


Cal Code Civ Proc § 2031.310

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Miscellaneous Provisions (§§ 1834 — 2107) > Title 4 Civil Discovery Act (Chs. 1 — 20) > Chapter 14
Inspection, Copying, Testing, Sampling, and Production of Documents, Electronically Stored Information,
Tangible Things, Land, and Other Property (Arts. 1 — 3) > Article 2 Response to Inspection Demand (§§
2031.2 — 2031.320)*

Notice

 This section has more than one version with varying effective dates.

§ 2031.310. Motion for order compelling further response; Notice; Electronically stored information; Sanctions [Operative January 1, 2020]

(a) On receipt of a response to a demand for inspection, copying, testing, or sampling, the demanding party may move for an order compelling further response to the demand if the demanding party deems that any of the following apply:

- (1) A statement of compliance with the demand is incomplete.
- (2) A representation of inability to comply is inadequate, incomplete, or evasive.
- (3) An objection in the response is without merit or too general.

(b) A motion under subdivision (a) shall comply with each of the following:

- (1) The motion shall set forth specific facts showing good cause justifying the discovery sought by the demand.
- (2) The motion shall be accompanied by a meet and confer declaration under Section 2016.040.
- (3) In lieu of a separate statement required under the California Rules of Court, the court may allow the moving party to submit a concise outline of the discovery request and each response in dispute.

(c) Unless notice of this motion is given within 45 days of the service of the verified response, or any supplemental verified response, or on or before any specific later date to which the demanding party and the responding party have agreed in writing, the demanding party waives any right to compel a further response to the demand.

(d) In a motion under subdivision (a) relating to the production of electronically stored information, the party or affected person objecting to or opposing the production, inspection, copying, testing, or sampling of electronically stored information on the basis that the information is from a source that is not reasonably accessible because of the undue burden or expense shall bear the burden of

demonstrating that the information is from a source that is not reasonably accessible because of undue burden or expense.

(e) If the party or affected person from whom discovery of electronically stored information is sought establishes that the information is from a source that is not reasonably accessible because of the undue burden or expense, the court may nonetheless order discovery if the demanding party shows good cause, subject to any limitations imposed under subdivision (g).

(f) If the court finds good cause for the production of electronically stored information from a source that is not reasonably accessible, the court may set conditions for the discovery of the electronically stored information, including allocation of the expense of discovery.

(g) The court shall limit the frequency or extent of discovery of electronically stored information, even from a source that is reasonably accessible, if the court determines that any of the following conditions exists:

(1) It is possible to obtain the information from some other source that is more convenient, less burdensome, or less expensive.

(2) The discovery sought is unreasonably cumulative or duplicative.

(3) The party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought.

(4) The likely burden or expense of the proposed discovery outweighs the likely benefit, taking into account the amount in controversy, the resources of the parties, the importance of the issues in the litigation, and the importance of the requested discovery in resolving the issues.

(h) Except as provided in subdivision (j), 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 further response to a demand, 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.

(i) Except as provided in subdivision (j), if a party fails to obey an order compelling further response, 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).

(j)

(1) Notwithstanding subdivisions (h) and (i), absent exceptional circumstances, the court shall not impose sanctions on a party or any attorney of a party 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.

History

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Added Stats 2004 ch 182 § 23 (AB 3081), operative July 1, 2005. Amended Stats 2009 ch 5 § 21 (AB 5), effective June 29, 2009; Stats 2013 ch 18 § 2 (AB 1183), effective January 1, 2014; Stats 2018 ch 317 § 4 (AB 2230), effective January 1, 2019, operative January 1, 2020.

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