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James F. Ryan, SBN 169980
Attorney at Law
8667 Via Mallorca, Suite 72
La Jolla, CA 92037
(858) 455-6898

RECEIVED
SUPERIOR COURT OF CALIFORNIA
CENTRAL JUSTICE CENTER

SEP 04 2008

MAIL

Attorney for Plaintiff BRIAN FARMER

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

SEP 04 2008

ALAN SLATER, Clerk of the Court

[Signature]
BY K. FERRIN

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

BRIAN FARMER

Plaintiff,

vs.

ERIC J. PARK, an individual;
and Does 1 to 10 inclusive,

Defendants.

Case No.: 30-2008-00103341

NOTICE OF MOTION AND MOTION TO
COMPEL RESPONSES TO
REQUEST FOR INSPECTION AND
PRODUCTION OF DOCUMENTS
[SET ONE]; REQUEST FOR SANCTIONS

DATE: ~~OCTOBER 15~~ ^{November 19} 2008

TIME: 10:00 AM

JUDGE: SHEILA FELL

DEPT: C-22

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD: PLEASE TAKE

NOTICE that on ~~October 15~~ ^{November 19}, 2008, at approximately 10:00 A.M., or as soon thereafter as may be heard in the above-entitled Court, Superior Court of California, County of Orange, Central Justice Center, 700 Civic Center Drive West, Santa Ana, California 92701, Department C-22, the Honorable Sheila Fell presiding, James F. Ryan, counsel for Plaintiff, Brian Farmer, will appear to seek an Order Compelling defendant ERIC J. PARK to provide Responses to Plaintiff's Request for Inspection and Production of Documents (Set One), and Request for Sanctions as follows:

1 1. On July 14, 2008, Plaintiff's counsel served on defendant: "Plaintiff's Request
2 for Inspection and Production of Documents" (Set One) consisting of thirty six (36) categories;
3 written responses and the documents were due to be received by August 18, 2008. The
4 categories of documents requested consisted generally of:

5
6 a.) All WRITINGS that evidence, refer, relate, or pertain to any and all possible
7 investment or sales negotiations conducted by YOU, or anyone acting at your direction, of
8 AUTOPEDIA with the Tribune Company, or any other entity, by authority you allege was
9 granted to you by the "AGREEMENT", to negotiate the terms of any investment or buyout on
10 behalf of you and/or the other shareholders, as described in YOUR response "General Denial", to
11 Plaintiff's Form Interrogatory No. 15.1, page 6.

12
13 b.) All WRITINGS that evidence, refer, relate, or pertain to any negotiations between
14 Plaintiff FARMER, YOU, and/or Rick Coulthurst, stating that *at all times* it was clear that the
15 obligation to pay Plaintiff FARMER, and his obligation to transfer the shares was *contingent*
16 upon AUTOPEDIA, INC. receiving an offer to sell shares, as described in YOUR response
17 "General Denial", to Plaintiff's Form Interrogatory No. 15.1, page 6.

18
19 c.) All WRITINGS that evidence, refer, relate, or pertain to any and all documents
20 including but not limited to the "AGREEMENT" reflecting all terms of the *final expression of*
21 YOUR agreement with Plaintiff FARMER, that was entered into by Plaintiff FARMER and
22 yourself ERIC J. PARK, on or about October 27, 1998, for the express stated purpose of YOU,
23 ERIC J. PARK, purchasing a majority of BRIAN FARMER'S interest and ownership in
24 AUTOPEDIA, INC., as described in YOUR response "First Affirmative Defense", to Plaintiff's
25 Form Interrogatory No. 15.1, page 7; and

26
27 d.) All WRITINGS that evidence, refer, relate, or pertain to any and all sales or
28

1 financial data reflecting the actual cash value of all shares of AUTOPEDIA, INC. at the time the
2 written agreement entitled "Stock Purchase Agreement" (hereinafter "the Agreement") was
3 entered into by Plaintiff FARMER and yourself ERIC J. PARK, on or about October 27, 1998,
4 for the express stated purpose of you, ERIC J. PARK, purchasing a majority of BRIAN
5 FARMER'S interest and ownership in AUTOPEDIA, INC.. This "Stock Purchase Agreement"
6 (hereinafter "the Agreement") attached as Exhibit "A" to the Complaint on file in this action, etc.

8 2. Having received no responses whatsoever to the aforementioned Plaintiff's
9 Request for Inspection and Production of Documents (Set One) on the due date of August 18,
10 2008, nor ever having received any prior verbal, telephonic or written requests for an extension
11 of time to respond to these requests; on **August 19, 2008**; Plaintiff's counsel made a telephone
12 call to defense counsel Frederick W. Lee's office and left a message with defense counsel's
13 office secretary named "Young", requesting that Mr. Lee return his call regarding the fact that no
14 responses to Plaintiff's Request for Inspection and Production of Documents had been received.
15 Plaintiff's counsel waited two (2) days for a return call. Having received none; he sent a letter
16 via facsimile and U.S. Mail to Mr. Lee, reiterating that no responses had been received, no "meet
17 and confer" phone calls had been received, and that pursuant to C.C.P. Section § 2023.010, Mr.
18 Lee was in violation of said code section by:

- 21
22 **(d) failing to respond or submit to an authorized method of discovery; and**
23 **(i) failing to confer by telephone with an opposing attorney in a reasonable**
 and good faith attempt to resolve any dispute concerning discovery.

