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9 Chantal Castellani

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

11 CHANTAL CASTELLANI, an Individual, )

12 Plaintiff, )

14 v. )

16 LEE STRASBERG THEATRICAL )  
17 INSTITUTE, INC., a Delaware corporation; )  
18 and DOES 1 through 100, Inclusive )

19 Defendants. )  
20 )  
21 )

Case No. BC377670

[Assigned for all purposes to Hon. Malcom H. Mackey, Dept. 55]

NOTICE OF MOTION AND MOTION TO COMPELLING DEFENDANT LEE STRASBERG THEATRICAL INSTITUTE, INC. TO PROVIDE FURTHER RESPONSES TO PLAINTIFF'S FORM INTERROGATORIES; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF AND REQUEST IMPOSING MONETARY SANCTIONS AGAINST PLAINTIFF AND ITS ATTORNEY IN THE AMOUNT OF \$\_\_\_\_.00.

[Concurrently filed herewith]

1. Rule 335 Separate Statement
2. Declaration of David Glaubiger in support of Plaintiff's Motions to Compel Further Responses to Form Interrogatories, Specially Drafted Interrogatories and Requests for Admissions
3. Request for Judicial Notice

Date:  
Time: 8:30 a.m.  
Dept: 55

Action Filed: September 18, 2007  
Trial Date: January 05, 2009

1 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD :

2 PLEASE TAKE NOTICE that on September 15, 2008, at 8:30 a.m., or as soon  
3 thereafter as the matter may be heard in Department "55" of the above-entitled court located at 111  
4 N. Hill Street, Los Angeles, California 90012, Plaintiff, CHANTAL CASTELLANI ("Plaintiff" )  
5 will move this Court for orders compelling Defendant LEE STRASBERG THEATRICAL  
6 INSTITUTE, INC. ("Defendant") to provide further responses without objection to Defendant's  
7 Form Interrogatories (Set One) No. 12.4.

8 Defendant will further seek an order imposing monetary sanctions against responding party  
9 and its attorneys Sherry L. Grguric, Esq. and BRAGG & KULUVA in the amount of \$\_\_\_\_.00, to  
10 be paid within 15 days of the order on this motion.

11 This motion will be made pursuant to Code of Civil Procedure Sections 2030.300 and  
12 2030.030, on the grounds that the said Form Interrogatories are relevant to the subject matter of  
13 this action and do not relate to privileged matters. The Responses provided by the Defendant  
14 violate CCP, §2030.300 as follows:

15 No. 12.4: The Objection is without merit. Moreover, the answer to the particular  
16 interrogatory is evasive and incomplete. Moreover, the answer violates Los Angeles  
17 Co. Sup. Ct. local rule 7.12(g)(3) in that the Defendant failed to answer that portion  
18 which was unobjectionable.

19 Counsel has made a reasonable and good faith effort to informally resolve the issues  
20 presented by this motion. However, Defendant has completely ignored all of Plaintiff and her  
21 counsel's request to obtain legally refused to withdraw improperly asserted objections to these  
22 Form Interrogatories and provide properly formatted and verified supplemental responses as  
23 requested in writing on July 19, 2008. On or about July 25, 2008, Defendant's counsel wrote to  
24 Plaintiff regarding outstanding discovery issues, but failed to mention anything about these two  
25 form Interrogatories. On July 29, 2008, Plaintiff's counsel offered to extend the time to provide  
26 supplemental responses if counsel if Ms. Grguric would extend the time in which to bring a  
27 Motion to Compel Further Responses. A deadline was given of 5:00 p.m. on August 1, 2008.  
28 There was absolutely no response or any effort by Ms. Grguric to resolve the outstanding  
discovery issues.

1           Instead, on August 4, 2008, Ms. Grguric threatened to make a motion to needlessly have a  
2 discovery referee appointed in the instant case. This is not a case in which the discovery issues are  
3 complicated or voluminous. It is clear that Defense Counsel was unhappy with the court's prior  
4 discovery rulings and now seeks to circumvent this Court by obtaining the use of a discovery  
5 referee.

