposition.

3 8. None of the questions in this Set of Special Interrogatories is being propounded for
4 any improper purpose, such as to harass the party or the attorney for the party to whom it is
5 directed, or to cause any unnecessary delay or needless increase in the cost of litigation.

6 I declare under penalty of perjury under the laws of the State of California that the
7 foregoing is true and correct.

8 Executed on this 14 day of Feb, 2020, at San Diego, California.

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10 

11 Alex M. Giannetto
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1 **PROOF OF SERVICE**

2 **Cuc Kim Le v. SF San Diego Inc dba SF Supermarket, et al.**

3 **Case No. 37-2019-00019958-CU-PO-CTL**

4 **BWB&O CLIENT: SF San Diego Inc dba SF Supermarket**
5 **BWB&O FILE NO.: 1438.104**

6 I am employed in the County of San Diego, State of California. I am over the age of 18 and
7 not a party to the within action. My business address is 501 West Broadway, Suite 1700, San
8 Diego, CA 92101.

9 On February 14, 2020, I served the within document(s) described as:

- 10 **1. DEFENDANT SF SAN DIEGO INC dba SF SUPERMARKET'S SPECIAL**
11 **INTERROGATORIES TO PLAINTIFF CUC KIM LE, SET THREE**
- 12 **2. DEFENDANT SF SAN DIEGO INC dba SF SUPERMARKET'S REQUESTS**
13 **FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF CUC KIM LE, SET**
14 **TWO**

15 on the interested parties in this action as stated on the attached mailing list.




17 (BY OVERNIGHT DELIVERY) I deposited in a box or other facility regularly maintained
18 by Federal Express, an express service carrier, or delivered to a courier or driver authorized
19 by said express service carrier to receive documents, a true copy of the foregoing
20 document(s) in a sealed envelope or package designated by the express service carrier,
21 addressed as set forth on the attached mailing list, with fees for overnight delivery paid or
22 provided for.

23 Executed on February 14, 2020, at San Diego, California.

24 I declare under penalty of perjury under the laws of the State of California that the
25 foregoing is true and correct.

26
27 Reilly O'Brien
28 (Type or print name)


(Signature)

Cuc Kim Le v. SF San Diego Inc dba SF Supermarket, et al.

Case No. 37-2019-00019958-CU-PO-CTL

BWB&O CLIENT: SF San Diego Inc dba SF Supermarket
BWB&O FILE NO.: 1438.104

SERVICE LIST

Brad Nakase
NAKASE LAW FIRM, INC.
2221 Camino Del Rio S.,
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**Attorney for
Plaintiff**

Thomas Rist
RIST LAW OFFICE, LC
2221 Camino Del Rio South,
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San Diego, CA 92108
(619) 377-4660

Attorney for Plaintiff

Exhibit 5

1 BREMER WHYTE BROWN & O'MEARA LLP

2 Alex M. Giannetto, State Bar No. 259757

3 agiannetto@bremerwhyte.com

4 Scott Hoy, State Bar No. 169606

5 shoy@bremerwhyte.com

6 501 West Broadway

7 Suite 1700

8 San Diego, CA 92101

9 Telephone: (619) 236-0048

10 Facsimile: (619) 236-0047

11 Attorneys for Defendant,

12 SF San Diego Inc dba SF Supermarket

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **COUNTY OF SAN DIEGO**

15 CUC KIM LE,

16 Plaintiff,

17 vs.

18 SF SAN DIEGO INC dba SF SUPERMARKET
19 and DOES 1 to 50,

20 Defendant.

) Case No. 37-2019-00019958-CU-PO-CTL

) **DEFENDANT SF SAN DIEGO INC dba**
) **SF SUPERMARKET'S SPECIAL**
) **INTERROGATORIES TO PLAINTIFF**
) **CUC KIM LE, SET FOUR**

) Complaint Filed: April 17, 2019

21 PROPOUNDING PARTY: Defendant, SF SAN DIEGO INC. dba SF SUPERMARKET

22 RESPONDING PARTY: Plaintiff, CUC KIM LE

23 SET NO.: FOUR

24 Pursuant to California Code of Civil Procedure §2030.010, *et seq.*, Defendant, SF SAN
25 DIEGO INC dba SF SUPERMARKET, ("Propounding Party") hereby propounds to Plaintiff, CUC
26 KIM LE the following written Special Interrogatories, each of which shall be answered fully,
27 separately, in writing, under oath. Plaintiff shall produce said responses to the law offices of
28 BREMER WHYTE BROWN & O'MEARA LLP, located at 501 West Broadway, Suite 1700, San
29 Diego, California 92101, within thirty (30) days from the date of service of these interrogatories.

Each answer must be as complete and straightforward as the information reasonably available
to you permits. If a Special Interrogatory cannot be answered fully, answer to the extent possible.

1 Whenever a Special Interrogatory may be answered by referring to a document, the document may
2 be attached as an exhibit to the response and referred to in the response. If the document is more
3 than one page, refer to the page and section where the answer to the Special Interrogatory can be
4 found.

5 DEFINITIONS

6 1. "YOU, YOUR, or PLAINTIFF" refers to the responding party, and includes the
7 agents, employees, attorneys, accountants, investigators, and anyone else acting on behalf of the
8 responding party.

9 2. "INCIDENT" refers to facts and circumstances described in the Complaint involving
10 an alleged incident on or about May 2, 2017 at the Thuan Phat Supermarket located on 6935 Linda
11 Vista Rd., in the City and County of San Diego, State of California, causing injuries and damages,
12 and the circumstances and events surrounding the alleged accident giving rise to this action or
13 proceeding.

14 3. "HEALTH CARE PROVIDER" includes any PERSON referred to in Code of Civil
15 Procedure Section 667.7(e)(3), including, without limitation, licensed medical doctors, hospitals,
16 clinics, physicians, medical providers, nurses, medical assistants, therapists or other medical,
17 psychological, psychiatrists, and/or any other similar persons.

18 4. "TREATMENT" means health care, consultation, examination, treatment, service,
19 counseling or therapy.

20 5. "DISABILITY" means and refers to inability to perform or pursue activities because
21 of a physical or mental impairment.

22 6. The terms "DOCUMENT" OR "DOCUMENTS" shall have the same meaning as the
23 term "writing" as defined in California Evidence Code § 250 and which means and includes, by way
24 of example only and without limitation, the following: handwriting, type writing, printing,
25 photostating, photographing, and every other means of recording upon any tangible thing, any form
26 of communication or representation, including letters, words, pictures, billings, sounds, or symbols,
27 or combinations thereof.

28 ///

SPECIAL INTERROGATORIES

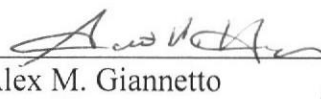
SPECIAL INTERROGATORY NO. 251:

Please identify every social worker by name, address, and telephone number who was assigned to YOUR In-Home Supportive Services prior to May 2, 2017.

Dated: February 18, 2020

BREMER WHYTE BROWN & O'MEARA LLP

By:



Alex M. Giannetto

Scott Hoy

Attorneys for Defendant

SF San Diego Inc dba SF Supermarket

Exhibit 6



Thomas Rist <tom@helpwv.com>

Re: Cuc Le v SF San Diego (1438.104)

1 message

Thomas Rist <tom@sdvictimlaw.com>

Mon, Mar 9, 2020 at 10:50 AM

To: Alex Giannetto <agiannetto@bremerwhyte.com>

Cc: "Scott D. Hoy" <shoy@bremerwhyte.com>, Brad Nakase <brad@nakaselawfirm.com>, Legal <Legal@nakaselawfirm.com>

Alex:

With all due respect, these questions were all repeatedly asked by Scott at the deposition of the Plaintiff. She responded. Then Scott would ask a different way. Read the deposition transcript. We are going into day 4 on her deposition and see no reason for hundreds of discovery requests that simply repeat the same questions. That is why I am looking at these as simply being harassing in nature and why we are moving for a protective order.