24 Plaintiff's counsel letter went on to inform Mr. Lee that Mr. Ryan had calendared a
25 Motion to Compel Responses to the Request for Inspection and Production of Documents, and
26 request for sanctions for October 15, 2008, and that: "Absent receipt of full and complete
27 responses to our discovery requests on or before August 26, 2008, the Motion will go forward."
28

1 3. Finally on the afternoon of August 26, 2008, a “legal assistant” named “Dave
2 Homsey” in the employ of defense counsel Mr. Lee, called Plaintiff’s counsel’s office and left a
3 voice message to the effect that he, “Mr. Homsey” and Mr. Lee, had never received these
4 “Request for Inspection and Production of Documents”. Mr. Homsey E-Mailed a letter
5 repeating this assertion later that day. Mr. Ryan called Mr. Homsey and informed him, in no
6 uncertain terms, that these Requests were properly and timely served by mail on July 14, 2008;

7
8 **Code of Civil Procedure Section § 1013 (a) states:**

9 **“In case of service by mail, the notice or other paper shall be deposited
10 in a post office, mailbox, or other like facility regularly maintained by
11 the U.S. Postal Service, in a sealed envelope, with postage paid, addressed
12 to the person on whom it is to be served, at the office address as last given
13 by that person on any document filed in the cause and served on the party
14 making the service by mail. The service is complete at the time of the deposit.”**

15 **Evidence Code Section § 641: Letter Received in Ordinary Course of Mail: states:**

16 **“A letter correctly addressed and properly mailed is
17 presumed to have been received in the ordinary course of mail.”**

18 that the written responses and the documents were due to be received on August 18, 2008; that
19 all objections had been waived by their failure to respond to the Requests in a timely manner,
20 that on August 19, 2008; Plaintiff’s counsel made a telephone call to defense counsel Frederick
21 W. Lee’s office requesting that Mr. Lee return his call regarding the fact that no responses to
22 Plaintiff’s “Request for Inspection and Production of Documents” had been received; that
23 Plaintiff’s counsel had received neither a return call nor a response to his letter of August 21,
24 2008; and that Mr. Ryan found their statement of never having received the Requests to be
25 patently false; especially in light of Mr. Ryan’s previous experience with Mr. Homsey’s previous
26 false statements regarding when the defendant’s responses to Plaintiff’s Form Interrogatories
27 would be provided (due on June 4, 2008, Homsey agreeing to provide by June 6, 2008;
28

1 Responses not mailed until June 20, 2008). Mr. Ryan informed Mr. Homsey that absent receipt
2 of the written responses and the requested documents, the Motion to Compel Responses would
3 go forward on October 15, 2008.

4
5 4. Without giving any credence to Mr. Homsey's statements, Mr. Ryan, (at Mr.
6 Homsey's request), E-mailed the Requests to Dave@Daveslaw.com , and faxed a copy of the
7 Proof of Service to Mr. Lee's office. Mr. Homsey called the next day and left a voice message
8 with Mr. Ryan's office, stating that the Requests were fine and that both the written responses
9 would be E-mailed on Friday August 29, 2008, and that the documents would be provided on
10 that day as well. Neither the written responses, nor the documents have been received by August
11 30, 2008.

12
13 **Code of Civil Procedure Section § 2023.010;** provides in pertinent part:

14 "Misuses of the discovery process include, but are not limited to, the following:

15 (d) failing to respond or submit to an authorized method of discovery;
16 (i) Failing to confer in person, by telephone, or by letter with an opposing party or
17 attorney in a reasonable and good faith attempt to resolve informally any dispute
concerning discovery."

18 Plaintiff moves for an order compelling defendant's response to the demand pursuant to

19 **Code of Civil Procedure Section § 2031.300;** which provides in pertinent part:

20 If a party to whom an inspection demand is directed fails to serve a timely response to it,
the following rules apply:

21 (a) The party to whom the inspection demand is directed waives any objection to the
demand...

22 (b) The party making the demand may move for an order compelling response to the
inspection demand.

23 (c) The Court shall impose a monetary sanction under Chapter 7 (Commencing with
24 Section 2023.010) against any party, person, or attorney who unsuccessfully makes or
25 opposes a motion to compel a response to an inspection demand.

26 5. Plaintiff further requests that this Court, pursuant to **Code of Civil Procedure**
27 **Sections §§ 2023.020, .030, .040,** et seq., due to defendant and his defense counsel, Frederick W.
28

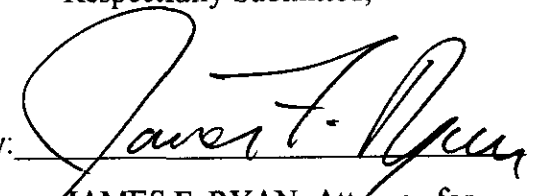
1 Lee, Esq., deliberating engaging in these misuses of the discovery process and failing to respond
2 or submit to an authorized method of discovery; and by failing to confer in person, by telephone,
3 or by letter with an opposing party or attorney **in a reasonable and good faith attempt to**
4 **resolve informally any dispute concerning discovery; impose a monetary sanction against**
5 **defendant and his attorney, Mr. Lee, ordering them to pay the attorney's fees (approximately**
6 **\$1,700.00) and motion filing fee (\$40.00) incurred by Plaintiff as a result of their conduct.**
7

8 This Motion is based on this Notice, the declaration of James F. Ryan, and the Exhibits
9 submitted herewith, the Memorandum of Points and Authorities, submitted herewith, such oral
10 and documentary evidence presented at the hearing, and all papers on file with this Court.
11

12 **PLEASE ALSO TAKE NOTICE**, that pursuant to California Rule of Court 3.1308; a
13 tentative ruling will be posted on the Orange County Superior Court website: (www.occourts.org)
14 Tuesday at 12:00 P.M. (or soon thereafter) on the day before the scheduled hearing.
15

