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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

14 WILLIAM JAMES MITCHELL,
15 Plaintiff,

16 v.

17 TWIN GALAXIES, LLC,
18 Defendants.

FILED
Superior Court of California
County of Los Angeles
11/27/2023
David W. Slayton, Executive Officer / Clerk of Court
By: A. Rodriguez Deputy

Case No. 19STCV12592

[Hon. Wendy Chang, Department 36]

**JOINT INFORMAL DISCOVERY
CONFERENCE STATEMENT**

[Filed concurrently with REQUEST FOR
JUDICIAL NOTICE]

Date: December 1, 2023
Time: 8:30 a.m.
Dept.: 36

Trial Date: 1/26/2023

TO THE HONORABLE COURT:

Plaintiff WILLIAM JAMES MITCHELL and Defendant TWIN GALAXIES, LLC submit the following Joint Statement of Discovery Issues in advance of the Informal Discovery Conference to be held with the Court on December 1, 2023:

I. PROCEDURAL HISTORY

This case arises from defamatory statements made by Defendant regarding Plaintiff's achievement of certain world records in video gaming. On April 11, 2019, Plaintiff filed this lawsuit against Defendant, and subsequently filed a First Amended Complaint on March 12, 2020, setting

1 out two causes of action: (1) Defamation; and (2) False Light. At the center of the action are public
2 statements made by Twin Galaxies on April 12, 2018, that Plaintiff had achieved his long-standing
3 world record video game scores by cheating. Consequently, Plaintiff was stripped him of those
4 records and forever banned from submitting further records.

5 Plaintiff propounded Requests for Admission, Set Two; Form Interrogatories, Set Three;
6 Special Interrogatories, Set Five; and Request for Production of Documents, Set Five to Defendant
7 on August 30, 2023. On October 2, 2023, Defendant provided solely the same boilerplate objections
8 to numerous Requests for Admission, Special Interrogatories, and Requests for Production of
9 Documents. Additionally, Defendant's response to Requests for Production of Documents was not
10 accompanied by any documents and did not comply with Code of Civil Procedure § 2031.280 as
11 the documents were not identified. Plaintiff sent a lengthy meet and confer letter to Twin Galaxies
12 detailing the numerous deficiencies in Defendant's responses, including that any further responses
13 to Requests for Admission that are not a straight denial need a further response to Form Interrogatory
14 No. 17.1 as well.

15 The Parties met and conferred telephonically to further discuss the reasons behind the
16 requests and the validity of the objections. Defendant provided further responses to some of the
17 deficient responses, but not all, and some further responses are still not Code-complaint.

18 Thus, this Informal Discovery Conference is necessary.

19 **II. PLAINTIFF WILLIAM JAMES MITCHELL'S STATEMENT OF THE ISSUES**

20 Plaintiff believes that these discovery requests are all relevant and seek information
21 regarding other potential documents and witnesses that may have knowledge as to the allegations
22 set forth in the complaint. Further, Plaintiff believes that the information exists and is relevant as
23 most of it relates to items that Defendant has put into evidence in its Anti-SLAPP motion. Defendant
24 objects to some of the discovery as vague to time; however, each has a time period that is reasonable
25 or related to this litigation.

26 **Requests for Admission, Set Two**

27 Despite having full knowledge and information, Defendant made no attempt to provide good
28 faith responses or even state that Defendant was unable to respond despite a good faith effort. This

1 evasiveness and non-compliance is not well received.

2 Code of Civil Procedure § 2033.220 states: “(a) Each answer in a response to requests for
3 admission shall be as complete and straightforward as the information reasonably available to the
4 responding party permits. (b) Each answer shall: (1) Admit so much of the matter involved in the
5 request as is true, either as expressed in the request itself or as reasonably and clearly qualified by
6 the responding party. (2) Deny so much of the matter involved in the request as is untrue. (3) Specify
7 so much of the matter involved in the request as to the truth of which the responding party lacks
8 sufficient information or knowledge. (c) If a responding party gives lack of information or
9 knowledge as a reason for a failure to admit all or part of a request for admission, that party shall
10 state in the answer that a reasonable inquiry concerning the matter in the particular request has been
11 made, and that the information known or readily obtainable is insufficient to enable that party to
12 admit the matter.”

13 Defendant has failed to comply by giving sole objections and not attempting to give a
14 complete and straightforward answer to **Requests Nos. 52-54.**

15 **Requests Nos. 52-54:**

16 **Plaintiff’s Position**

17 These Requests ask Defendant to admit that it provided persons with deposition transcripts
18 from this litigation after Plaintiff’s counsel advised such dissemination was in violation of
19 Government Code §69954(d) and disseminated transcripts in violation of Government Code
20 §69954(d) and Code of Civil Procedure § 2025.570.

21 Defendant objects to all requests claiming that they are irrelevant, overbroad, vague and
22 ambiguous, assumes facts not in evidence, calls for disclosure of attorney work product and
23 attorney-client privilege, that the information is equally available, and the request has been asked
24 and answered.

25 These responses do not comply whatsoever with any subsection of the Code and assert
26 baseless objections to avoid responding. There are three potential responses to a request for
27 admission pursuant to *Code Civ. Proc.* § 2033.220(b), none of which Defendant meets. Defendant’s
28 overbroad and burdensome objections are not only technical and boilerplate, but completely

1 improper as Plaintiff gives a time period and all requested documents are related to this litigation.