Tom Rist

Rist Law Office, LC

2221 Camino Del Rio S. #300

San Diego, CA 92108

(619) 377-4660

www.sdvictimlaw.com

On Mon, Mar 9, 2020 at 10:14 AM Alex Giannetto <agiannetto@bremerwhyte.com> wrote:

Sorry, this one in spam too. You have 2 different emails and I guess our system is getting confused or something.

Not exactly. The thought was Scott can get back to you on specific discovery responses to see if there is anything we can withdraw assuming there is a basis for the same. I don't recall seeing any specific questions being brought up so to me there hasn't been a meaningful meet and confer to substance yet. All that has been presented is the number and the belief the case isn't complex and I explained why we believe that is inaccurate.

Harassment is the last thing our outstanding discovery should be interpreted as in light of Plaintiff's changed testimony in prior written discovery and her depo testimony. The number is not issue determinative for us like it seems to be for you. The language barrier alone creates the need for it but all the other things I already mentioned also make it more than warranted. Please consider Plaintiff explained the incident differently after her amended discovery responses that are totally different than her complaint and initial discovery responses.

Alex Giannetto

Bremer Whyte Brown & O'Meara, LLP | San Diego, CA

t: 619.236.0048

f: 619.236.0047

From: Thomas Rist <tom@sdvictimlaw.com>

Sent: Friday, March 06, 2020 5:00 PM

To: Alex Giannetto <agiannetto@bremerwhyte.com>

Cc: Scott D. Hoy <shoy@bremerwhyte.com>; Brad Nakase <brad@nakaselawfirm.com>; Legal

<Legal@nakaselawfirm.com>

Subject: Re: Cuc Le v SF San Diego (1438.104)

*** This is an external email ***

Alex,

If I am correct in reading this, you are saying that we are done with the meet and confer process on the excess discovery requests propounded to Cuc Le and whatever issues are being raised with the EMT. With that being the case, we will respectfully work through this with motions or responses.

Have a good weekend everyone.

Tom Rist

Rist Law Office, LC

2221 Camino Del Rio S. #300

San Diego, CA 92108

(619) 377-4660

www.sdvictimlaw.com

On Fri, Mar 6, 2020 at 12:37 PM Alex Giannetto <agiannetto@bremerwhyte.com> wrote:

Thanks Tom. Scott will get you a more substantive response as he is more in the trenches so to speak but I will just say the number of requests is a red herring. The issue is age (capacity?), language, and non-responsiveness at depo. Not to mention the inappropriate objections at depo and the amended discovery responses. The latter is a real issue for us and we feel it has unquestionably prejudiced our client. I can think of no other word than complex to describe what has transpired in this case. We have a non-English speaking woman who signs whatever verification is put in front of her with at least three versions of what happened. If you are going to play the language card, it makes the written discovery responses all the more necessary. Brad amended those initial responses AFTER he got the video – that is not a coincidence.

I would normally agree with you re the paramedic. However, you continuously asked him about things that had nothing to do with his limited involvement. So much so that he was made hostile to our attorney as we explained in our letter. You guys can make it about Morgan being late all you want, we all know it wasn't about that. It is my understanding Morgan called prior to her arrival so there should have been absolutely no commentary about it at all to the witness. We cited one example of the questioning in our letter. You can't seriously think the questions we sampled were not "improper" "during" the depo. Other than creating that hostility, it was like you were trying to make an EMT guy an expert about trip and falls.

As uncomfortable as this may be, we didn't make up the things in that letter. I understand Judge Bacal knows this court reporter by face if not by name so we will let her decide how she wants to proceed. Again, I have never heard of such of thing in my career, this is all new territory for us. The fact the court reporter felt the need to reach out to us is really concerning but sadly not surprising based on what we have seen in this case. Respectfully, I think you

Tom are missing a ton of evidence to show this is nothing new. We have so many emails prior to your involvement that show how the failure to follow the rules has permeated this case. If the Judge tells us our concern for our client's best interest is unwarranted, so be it but I want to make 100% clear this is something we have to do because it is so troubling and concerning. I don't know what to think of you making so light of it. I would think you can at least agree that we have to do what we have to do to protect our client's best interests.

Please email a copy of Quintero witness check. If he wasn't paid for trial, we will put that part to rest at least. If he was, the payment for trial testimony now is just another example of the lines that have been crossed to the prejudice of our client. Not to mention, it confirms at least one of the things that have yet to be denied. I don't know how you cannot see a court reporter reaching out to us about attorney conduct before and after the depo translates to "unsubstantiated". I feel bad for the Court reporter that she had to get involved and now has to face the consequences of Brad's self-preservation. Almost exactly like Plaintiff's former counsel. These things will be brought to light because they have to be.

Alex Giannetto

Bremer Whyte Brown & O'Meara, LLP | San Diego, CA

t: 619.236.0048

f: 619.236.0047

From: Scott D. Hoy <shoy@bremerwhyte.com>

Sent: Friday, March 06, 2020 10:48 AM

To: Thomas Rist <tom@sdvictimlaw.com>; Alex Giannetto <agiannetto@bremerwhyte.com>

Cc: Brad Nakase <brad@nakaselawfirm.com>; Legal <Legal@nakaselawfirm.com>

Subject: RE: Cuc Le v SF San Diego (1438.104)

Hey Tom,

I read your email and I'm sure there will be a substantive response.

However, your correspondence did not address ALL outstanding issues. Per my email last evening, we are in the process of opposing a motion to compel videos that don't exist. Do you care to address that?

Regards,

Scott D. Hoy

Bremer Whyte Brown & O'Meara, LLP

501 West Broadway

Suite 1700

San Diego, CA 92101

e: shoy@bremerwhyte.com

t: 619.236.0048

f: 619.236.0047

www.bremerwhyte.com



From: Thomas Rist <tom@sdvictimlaw.com>
Sent: Friday, March 06, 2020 10:37 AM
To: Alex Giannetto <agiannetto@bremerwhyte.com>
Cc: Scott D. Hoy <shoy@bremerwhyte.com>; Brad Nakase <brad@nakaselawfirm.com>; Legal <Legal@nakaselawfirm.com>
Subject: Re: Cuc Le v SF San Diego (1438.104)

*** This is an external email ***

All:

Allow this to serve as a catch-all meet and confer on all issues in the case.

Regarding the protective order on the discovery requests, the sheer number of discovery requests that have been propounded by Defendants appears to raise a red flag that it was only sent for the purpose of harassment. The vast majority of this information, if not all of it, was asked at deposition already - and answers were provided. These requests are simply more than is necessary in a case where you are going into day 4 of the deposition of the Plaintiff. The Declaration of Necessity states generically that the requests are warranted because of the "complexity and quantity of existing and potential issues in this case." This case is simply not that complicated or complex. It is a trip and fall with severe injuries and a long recovery. This just isn't enough to open the doors to unlimited discovery requests. Please advise if you will withdraw the excess requests.

Hieu Tran's deposition is requested because he is the CEO, CFO, Secretary, and Director of a small business that is the Defendant in this case. Discovery has revealed that the Defendant corporation is simply a single store - where this incident happened. Discovery has also shown that managers at that store do not have sufficient information to testify regarding policies in place at the store. Margie Wong kept testifying that it was "corporate" who were in charge of this. We have employee manuals that are supposed to be issued or read to employees, but they are not in any language but English, but upper management is not sure why. All of this really provides a pretty solid foundation for the deposition of Mr. Tran. He is the CEO of a single store set up as a corporation, not a huge corporation with multiple locations. He is much more likely to provide testimony that will lead to the discovery of admissible evidence than the CEO of Liberty Mutual in a comp case. If you would like to reevaluate and agree on this deposition proceeding, it would be appreciated.

