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EXEMPT FROM FILING FEES  
GOV. CODE, § 6103

9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF LOS ANGELES  
12 NORTH VALLEY DISTRICT – CHATSWORTH COURTHOUSE

13  
14 **CALIFORNIA DEPARTMENT OF**  
15 **PUBLIC HEALTH AND BUREAU**  
16 **OF CANNABIS CONTROL,**

Plaintiffs,

17 v.

18 **VERTICAL BLISS, INC., KUSHY**  
19 **PUNCH, INC., CONGLOMERATE**  
20 **MARKETING, LLC, MORE**  
21 **AGENCY, INC., RUBEN KACHIAN**  
22 **aka RUBEN CROSS, ARUTYUN**  
**BARSAMYAN, KEVIN HALLORAN,**  
**MIKE A. TOROYAN, and DOES 1**  
**through 30, inclusive,**

23 Defendant

Case No. 20CHCV00560

**NOTICE OF MOTION, MOTION, AND  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
MOTION TO COMPEL RESPONSES TO  
INTERROGATORIES, SET ONE, AND  
REQUESTS FOR ADMISSION, SET ONE**

Date: January 10, 2022  
Time: 8:30 AM  
Dept: F49  
Judge: The Honorable Stephen P.  
Pfahler

Trial Date: June 13, 2022  
Action Filed: September 23, 2020

**RESERVATION NO. 260057874604**

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**RECORD:**

**PLEASE TAKE NOTICE** that on January 10, 2022 at 8:30 a.m., or as soon thereafter as the matter may be heard, in Department F49 of the Los Angeles County Superior Court, Chatsworth Courthouse, 9425 Penfield Ave., Chatsworth, CA 91311, the California Department of Public Health and the Bureau of Cannabis Control will move the Court to compel Ruben Kachian to respond to discovery requests and to impose monetary sanctions for the failure to respond to discovery requests and engage in the meet and confer process.

This motion is made pursuant to Code of Civil Procedure section 2030.300. It will be based upon this Notice and Motion, the attached Memorandum of Points and Authorities, the Declaration of Ethan Turner, the records and files in this action, and upon such further evidence and argument as may be presented prior to or at the time of hearing on the motion.

Dated: November 14, 2021

Respectfully submitted,

ROB BONTA  
Attorney General of California



ETHAN A. TURNER  
Deputy Attorney General  
*Attorneys for Respondent and Defendant*  
*Department of Cannabis Control*

1 **MOTION**

2 The California Department of Public Health and the Bureau of Cannabis Control  
3 (collectively, “Plaintiffs”)<sup>1</sup>, move the Court to compel Defendant Ruben Kachian (“Defendant”)  
4 to respond to the interrogatories and requests for admission propounded by Plaintiffs and order  
5 payment of costs and sanctions in accordance with Code of Civil Procedure sections 2031.300  
6 and 2023.030.

7 **MEMORANDUM OF POINTS AND AUTHORITIES**

8 **INTRODUCTION**

9 The Judicial Council’s Form Interrogatories provide a routine method for parties to obtain  
10 information in discovery. Accordingly, Plaintiffs served all of the Defendants in this matter with  
11 form interrogatories, and requests for admission. (Declaration of Ethan Turner (Turner Dec.) at ¶  
12 2, Exhs. 1 and 2.) Despite having been granted three extensions, Defendant has failed to serve  
13 responses or objections to the discovery propounded on him. (Turner Dec. at ¶¶ 3-11, Exhs. 4-  
14 12.) Additionally, counsel for Defendant has failed to respond to Plaintiffs efforts to meet and  
15 confer, except to acknowledge receipt of emails and a letter reminding her about the discovery  
16 deadlines. (Turner Dec. at ¶¶ 9-10, Exhs. 10-11.)

17 Therefore, the Court should issue an order compelling Defendant to respond to the Form  
18 Interrogatories, Set One and Requests for Admission, Set One. Additionally, the Court should  
19 also impose a monetary sanction against Defendant because there can be no showing that he acted  
20 with any justification or that other circumstances make the imposition of the sanction unjust.

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23 \_\_\_\_\_  
24 <sup>1</sup> On July 12, 2021, Assembly Bill 141 was passed and became operative, and created the  
25 Department of Cannabis Control. Prior to that time, the regulation of commercial medicinal and  
26 adult use cannabis was the responsibility of the Bureau of Cannabis Control, the California  
27 Department of Food and Agriculture’s CalCannabis division, and the California Department of  
28 Public Health’s Manufactured Cannabis Safety Branch (see former Bus. & Prof. Code, § 26012,  
subd. (a)(2) repealed by Stats AB 141 reg sess. 2021-2022 § 11). The Department of Cannabis  
Control is the legal successor of these agencies in relevant respects. (Bus. & Prof. Code, §  
26010.7.)