2 Defendant also attempts to improperly hide behind the attorney client privilege, which
3 doesn't apply to communications that occurred between Plaintiff and Defendant or third parties.
4 This Court has already advised Defendant that any communications between Defendant and third
5 parties are not privileged and must be produced. Further, the attorney client privilege protects the
6 content of communications. In addition, if the information were protected under attorney-client
7 privilege Defendant would be compelled to produce a privilege log detailing such communications
8 and documents in response to a request for production of documents. *See Best Products, Inc. v.*
9 *Superior Court* (2004) 119 Cal.App.4th 1181, 1190. As such, Responding Party's response is
10 unresponsive, confusing, and deficient.

11 Further, Defendant contends that these requests were asked and answered, but fails to
12 provide the prior requests that allegedly requested these same documents and fails to identify alleged
13 prior answers and documents produced responsive. These requests were not previously asked nor
14 answered. Finally, Defendant objects on the basis that information requested is equally available to
15 Plaintiff. Notwithstanding that such information is not equally available to Plaintiff, this is not a
16 proper objection to a request for admission.

17 As such, Defendant's responses do not meet any of the criteria for a Code-compliant
18 response and are wholly evasive such that further responses to **Requests Nos. 52-54** and
19 corresponding responses to 17.1 are required.

20 **Defendant's Position**

21 These two requests are compound. They ask the Defendant to admit to two things: (1) that
22 it provided deposition transcripts, and (2) that doing so violated various laws. These requests are
23 objectionable for this reason as they should have been broken into 2 questions

24 But more importantly, the request are irrelevant as they are not likely to lead to the discovery
25 of admissible evidence – that is evidence of any fact of consequences to the determination of
26 Plaintiff's defamation claim or any of Defendant's counter-claims. The Defendant admitting it
27 provided deposition transcripts in violation of California law has no bearing on whether it
28 maliciously stated that Plaintiff's *Donkey Kong* world records were not achieved on original arcade

1 hardware. Those are the issues in this case – whether Defendant made a false statement and whether
2 Plaintiff’s scores are real. Everything else is a sideshow and has no bearing on any issue of
3 consequence in this case. Plaintiff certainly has not shown how having Defendant admit that it
4 violated California law will lead to the discovery of any facts to support that Defendant maliciously
5 made the statement at issue. There should be some limit to the discovery in this case. This request
6 has reached that limit.

7 **Form Interrogatories, Set Three**

8 Defendant’s further responses to Requests for Admission, Set Two, included denials for
9 which Defendant responded to Form Interrogatory No. 17.1; however, these responses are deficient.

10 A responding party is required to make a reasonable and good faith effort to obtain the
11 information requested in interrogatories. *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare*
12 *Consultants* 148 Cal. App. 4th 390, 406 (2007). If an interrogatory cannot be answered completely,
13 it shall be answered to the extent possible. Code Civ. Proc. § 2030.220. Responding Party has a duty
14 to make a reasonable and good faith effort to obtain the information requested by inquiry to outside
15 persons or organizations. Code Civ. Proc. § 2030.220(c); *Regency Health Servs., Inc. v. Superior*
16 *Court*, 64 Cal. App. 4th 1496, 1503 (1998).

17 **Form Interrogatory No. 17.1:**

18 **Plaintiff’s Position**

19 Form Interrogatory No. 17.1(b) requires a party to state **all** facts upon which they base their
20 response. Here, Defendant solely restates the request in the negative. Further, Form Interrogatory
21 No. 17.1(d) requires a party to identify **all** “DOCUMENTS and other tangible things that support
22 your response and state the name, ADDRESS, and telephone number of the PERSON who has each
23 DOCUMENT or thing.” Here, Defendant responded simply “None.”

24 Request for Admission No. 46 asks Defendant to “Admit that DEFENDANT provided
25 photographs RELATING TO PLAINTIFF at the Florida Mortgage Broker’s Association event to
26 Karl Jobst prior to January 2023.” Defendant objected and denied this Request. Then in response to
27 Form Interrogatory No. 17.1(b) stated only “Defendant did not provide the photos in question to
28 Karl Jobst prior to January 2023.” This is not a complete and straight forward response as required

1 by the Code. Defendant does not provide any facts to support the denial, such as when Defendant
2 did provide Karl Jobst the photographs in question, thus a further response is required. Moreover,
3 Defendant's response to subpart (d) of "None" is wholly incomplete as Defendant sent photographs
4 to Karl Jobst so there must be some sort of documentation related to sending the photographs and
5 such documents are required to be identified and produced.

6 Thus, Defendant's response to Form Interrogatory No. 17.1 as to Requests for Admission
7 46 and 48 are deficient and a further Code-complaint response is required. Further, any documents
8 identified must be produced in response to Request for Production No. 310.