Regarding the EMT deposition, there was nothing improper that occurred before, during, or after his deposition. The only reason we were sitting there talking with the EMT for so long is because of the delay in the attorney from your office showing up at the deposition. However, claiming we are trying to influence someone's deposition testimony or curry favor somehow because we were talking with him or paid him a witness fee that is required by code is simply beyond unreasonable and unsubstantiated. Filing a motion or ex parte on this is a massive waste of time and effort. Perhaps I should point out that this is only an EMT who showed up at the scene and transported the Plaintiff to the hospital. What testimony exactly would someone be trying to influence?

Regarding the family members, we were sent that email on Tuesday at 4:30 and only two days later we are receiving scathing emails that we are not producing witnesses. It takes a minute to communicate with clients and this is not the only case I am working on. We will provide a response to you. I'm actually still working on it. My understanding is your question about Dillon testifying was based on whether he was going to be called at trial. All the other

witnesses will likely need to be subpoenaed because they do not live with our client. If I am incorrect about this or they agree to appear without subpoena, I'm going to let you know immediately. I am going to make the attempt to produce them without subpoena if we can.

Please advise if there is any interest in discussing any of this further. Otherwise we are all going to be dug in on motions that are really not that germane to the case itself.

Tom Rist

Rist Law Office, LC

2221 Camino Del Rio S. #300

San Diego, CA 92108

(619) 377-4660

www.sdvictimlaw.com

On Thu, Mar 5, 2020 at 11:12 AM Alex Giannetto <agiannetto@bremerwhyte.com> wrote:

Please advise on the basis for a protective order. Other than the number, please advise why you feel the discovery is unnecessary. Be specific. The impediment to resolution of things like this (what the Court wants and requires) is you ignore our efforts to meet and confer. Like the desire to depose Hieu Tran, we still do not know why you wanted that deposition to this day. You never told us when our side tried to meet and confer prior to filing our motion for protective order. Same thing applies when you added the DOE defendants that you since dismissed. Instead of threatening motion after motion (you have to be at 5-10 by now at least), please explain the basis for why we should withdraw so we can discuss like professionals and as warranted by the code.

Tom, been weeks and we still haven't had our sit down. I am ready and waiting, Brad can join if he wants if that is the issue why we apparently can't do it. Tab on me. Or, please each of you feel free to call me and Scott to discuss. Let's teleconference all. Let's meet at our office. Phone calls and sit downs can go a long way. You have my cell phone too. Let's chat. I find it truly bizarre we can't talk. To be blunt, no one over here cares you used to work for us, it is not at issue, does not impact the case, and literally has nothing to do with these disputes from our perspective. I do not think you can say the same. Indeed, I thought our close relationship would allow for a free flow of communication – not the complete opposite. You are fighting for justice against a big bad corporation – we get it but that characterization shouldn't prevent reasonable behavior, let's be normal adversaries and respect each other and handle discovery disputes. We have a lot to do in a short time frame so makes sense to do it sensibly and as amicably as possible.

I understand a letter was sent to the court reporter citing her code of behavior for telling us about what you did before and after the depo of Quintero. Ironic. But, will have the chilling effect you most certainly intended so that you can continue to prejudice our client. We are still waiting on the copy of the check made out to Mr. Quintero on Feb 7. Please send today. If you didn't pre-pay for his trial testimony we can leave the issue out of our paperwork entirely which would be our preference. So we are totally clear, we genuinely do not want the things we have heard to be true. Unfortunately, there is no reason for us to believe otherwise based on everything we have seen in the case. The lack of candor and citing evidentiary objections instead of outright denial or explanation speaks volumes. Tell us why we are wrong. I had no idea Brad was a firefighter. If you deny as never happening or explain, perhaps there is no need to go in ex parte on Thursday. Let us know. Thank you guys.

Alex Giannetto

Bremer Whyte Brown & O'Meara, LLP
501 West Broadway

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San Diego, CA 92101
e: agiannetto@bremerwhyte.com
t: 619.236.0048
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From: Scott D. Hoy <shoy@bremerwhyte.com>
Sent: Thursday, March 05, 2020 10:30 AM
To: Brad Nakase <brad@nakaselawfirm.com>
Cc: Thomas Rist <tom@sdvictimplaw.com>; Legal <Legal@nakaselawfirm.com>; Alex Giannetto <agiannetto@bremerwhyte.com>
Subject: RE: Cuc Le v SF San Diego

Brad,

1. The duplicate (and unnecessary) verification was mailed to you yesterday along with other discovery responses.
2. You will get notice concerning our ex parte in accordance with applicable court rules.
3. I responded to your demand that we withdraw the discovery in a detailed meet and confer format. You ignored my communication. The ball is in your court it would appear.

Regards,

Scott D. Hoy
Bremer Whyte Brown & O'Meara, LLP
501 West Broadway
Suite 1700
San Diego, CA 92101
e: shoy@bremerwhyte.com
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From: Brad Nakase <brad@nakaselawfirm.com>
Sent: Thursday, March 05, 2020 10:25 AM
To: Scott D. Hoy <shoy@bremerwhyte.com>
Cc: Thomas Rist <tom@sdvictimplaw.com>; Legal <Legal@nakaselawfirm.com>
Subject: Cuc Le v SF San Diego

*** This is an external email ***

Counsel,

We left the calendar clerk a voicemail to call my office to schedule an ex parte re amended RFA verification. We will give you notice of ex parte as soon as we get date/time.

We see on the court's ROA that defendant scheduled an ex parte for next week for which my office has not received notice; hopefully we can get plaintiff's ex parte the same date/time. By the way, what is your decision re withdrawing the excessive SROG and RFA propounded to Cuc Le? We need to know whether to move for protective order.

Best Regards,

Brad Nakase, Attorney

NAKASE LAW FIRM

2221 Camino Del Rio S. #300, San Diego, CA 92108

Tel: 619.550.1321 | brad@nakaselawfirm.com

CONFIDENTIALITY NOTICE: This message is intended only for the person or entity to which it is addressed and may contain confidential and/or legal privileged material. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender and destroy all copies of the original message.

Exhibit 7

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SCOTT W. ULM²
RICK L. PETERSON¹

1 Admitted in California
2 Admitted in Nevada
3 Admitted in Arizona
4 Admitted in Colorado
5 Admitted in Ohio
6 Admitted in Washington D.C.
7 Admitted in Oregon
9 Admitted in Texas
10 Admitted in Washington
11 Admitted in New Jersey
12 Admitted in New York
13 Admitted in Illinois
14 Admitted in Utah
15 Admitted in Pennsylvania
16 Admitted in New Mexico
17 Admitted in Delaware
18 Admitted in Idaho
19 Admitted in Oklahoma
20 Admitted in Georgia
21 Admitted in Connecticut
g Certified Family Law Specialist
The State Bar of California Board
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VIRETHA R. WRIGHT¹
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April 20, 2020

VIA E-MAIL

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Brad Nakase
Thomas Rist
Nakase Law Firm, Inc.
2221 Camino Del Rio S. #300
San Diego, CA 92108

Re: Cuc Kim Le v. SF San Diego Inc. dba SF Supermarket, et al.
BWB&O Client/Insured: SF San Diego Inc. dba SF Supermarket
BWB&O File No.: 1438.104
Subject: Discovery Meet and Confer Communication

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Dear Counsel:

This letter is an attempt to meet and confer concerning the incomplete and evasive discovery responses served by your office on behalf of plaintiff, Cuc Le, with respect to the responses to Requests for Admissions, Sets One and Two; Special Interrogatories, Sets Two, Three, and Four; Form Interrogatories, Sets Two and Three; and Requests for Production of Documents, Sets Two and Three propounded by defendant, SF San Diego, Inc. as set forth below:

ALL SETS OF DISCOVERY RESPONSES

First, it is very disappointing to see that all of the sets of discovery served on your client yielded such insufficient responses, evasive tactics, and meritless objections. Objecting to an entire set of discovery cannot be considered a “good faith” response. Such wholesale objections may result in imposition of sanctions against the responding party. *Cembrook v. Superior Court* (1961) 56 Cal.2d 423, 430. Further, all sets of discovery were properly propounded per code and due prior to discovery cutoff. The fact your client refused to provide a substantive response to even a single discovery request implies you or your client were improperly using the discovery cutoff date as an excuse to improperly not respond at all.