## STATEMENT OF FACTS

On June 14, 2021, Plaintiffs propounded Form Interrogatories, Set One, and Requests for Admission, Set One, on Defendant. (Turner Dec. at ¶ 2, Exhs. 1 and 2.) When the discovery requests were served, all Defendants in this matter were represented by David Carroll and Ivy Wang, Browne, George, Ross, O'Brien, and Ellis ("BGR" hereafter). At BGR's request, a three-week extension on the due date of discovery responses was agreed to on July 19, 2021, making the due date August 9, 2021. (Turner Dec. at ¶ 3, Exh. 3.)

On July 22, 2021, Margarita Salazar (Salazar) filed a substitution of attorney and undertook the representation of Defendant. On August 5, 2021, Salazar requested a thirty-day extension for the due date of Defendant's responses. (Turner Dec. at ¶ 4, Exh. 4.) Plaintiffs agreed to the extension and the new due date for Defendant's responses was September 8, 2021. (*Ibid.*) No responses, objections, or requests for a further extension were received from Salazar.

On September 9, Plaintiffs' counsel sent an email to Salazar, inquiring about the status of the discovery responses; Salazar did not respond. (Turner Dec. at ¶ 5, Exh. 5.) On September 15, 2021, Plaintiffs' counsel sent an email to Salazar inquiring about the status of Defendant's overdue responses; again, Salazar did not respond. (Turner Dec. at ¶ 6, Exh. 6.) On September 20, 2021, Plaintiffs' counsel sent an email to Salazar inquiring about the status of Defendant's responses to the form interrogatories and requests for admission; yet again, Salazar did not respond. (Turner Dec. at ¶ 7.) On October 4, 2021 Salazar replied to the September 9, 2021 email stating that she would be representing all natural person defendants, and that she would be filing a substitution of attorney for that purpose. However, Salazar's email did not address the discovery questions, and no substitution of attorney was filed. (Turner Dec. at ¶ 8.)

On October 4, 2021, a letter was sent, via email and first class mail, to Salazar regarding the outstanding discovery, the failure to respond to the inquiry regarding discovery, and reminding her that discovery responses for the individuals she had indicated that she would be representing were due on October 18. (Turner Dec. at ¶ 9.) Salazar acknowledged receipt of the email. (Turner Dec. at ¶ 10.) On November 3, 2021, yet another email was sent to Salazar inquiring about the

1 outstanding discover. (Turner Dec. at ¶ 11.) To date, no discovery responses or objections have  
2 been received.

3 As of the date of the filing of this motion, Plaintiffs have incurred \$4,795.00 in legal fees  
4 and costs as a result of Defendant's failure to respond to requests for discovery and, meet and  
5 confer as required by law. (Turner Dec. at ¶¶ 14 and 15, Exh. 12.) It would be conservative to  
6 estimate that an additional three hours of billable hours will be spent in reviewing any opposition  
7 and preparing for, and appearing remotely on the reserved hearing date. (Turner Dec ¶ 16). For  
8 this reason, Plaintiffs request a total of \$5,455.00 in sanctions to be awarded. Supplemental  
9 documentation may be served on the Defendant and provided to the Court ahead of the hearing.

## 10 ARGUMENT

### 11 1. A Motion to Compel is Warranted Where No Responses Have Been Received

12 "A party propounding the interrogatories may move for an order compelling responses to  
13 the interrogatories" (Code Civ. Proc., § 2030.290, subd. (b)) and "[t]he Court shall impose a  
14 monetary sanction . . . against any party, person, or attorney who unsuccessfully makes or  
15 opposes a motion to compel a response to the interrogatories." (Code. Civ. Proc., § 2030.290,  
16 subd. (c).)

17 The service and filing of interrogatories pursuant to section 2030.010 et seq. of the Code of  
18 Civil Procedure places the burden on the interrogated party to respond by answer, the production  
19 of writings, or objection. The obligation of response must be satisfied unless excused by a  
20 protective order obtained on a factual showing of good cause why no response should be given  
21 (*Corriel v. Superior Court* (1974) 39 Cal. App. 3d 487, 492).

22 Here, Defendant has failed to provide any responses or objections to the interrogatories and  
23 the requests for admission that were served on June 14, 2021. Defendant has simply ignored  
24 Plaintiffs' requests. Defendant has also ignored Plaintiffs' numerous inquiries as to the status of  
25 the outstanding responses. As set forth above, several extensions were given to accommodate  
26 Defendant as he transitioned to new counsel. Numerous attempts have been made to contact  
27 Salazar, but to no avail. Plaintiffs have no recourse but to seek an order compelling Defendant to  
28 respond.