9 **Defendant's Position**

10 Plaintiff disagrees with the reasons Defendant denied the corresponding RFAs but that is not
11 a reason to force a further response. With respect to RFA 46, Defendant denied that it provided the
12 photos to Karl Jobst prior to January 2023 and the explanation is that it did not provide the photos
13 to Karl Jobs prior to January 2023...what more is there to say? And the same goes for RFA 48 –
14 the Defendant simply never "told Karl Jobst it planned to spring the photographs RELATING TO
15 PLAINTIFF at the Florida Mortgage Broker's Association event on PLAINTIFF at deposition," and
16 therefore denied the request. It's response to the 17.1 form interrogatory stating the fact that it did
17 not make the comment to Karl Jobst is sufficient because those are the facts it based the denial on.

18 **Special Interrogatories, Set Five**

19 As an initial matter, Defendant's efforts to avoid providing reasonable and good faith
20 responses to the discovery requests is not well received and this is not the first time Responding
21 Party has served majority objections. As it is aware, a responding party is required to make a
22 reasonable and good faith effort to obtain the information requested in interrogatories. *Sinaiko*
23 *Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* 148 Cal. App. 4th 390, 406 (2007).
24 If an interrogatory cannot be answered completely, it shall be answered to the extent possible. Code
25 Civ. Proc. § 2030.220. Responding Party has a duty to make a reasonable and good faith effort to
26 obtain the information requested by inquiry to outside persons or organizations. Code Civ. Proc. §
27 2030.220(c); *Regency Health Servs., Inc. v. Superior Court*, 64 Cal. App. 4th 1496, 1503 (1998).

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1 Thus, as detailed more thoroughly below, Defendant is required and must provide further,
2 substantive and Code-compliant responses to all interrogatories. For sake of ease, we have grouped
3 together the interrogatories that are related and contain the same boilerplate objections.

4 **Special Interrogatories Nos. 176 – 178:**

5 **Plaintiff's Position**

6 These Interrogatories request Defendant to state all facts, witnesses, and documents related
7 to Defendant's basis for withholding documents related to Ersatz_Cats in previous set of Requests
8 for Production of Documents.

9 Defendant objects to all requests claiming that they are irrelevant, overbroad, vague and
10 ambiguous, assumes facts not in evidence, calls for disclosure of attorney work product and
11 attorney-client privilege. All of these are improper objections and do not provide a basis for
12 Defendant to not respond whatsoever to the interrogatories.

13 Firstly, these are not irrelevant as Defendant has admittedly provided litigation materials to
14 Ersatz_Cats, who then posts them on his website perfectpacman.com. This goes directly to malice
15 in this matter as this website has and continues to post documents retrieved from Defendant in this
16 matter. Defendant withheld numerous documents related to communications with this third party,
17 who Defendant only claims to know by his blog name, Ersatz_Cats, and is not a retained nor non-
18 retained expert in this matter by Defendant. Moreover, as noted by this Court numerous times,
19 attorney-client privilege does not extend to third parties, which Ersatz_Cats is.

20 Further, the purpose of the work-product doctrine is to an attorney's "mental impressions,
21 conclusions, opinions, or legal theories." *City of Fort Collins v. Open Int'l, LLD* (D. Colo. 2022).
22 The work-product doctrine does not extend to communications with third parties, as this Court at an
23 IDC previously advised Defendant's counsel to provide all documents evidencing communications
24 with third parties.

25 Moreover, the burden is on the party asserting the privilege to prove that it is protected and
26 these interrogatories seek such information to prove the communications withheld should be
27 protected.

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1 At the time, Plaintiff gave Defendant the benefit of the doubt that it was not asserting a false
2 privilege. However, once we received expert disclosures Ersatz_Cats was not listed whatsoever by
3 Defendant. Thus, Plaintiff has the ability to use other discovery methods to verify that the documents
4 withheld were properly withheld based upon a claimed privilege.

5 Thus, Defendant must provide a further substantive and Code-compliant response to these
6 interrogatories.

7 **Defendant's Position**

8 Plaintiff has previously sought production of communications between Defendant (including
9 Defendant's attorney) and an online journalist by the name of Ersatz_cats. Defendant provided a
10 privilege log in response to those requests yet Plaintiff failed to move to compel production of the
11 documents identified in the privilege log and is making an end-around that failure through these
12 improper interrogatories.

13 Furthermore, identification of the witnesses, and documents supporting the attorney work-
14 product doctrine as applicable to Ersatz_cats will necessarily reveal counsel's mental impressions,
15 conclusions, opinions and legal theories as the documents subject to the privilege relate to the
16 investigation of the claims and defenses in this matter. For example, to the extent that the
17 communications between Defendant's counsel and Ersatz_cats relate to a research about Plaintiff
18 and has resulted in the compilation of information in a document whose name itself reveals legal
19 theories and opinions, the document and the communication are not subject to disclosure under the
20 doctrine. Furthermore, Plaintiff provides no legal authority for the position that communications
21 with third parties cannot be protected by the work-product doctrine because that is not the law. The
22 law is that communications between an attorney and his research team are protected.

23 **Request for Production, Set Five**

24 Per Code of Civil Procedure section 2031.210(a), the party to whom a demand for inspection
25 has been directed shall respond with "(1) [a] statement that the party will comply with the particular
26 demand for inspection," "(2) [a] representation that the party lacks the ability to comply with the
27 particular demand for inspection," or "(3) [a]n objection to the particular demand for inspection."
28 Further, "if only part of an item or category of item in a demand . . . is objectionable, the response

1 shall contain a statement of compliance, or a representation of inability to comply with respect to
2 the remainder of that item or category.” Code Civ. Proc. section 2031.240(a).

