

11 of 13 DOCUMENTS

DEERING'S CALIFORNIA CODES ANNOTATED
Copyright (c) 2013 by Matthew Bender & Company, Inc.
a member of the LexisNexis Group.
All rights reserved.

*** This document is current through the 2013 Supplement ***
(All 2012 legislation, 2012 Governor's Reorg. Plan No. 2 and all
propositions approved by the electorate at the June and November 2012 elections)

CODE OF CIVIL PROCEDURE
Part 4. Miscellaneous Provisions
Title 4. Civil Discovery Act
Chapter 9. Oral Deposition Inside California
Article 4. Objections, Sanctions, Protective Orders, Motions to Compel, and Suspension of Depositions

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Code Civ Proc § 2025.410 (2013)

§ 2025.410. Service of written objection; Time for serving; Motion for stay; Monetary sanction; Exception

(a) Any party served with a deposition notice that does not comply with Article 2 (commencing with Section 2025.210) waives any error or irregularity unless that party promptly serves a written objection specifying that error or irregularity at least three calendar days prior to the date for which the deposition is scheduled, on the party seeking to take the deposition and any other attorney or party on whom the deposition notice was served.

(b) If an objection is made three calendar days before the deposition date, the objecting party shall make personal service of that objection pursuant to Section 1011 on the party who gave notice of the deposition. Any deposition taken after the service of a written objection shall not be used against the objecting party under Section 2025.620 if the party did not attend the deposition and if the court determines that the objection was a valid one.

(c) In addition to serving this written objection, a party may also move for an order staying the taking of the deposition and quashing the deposition notice. This motion shall be accompanied by a meet and confer declaration under Section 2016.040. The taking of the deposition is stayed pending the determination of this motion.

(d) 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 quash a deposition notice, 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.

(e)

(1) Notwithstanding subdivision (d), absent exceptional circumstances, the court shall not impose sanctions on any party, person, or attorney for failure to provide electronically stored information that has been lost, damaged, altered, or overwritten as the result of the routine, good faith operation of an electronic information system.

(2) This subdivision shall not be construed to alter any obligation to preserve discoverable information.

NOTES:**Amendments:****2012 Amendment:**

Added subd (e).

Historical Derivation:

Former CCP § 2025(g), added Stats 1986 ch 1334 § 2, amended Stats 1987 ch 86 § 8, Stats 1988 ch 160 § 20 (ch 553 prevails), ch 553 § 3, Stats 1989 ch 1137 § 1, ch 1360 § 13, ch 1416 § 29.5, Stats 1990 ch 1491 § 11.5, Stats 1991 ch 1090 § 10, Stats 1993 ch 926 § 9, Stats 1994 ch 660 § 5, Stats 1995 ch 576 § 7, Stats 1997 ch 395 § 1, Stats 1998 ch 875 § 1, ch 932 § 22, ch 974 § 4, Stats 1999 ch 892 § 13, Stats 2000 ch 474 § 1, Stats 2001 ch 812 § 9.6, Stats 2002 ch 1068 § 2.

Law Revision Commission Comments:**2004**

Subdivision (a) of Section 2025.410 continues the first sentence of former Section 2025(g) without change, except to conform the cross-references.

Subdivision (b) continues the second and third sentences of former Section 2025(g) without change, except to conform a cross-reference.

Subdivision (c) continues the second paragraph of former Section 2025(g) without substantive change.

Subdivision (d) continues the third paragraph of former Section 2025(g) without change, except to conform the cross-reference.

Editor's Notes

For notes of decisions derived from cases decided under former CCP § 2025, see *CCP § 2025.010*.

Collateral References:

Cal. Forms Pleading & Practice (Matthew Bender(R)) ch 36 "Judicial Arbitration".

Cal. Points & Authorities (Matthew Bender(R)) ch 83 "Discovery: Depositions" § 83.11.

Cal. Points & Authorities (Matthew Bender(R)) ch 83 "Discovery: Depositions" § 83.30.

Cal. Points & Authorities (Matthew Bender(R)) ch 83 "Discovery: Depositions" § 83.40.

Cal. Points & Authorities (Matthew Bender(R)) ch 83 "Discovery: Depositions" § 83.46.

Cal. Points & Authorities (Matthew Bender(R)) ch 83 "Discovery: Depositions" § 83.60.

Cal. Points & Authorities (Matthew Bender(R)) ch 83 "Discovery: Depositions" § 83.70.

Cal. Points & Authorities (Matthew Bender(R)) ch 83 "Discovery: Depositions" § 83.80.

Cal. Fam. Law Practice & Procedure (Matthew Bender(R)), § 110.13.

Cal. Fam. Law Practice & Procedure (Matthew Bender(R)), § 110.14.

Matthew Bender (R) Practice Guide: *Cal. Trial and Post Trial Civil Procedure §§ 4.16[2], 11.54[1].*

Hierarchy Notes:

Pt. 4, Tit. 4 Note

Emerging Issues Analysis

2012 Changes to the California Electronic Discovery Act

California's 2012 "clean up" legislation expands and clarifies application of the Electronic Discovery Act and specifically extends the application of numerous sections of the Civil Discovery Act to electronically stored information ("ESI"). This commentary addresses changes affecting the general provisions of the Civil Discovery Act, subpoenas, ESI that is not reasonably accessible, sanctions, and inadvertent production of privileged ESI.

LexisNexis 50 State Surveys, Legislation & Regulations

Depositions & Interrogatories

NOTES OF DECISIONS

1. Timeliness

Although a trial court did not err when it ordered a former employee to appear for a third deposition because he had waived any objection to the location of the deposition by failing to serve a written objection on his former employer at least three calendar days prior to the date of the deposition as required by *CCP § 2025.410(a)*, it did err in its ex parte imposition of monetary sanctions for the employee's disruption and refusal to proceed with his second deposition because, pursuant to *CCP § 2023.030*, discovery sanctions could not be awarded ex parte. *Parker v. Wolters Kluwer United States, Inc.* (2007, Cal App 2d Dist) 149 Cal App 4th 285, 57 Cal Rptr 3d 18, 2007 Cal App LEXIS 490.