1           **2. Sanctions are Appropriate In This case**

2           Code of Civil Procedure section 2023.030, subdivision (a) authorizes the trial court to  
3 impose an amount representing “the reasonable expenses, including attorney's fees, incurred by  
4 anyone as a result” of a party's misuse of the discovery process. On September 8, 2021, the  
5 Defendant failed to meet the deadline set by the third extension for responses due for discovery  
6 requests served on June 14, 2021. (Turner Dec., ¶¶ 4-5). Failure to respond to discovery requests  
7 constitutes a misuse of the discovery process. (Code Civ. Proc. § 2023.010, subd. (d).) An award  
8 of monetary sanctions is authorized against defendants who provide untimely responses to  
9 interrogatories. (*Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* 148  
10 Cal.App.4th 390.)

11           After missing the last deadline, counsel for Defendant failed to respond to repeated efforts  
12 to contact her regarding the undelivered responses. (Turner Dec., ¶¶ 4-12.) Failing to meet and  
13 confer either in person, by telephone, or by letter with an opposing party or attorney in a  
14 reasonable and good faith attempt to resolve informally any dispute concerning discovery is also  
15 a misuse of the discovery process. (Code Civ. Proc. § 2023.010, subd. (i).) Defendant’s attorney  
16 acknowledged receipt of emails, responded to portions of them unrelated to discovery deadlines,  
17 and also acknowledged receipt of the letter sent on October 4, 2021, which expressly invited  
18 Defendant to meet and confer. (Turner Dec., ¶ 10; Exhib 10.) In the face of these misuses of the  
19 discovery process, the imposition of sanctions is mandatory unless the court finds that there is  
20 substantial justification for Defendant’s refusal to participate in the discovery process. (Code Civ.  
21 Proc., §§ 2023.030, subd. (a), 2030.300, subd. (d); *Kwan Software Engineering, Inc. v. Hennings*  
22 (2020) 58 Cal. App. 5th 57, 73–78.) Here, Defendant has improperly failed to provide any  
23 responses to Plaintiffs’ discovery requests and has also refused to meet and confer. (Turner Dec.,  
24 ¶¶ 2-12; Exhs. 3-11.)

25           Defendant’s failure to make any efforts comply with the Discovery Act, began on  
26 September 9, 2021, with the failure to meet the deadline for discovery responses, and continued  
27 with the refusal to respond to correspondence from Plaintiffs in any way that addressed the failure  
28 to meet the deadline. Plaintiffs’ formal reaction to this failure to participate in the discovery

1 process began with the letter sent on October 4, 2021, culminated in this motion, and will  
2 continue to accrue through the January 10, 2022, hearing on this motion. Defendant has no  
3 justification for refusing to provide responses to the discovery noted, for failure to meet and  
4 confer, or for opposing this motion. Thus, Plaintiffs are entitled to reasonable expenses incurred  
5 as a result of Defendant's failing to provide the requested discovery and for failing to meet and  
6 confer. These expenses amount to \$5,125. (Turner Dec., ¶¶ 13-16; Exh. 12.)

### 7 CONCLUSION

8 For the foregoing reasons, Plaintiffs request that this motion to compel discovery  
9 responses and request for sanctions be granted.

10 Dated: November 14, 2021

Respectfully submitted,

11 ROB BONTA  
12 Attorney General of California  
13 HARINDER K. KAPUR  
14 Senior Assistant Attorney General



15 ETHAN A. TURNER  
16 Deputy Attorney General  
17 *Attorneys for Plaintiffs*  
18 *California Department of Public Health and*  
19 *Bureau of Cannabis Control*

**DECLARATION OF SERVICE BY CERTIFIED MAIL & FIRST CLASS MAIL/EMAIL**  
(Separate Mailings)

Case Name: **California Department of Public Health, et al. v. Vertical Bliss, Inc., et al.**  
Case No.: **20CHCV00560**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On November 15, 2021, I served the attached **NOTICE OF MOTION, MOTION, AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO COMPEL RESPONSES TO INTERROGATORIES, SET ONE, AND REQUESTS FOR ADMISSION, SET ONE** by transmitting a true copy via electronic mail & by placing a true copy thereof enclosed in a sealed envelope as certified mail with return receipt requested, and another true copy of the **NOTICE OF MOTION, MOTION, AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO COMPEL RESPONSES TO INTERROGATORIES, SET ONE, AND REQUESTS FOR ADMISSION, SET ONE** was enclosed in a second sealed envelope as first class mail in the internal mail collection system at the Office of the Attorney General at 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

Margarita Salazar  
Law Offices of Margarita Salazar, APLC,  
470 Third Avenue, Ste. 9  
Chula Vista, CA 91910-4663  
*Via F.C. Certified & E-Mail*  
[Margarita@msalazarlaw.com](mailto:Margarita@msalazarlaw.com)

Ivy A. Wang  
David J. Carroll  
Browne, George, Ross, O'Brien, Annaguey,  
and Ellis LLP  
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**Certified Article Number**

9414 7266 9904 2176 9694 52

**SENDER'S RECORD**

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on November 15, 2021, at Sacramento, California.

Bryn Barton  
Declarant

  
Signature