1. Requests for Admission, Set One

This set of RFAs consisted of 74 individual requests. These requests were served by mail on February 13, 2020, and responses were due of March 19, 2020. The responses we received by mail were delivered on April 9, 2020, some 22 days after the due date. Your client failed to provide even one code-compliant answer, and littered her pleading with cut-and-paste objections to every request.

A. Request Nos. 1-14:

These requests generally relate to the In-Home Supportive Services program that provides in-home assistance to your client. Many of these requests were tailored to obtain information about the provision of those services by Quoc Than, who is not only your client's son, but he lives with your client as well. Another request simply related to why your client participates in the In-Home Supportive Services program. To each of these requests, your client objected to each requests as “vague as to time” and then stated she was “unable to admit or deny

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due to lack of personal knowledge about two third parties.”

As you know, one of your client’s sons provides, and is paid for providing, supportive services to your client. Your client is the person who applied for supportive services, and she undoubtedly possesses knowledge about her son’s participation as a supportive services provider. In other words, these requests do not relate to information possessed by simply “two third parties.” Moreover, the requests are not vague, since the context and language of the requests clearly indicate the time frames involved. Some requests specifically include a year, while others use words such as “is” (meaning currently) and “was” (meaning in the past).

The Discovery Act requires that each answer “shall be as complete and straightforward as the information reasonably available to the responding party permits.” CCP § 2033.220(a). Thus, absent a meritorious objection, your client’s responses must contain one of the following: (1) an admission; (2) a denial; or (3) a statement claiming inability to admit or deny. CCP § 2033.220(b). A statement claiming an inability to admit or deny must also state that a reasonable inquiry was made to obtain sufficient information (i.e., “a reasonable inquiry concerning the matter in the particular request has been made, and that the information known or readily obtainable is insufficient to enable that party to admit the matter”). CCP § 2033.220(c).

Your client’s objections to these requests are without merit, and your client’s purported inability to admit or deny is disingenuous. The requests seek information that she either knows personally or could easily obtain through reasonable inquiry. To the extent your client intends to stand by her purported inability to admit or deny, she must still provide further responses that comply with the requirements under CCP § 2033.220(c).

B. Request Nos. 16-35:

These requests generally relate to the specific facts and circumstances surrounding May 2, 2017 and your client’s fall. There are also a couple of requests related to your client’s emotional condition after her fall as well as her physical condition before it. Your client’s responses were all identical, namely, that the requests were “vague and ambiguous.” It is clear no effort was made to provide answers that are “as complete and straightforward as the information reasonably available” to your client permits. CCP § 2033.220(a).

Nor is it ground for objection that the request may be “ambiguous,” unless it is so ambiguous that the responding party cannot in good faith frame an intelligent reply. *Cembrook v. Superior Court*, supra, 56 Cal.2d at 428-429. The fact that your client used the same

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boilerplate objection for each request shows her true purpose was simply to evade answering at all. Unless your client is prepared to identify what the purported ambiguity is in each and every request, further responses that comply with her discovery obligations must be provided.

C. Request Nos. 36-73:

No effort was made to respond to these requests. Rather, your client simply responded that the requests were “excessive and not necessary for a simple trip and fall injury case with two causes of action i.e. negligence and premises liability” with generic “relevancy” objections.

RFAs may be used as to as to any matter within the permissible scope of discovery: i.e., “relevant to the subject matter of the action” and not otherwise privileged or protected from discovery. CCP §§ 2017.010; 2033.010. Further, the Discovery Act expressly authorizes use of RFAs for discovery purposes rather than merely to obtain admissions. § 2019.010(e). Contrary to your client’s objections, the requests are highly relevant to the issue of the case (i.e., all relate to your client’s pre-existing and post-incident physical and emotional conditions).

It is clear that the relevancy objections were added as an afterthought, and that the real reason why your client did not provide responsive answers was based solely on there being more than 35 requests. As you know, when more than 35 RFAs are sought, the propounding party must serve a “declaration of necessity” on the grounds that the “complexity or the quantity of the existing and potential issues in the particular case” warrant the additional requests. CCP §2033.030(b).

The responding party may challenge the “declaration of necessity” by motion for protective order on the ground the number of RFAs is unwarranted. CCP § 2033.040(a). The motion must be made “promptly,” and before expiration of the 30-day period within which to respond (otherwise, grounds for objection may be waived). CCP §2033.080(a). Unless excused by protective order, the party to whom RFAs are directed is under a duty to respond thereto. Your client failed to move for a protective order, so your refusal to respond based on merely the number of requests is without merit or legal support.

Even if you had moved for a protective order, it is clear that the discovery was proper. Your client is a non-English speaker who gave truncated, conflicting and often non-responsive responses at her deposition (through an interpreter) to the point her testimony was often incoherent or patently contradicted by medical records. Your client has repeatedly used her inability to speak English as an excuse to avoiding damaging facts in her case. This makes

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obtaining written discovery responses all the more necessary. Accordingly, further responses that comply with the Discovery Act are required.

D. Questions about Service of the Responses

We also have significant questions about the service of your client's discovery responses. The RFA responses, along with the responses to Special Interrogatories (Set Two) and Form Interrogatories (Set Two) were sent with unsigned proofs of service dated March 18, 2020. However, we received the responses on April 9, 2020, which is 22 days later. The envelope used a "Stamps.com" postage stamp that contained no readily identifiable information as to when the postage was purchased, or any other postmark indicating when it was mailed.

Prior to the delivery received by mail, we contacted you on March 27, 2020 inquiring about the responses since we had not received them. On March 31, 2020, you sent us responses that included proofs of service purportedly signed on March 18, 2020 by Claudia Padilla (unlike the discovery received by mail with unsigned proofs of service). Moreover, the metadata on the electronic files indicated they were "modified" on March 29, 2020, which was 2 days after we contacted you about having not received the discovery responses.

At this point, we have electronic versions with signed proofs of service, while the proofs of service in the envelope were unsigned. The electronic versions were "modified" in some manner according to the metadata on March 29, 2020, and we did not receive the hard copies of the discovery until 22 days after the envelope was purportedly mailed.

We understand that you can access tracking information from your Stamps.com account. Accordingly, we request you provide us with printed information from Stamps.com confirming that the postage was purchased on March 18, 2020, as well as all tracking information for the parcel until its delivery on April 9, 2020. Of course, "failure to timely respond to RFAs results in waiver of all objections to the requests" (CCP § 2033.280(a)), so this information is critical as determining whether your meritless objections fail for this reason as well.

II. Requests for Admission, Set Two

This set of RFAs consisted of 109 individual requests. These requests were served by overnight mail on February 21, 2020, and responses were due on March 27, 2020. The responses were received on March 28, 2020. All proofs of service were unsigned, although the name Claudia Padilla appeared above the blank signature line.

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These requests all generally relate to your client's interaction with Mid-City Community Clinic and UCSD Medical Center on certain specified dates. More specifically, the requests asked that your client confirm the genuineness of attached medical records and then admit to certain content/facts set forth within those records. Your client's responses consisted of wholesale objections and did not include even one substantive response. Again, objecting to an entire set of RFAs, without some attempt to admit or deny in part, cannot be considered a "good faith" response and invites the imposition of sanctions. *Cembrook v. Superior Court*, supra, 56 Cal.2d at 430.

A. Request Nos. 75, 84, 89, 95, 100, 103, 108, 113, 117, 131, 137, 145, 150, 159, 167, 174 and 177.

These requests asked your client to admit certain medical records from Mid-City Community Clinic are genuine. Most of your responses consisted of identical objections that the requests were compound and "conflate[]" a request for admission of fact with genuineness of the document." Further objection was made on the basis that the requests were excessive and not necessary and that no declaration of necessity was made.