3 Code of Civil Procedure § 2031.280(a), states, “Any documents or category of documents
4 produced in response to a demand for inspection, copying, testing, or sampling shall be identified
5 with the specific request number to which the documents respond.”

6 For sake of ease, we have grouped together the remaining Requests that are related and
7 contain the same boilerplate objections and deficiencies.

8 **Requests Nos. 217 - 225, 230-233, 235, 236-238, 244 – 272, 274 – 300, 302 – 305, 307, 310, 311**

9 **Plaintiff’s Position**

10 As an initial matter, Defendant responded to **Requests Nos. 217 - 225, 230-233, 235, 236-**
11 **238, 244 – 272, 274 – 300, 302 – 305, 307, 310, and 311** that it will produce documents; however,
12 the responses are vague as it states that “Responding Party will produce all non-privileged
13 documents responsive to the extent they exist and have not already been provided.” This response
14 is not Code-compliant as it is vague and ambiguous as Plaintiff is left wondering if there are
15 documents that exist or not and whether Defendant believes previously produced documents are
16 responsive. Further, after review of Defendant’s later served chart of the corresponding bates stamps
17 to Requests, it is clear that Defendant did not identify documents previously produced for the
18 majority of the requests. Finally, there was no privilege log produced so Plaintiff is not aware if any
19 documents are being withheld based upon a claimed privilege.

20 Thus, a further Code-compliant response is required to each, specifically as to whether
21 documents exist or not, and documents must be produced and **identified**, whether previously or
22 newly produced.

23 **Defendant’s Position**

24 Plaintiff has not previously met and conferred with Defendant about the actual text of its
25 responses to these requests violating CCP § 2031.210(a). Plaintiff will provide supplemental
26 responses to Requests Nos. 217 - 225, 230-233, 235, 236-238, 244 – 272, 274 – 300, 302 – 305,
27 307, 310, and 311 where the text of the response complies with the Code prior to the hearing on this
28 IDC.

1 **Requests Nos. 220, 223, 224, 235, 236, 245-251, 258, 259, 262, 263, 265-268, 274, 275, 279, 281-**
2 **287, 289-291, 293-295, 297, 299, 300, and 302-304**

3 **Plaintiff's Position**

4 Defendant responded as noted above that "Responding Party will produce all non-privileged
5 documents responsive to the extent they exist and have not already been provided." This response
6 is not Code-compliant as it is vague and ambiguous as Plaintiff is left wondering if there are
7 documents that exist or not and whether Defendant believes previously produced documents are
8 responsive.

9 Defendant produced numerous documents, and later produced a chart of the corresponding
10 bates stamps identifying which Requests correlate to which bates stamped documents. However,
11 **Requests Nos. 220, 223, 224, 235, 236, 245-251, 258, 259, 262, 263, 265-268, 274, 275, 279, 281-**
12 **287, 289-291, 293-295, 297, 299, 300, and 302-304** are not found on the corresponding chart. Thus,
13 Plaintiff is not aware of any documents being produced in response to these Requests as stated they
14 would be in the responses. Again, part of the issue in Defendant's responses is that it is vague and
15 ambiguous as stated whether or not documents exist and will be produced or were previously
16 produced. Finally, there was no privilege log produced so Plaintiff is not aware if any documents
17 are being withheld based upon a claimed privilege.

18 Thus, a further Code-compliant response is required to each, specifically as to whether
19 documents exist or not, and documents must be produced and **identified**, whether previously or
20 newly produced.

21 **Defendant's Position**

22 Plaintiff has not previously met and conferred with Defendant about the actual text of its
23 responses to these requests violating CCP § 2031.210(a). Plaintiff will provide supplemental
24 responses to Requests Nos. 220, 223, 224, 235, 236, 245-251, 258, 259, 262, 263, 265-268, 274,
25 275, 279, 281-287, 289-291, 293-295, 297, 299, 300, and 302-304 where the text of the response
26 complies with the Code prior to the hearing on this IDC.

27 **Request No. 243**

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1 **Plaintiff's Position**

2 This requests asks for production of “all COMMUNICATIONS between DEFENDANT and
3 any lawyer in Lowndes, Drosdick, Doster, Kantor, & Reed, P.A. RELATED TO PLAINTIFF’s case
4 entitled *William J. Mitchell v. David W. Race*, case no: CACE-21-007130, pending in the Circuit
5 Court of the 17th Judicial Circuit in and for Broward County, Florida.”

6 Defendant responded with the following blanket and boilerplate objections that the requests
7 are irrelevant, overbroad, vague and ambiguous, assumes facts not in evidence, calls for disclosure
8 of attorney work product and attorney-client privilege.

9 As to relevancy, Plaintiff believes that there is a concerted effort by Defendant and third
10 parties, including David Race, to destroy Plaintiff’s reputation and any communications between
11 those parties or their agents is relevant to this issue and the crux of the defamation case at hand.

