

Cal Code Civ Proc § 2032.240

This document is current with urgency legislation through Chapter 3 of the 2013 Regular Session of the 2013-2014 Legislature.

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§ 2032.240. Effect of failure to serve timely response; Waiver; Relief from waiver; Motion for order compelling compliance; Monetary and other sanctions

- (a) If a plaintiff to whom a demand for a physical examination under this article is directed fails to serve a timely response to it, that plaintiff waives any objection to the demand. The court, on motion, may relieve that plaintiff from this waiver on its determination that both of the following conditions are satisfied:
 - (1) The plaintiff has subsequently served a response that is in substantial compliance with Section 2032.230.
 - (2) The plaintiff's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect.
- (b) The defendant may move for an order compelling response and compliance with a demand for a physical examination.
- (c) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel response and compliance with a demand for a physical examination, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.
- (d) If a plaintiff then fails to obey the order compelling response and compliance, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Chapter 7 (commencing with Section 2023.010). In lieu of or in addition to that sanction the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010).

History

Added Stats 2004 ch 182 § 23 (AB 3081), operative July 1, 2005.

Historical Derivation:

Former CCP § 2032(c)(6), added Stats 1986 ch 1336 § 1, amended Stats 1987 ch 86 § 14, Stats 1988 ch 553 § 5, Stats 1992 ch 163 § 65, (ch 615 prevails), ch 615 § 6, Stats 1993 ch 219 § 71.

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