Of course, a declaration of necessity was in fact served. However, as you should know, there is no limit on the number of requests that can be made relating to the genuineness of documents. CCP § 2033.030(a). Accordingly, this objection is meritless.

Further, those requests relating to the genuineness of documents were not compound. All the requests followed the same format, namely, i.e., "Admit that the medical record from Mid-City Community Clinic dated ____, attached hereto as Number ____, is genuine." There is nothing even remotely compound about this format, nor does it "conflate" anything. It is clear your objections were simply made to evade giving a proper response.

Accordingly, further responses are required and must contain one of the following: (1) an admission; (2) a denial; or (3) a statement claiming inability to admit or deny. CCP § 2033.220(b). Any statement claiming an inability to admit or deny must also state that a reasonable inquiry was made to obtain sufficient information (i.e., "a reasonable inquiry concerning the matter in the particular request has been made, and that the information known or readily obtainable is insufficient to enable that party to admit the matter"). CCP § 2033.220(c).

B. All Other Requests for Admission in Set Two.

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The remaining RFAs generally asked your client to admit certain facts as they appear in the attached medical records. Your responses consisted of repeated and identical cut-and-paste objections that are without merit. You also incorrectly objected on the basis there was no declaration of necessity when in fact there was.

RFAs may be used as to as to any matter within the permissible scope of discovery: i.e., “relevant to the subject matter of the action” and not otherwise privileged or protected from discovery. CCP §§ 2017.010; 2033.010. The Discovery Act expressly authorizes use of RFAs for discovery purposes rather than merely to obtain admissions. § 2019.010(e). The fact that a request calls for legal opinions or relates to a controversial matter is of no moment. CCP § 2033.010; *Cembrook v. Superior Court*, 56 Cal.2d at 430. In other words, it is perfectly proper to ask your client to admit to certain content set forth in those medical records. Further, the attorney work product doctrine does not protect “nonderivative” materials that are only evidentiary in character. Such information is not protected even if a lot of attorney “work” may have gone into gathering the information. See, *Mack v. Superior Court* (1968) 259 Cal.App.2d 7, 10). A party may not deliberately misconstrue a question for the purpose of supplying an evasive answer.

Further, as discussed previously, if you felt the number of RFAs were excessive, your recourse was to seek a protective order on a “timely” basis prior to the statutory due date for the responses. Your client failed to move for a protective order, so further responses that comply with CCP § 2033.220 are required.

III. Special Interrogatories, Set Two

This set of interrogatories consisted of 183 individual questions (identified as Special Interrogatory 36 to 218). These requests were served by mail on February 13, 2020, and responses were due on March 19, 2020. The responses we received by mail were delivered on April 9, 2020, some 22 days after the due date.

Your client’s responses to these interrogatories are discussed as a group due to the fact that absolutely no effort was made to provide substantive answers. Rather, in response to each of these interrogatories, you merely repeated a boilerplate objection including such grounds as “unanswerable” “compound,” “conjunctive,” “disjunctive,” “attorney client privilege,” “attorney work product doctrine,” “duplicative” of form interrogatories, and “like deposition questions.”

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As you know, boilerplate objections and other equivocal responses to discovery are not condoned or authorized by the Discovery Act and subject the objector to sanctions absent "substantial justification" for such conduct. Each answer in the response must be as complete and straightforward as the information reasonably available to the responding party permits. If an interrogatory cannot be answered completely, it must still be answered "to the extent possible." (CCP § 2030.220(a)-(b)).

As a group, these interrogatories are designed to flush out specific claims, allegations, and contentions made in your client's prior amended discovery responses, her rambling and often non-responsive deposition answers, and your client's medical records. Individually, these interrogatories incorporate words, phrases, terms and allegations used by your client, attributed to your client, or that directly relate to your client. It is disingenuous to object to and claim an inability to understand such interrogatories when the underlying vernacular and allegations are well known to us all in this litigation. Thus, they cannot legitimately be claimed to render good faith responses impossible. Courts generally do not sustain these kind of objection unless the question is totally unintelligible, and the answering party owes a duty to respond in good faith as best he or she can. *Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 783. Because these interrogatories have their genesis within the claims, allegations, and facts of this case, the questions are well suited for substantive responses.

Moreover, your objections on the grounds of attorney client privilege and/or attorney work product doctrine are without merit. "An interrogatory is not objectionable because an answer to it involves an opinion or contention that relates to fact or the application of law to fact, or would be based on information obtained or legal theories developed in anticipation of litigation or in preparation for trial." CCP § 2030.010(b). The fact that discovery calls for a legal conclusion is not a ground for refusing to answer an interrogatory, where the party's "attorney, as a professional, could apply the facts to his legal theory." *Rifkind v. Superior Court* (1994) 22 Cal.App.4th 1255, 1259; see also, *Burke v. Superior Court* (1969) 71 Cal. 2d 276, 280. Further, while communications between lawyer and client are privileged, the privilege does not extend to an independent inquiry through discovery as to the facts so communicated. As was said in *People ex rel. Dept. of Public Works v. Donovan* (1962) 57 Cal. 2d 346, 355, "[t]his knowledge, in and of itself, is not privileged, nor does it acquire a privileged status merely because it may have been communicated to the attorney."

Further, a party may propound more than 35 specially prepared interrogatories by simply attaching a declaration stating why more are necessary. CCP §§ 2030.040(a), 2030.050. Permissible grounds for additional interrogatories include the "complexity or the quantity of the existing and potential issues in the particular case" as well as "the expedience of using this

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method of discovery to provide the responding party the opportunity to conduct an inquiry, investigation, or search of files or records to supply the information sought.” CCP § 2030.040(a).

As previously discussed, your client greatly expanded her alleged injuries in previously amended discovery responses. At the time of her deposition, your client’s responses on these and other subjects were truncated, non-responsive, and often contradictory. Your client has a history of using her inability to speak English as an excuse for her many contradictory assertions, contentions, and stories in this case. Thus, it is imperative that we obtain specific and concrete written responses where no language barrier can be used as an excuse.

If you believed the number of interrogatories excessive, your client should have sought a protective order under CCP § 2030.090. See, *People v. Sarpas* (2014) 225 Cal.App.4th 1539, 1552-1553 (protective order upheld limiting set of over 5,300 duplicative interrogatories). Mere objection is insufficient. The statute authorizes more than 35 interrogatories when accompanied by a “declaration of necessity,” “subject to the right of the responding party to seek a protective order.” CCP § 2030.040(a)(emphasis added). The clear implication is that the responding party cannot simply object to more than 35 interrogatories. Rather, the responding party must seek a protective order (within the time and manner required by CCP § 2030.090(a); *Cananese v. Superior Court* (1996) 46 Cal.App.4th 280, 283 (disapproved on other grounds by *Lewis v. Superior Court* (1999) 19 Cal.4th 1232).

Your client did not seek a protective order, and the objections raised are without merit. Accordingly, we require your client provide further responses that comply with her obligations under the Discovery Act.

A. Questions about Service of the Responses

As discussed previously, your client’s responses to this set of interrogatories were sent with unsigned proofs of service dated March 18, 2020. We later received the responses by mail on April 9, 2020, some 22 days later. The envelope used a “Stamps.com” postage stamp that contained no readily identifiable information as to when the postage was purchased, or any other postmark indicating when it was mailed. Accordingly, we request you provide us with printed information from Stamps.com confirming that the postage was purchased on March 18, 2020, as well as all tracking information for the parcel until its delivery on April 9, 2020.

IV. Special Interrogatories, Set Three

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This set of interrogatories consisted of 31 individual questions (identified as Special Interrogatory 219 to 250). These interrogatories were served by mail on February 14, 2020, and responses were due on March 20, 2020. The responses were received on April 9, 2020, some 21 days after the due date. The proof of service was purportedly signed by Brad Nakase on March 16, 2020, which means the responses were actually delivered some 24 days after purportedly being placed in the mail.