12 Defendant’s overbroad and burdensome objections are not only technical and boilerplate,
13 but completely improper as Plaintiff gives a time period and all requested documents are related to
14 this litigation. Further, this is not irrelevant as the Florida case revolves around illegally recorded
15 phone calls which Defendant was provided by Mr. Race and Defendant has used in this litigation as
16 alleged evidence.

17 Defendant’s objection that these requests call for attorney work product is improper as these
18 requests ask for communications between Defendant and **third parties**. The purpose of the work-
19 product doctrine is to an attorney’s “mental impressions, conclusions, opinions, or legal theories.”
20 *City of Fort Collins v. Open Int’l, LLD* (D. Colo. 2022). The work-product doctrine does not extend
21 to communications with third parties, as this Court at an IDC previously advised Defendant’s
22 counsel to provide all documents evidencing communications with third parties.

23 Finally, Defendant contends that these requests were asked and answered, but fails to provide
24 the prior requests that allegedly requested these same documents and fails to identify alleged prior
25 answers and documents produced responsive. These requests were not previously asked nor
26 answered and no documents were produced.

27 Thus, a further substantive and Code-complaint response is required and if documents exist,
28 they must be produced and identified.

1 **Defendant's Position**

2 Plaintiff has not shown how documents relating to communications with an attorney in an
3 unrelated case has any bearing on the defamation claim or the counter-claims by Defendant in this
4 case. He is fishing. Furthermore, the communications with defense counsel in the Florida case has
5 no bearing on whether the recordings submitted as evidence in this case are admissible. The
6 recordings took place in 2018 and the lawsuit was brought against Race in 2021. The
7 communications between two lawyers after the fact has no relation to the recordings or their
8 admissibility.

9 **Request No. 301**

10 **Plaintiff's Position**

11 This request ask for Defendant to produce "all COMMUNICATIONS between
12 DEFENDANT and Esratz_Cats RELATED TO PLAINTIFF since April 3, 2023."

13 Defendant again responded with the following blanket and boilerplate objections that the
14 requests are irrelevant, overbroad, vague and ambiguous, assumes facts not in evidence, calls for
15 disclosure of attorney work product and attorney-client privilege. No further response was provided
16 for this Request.

17 Defendant's overbroad and burdensome objections are not only technical and boilerplate,
18 but completely improper as Plaintiff gives a time period and all requested documents are related to
19 this litigation. Further, these communications are clearly relevant to the case as this Court has
20 already ruled as if they are discussing the case, particularly to where this person is then posting on
21 his website details of the case and documents, it goes directly to the malice and is relevant to this
22 litigation.

23 Defendant's objection that these requests call for attorney work product is improper as these
24 requests ask for communications between Defendant and **third parties**. The purpose of the work-
25 product doctrine is to an attorney's "mental impressions, conclusions, opinions, or legal theories."
26 *City of Fort Collins v. Open Int'l, LLD* (D. Colo. 2022). The work-product doctrine does not extend
27 to communications with third parties, as this Court at an IDC previously advised Defendant's
28 counsel to provide all documents evidencing communications with third parties. Moreover,

1 Defendant previously refused to provide communications from this person, during a different time
2 period than this Request, on the basis of work-product privilege, which is at issue in the Special
3 Interrogatories herein.

4 Further, Defendant contends that these requests were asked and answered, but fails to
5 provide the prior requests that allegedly requested these same documents and fails to identify alleged
6 prior answers and documents produced responsive. These requests were not previously asked nor
7 answered and no documents were produced.

8 Moreover, Defendant objects on the basis that these documents are equally available to
9 Plaintiff. Notwithstanding that communications are not equally available to Plaintiff, Defendant still
10 has an obligation to respond to discovery with a Code-compliant response. “Discovery may be
11 obtained of . . . the existence, description, nature, custody, condition, and location of any document.”
12 Code Civ. Proc., § 2017.010. Thus, a party must identify all responsive documents in its possession,
13 custody or control, and whether any other responsive documents exist or ever existed, and why they
14 cannot be produced.

15 Interestingly, despite not providing a further response to this Request, in Defendant’s
16 corresponding bates stamp chart it appear that Defendant believes it produced documents responsive
17 to this Request. However, these documents bates stamped 7944-8011, are duplicative to documents
18 previously produced in this case and each other and do not contain any communications since April
19 3, 2023 as the Request demands.

20 Moreover, in prior discovery responses Defendant denied any knowledge of Ersatz_Cats
21 identity aside from his username and the fact that he owns and runs the website perfectpacman.com.
22 Now, Defendant is claiming that he is a researcher for the Defense team. This is unsubstantiated so
23 far in this matter no evidence in this case has been presented by Defendant to prove such and
24 Defendant refuses to respond to interrogatories on this issue.

25 Finally, this Request is for a different time period than that which was previously requested
26 and Defendant responded to with a privilege log.

27 Thus, a further substantive and Code-complaint response is required and documents must be
28 produced and identified that are actually responsive to this Request.

1 **Defendant's Position**

2 As Defendant has previously asserted, the communications between Defendant's counsel
3 and Ersatz_cats are protected pursuant to the attorney work-product doctrine. These
4 communications are between an attorney and its researcher and the communications themselves
5 reveal the mental impressions and opinions of the attorney and are thus protected. Plaintiff was
6 provided a privilege log to this effect. The documents requested should not be produced
7 accordingly.