16
17 Respectfully Submitted,

18
19 DATED: 9-01- 2008

20 By: 
21 JAMES F. RYAN, Attorney for
22 Plaintiff BRIAN FARMER
23
24
25
26
27
28

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): JAMES F. RYAN SBN 169980 ATTORNEY AT LAW 8667 VIA MALLORCA, SUITE 72 LA JOLLA, CALIFORNIA 92037 TELEPHONE NO.: (858) 455-6898 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): BRIAN FARMER	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE STREET ADDRESS: 700 CIVIC CENTER DRIVE WEST MAILING ADDRESS: P.O. BOX 838 CITY AND ZIP CODE: SANTA ANA, CALIFORNIA 92702-0838 BRANCH NAME: CENTRAL JUSTICE CENTER	
PETITIONER/PLAINTIFF: BRIAN FARMER RESPONDENT/DEFENDANT: ERIC J. PARK	
PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL	CASE NUMBER: <p style="text-align: center; font-size: 1.2em;">30-2008-00103341</p>

(Do not use this Proof of Service to show service of a Summons and Complaint.)

1. I am over 18 years of age and not a party to this action. I am a resident of or employed in the county where the mailing took place.
2. My residence or business address is:
8667 VIA MALLORCA, SUITE 72
LA JOLLA, CALIFORNIA 92037
3. On (date): **September 2, 2008** I mailed from (city and state): **SAN DIEGO, CALIFORNIA** the following documents (specify):
 1.) Notice of Motion and Motion to Compel Responses to Request for Inspection and Production of Documents [Set One]; Request for Sanctions; (2.) Memorandum of Points and Authorities in Support Thereof; (3.) Declaration of James F. Ryan, Exhibits "A"- "D"; (4.) [Proposed] Order Granting Motion.
 The documents are listed in the Attachment to Proof of Service by First-Class Mail—Civil (Documents Served) (form POS-030(D)).
4. I served the documents by enclosing them in an envelope and (check one):
 a. **depositing** the sealed envelope with the United States Postal Service with the postage fully prepaid.
 b. **placing** the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
5. The envelope was addressed and mailed as follows:
 a. **Name of person served:** **FREDERICK W. LEE, ESQ.**
 b. **Address of person served:**

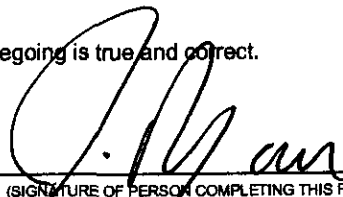
5821 BEACH BLVD.
BUENA PARK, CALIFORNIA 90621

The name and address of each person to whom I mailed the documents is listed in the Attachment to Proof of Service by First-Class Mail—Civil (Persons Served) (POS-030(P)).

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

Date: **SEPTEMBER 2, 2008**

JAMES F. RYAN
(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)


(SIGNATURE OF PERSON COMPLETING THIS FORM)

1 James F. Ryan, SBN 169980
Attorney at Law
2 8667 Via Mallorca, Suite 72
La Jolla, CA 92037
3 (858) 455-6898

4 Attorney for Plaintiff BRIAN FARMER
5

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA
7 COUNTY OF ORANGE, CENTRAL JUSTICE CENTER
8

9 BRIAN FARMER

10 Plaintiff,

11 vs.

12 ERIC J. PARK, an individual;
13 and Does 1 to 10 inclusive,

14 Defendants.
15
16
17
18

) Case No.: 30-2008-00103341

) MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF:
MOTION TO COMPEL RESPONSES TO
REQUEST FOR INSPECTION AND
PRODUCTION OF DOCUMENTS
[SET ONE]; REQUEST FOR SANCTIONS

) DATE: OCTOBER 15, 2008

) TIME: 10:00 AM

) JUDGE: SHEILA FELL

) DEPT: C-22

19 Plaintiff, BRIAN FARMER, by and through his attorney of record, respectfully submits
20 the following Memorandum of Points and Authorities in support of this Motion to Compel
21 Responses to Plaintiff's Request for Inspection and Production of Documents (Set One) and
22 Request for Sanctions as follows:
23

24 **I. INTRODUCTION AND FACTUAL SUMMARY**

25 1. On July 14, 2008, Plaintiff's counsel served on defendant: "Plaintiff's Request
26 for Inspection and Production of Documents" (Set One) consisting of thirty six (36) categories;
27 written responses and the documents were due to be received by August 18, 2008.
28

1 The categories of documents requested consisted generally of:

2 a.) All WRITINGS that evidence, refer, relate, or pertain to any and all possible
3 investment or sales negotiations conducted by YOU, or anyone acting at your direction, of
4 AUTOPEGIA with the Tribune Company, or any other entity, by authority you allege was
5 granted to you by the "AGREEMENT", to negotiate the terms of any investment or buyout on
6 behalf of you and/or the other shareholders, as described in YOUR response "General Denial", to
7 Plaintiff's Form Interrogatory No. 15.1, page 6.

8
9 b.) All WRITINGS that evidence, refer, relate, or pertain to any negotiations between
10 Plaintiff FARMER, YOU, and/or Rick Coulthurst, stating that *at all times* it was clear that the
11 obligation to pay Plaintiff FARMER, and his obligation to transfer the shares was *contingent*
12 upon AUTOPEGIA, INC. receiving an offer to sell shares, as described in YOUR response
13 "General Denial", to Plaintiff's Form Interrogatory No. 15.1, page 6.