The envelope used for the responses used generic “forever” stamps and was delivered with no official postmark or cancellation markings. Rather, the only marks on the stamps are what appears to be a hand-drawn ink slashes over each respective stamp. Due to the irregular postage marks and the time the responses purportedly spent in transit, we request you provide us with electronic files of these responses (as well as Plaintiff’s responses to the second set of requests for production of documents which was delivered under identical circumstances) so that we may further investigate the timeline surrounding these discovery responses.

As for the interrogatories themselves, they all related to the In-Home Supportive Services program and the assistance it provides or facilitates to your client. As you know, your client has alleged her inability to perform daily activities and care for herself is the result of her fall on May 2, 2017. However, we later found out that your client’s son, Quoc Than, has been getting paid for providing such assistance to her for many years. Obviously, this information is highly relevant to your client’s claim for damages.

Rather than provide substantive answers, your client again merely repeated a boilerplate objection including such grounds as “unanswerable” “compound,” “conjunctive,” “disjunctive,” “attorney client privilege,” “attorney work product doctrine,” “duplicative” of form interrogatories, and “like deposition questions.” You also claimed the number of interrogatories was excessive. Each of the baseless grounds was discussed above with respect to your client’s responses to Set Two, above. For the reasons discussed therein, we require further responses from your client to each and every interrogatory in Set Three.

V. Special Interrogatories, Set Four

This set of interrogatories consisted of 1 individual question (identified as Special Interrogatory 251). This interrogatory was served by mail on February 19, 2020, and responses were due on March 25, 2020. The responses were received on March 28, 2020. All proofs of service were unsigned, although the name Claudia Padilla appeared above the blank signature

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line.

The single interrogatory in this set asked your client to identify every social worker who was assigned to her In-Home Supportive Services prior to May 2, 2017. Again, your client's alleged inability to perform daily activities and care for herself is a major component of her alleged damages. To the extent she was receiving such assistance through the In-Home Supportive Services program prior to her fall on May 2, 2017, such information will directly undermine your client's allegations. Thus, the information is highly relevant to the issues in this case.

Rather than provide the requested information, you again simply objected on the same grounds you did in set Two and Three. For the reasons discussed therein, we require a further response from your client to Special Interrogatory No. 251.

VI. Form Interrogatories, Set Two

These interrogatories were served by mail on February 13, 2020 and responses were due on March 19, 2020. Again, as discussed previously with respect to Special Interrogatories, Set Two and Requests for Admission, Set 1, your client's responses to this set of interrogatories were sent with an unsigned proof of service dated March 18, 2020. We received the responses by mail on April 9, 2020, some 22 days later. The envelope used a "Stamps.com" postage stamp that contained no readily identifiable information as to when the postage was purchased, or any other postmark indicating when it was mailed.

Accordingly, we request you provide us with printed information from Stamps.com confirming that the postage was purchased on March 18, 2020, as well as all tracking information for the parcel until its delivery on April 9, 2020.

As for the interrogatories, your client was asked to respond to Form Interrogatory 17.1. This particular interrogatory is designed to elicit the facts, persons, and documents that your client claims supports a denial of any of the requests for admissions that were concurrently served therewith—in this case, Requests for Admissions, Set 1. Your client merely repeated the same litany of objections that were used with respect to those RFAs, and she refused to provide even a nugget of responsive information. As discussed throughout this correspondence, the rampant use of boilerplate and frivolous objections is an invitation for sanctions should a motion be required. See, *Standon Co. Inc. v. Superior Court* (1990) 225 Cal.App.3d 898, 903. Accordingly, we require your client provide further responses in compliance with her obligations

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under the Discovery Act.

VII. Form Interrogatories, Set Three

These interrogatories were served by overnight mail on February 21, 2020 and responses were due on March 27, 2020. The responses were received on March 28, 2020. All proofs of service were unsigned, although the name Claudia Padilla appeared above the blank signature line.

As with the second set of form interrogatories, this set was served concurrently with requests for admissions—in this case, Requests for Admissions, Set Two. Your client merely repeated the same litany of objections that were used with respect to those RFAs, and she refused to provide even a nugget of responsive information. Again, using such evasive and improper objections with no effort to substantively respond compounds the justification of future sanctions should motions to compel be necessary. Accordingly, we require your client provide further responses in compliance with her obligations under the Discovery Act.

VIII. Requests for Production of Documents, Sets Two and Three

A. Document Request Nos. 1-32, 69-85, 87-94: Again, your client's responses to these requests consisted of an amalgam of objections culminating in a refusal to identify or produce anything at all. Most of these objections are baseless for the reasons discussed *infra*. However, for objections such as "burdensome, and harassing," your client has the obligation to demonstrate that the nature of the burden clearly outweighs the likelihood that the information sought will lead to the discovery of admissible evidence or that your client will suffer undue burden and expense. Your client's responses are silent on what burden, if any, will be suffered in producing the requested documents. The mere fact that document requests may require some time to respond to does not, by itself, constitute oppression or an excessive burden. See, *West Pico Furniture Co. v. Superior Court* (1961) 55 Cal.2d 417). Moreover, if you are asserting a privilege, we are entitled to an identification of the documents to which you are asserting the privilege in order to test your assertion of the privilege. Code of Civil Procedure § 2031.240(b).

In order to comply with the requirements of the Discovery Act, a party may make a statement of compliance that the party will allow the production in whole or in part and that all documents in the party's possession, custody or control will be produced. Second, the party may represent an inability to comply, which must affirm that a diligent search and reasonable inquiry has been made in an effort to comply, together with a specification of whether the inability to

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comply is because the item has never existed, has been destroyed, has been lost, misplaced or stolen, or has never been or is no longer in the party's possession. Third, if only part of a demand is objectionable, the party must make a statement of compliance or inability to comply with respect to the remainder of the request and must identify with particularity any document or thing falling within the category and the grounds for the objection. Because your client's responses failed to adhere to the above requirements, supplemental responses are necessary.

B. Document Request Nos. 33-68: In response to each of these requests, your client objected that the category of requested documents was "similar" to previous requests made in Set One. However, Set One only consisted of 15 requests and was served prior to your client amending her prior discovery responses that greatly expanded the list of her alleged injuries. Further, the fact that two categories may be "similar" does not negate the legitimacy of the subsequent requests since "similar" does not equal "identical." Accordingly, supplemental responses are necessary.

IX. Conclusion

With your cooperation, I am confident the matters discussed herein can be resolved informally, as they should be. However, in order to pursue this goal and protect my client's ability to file a motion if it becomes necessary, I request that you respond promptly by taking the following actions:

- (1) Provide further responses to all sets of discovery discussed herein. If you wish to discuss any particular discovery request that you feel should be withdrawn, please let me know and I will be happy to consider it;
- (2) Provide us with printed information from Stamps.com confirming the postage was purchased on March 18, 2020 for RFAs Set One, Special Interrogatories Set Two, and Form Interrogatories Set Three. Additionally, provide us with all tracking information for the parcel used to deliver it to us on April 9, 2020;
- (3) Provide us with the electronic files of your client's responses to Special Interrogatories, Set Three and Requests for Production of Documents, Set Two so that we may further investigate the timeline surrounding these discovery responses.

Due to the time constraints placed on us by some of the discovery getting delivered up to

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three weeks beyond its due date, we need to receive further responses by April 30, 2020 or obtain your agreement to extend the time in which we may file our motions to compel if necessary. As you can see, we can turn this correspondence into a motion to compel quite readily, however, we would much prefer an informal resolution as set forth above. Please let me know by close of business on April 23, 2020 if this is acceptable to you.