8 **Request No. 230**

9 **Plaintiff's Position**

10 This Request asks for Defendant to produce "all DOCUMENTS exchanged between
11 DEFENDANT and Ersatz_Cats RELATED TO PLAINTIFF since January 2017."

12 Defendant first served the same boilerplate objections, but did serve a further response
13 stating that "Responding Party will produce all non-privileged documents responsive to the extent
14 they exist and have not already been provided." This response is not Code-compliant as it is vague
15 and ambiguous as Plaintiff is left wondering if there are documents that exist or not and whether
16 Defendant believes previously produced documents are responsive.

17 Further, after review of Defendant's later served chart of the corresponding bates stamps to
18 Requests and the actual documents produced, Defendant solely reproduced communications
19 between it and Ersatz_Cats and a single document of a statement from Ersatz_Cats, aka Walter C,
20 about Plaintiff, which was previously produced as well.

21 As noted, Ersatz_Cats is the owner of the website perfectpacman.com, which continually
22 blogs about this litigation and posts documents from this litigation, including filings that do not have
23 the required Court's filing stamp.

24 Moreover, Defendant's person most knowledgeable and owner testified in deposition that
25 he provided deposition transcripts to Ersatz_Cats and no documents were produced showing these
26 exchanges.

27 Therefore, Defendant did not perform a diligent search as required by the Code or is
28 intentionally withholding documents.

1 Thus, a further substantive and Code-complaint response is required and documents must be
2 produced and identified.

3 **Defendant's Position**

4 As Defendant has previously asserted, the communications between Defendant's counsel
5 and Ersatz_cats are protected pursuant to the attorney work-product doctrine. These
6 communications are between an attorney and its researcher and the communications themselves
7 reveal the mental impressions and opinions of the attorney and are thus protected. Plaintiff was
8 provided a privilege log to this effect. The documents requested should not be produced
9 accordingly. Plaintiff has previously made this same request and Plaintiff provided a privilege log
10 in response.

11 **Request No. 217**

12 **Plaintiff's Position**

13 This request asks for production of "all COMMUNICATIONS between DEFENDANT and
14 Tanner Fokkens RELATED TO PLAINTIFF since January 2017."

15 Defendant responded that it would comply, stating that "Responding Party will produce all
16 non-privileged documents responsive to the extent they exist and have not already been provided."
17 As noted above, this response is not Code-compliant as it is vague and ambiguous as Plaintiff is left
18 wondering if there are documents that exist or not and whether Defendant believes previously
19 produced documents are responsive.

20 Further, now that Defendant has produced a chart of the corresponding bates stamps for the
21 documents per request, it is clear that Defendant did not produce any Facebook Messenger
22 communications with Tanner Fokkens, which Plaintiff is aware was a mode of communications
23 between Defendant and Mr. Fokkens related to Plaintiff and this litigation. Plaintiff attached as
24 Exhibit 61 to the Declaration of William Mitchell in support of Plaintiff's Opposition to Defendant's
25 Anti-Slapp a screenshot of a Facebook Messenger message between Jace Hall and Tanner Fokkens.
26 Therefore, Defendant either destroyed the evidence or did not due a diligent search and provide all
27 responsive documents to this Request. Moreover, Defendant's position and response is telling at it
28 doesn't state Defendant has produced **all documents responsive**.

1 Therefore, Defendant did not perform a diligent search as required by the Code or is
2 withholding documents.

3 Thus, a further substantive and Code-complaint response is required and documents must be
4 produced and identified.

5 **Defendant's Position**

6 Plaintiff assumes Defendant has Facebook messenger communications with Tanner
7 Fokkens. It does not. Defendant has produced documents responsive to this request and has
8 identified them with Bases stamp numbers 7900-7909.

9 **Request No. 273**

10 **Plaintiff's Position**

11 Defendant did not serve a further response to this Request; however, the corresponding bates
12 stamp chart shows that documents were produced. Therefore, Plaintiff believes this was an error
13 and a further response can be provided without Court order; however, a response is necessary so
14 that Plaintiff has a verified response that Defendant is producing all responsive documents that exist.

15 **Defendant's Position**

16 Defendant will provide a further response prior to the IDC.

17 **Requests Nos. 276 and 277**

18 **Plaintiff's Position**

19 Defendant served further responses to these Requests that are still sole objections; however,
20 the corresponding bates stamp chart shows that documents were produced. Therefore, Plaintiff
21 believes this was an error and a further response can be provided without Court order; however, a
22 response is necessary so that Plaintiff has a verified response that Defendant is producing all
23 responsive documents that exist.

24 **Defendant's Position**

25 Defendant will provide a further response prior to the IDC.

26 **Requests Nos. 308 and 309**

27 **Plaintiff's Position**

28 These Requests ask for Defendant to produce all **communications** related to Defendant

1 providing any deposition from this litigation to any person and all **documents** related to providing
2 any deposition transcript to any person.

3 Firstly, Defendant responded with sole objections and did not give a further response.
4 However, the corresponding bates stamp chart shows that documents were produced. Therefore,
5 Defendant must provide a Code-complaint further response.