14
15 c.) All WRITINGS that evidence, refer, relate, or pertain to any and all documents
16 including but not limited to the "AGREEMENT" reflecting all terms of the *final expression* of
17 YOUR agreement with Plaintiff FARMER, that was entered into by Plaintiff FARMER and
18 yourself ERIC J. PARK, on or about October 27, 1998, for the express stated purpose of YOU,
19 ERIC J. PARK, purchasing a majority of BRIAN FARMER'S interest and ownership in
20 AUTOPEGIA, INC., as described in YOUR response "First Affirmative Defense", to Plaintiff's
21 Form Interrogatory No. 15.1, page 7; and

22
23 d.) All WRITINGS that evidence, refer, relate, or pertain to any and all sales or
24 financial data reflecting the actual cash value of all shares of AUTOPEGIA, INC. at the time the
25 written agreement entitled "Stock Purchase Agreement" (hereinafter "the Agreement") was
26 entered into by Plaintiff FARMER and yourself ERIC J. PARK, on or about October 27, 1998,
27
28

1 for the express stated purpose of you, ERIC J. PARK, purchasing a majority of BRIAN
2 FARMER'S interest and ownership in AUTOPEDIA, INC.. This "Stock Purchase Agreement"
3 (hereinafter "the Agreement") attached as Exhibit "A" to the Complaint on file in this action, etc.

4
5 2. Having received no responses whatsoever to the aforementioned Plaintiff's
6 Request for Inspection and Production of Documents (Set One) on the due date of August 18,
7 2008, nor ever having received any prior verbal, telephonic or written requests for an extension
8 of time to respond to these requests; on **August 19, 2008**; Plaintiff's counsel made a telephone
9 call to defense counsel Frederick W. Lee's office and left a message with defense counsel's
10 office secretary named "Young", requesting that Mr. Lee return his call regarding the fact that no
11 responses to Plaintiff's Request for Inspection and Production of Documents had been received.
12 Plaintiff's counsel waited two (2) days for a return call. Having received none; he sent a letter
13 dated **August 21, 2008**, via facsimile and U.S. Mail to Mr. Lee, reiterating that no responses had
14 been received, no "meet and confer" phone calls had been received, and that pursuant to **C.C.P.**
15 **Section § 2023.010**, Mr. Lee was in violation of said code section by:

- 16
17
18 **(d) failing to respond or submit to an authorized method of discovery; and**
19 **(i) failing to confer by telephone with an opposing attorney in a reasonable**
20 **and good faith attempt to resolve any dispute concerning discovery.**

21 Plaintiff's counsel letter went on to inform Mr. Lee that Mr. Ryan had calendared a
22 Motion to Compel Responses to the Request for Inspection and Production of Documents, and
23 request for sanctions for October 15, 2008, and that: "Absent receipt of full and complete
24 responses to our discovery requests on or before August 26, 2008, the Motion will go forward."

25 3. Finally on the afternoon of August 26, 2008, a "legal assistant" named "Dave
26 Homsey" in the employ of defense counsel Mr. Lee, called Plaintiff's counsel's office and left a
27 voice message to the effect that he, "Mr. Homsey" and Mr. Lee, had never received these
28

1 "Request for Inspection and Production of Documents". Mr. Homsey E-Mailed a letter
2 repeating this assertion later that day. Mr. Ryan called Mr. Homsey and informed him in no
3 uncertain terms that these Requests were properly and timely served by mail on July 14, 2008;
4

5 **Code of Civil Procedure Section § 1013 (a) states:**

6 **"In case of service by mail, the notice or other paper shall be deposited**
7 **in a post office, mailbox, or other like facility regularly maintained by**
8 **the U.S. Postal Service, in a sealed envelope, with postage paid, addressed**
9 **to the person on whom it is to be served, at the office address as last given**
10 **by that person on any document filed in the cause and served on the party**
11 **making the service by mail. The service is complete at the time of the deposit."**

12 **Evidence Code Section § 641: Letter Received in Ordinary Course of Mail: states:**

13 **"A letter correctly addressed and properly mailed is**
14 **presumed to have been received in the ordinary course of mail."**

15 that the written responses and the documents were due to be received on August 18, 2008; that
16 all objections had been waived by their failure to respond to the Requests in a timely manner,
17 that on August 19, 2008; Plaintiff's counsel made a telephone call to defense counsel Frederick
18 W. Lee's office requesting that Mr. Lee return his call regarding the fact that no responses to
19 Plaintiff's Request for Inspection and Production of Documents had been received; that
20 Plaintiff's counsel had received neither a return call nor a response to his letter of August 21,
21 2008; and that Mr. Ryan found their statement of never having received the Requests to be
22 patently false; especially in light of Mr. Ryan's previous experience with Mr. Homsey's previous
23 false statements regarding when the defendant's responses to Plaintiff's Form Interrogatories
24 would be provided (due on June 4, 2008, Homsey agreeing to provide by June 6, 2008;
25 Responses not mailed until June 20, 2008). Mr. Ryan informed Mr. Homsey that absent receipt
26 of the written responses and the requested documents, the Motion to Compel Responses would
27 go forward on October 15, 2008.
28

1 4. Without giving any credence to Mr. Homsey's statements, Mr. Ryan, (at Mr.
2 Homsey's request), E-mailed the Requests to Dave@Daveslaw.com , and faxed a copy of the
3 Proof of Service to Mr. Lee's office. Mr. Homsey called the next day and left a voice message
4 with Mr. Ryan's office, stating that the Requests were fine and that both the written responses
5 would be E-mailed on Friday August 29, 2008, and that the documents would be provided on
6 that day as well. Neither the written responses, nor the documents have been received by August
7 30, 2008. [See Declaration of James F. Ryan, with Exhibits "A" –"D" attached]
8

9
10 **II. LEGAL STANDARD**

11 Code of Civil Procedure Section § 2023.010; provides in pertinent part:

12 "Misuses of the discovery process include, but are not limited to, the following:

- 13 (d) failing to respond or submit to an authorized method of discovery;
14 (i) Failing to confer in person, by telephone, or by letter with an opposing party or
15 attorney in a reasonable and good faith attempt to resolve informally any dispute
16 concerning discovery."