Very truly yours,

BREMER WHYTE BROWN & O'MEARA LLP



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Scott D. Hoy

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Very truly yours,

BREMER WHYTE BROWN & O'MEARA LLP



Alex M. Giannetto
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Exhibit 8



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April 23, 2020

Scott Hoy
Bremer, Whyte, Brown & O'Meara, LLP
501 West Broadway, Suite 1700
San Diego, CA 92101

Re: Le v. SF San Diego, Inc. dba SF Supermarket, et. al.
San Diego Superior Court
Case No.: 37-2019-00019958-CU-PO-CTL

Dear Scott:

We are in receipt of your meet and confer letter dated April 20, 2020. Unfortunately, we disagree with much of what you asserted in your letter.

Between February 13, 2020 and February 21, 2020, you served six different sets of discovery requests. *All* of them violated the limits on discovery set forth in the California Code of Civil Procedure. This was raised with you via multiple emails where we attempted to meet and confer. This was also raised during a discussion we had at your office following a deposition in late February or early March. At that time, you agreed that there were discovery requests that could be withdrawn and noted that you would examine that further. Yet no discovery requests were ever withdrawn.

As a result, we intended to file a motion for a protective order dealing with all six sets of discovery. Unfortunately, the Court closed and a General Order was entered designating all dates from March 17, 2020 until April 3, 2020 as holidays for purposes of computing time. This likely extended the due date on all discovery. As you know, this Order was later expanded to go through April 30, 2020.

Unfortunately, the Court closing made it impossible for us to file a motion for protective order. This left us with no option other than providing responses that preserved objections out of an abundance of caution.

Scott Hoy

Re: Le v. SF San Diego, Inc. dba SF Supermarket, et. al.

April 23, 2020

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Please be advised that we do still intend to file a motion for a protective order but are waiting to see when the Court will reopen so that this can be effectuated and properly filed and served.

As always, we are open to meet and confer on this issue should you decide to withdraw the excessive discovery requests.

If you should have any questions, do not hesitate to contact me.

Respectfully,

RIST LAW OFFICE, LC



Thomas A. Rist

cc: Brad Nakase

Exhibit 9

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April 24, 2020

VIA E-MAIL

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Re: Cuc Kim Le v. SF San Diego Inc. dba SF Supermarket, et al.
BWB&O Client/Insured: SF San Diego Inc. dba SF Supermarket
BWB&O File No.: 1438.104
Subject: Discovery Meet and Confer Communication

Brad Nakase and Tom Rist

April 24, 2020

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Gentlemen:

Thank you for your response regarding my meet and confer letter dated April 20, 2020. Although your response states you disagree with much of what I asserted in my letter, I am not sure what you disagree with since you did not say. However, there can be no disagreement that your client failed to respond to even one request within the sets of discovery discussed in my letter.

Since your response only contains generalities, and does not address any specific set of discovery, I will do my best to address the points you tried to make. First, you mention that “all” of the discovery sets “violated” the limits on discovery as set forth in the Code of Civil Procedure. This is not true. There is no limit on requests for production of documents—yet you still only objected. Also, as you know, a declaration of necessity permits a party to serve more than 35 special interrogatories and requests for admissions, so there was no “violation” of numerical limits for these sets of discovery either. (CCP § 2030.040 and § 2033.030).

Second, your response states you intended to move for a protective order but the closure of the court precluded you from doing so. However, even if true, there was no excuse for refusing to answer requests for admission, set one, numbers 1 through 35, or respond in good faith to the requests for production of documents since those, by any perspective, could not be considered “excessive.” The fact those discovery respects were met with the same wholesale objections as the other sets of discovery strongly suggests there was gamesmanship at play.

Third, although your response states you intended to move for protective orders but for the closure of the court on March 17th, five of the sets of discovery at issue were due on March 19th or 20th. As you know, a responding party must move for a protective order “promptly.” With no motion having been filed just two or three days before the responses were due, the court’s ultimate closure appears to be more of a convenient excuse rather than actually foiling any preconceived plan.

Fourth, although your response states that court’s closure gave you “no other option” but to preserve objections, your letter ignored the issue that some of the discovery responses may have been untimely. Specifically, we requested you provide us with printed information from Stamps.com confirming the postage for RFAs, Set One, Special Interrogatories Set Two, and Form Interrogatories, Set Three, was in fact purchased on March 18, 2020. We also requested you provide us with all tracking information for the parcel used to deliver it to us on April 9, 2020. By any measure of time, 22 days for mail delivery is excessive. We need to know whether

Brad Nakase and Tom Rist

April 24, 2020

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this situation is attributable to the mail service or something else.

Similarly, we also requested you provide us with the electronic files of your client's responses to Special Interrogatories, Set Three, and Requests for Production of Documents, Set Two, since they were received under curious circumstances as well. Obviously, if those responses were not timely served, all of your client's objections will be waived regardless of the court's closure.

Finally, as I mentioned in the past, I am willing to work with you on reducing the number of discovery requests, even though I believe all of the discovery is proper for the reasons set forth in my letter. Also recall that I mentioned after the deposition referenced in your letter that there were some sets of discovery that were critical and therefore could not be reduced (i.e., those relating to your client's in-home supportive services information). When I mentioned this, I got the impression that you were (or are) looking for a sweeping reduction that would essentially gut most if not all the sets of discovery. If you are committed to moving for a protective order regardless of any accommodation I may make, it makes little sense to withdraw otherwise valid discovery as a good faith gesture only to be met with nothing in return.

To date, you have not specified any particular requests you feel should be withdrawn, favoring instead to speak in broad terms (much like your response letter). If you feel some discovery is excessive or should be withdrawn, you should say so with specificity.

That being said, we will agree to **withdraw** the following discovery requests to move this process along and obtain a commitment from you to provide substantive responses to the remaining requests:

<u>Discovery</u>	<u>Request Nos.</u>
Requests for Admission, Set One	40-42; 46-48; 50; 53-55; 62; 64-65; 73-74
Requests for Admission, Set Two	None Withdrawn
Special Interrogatories, Set Two	37-40; 42-45; 47-50; 52-55; 57-60; 62-65; 66-70; 72-75; 77-80; 90-94; 100-108; 119; 124-127; 163-166; 168-171; and 183-184
Special Interrogatories, Set Three	None Withdrawn; all are related to In-Home Supportive Services

Brad Nakase and Tom Rist
April 24, 2020
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Special Interrogatories, Set Four	Not withdrawn; the single interrogatory relates to In-Home Supportive Services
Form Interrogatories, Set Two	Interrogatory No. 17.1 as it relates to Request for Admissions 40-42; 46-48; 50; 53-55; 62; 64-65; 73-74
Form Interrogatories, Set Three	None Withdrawn
Requests for Production of Documents, Sets Two and Three	None Withdrawn

I am offering to withdraw the above requests not because they were excessive, but because I am willing to compromise. Indeed, the fact that your client was either unwilling or unable to give meaningful and direct answers at the time of her deposition justifies all of the discovery we served. Further, litigants have the statutory right to resort to both depositions and interrogatories for the purpose of pretrial discovery, and asking your client questions at her deposition does not curtail our ability to ask through other means of discovery. In the event that we cannot agree to a solution, I reserve the right to compel responses even on those requests I am offering to withdraw here in the spirit of compromise.

I trust the above concessions will be received in the spirit in which they were offered, namely, a good faith attempt to resolve this matter without court intervention from either of our sides. If you wish to discuss withdrawing other specific requests, please give me specific reasons why you think they should be withdrawn.

Additionally, I repeat my request for information relating to the postage, mailing, and service as discussed above and in my April 20, 2020:

- (1) Provide us with printed information from Stamps.com confirming the postage was purchased on March 18, 2020 for RFAs Set One, Special Interrogatories Set Two, and Form Interrogatories Set Three. Additionally, provide us with all tracking information for the parcel used to deliver it to us on April 9, 2020;
- (2) Provide us with the electronic files of your client's responses to Special Interrogatories, Set Three and Requests for Production of Documents, Set Two so that we may further investigate the timeline surrounding these discovery responses.