6 Secondly, the documents referenced in Defendant's bates stamp chart for being produced in
7 relation to these Requests consists of a five-page email thread between Defendant's counsel and
8 counsel for third party Karl Jobst and only references the depositions of Valerie Saunders and Josh
9 Ryan. However, Karl Jobst has shown multiple deposition transcripts in his videos on YouTube,
10 including Plaintiff's transcript and video, and transcripts of third party witnesses Jerry Byrum, Brian
11 Cady, John Grunwald, and Steve Wiebe.

12 Finally, Defendant's person most knowledgeable and owner testified in deposition that he
13 provides documents, including depositions, to anyone that asks. Specifically, testified that he has
14 provided depositions to Ersatz_Cats and Karl Jobst. Further, he stated that if anyone asks him he
15 would give it to them. Yet, no documents were produced evidencing these communications and
16 exchanges of documents aside from the few mentioned above.

17 As such, it is clear that there are other communications and documents between Defendant
18 and persons related to providing depositions from this litigation to other persons. Therefore,
19 Defendant did not perform a diligent search as required by the Code or is intentionally withholding
20 documents.

21 Thus, Defendant must provide a Code-complaint response to these Requests and produce **all**
22 **documents and communications** as requested.

23 **Defendant's Position**

24 Defendant will provide a further response prior to the IDC.

25 **Request No. 234**

26 **Plaintiff's Position**

27 This Request ask Defendant to produce communications via Facebook Messenger with
28 Robert Mruczek related to Plaintiff since January 2017.

1 Defendant first responded with the following blanket and boilerplate objections that the
2 requests are irrelevant, overbroad, vague and ambiguous, assumes facts not in evidence, calls for
3 disclosure of attorney work product and attorney-client privilege. In further responses, Defendant
4 claims that the messages no longer exist since Mr. Mruczek unfriended Jace Hall prior to this request
5 and the documents do not exist.

6 However, upon information and belief and by Plaintiff's counsel's own experience,
7 Facebook Messenger does not automatically delete message threads simply because you unfriend
8 someone. In fact, even if the person deactivates their Facebook profile the messages do not
9 automatically delete. The user, Defendant's owner Jason Hall in this case, would have had to delete
10 the message thread which is not stated.

11 Therefore, Defendant did not perform a diligent search as required by the Code.

12 Thus, a further substantive and Code-complaint response is required and documents must be
13 produced and identified.

14 **Defendant's Position**

15 There are no responsive documents that exist. Defendant has responded with this fact. The
16 further response is sufficient.

17 **III. DEFENDANT TWIN GALAXIES, LLC'S STATEMENT OF THE ISSUES**

18 Defendant has requested documents which are relevant and go to the heart of Plaintiff's
19 claim that he is a world-renowned video game player. Plaintiff refuses to produce these documents
20 despite their relevancy. Plaintiff also refuses to provide telephone records for the time period in
21 June 2023 where he claims his friends found NAMCO awards belonging to Plaintiff which are at
22 issue in this case. Those telephone records are key to proving what Plaintiff knew about the location
23 of his awards when they were found by his friends. Plaintiff has previously produced telephone
24 records in this case so it is clear that he has control over the records and should be able to produce
25 these ones.

26 **A. Demand No. 363**

27 **Defendant's Position**

28 Defendant seeks all documents and communications between Plaintiff, or anyone on his

1 behalf, and anyone from NAMCO or any of NAMCO's associated entities from 1999 to the present.
2 These documents relate to Plaintiff's allegation in paragraph 2 of his complaint that he was named
3 the Video Game Player of the Century by NAMCO and Masaya Nakamura, the maker of Pac-Man,
4 on September 17, 1999 at the Tokyo Game Show. These documents relate to Plaintiff's claim to
5 notoriety and they also relate to Defendant's counter-claim for fraud. If Plaintiff was named Player
6 of the Century and there are documents to that effect in the form of communications by NAMCO,
7 they should be produced. Moreover, to the extent there are more recent communications with
8 Plaintiff seeking to verify this claim with NAMCO, those communications should also be produced
9 as they will speak to whether the claim in paragraph 2 is true or not. Accordingly, all
10 communications from 1999 to the present should be produced for inspection.

11 **Plaintiff's Position**

12 Plaintiff maintains his objection on the grounds that this Request is overbroad as to time and
13 scope, and is overbroad and burdensome as it seeks communications irrelevant and outside the scope
14 of this case. Moreover, the communications with NAMCO executive David Bishop, who is the only
15 declarant from NAMCO, were previously produced.

16 As stated the Request is overbroad; however, Plaintiff is willing to respond as to
17 communications with NAMCO related to Plaintiff's Player of the Century Award.

18 Moreover, communications before 2010 no longer exist due to the length of time that has
19 passed.

20 **B. Demand No. 381**

21 **Defendant's Position**

22 Defendant seeks the original picture of Plaintiff on stage at the Tokyo Game Show in 1999
23 – specifically that David Bishop helped Plaintiff obtain from Namco in 2010. Plaintiff submitted
24 the August 16, 2023 declaration of David Bishop in opposition to Defendant's sanctions motion. In
25 that declaration, David Bishop testified that in 2010, he helped Plaintiff obtain the "original high-
26 definition photograph of him onstage with Masaya Nakamura at the Tokyo Game Show in Japan on
27 or about September 17, 1999." Defendant seeks that exact original a high-definition photograph or
28 photographs.