6           Defendant and its counsel have acted without substantial justification in refusing to provide  
7 the information requested and should therefore be sanctioned.

8           Said motion will also be based on this notice of motion and motion, the memorandum of  
9 points and authorities set forth below, the attached declaration of David Glaubiger, the exhibits  
10 attached thereto, the complete files and records in this case and such oral and documentary  
11 evidence as may be presented at or before the hearing of this motion.

12 Dated: August 5, 2008

LAW OFFICES OF DAVID GLAUBIGER

13  
14           By: \_\_\_\_\_  
15           David J. Glaubiger,  
16           Attorney for Plaintiff  
17           CHANTAL CASTELLANI  
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1 response to Form Interrogatory No. 12.4 was answered as of June 24, 2008, by implication; no  
2 further response would be forthcoming. A true and correct copy of the letter is attached to the  
3 Glaubiger Decl. as Exhibit “E.”

4 On or about July 18, 2008, again Plaintiff’s counsel wrote to Ms. Grguric reminding her  
5 that June 24, 2008, responses to Form Interrogatory 12.4 that the objection interposed was not  
6 valid and that a further response was necessary. A true and correct copy of the letter is attached to  
7 the Glaubiger Decl. as Exhibit “F.”

8 On or about July 25, 2008, again after being questioned again about the responses, Ms.  
9 Grguric wrote to Plaintiff’s counsel to inform her that she had already “responded reasonably and  
10 fully” to the discovery. She agrees to re-responding to some of the Form Interrogatories, but does  
11 not include Form Interrogatory 12.4. A true and correct copy of the letter is attached to the  
12 Glaubiger Decl. as Exhibit “G.”

13 As set forth in the Declaration of Renay G. Rodriguez, on August 4, 2008, Plaintiff’s  
14 counsel left two telephone voicemail messages for Plaintiff’s counsel to discuss the ongoing  
15 disagreements regarding outstanding discovery. As of the filing of this motion, the phone calls  
16 were not returned. Instead, Ms. Grguric laughably requests that Plaintiff agree to the use of a  
17 discovery referee “paid for” by Bragg & Kuluva. This letter represents nothing more than Ms.  
18 Grguric’s blatant attempt to forum shop in light of two discovery motions already having been  
19 granted against her and her client. A true and correct copy of the letter is attached to the Glaubiger  
20 Decl. as Exhibit “H.”

21 The issue with the Response to 12.4 is very simple. Defendant has provided misleading  
22 statements regarding the date and identity of person who took photographs. Defendant exposed  
23 themselves to perjury by their own responses to the Request for Production of Documents. More  
24 specifically, the responses include a photograph of the door in question which shows the door as  
25 being off its hinges with a sign on the door. These photographs are intended to represent the  
26 condition of the door at the time the Plaintiff was injured in October of 2005. However, Ms.  
27 Grguric identifies only one person, a purported AGENT for the attorney who took the photographs  
28 some time in December of 2005, long before there was ever a lawsuit filed in this matter.

1           Regardless of whether the person taking the photograph is truly an agent of the Defendant's  
2 counsel, Plaintiff remains entitled to know the identity of that person so they may be questioned as  
3 to the authenticity of the photographs. This is the very same information that Ms. Grguric and her  
4 client are attempting to wrongfully hide from the Plaintiff.

5           It is clear that Plaintiff has bent over backwards to get Ms. Grguric to be forthcoming with  
6 the identity of the persons taking the photographs they have produced and identified in their June  
7 24, 2008, Responses to Form Interrogatories. This is an outright refusal to submit to lawful  
8 discovery procedures.

9           Inasmuch as Defendant and its counsel refuses to withdraw improper general objections,  
10 and provide the required information requested in Form Interrogatory 12.4 without any  
11 justification. The refusal to provide the information can be deemed nothing less than willful  
12 inasmuch as Plaintiff's counsel has written three separate times and has phone Ms. Gruguric to try  
13 to get a proper responses, but to no avail. As such, Plaintiff was forced to file this motion. This is  
14 the THIRD discovery motion Plaintiff has had to file due to Defendant's refusal to properly  
15 comply with the Civil Discovery Act. Plaintiff has incurred \_\_\_\_\_.00 in attorneys' fees and costs  
16 in order to bring this motion.