Brad Nakase and Tom Rist
April 24, 2020
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Please let me know how you intend to proceed at your earliest convenience, but no later than close of business Tuesday, **April 28, 2020**. If you agree to provide further responses, we can work out an appropriate timeline for your client to provide those responses. We would also be willing to extend the time in which motions to compel may be filed if that is a route you feel would be worthwhile. If you are not willing to compromise on this discovery, let us know that as well and we will proceed accordingly.

Very truly yours,

BREMER WHYTE BROWN & O'MEARA LLP

A handwritten signature in blue ink, appearing to read "Alex M. Giannetto".

Alex M. Giannetto
Scott D. Hoy

Exhibit 10

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May 22, 2020

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Re: Cuc Kim Le v. SF San Diego Inc. dba SF Supermarket, et al.
BWB&O Client/Insured: SF San Diego Inc. dba SF Supermarket
BWB&O File No.: 1438.104
Subject: Discovery Meet and Confer Communication

Brad Nakase
Tom Rist
May 22, 2020
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Dear Counsel:

I am in receipt of your letter dated May 22, 2020 regarding the incomplete and evasive discovery responses served by your office with respect to Requests for Admissions, Sets One and Two; Special Interrogatories, Sets Two, Three, and Four; Form Interrogatories, Sets Two and Three; and Requests for Production of Documents, Sets Two and Three propounded by SF San Diego, Inc.

After a month of correspondence, hearing your professed interest in working through this issue, and listening to specific statements that all but conceded responses would be forthcoming in some manner and amount, it is extremely disappointing to see it has all been for nothing.

If I understand your letter, you are not willing to respond to even a single discovery set, let alone a single discovery request. In an effort to work with you on the issue, I agreed to withdraw dozens of requests not because they weren't legitimate, but because we would rather compromise than resort to a motion to compel. For those requests not withdrawn, I identified each set and stated the reasons why the discovery was warranted. I even prompted you to identify other requests you feel should be withdrawn and stood by ready to listen.

Rather than actually go through the discovery and specifically justify your position, you speak in generalities that miss the point. It is not and has never been simply about the "number" of requests. As I have said before, your client is a non-English speaker who gave truncated, conflicting and often non-responsive responses at her deposition (through an interpreter) to the point her testimony was often incoherent or patently contradicted by medical records. She has repeatedly used her inability to speak English as an excuse to avoiding damaging facts in this case, and we deserve thoughtful and clear information regarding the issues in this case.

You say this is a "simple trip and fall case," but you ignore that your client is claiming that her simple trip and fall has resulted in her being labeled a "cripple" by her own attorney who says her entire body shoots with pain while wishing for death on a daily basis. Your client says she needs others to do just about everything for her now, yet her son has been getting paid to do with the very same things years before her fall—because of her declining health and inability to care for herself. In fact, your client's declining health prior to the accident weighed on her so much she suffered from major depressive disorder. The pain she speaks of now has supposedly gone from a 3/10 a few months after her fall to a constant state of 7/10 since litigation began. Although she cannot independently recall what happened at the time of her fall as evidenced by her videotaped testimony, you contend that asking her to give thoughtful written

Brad Nakase
Tom Rist
May 22, 2020
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answers in discovery somehow crosses the line. Really? If this litigation was ever a simple trip and fall case, it stopped being that when your client obtained current counsel.

On that note, you accuse us of using the discovery to create busy work and harass you and your client just prior to trial. That is preposterous. Your client's present counsel substituted into this case in November 2019, and that is when the simple trip and fall case underwent a metamorphosis as described above. Your client's deposition was then twice adjourned prematurely at her counsel's request, and has yet to conclude after our last attempt in late January 2020. With trial set for April, and your unwillingness to continue the trial date, we were left with no option but to finally get some meaningful information out of your client one way or another, i.e., through written discovery.

If there was gamesmanship regarding the discovery, it came from your side. Yes, there were a lot of requests, but responding with boilerplate objections to each and every one as Plaintiff did tells the real story. Whether it takes 481 or 398 requests, we are entitled to get straight information out of your client. Feigning that such an amount is somehow shocking will not impress the Court.

Finally, if you are "always open to meet and confer on this issue" as you say in your letter, why is it that you have yet to say what you will agree to do? What set or sets of discovery will you agree to respond to? Despite all this time, you have yet to say. Clearly, this meet and confer process has been one-sided, and I have no intention of continuing to compromise while you treat each and every set of discovery as "excessive." I urge you to reconsider, but we will proceed to file our motions to compel, as it is clear you have no interest in working this out informally.

On a related matter, I am forwarding a proposed authorization to facilitate execution of the subpoenas we served in an effort to obtain your client's In-Home Supportive Service ("IHSS") records. Again, your client has placed her ability to care for herself, both before and after her fall, directly at issue in this case. Having learned that your client received supportive services for daily chores and activities, we are clearly entitled to know the nature and extent of the IHSS care she received. The fact that your client's son was on the payroll of IHSS as your client's designated caregiver even before your client's fall in May 2017 makes the records even more directly relevant to the issues of this case. Rather than seeking a court order on that issue as well, please have your client sign and return the accompanying authorization at your earliest convenience so that we may obtain these records to which we are clearly entitled.

Brad Nakase
Tom Rist
May 22, 2020
Page - 4 -

Very truly yours,

BREMER WHYTE BROWN & O'MEARA LLP



Alex M. Giannetto
Scott D. Hoy

Exhibit 11



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May 22, 2020

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Re: Le v. SF San Diego, Inc. dba SF Supermarket, et. al.
San Diego Superior Court
Case No.: 37-2019-00019958-CU-PO-CTL

Dear Scott:

Allow this letter to follow up on our previous attempts to meet and confer on the excessive discovery served by your office in this case.

Between February 13, 2020 and February 19, 2020, your office served *nine* separate sets of discovery questions. This was only two months before trial in a case that has been pending for almost an entire year. These discovery requests included a total of 481 individual discovery questions, if you only count Form Interrogatory 17.1 as a single question. We have been clear from the time we received this discovery, that these were excessive and that we would file a motion for a protective order if the excess requests were not withdrawn.

During a meeting at your office in late February or early March we discussed this in detail. At that time, you agreed that there were discovery requests that could be withdrawn and noted that you would examine that further. Yet no discovery requests were ever withdrawn. Our letter dated April 23, 2020, details that Plaintiff intended to file a motion for a protective order, which obviously was thrown into disarray by the closure of the Court.

On April 24, 2020, you sent a response to us where for the first time you withdrew discovery requests. Per this letter, you withdrew 83 individual questions. There are now 398 individual questions which you claim are necessary per your declaration in a simple trip and fall case.

Scott Hoy

Re: Le v. SF San Diego, Inc. dba SF Supermarket, et. al.

May 22, 2020

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If you examine the substance of your remaining questions, it appears that you are mostly regurgitating deposition questions that were already responded to by the Plaintiff during one of her earlier three depositions. Many of the requests for admission ask the Plaintiff to admit that a medical record says what is written in the record. Your declaration states that these are all warranted by the "complexity and quantity of the existing and potential issues in this case." Yet the questions posed clearly are an attempt to re-depose the Plaintiff on issues you have already addressed with her or appear to be an attempt to argue your case through discovery. I have worked on class actions involving over 20,000 class members where we did not even come close to one hundred discovery requests in total, much less 400 of them.

The point of discovery requests is not to re-depose a witness. Just the sheer number of questions that were posed coupled with their timing prior to trial also support a theory that you only served these in order to harass our client and provide busy work to counsel in the two months before trial.

Please be advised that we still intend to file a motion for a protective order next week once the Court opens again. As always, we are open to meet and confer on this issue should you decide to withdraw the excessive discovery requests.

If you should have any questions, do not hesitate to contact me.

Respectfully,

RIST LAW OFFICE, LC



Thomas A. Rist

cc: Brad Nakase