1 Plaintiff has maintained incredulously throughout this litigation that he does not have any
2 pictures of the Player of the Century plaque he allegedly received from NAMCO in 1999. He has
3 sworn to this effect at least twice in response to document demands from Defendant. Well it turns
4 out – as his own witness testified – that he has the original high-resolution photograph of him
5 receiving that award on stage. He refuses to produce the original high-resolution photograph
6 because it will show that the picture he produced on June 26, 2023 of two awards are fake plaques
7 that do not match the actual plaque that was given to him on stage. The high resolution photograph
8 sought in this request will prove that Plaintiff has fabricated evidence. He has the high resolution
9 photograph and should be forced to produce this picture of his award that we now know he has to
10 compare it against the fake ones in the June 26, 2023 photo – the only other photo of the award
11 Plaintiff has ever produced.

12 **Plaintiff's Position**

13 Plaintiff provided the size of the file that it received from Mr. Bishop in recent
14 communications with him and has noted that Plaintiff is no longer in possession of the original sent
15 by Mr. Bishop years ago and has searched email communications for any previous files sent.
16 Plaintiff will produce the pictures produced as PDFs in the native format sent by Mr. Bishop as they
17 were turned into PDF documents by the IT department and will contain the same Bates stamps as
18 the PDF versions previously produced.

19 **C. Demand Nos. 365, 366, 375, 376 & 378**

20 **Defendant's Position**

21 Defendant seeks telephone call records between Plaintiff and the people who he claims
22 discovered and currently have his mysteriously missing NAMCO Player of the Century awards.
23 The story that was conveyed by Plaintiff's counsel to Defendant's counsel on July 6, 2023 was that
24 John Grunwald found Plaintiff's plaques at the Bridge View Center in Ottumwa, Iowa. John
25 Grunwald told a different story at his July 20, 2023 deposition that he was brought the award by
26 Isaiah TriForce Johnson on June 23, 2023 and the two called Plaintiff at 7:53 p.m. and spoke to him
27 on speakerphone while TriForce took pictures of the awards. The story goes that TriForce returned
28 to Florida on June 26, 2023 to return the awards to Plaintiff but he could not do so and mailed them

1 back to Jerry Byrum before his flight that day.

2 These requests seeks telephone call records for calls between Plaintiff and John Grunwald,
 3 Jerry Byrum, or anyone else in Iowa from June 23, June 25, and June 26, 2023. Plaintiff's phone
 4 records during this time will reveal the people he was talking to about the discovery and location of
 5 his awards. They will also either corroborate or disprove the story about how the plaques were
 6 found and where they are now. They are clearly relevant and should be produced.

7 Plaintiff has produced several pages of Verizon telephone call records in this case in
 8 response to other document requests. He clearly has access to his Verizon telephone call records
 9 and can produce them. He should be required to produce those records in response to these requests
 10 as well. Plaintiff's claim that he is not in possession or control of these records is belied by his
 11 prior responses in this case.

12 **Plaintiff's Position**

13 Plaintiff attempted to retrieve the records from Verizon online and could not. However,
 14 Plaintiff will attempt again or pay to retrieve the records from Verizon as it did for the records
 15 previously produced. Plaintiff will provide a further response to this Request.

16 DATED: November 27, 2023

**MANNING & KASS
 ELLROD, RAMIREZ, TRESTER LLP**

18 By: 

19 Anthony J. Ellrod
 20 Kristina Ross
 21 Attorneys for Plaintiff
 22 WILLIAM JAMES MITCHELL

23 Respectfully submitted,

24 Dated: November 27, 2023

TASHROUDIAN LAW GROUP, APC

26 By: /s/ David Tashroudian, Esq.

27 David Tashroudian, Esq.
 28 Mona Tashroudian, Esq.
 Attorneys for Defendant and Cross-
 Complainant Twin Galaxies, LLC

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 801 S. Figueroa St, 15th Floor, Los Angeles, CA 90017-3012.

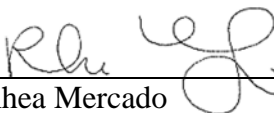
On November 27, 2023, I served true copies of the following document(s) described as **JOINT INFORMAL DISCOVERY CONFERENCE STATEMENT** on the interested parties in this action as follows:

David Tashroudian, Esq. Mona Tashroudian, Esq. TASHROUDIAN LAW GROUP, APC 12400 Ventura Blvd. Suite 300 Studio City, CA 91604 Telephone: (818) 561-7381 Facsimile: (818) 561-7381 Email: david@tashlawgroup.com Email: mona@tashlawgroup.com Attorney for Defendants, TWIN GALAXIES	Robert W. Cohen, Esq. Law Offices of Robert W. Cohen 1901 Avenue of The Stars, Suite 1910 Los Angeles, CA 90067 Telephone: (310) 282-7586 Email: rwcohenlaw.com Attorneys for Cross-Defendant, WALTER DAY
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BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address rhea.mercado@manningkass.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

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

Executed on November 27, 2023, at Los Angeles, California.


Rhea Mercado