17           As more fully set forth herein, Defendant hereby requests this court to issue an order  
18 compelling further responses consistent with this motion and an award of attorneys fees and costs  
19 payable within 15 days of the court's order.

20 **2. LEGAL AUTHORITY AND ARGUMENT**

21 **A. PLAINTIFF SHOULD BE COMPELLED TO PROVIDE FURTHER**  
22 **RESPONSES TO FORM INTERROGATORY NO. 12.4**

23 California Code of Civil Procedure, §2030.300(a)(3) provides in pertinent part: "On receipt  
24 of a response to interrogatories, the propounding party may move for an order compelling a further  
25 response if the propounding party deems that any of the following apply: "An objection to an  
26 interrogatory is without merit or too general."

27 CCP Section 2030.220 requires that each answer in a response to interrogatories shall be as  
28 complete and straightforward as the information reasonably available to the responding party

1 permits. Form Interrogatory No. 12.4, clearly requires defendant to identify the date, name,  
2 address and telephone number of persons taking photographs and the identification of the persons  
3 who have the original photographs. Plaintiff's response fails to include any of this information.

4 Despite numerous requests to Defendant's counsel to provide a proper response, Defendant  
5 continues to refuse to give a compliant response. Plaintiff has had absolutely no choice but to  
6 bring a motion to compel a further response in light of the Defendant's abject refusal to properly  
7 identify the photographs and identify the person taking the photographs..

8 B. **DISCOVERY SANCTIONS SHOULD BE AWARDED TO DEFENDANT**

9 Cal. Code of Civ. Proc., §2023.030(a) provides that in substance that "after notice to any  
10 affected party, person, or attorney, and after opportunity for hearing, may impose . . . a monetary  
11 sanction ordering that one engaging in the misuse of the discovery process, or any attorney  
12 advising that conduct, or both pay the reasonable expenses, including attorney's fees, incurred by  
13 anyone as a result of that conduct."

14 Cal. Code of Civ. Proc., §2023.010 provides in pertinent part that it is a misuse of the  
15 discovery process to: "(d) Failing to respond or to submit to an authorized method of discovery;  
16 (e) Making, without substantial justification, an unmeritorious objection to discovery; (f) Making  
17 an evasive response to discovery.

18 In this case, Defendant and its counsel as argued above, have employed the use of evasive  
19 discovery response tactics to avoid disclosure of information, which is likely to lead to the  
20 discovery of admissible evidence. Plaintiff's counsel attempted in good faith to advise Defendant  
21 and its counsel that the objections and the lack of a response to the information which is not  
22 objectionable were improper, yet they refuse to provide supplemental responses. Accordingly,  
23 Defendant was forced to bring this motion to compel.

24 As set forth in the attached declaration of David Glaubiger, Plaintiff has incurred  
25 \$\_\_\_\_.00 in attorneys' fees and \$40.00 in costs to bring this motion. Therefore, Plaintiff requests  
26 that this Court impose sanctions in the total sum of \$\_\_\_\_.00 against Defendant and its attorney  
27 SHERRY GRGURIC to be made payable to Plaintiff and their counsel within 15 days of the  
28 Court's order.

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3. **CONCLUSION**

Based upon the foregoing, this Court is justified in finding that Defendant and her counsel have willfully and without substantial justification refused to respond to form interrogatory 12.4. According it is proper for this court to order Defendant and its counsel to respond to Form Interrogatory 12.4 and issue sanctions for engaging in the misuse of the discovery process in the amount of \$ \_\_\_\_\_.00.

Dated: August 5, 2008

LAW OFFICES OF DAVID GLAUBIGER

By: \_\_\_\_\_  
David J. Glaubiger, Esq.  
Attorney for Plaintiff Chantal Castellani