17 Plaintiff moves for an order compelling defendant's response to the demand pursuant to:

18 Code of Civil Procedure Section § 2031.300; which provides in pertinent part:

19 If a party to whom an inspection demand is directed fails to serve a timely response to it,
20 the following rules apply:

- 21 (a) The party to whom the inspection demand is directed waives any objection to the
22 demand...
23 (b) The party making the demand may move for an order compelling response to the
24 inspection demand.
25 (c) The Court shall impose a monetary sanction under Chapter 7 (Commencing with
26 Section 2023.010) against any party, person, or attorney who unsuccessfully makes or
27 opposes a motion to compel a response to an inspection demand.
28

III. ARGUMENT/CONCLUSION

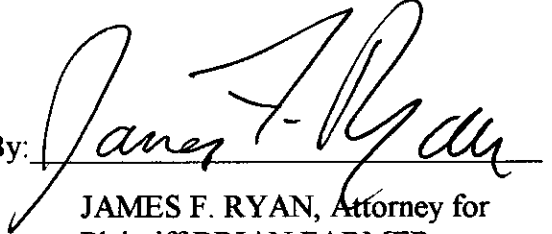
 Defendant's and his defense counsel's deliberate refusal to provide Responses to
Plaintiff's Request for Inspection and Production of Documents (Set One) (an authorized method
of discovery pursuant to Code of Civil Procedure Section § 2019.010); consisting of thirty six

1 (36) categories; written responses and the documents and their failing to confer in person, by
2 telephone, or by letter with an opposing party or attorney in a **reasonable and good faith**
3 **attempt** to resolve informally any dispute concerning discovery, violate Code of Civil
4 Procedure Section § 2023.010(d) (i).
5

6 Therefore, pursuant to Code of Civil Procedure Section § 2031.300 and Code of Civil
7 Procedure Section § 2030.290; Plaintiff moves for an order compelling defendant to provide
8 Responses to Plaintiff's Request for Inspection and Production of Documents (Set One).
9 Plaintiff further requests that this Court, pursuant to Code of Civil Procedure Sections §§
10 2023.020, .030, .040, et seq., due to defendant and his defense counsel, Frederick W. Lee, Esq.,
11 deliberating engaging in these misuses of the discovery process and failing to respond or submit
12 to an authorized method of discovery; and by failing to confer in person, by telephone, or by
13 letter with an opposing party or attorney in a reasonable and good faith attempt to resolve
14 informally any dispute concerning discovery; impose a monetary sanction against defendant and
15 his attorney, Mr. Lee, ordering them to pay the attorney's fees (approximately \$1,700.00) and
16 motion filing fee (\$40.00) incurred by Plaintiff as a result of their conduct.
17
18
19
20

21 Respectfully Submitted,

22
23
24 DATED: 9-01 - 2008

25 By: 
26 JAMES F. RYAN, Attorney for
27 Plaintiff BRIAN FARMER
28

1 James F. Ryan, SBN 169980
Attorney at Law
2 8667 Via Mallorca, Suite 72
3 La Jolla, CA 92037
(858) 455-6898

4 Attorney for Plaintiff BRIAN FARMER
5

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA
7 COUNTY OF ORANGE, CENTRAL JUSTICE CENTER
8

9 BRIAN FARMER
10

11 Plaintiff,

12 vs.

13
14 ERIC J. PARK, an individual;
and Does 1 to 10 inclusive,

15
16 Defendants.
17

) Case No.: 30-2008-00103341

) DECLARATION OF JAMES F. RYAN

) IN SUPPORT OF:
) MOTION TO COMPEL RESPONSES TO
) REQUEST FOR INSPECTION AND
) PRODUCTION OF DOCUMENTS
) [SET ONE]; REQUEST FOR SANCTIONS

) DATE: OCTOBER 15, 2008

) TIME: 10:00 AM

) JUDGE: SHEILA FELL

) DEPT: C-22

18
19 **I, JAMES F. RYAN, declare:**

20 I am an attorney at law, admitted to practice before all the Courts of the State of
21 California. I am the attorney of record for the Plaintiff, BRIAN FARMER, in the above-entitled
22 action, and if called upon, would testify as to the truth of the matters asserted herein as follows:

23
24 1. On July 14, 2008, I served on defendant: "Plaintiff's Request for Inspection and
25 Production of Documents" (Set One) consisting of thirty six (36) categories; written responses
26 and the documents were due to be received by August 18, 2008. (Attached as Exhibit "A" is a
27 true and correct copy Plaintiff's Request for Inspection and Production of Documents"(Set One),
28

1 and Proof of Service). The categories of documents requested consisted generally of:

2 a.) All WRITINGS that evidence, refer, relate, or pertain to any and all possible
3 investment or sales negotiations conducted by YOU, or anyone acting at your direction, of
4 AUTOPEdia with the Tribune Company, or any other entity, by authority you allege was
5 granted to you by the "AGREEMENT", to negotiate the terms of any investment or buyout on
6 behalf of you and/or the other shareholders, as described in YOUR response "General Denial", to
7 Plaintiff's Form Interrogatory No. 15.1, page 6.

8
9 b.) All WRITINGS that evidence, refer, relate, or pertain to any negotiations between
10 Plaintiff FARMER, YOU, and/or Rick Coulthurst, stating that *at all times* it was clear that the
11 obligation to pay Plaintiff FARMER, and his obligation to transfer the shares was *contingent*
12 upon AUTOPEdia, INC. receiving an offer to sell shares, as described in YOUR response
13 "General Denial", to Plaintiff's Form Interrogatory No. 15.1, page 6.

14
15 c.) All WRITINGS that evidence, refer, relate, or pertain to any and all documents
16 including but not limited to the "AGREEMENT" reflecting all terms of the *final expression* of
17 YOUR agreement with Plaintiff FARMER, that was entered into by Plaintiff FARMER and
18 yourself ERIC J. PARK, on or about October 27, 1998, for the express stated purpose of YOU,
19 ERIC J. PARK, purchasing a majority of BRIAN FARMER'S interest and ownership in
20 AUTOPEdia, INC., as described in YOUR response "First Affirmative Defense", to Plaintiff's
21 Form Interrogatory No. 15.1, page 7; and

22
23 d.) All WRITINGS that evidence, refer, relate, or pertain to any and all sales or
24 financial data reflecting the actual cash value of all shares of AUTOPEdia, INC. at the time the
25 written agreement entitled "Stock Purchase Agreement" (hereinafter "the Agreement") was
26 entered into by Plaintiff FARMER and yourself ERIC J. PARK, on or about October 27, 1998,
27
28

1 for the express stated purpose of you, ERIC J. PARK, purchasing a majority of BRIAN
2 FARMER'S interest and ownership in AUTOPEdia, INC.. This "Stock Purchase Agreement"
3 (hereinafter "the Agreement") attached as Exhibit "A" to the Complaint on file in this action, etc.
4

5 2. I, having received no responses whatsoever to the aforementioned Plaintiff's
6 Request for Inspection and Production of Documents (Set One) on the due date of August 18,
7 2008, nor ever having received any prior verbal, telephonic or written requests for an extension
8 of time to respond to these requests; on **August 19, 2008**; made a telephone call to defense
9 counsel Frederick W. Lee's office and left a message with defense counsel's office secretary
10 named "Young", requesting that Mr. Lee return my call regarding the fact that no responses to
11 Plaintiff's Request for Inspection and Production of Documents had been received. I waited two
12 (2) days for a return call. Having received none; I sent a letter, dated **August 21, 2008**,
13 (Attached as **Exhibit "B"** is a true and correct copy of this letter), via facsimile and U.S. Mail to
14 Mr. Lee, reiterating that no responses had been received, no "meet and confer" phone calls had
15 been received, and that pursuant to C.C.P. Section § 2023.010, Mr. Lee was in violation of said
16 code section by:
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- 19 **(d) failing to respond or submit to an authorized method of discovery; and**
20 **(i) failing to confer by telephone with an opposing attorney in a reasonable**
21 **and good faith attempt to resolve any dispute concerning discovery.**

22 My letter went on to inform Mr. Lee that I had calendared a Motion to Compel Responses to the
23 Request for Inspection and Production of Documents, and request for sanctions for October 15,
24 2008, and that: "Absent receipt of full and complete responses to our discovery requests on or
25 before August 26, 2008, the Motion will go forward."
26

27 3. Finally on the afternoon of August 26, 2008, a "legal assistant" named "Dave
28 Homsey" in the employ of defense counsel Mr. Lee, called my office and left a voice message to

1 the effect that he, "Mr. Homsey" and Mr. Lee, had never received these "Request for Inspection
2 and Production of Documents". Mr. Homsey E-Mailed a letter repeating this assertion later that
3 day (Attached as **Exhibit "C"** is a true and correct copy of this letter). I called Mr. Homsey and
4 informed him, in no uncertain terms, that these Requests were properly and timely served on
5 **July 14, 2008**; that the written responses and the documents **were due** to be received on **August**
6 **18, 2008**; that all objections had been waived by their failure to respond to the Requests in a
7 timely manner, that on **August 19, 2008**; I made a telephone call to defense counsel Frederick
8 W. Lee's office requesting that Mr. Lee return my call regarding the fact that no responses to
9 Plaintiff's Request for Inspection and Production of Documents had been received; that I had
10 received neither a return call nor a response to my **letter of August 21, 2008**; and that I found
11 their statement of never having received the Requests to be patently false; especially in light of
12 my previous experience with Mr. Homsey's previous false statements regarding when the
13 defendant's responses to Plaintiff's Form Interrogatories would be provided (due on June 4,
14 2008, Homsey agreeing to provide by June 6, 2008; Responses not mailed until June 20, 2008,
15 (Attached as **Exhibit "D"** is a true and correct copy of Plaintiff's Page One (1) of Form
16 Interrogatories and Proof of Service dated April 30, 2008 and defendant's Page One (1)
17 Responses to Form Interrogatories and Proof of Service dated June 20, 2008). I informed Mr.
18 Homsey that absent receipt of the written responses without objections, and the requested
19 documents, the Motion to Compel would go forward on October 15, 2008.

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24 4. Without giving any credence to Mr. Homsey's statements, I (at Mr. Homsey's
25 request), E-mailed the Requests to Dave@Daveslaw.com , and faxed a copy of the Proof of
26 Service to Mr. Lee's office. Mr. Homsey called the next day and left a voice message with my
27 office, stating that the Requests were fine and that both the written responses would be E-mailed
28

1 on Friday August 29, 2008, and that the documents would be provided on that day as well.
2 Neither the written responses, nor the documents have been received by August 30, 2008.

3
4 5. Plaintiff further requests that this Court, pursuant to **Code of Civil Procedure**
5 **Sections §§ 2023.020, .030, .040**, et seq., due to defendant and his defense counsel, Frederick W.
6 Lee, Esq., deliberating engaging in these misuses of the discovery process and failing to respond
7 or submit to an authorized method of discovery; and by failing to confer in person, by telephone,
8 or by letter with an opposing party or attorney **in a reasonable and good faith attempt** to
9 resolve informally any dispute concerning discovery; impose a monetary sanction against
10 defendant and his attorney, Mr. Lee, ordering them to pay the attorney's fees (approximately
11 \$1,700.00) and motion filing fee (\$40.00) incurred by Plaintiff as a result of their conduct.

12
13 6. Pursuant to **Code of Civil Procedure Sections §§ 2023.020, .030, .040**, et seq.,
14 my time spent in "meet and confer" efforts with defense counsel, and his employees, preparation
15 of this Motion to Compel, dealing with any opposition and the prospective court appearance, are
16 as follows: **LEGAL SERVICES** **HOURS**

T/calls w/defense counsel, Court clerk, Plaintiff, etc.	1.0
Legal Research	1.0
Draft "Meet and Confer" letter to defense counsel	.5
Review case file documents, prepare Exhibits.	1.0
Draft Notice, Motion, Declarations, Memorandum of P & A	4.0
<u>Attend Court hearing on October 15, 2008.</u>	<u>1.0</u>
ATTORNEY HOURS	8.5
HOURLY RATE	\$200.00
<u>MOTION FILING FEE</u>	<u>\$40.00</u>
TOTAL FEES/EXPENSES REQUESTED	\$1,740.00

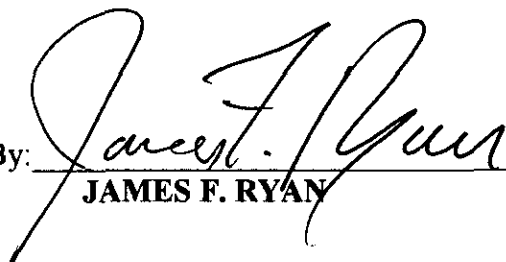
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25 I respectfully request that the Court order them to pay the full amount of my attorney's
26 fees (approximately \$1,700.00) and motion filing fee (\$40.00) incurred by Plaintiff.

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

DATED: 9-01- 2008

By: 
JAMES F. RYAN

EXHIBIT

A

1 behalf of the Plaintiff, the documents and/or items requested below. There may be full
2 compliance by forwarding copies of said documents and/or items to the Law Office of James F.
3 Ryan, attorney for Plaintiff FARMER. If there is not compliance by forwarding said documents,
4 then the production for inspection and photographing is to take place at the Law Office of James
5 F. Ryan, within thirty (30) days.

7 PLEASE TAKE FURTHER NOTICE that pursuant to California Code of Civil
8 Procedure 2031.210, et seq., defendant is required to serve a written response to this Request for
9 Inspection and Production of Documents within thirty (30) days after service of this Request.

11 Regarding copies of photographs: full compliance with this request will require
12 production of **Color Laser Photocopies** of photographs, if requested. **Black and White**
13 **photocopies of any photographs will not be deemed compliance with this request.**

14 When responding to the following Request for Production, the law requires that the
15 responding party provide such information as is within the knowledge of the responding party,
16 its officers, directors, managers, employees, representatives, investigators, and attorneys; unless
17 protected or waived by a recognized legal privilege.

19 Subject to these directives, Plaintiff FARMER, hereby requests that Defendant ERIC J.
20 PARK, identify and produce the following Documents and Materials for Inspection regarding all
21 circumstances surrounding the subject matter of this action as referenced in Plaintiffs' Complaint
22 on file herein, as follows:

24 **DEFINITIONS**

25 The term "YOU", "YOUR" or "YOURS", shall mean and refer to Defendant ERIC J.
26 PARK, your attorneys, agents, accountants, and representatives, and all other persons acting on
27 your behalf or under your direction.
28

1 Whenever the term "DEFENDANT" is used herein it is intended to refer to ERIC J.
2 PARK, including his employees, agents, and/or representatives. Whenever the term
3 "PLAINTIFF" is used herein it is intended to refer to BRIAN FARMER, an individual.
4

5 The term "DOCUMENTS" or "WRITINGS" shall include all writings as defined in
6 Section § 250 of the California Evidence Code in YOUR possession, custody or control, as well
7 as drafts and copies of writings described herein which are not identical with the original, all
8 "originals" or "duplicates" as those terms are defined in Sections § 255 and § 260 of the
9 California Evidence Code of such writings, recordings of meetings, conversations, or other
10 communications, as well as any audiotapes, videotapes, CDs or DVDs of same.
11

12 Whenever the term "DOCUMENTS" or "WRITINGS" is used herein it is intended to
13 refer to documents generated by handwriting, typing, printing, computer generated, computer
14 maintained, or by photocopying, facsimile, and/or every other means of recording upon any
15 tangible thing any form of communication, data or representation, including without limitation,
16 letters, words, pictures, sounds, symbols, or any combination thereof.
17

18 Such "DOCUMENTS" or "WRITINGS" are intended to include, but are not limited to:
19 letters, ledger sheets, balance sheets, bank statements, cash, checks, money orders, reports,
20 memorandum, facsimiles, bills, statements, invoices, credit card bills, time sheets, pay stubs,
21 contracts, agreements, articles of incorporation, stock purchase agreements, any documents filed
22 with government agencies including but not limited to the California Secretary of State, County
23 of Orange, City of Huntington Beach, any addendums, notes, computer data entries, E-mails,
24 and any documents reflecting any income of any kind to you or your employees, agents, and/or
25 representatives, including salary, commissions, bonuses, in-kind goods and services etc., paid to
26 you while acting as an owner, officer, and/or shareholder of AUTOPEdia, INC.
27
28

1 Whenever the term "AGREEMENT" is used herein it is intended to refer to the written
2 agreement entitled "Stock Purchase Agreement" (hereinafter "the Agreement") that was entered
3 into by Plaintiff FARMER and yourself ERIC J. PARK, on or about October 27, 1998, for the
4 express stated purpose of YOU, ERIC J. PARK, purchasing a majority of BRIAN FARMER'S
5 interest and ownership in AUTOPEDIA, INC.. This "Stock Purchase Agreement" (hereinafter
6 "the Agreement") is attached as Exhibit "A" to the Complaint on file in this action.
7

8 Whenever the term "AUTOPEDIA" is used herein it is intended to refer to the business
9 entity entitled "AUTOPEDIA, INC." (hereinafter "AUTOPEDIA") that at all times mentioned
10 herein was, a business established as a corporation on or about December 4, 1996, for the
11 purpose of engaging in any lawful act or activity for which a corporation may be organized under
12 General Corporation Law of California other than the banking business, the trust company
13 business or the practice of a profession permitted to be incorporated by the California
14 Corporations Code, including but limited to an automotive information company.
15 AUTOPEDIA'S principal place of business was at all times mentioned herein, located at 5392
16 System Drive, Suite B, Huntington Beach, California, 92649.
17

18
19 **REQUEST FOR PRODUCTION NO. 1:**

20 All WRITINGS that evidence, refer, relate, or pertain to any and all sales or financial
21 transactions handled by YOU, or anyone acting at your direction, which evidence your receipt of
22 any payments of any kind, including but not limited to checks, money orders, cash, goods, from
23 clients/customers of AUTOPEDIA, INC. received for work that YOU or anyone acting at your
24 direction, performed for these clients/customers, since the incorporation of AUTOPEDIA, INC.
25

26 **REQUEST FOR PRODUCTION NO. 2:**

27 All WRITINGS that evidence, refer, relate, or pertain to any and all possible investment
28

1 or sales negotiations conducted by YOU, or anyone acting at your direction, of AUTOPEDIA
2 with the Tribune Company, or any other entity, by authority you allege was granted to you by the
3 "AGREEMENT", to negotiate the terms of any investment or buyout on behalf of you and/or the
4 other shareholders, as described in YOUR response "General Denial", to Plaintiff's Form
5 Interrogatory No. 15.1, page 6.
6

7 **REQUEST FOR PRODUCTION NO. 3:**

8 All WRITINGS that evidence, refer, relate, or pertain to any alleged authority bestowed
9 on YOU, or anyone acting at your direction, to negotiate the terms of any investment or buyout
10 on behalf of you and/or the other AUTOPEDIA shareholders as described in YOUR response
11 "General Denial", to Plaintiff's Form Interrogatory No. 15.1, page 6.
12

13 **REQUEST FOR PRODUCTION NO. 4:**

14 All WRITINGS that evidence, refer, relate, or pertain to any negotiations between Plaintiff
15 FARMER, YOU, and/or Rick Coulthurst, to fix the agreed terms of dividing the proceeds among
16 you and/or the other original shareholders in the event such sale was concluded as described in
17 YOUR response "General Denial", to Plaintiff's Form Interrogatory No. 15.1, page 6.
18

19 **REQUEST FOR PRODUCTION NO. 5:**

20 All WRITINGS that evidence, refer, relate, or pertain to any negotiations between
21 Plaintiff FARMER, YOU, and/or Rick Coulthurst, stating that the "AGREEMENT" was
22 *conditional*, and that the sum was to be paid by YOU to Plaintiff FARMER at any time within
23 one year of the date of the "AGREEMENT" from proceeds generated by the acceptance of any
24 offer that may be negotiated by "ERIC" with any third parties, as described in YOUR response
25 "General Denial", to Plaintiff's Form Interrogatory No. 15.1, page 6.
26
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1 **REQUEST FOR PRODUCTION NO. 6:**

2 All WRITINGS that evidence, refer, relate, or pertain to any negotiations between
3 Plaintiff FARMER, YOU, and/or Rick Coulthurst, stating that *at all times* it was clear that the
4 obligation to pay Plaintiff FARMER, and his obligation to transfer the shares was *contingent*
5 upon AUTOPEDIA, INC. receiving an offer to sell shares, as described in YOUR response
6 “General Denial”, to Plaintiff’s Form Interrogatory No. 15.1, page 6.
7

8 **REQUEST FOR PRODUCTION NO. 7:**

9 All WRITINGS that evidence, refer, relate, or pertain to any documents whereby
10 Plaintiff FARMER, specifically acknowledged his awareness of the possible offers to purchase
11 AUTOPEDIA, INC. stock, as described in YOUR response “General Denial”, to Plaintiff’s Form
12 Interrogatory No. 15.1, page 7.
13

14 **REQUEST FOR PRODUCTION NO. 8:**

15 All WRITINGS that evidence, refer, relate, or pertain to any and all documents including
16 but not limited to the ‘AGREEMENT’ reflecting all terms of the *final expression* of YOUR
17 agreement with Plaintiff FARMER, that was entered into by Plaintiff FARMER and yourself
18 ERIC J. PARK, on or about October 27, 1998, for the express stated purpose of YOU, ERIC J.
19 PARK, purchasing a majority of BRIAN FARMER’S interest and ownership in AUTOPEDIA,
20 INC., as described in YOUR response “First Affirmative Defense”, to Plaintiff’s Form
21 Interrogatory No. 15.1, page 7.
22
23

24 **REQUEST FOR PRODUCTION NO. 9:**

25 All WRITINGS that evidence, refer, relate, or pertain to any and all documents including
26 but not limited to the ‘AGREEMENT’ reflecting your assertion that Plaintiff FARMER failed to
27 exercise ordinary care regarding all the circumstances of YOUR agreement with Plaintiff
28

1 FARMER, for the express stated purpose of YOU purchasing a majority of BRIAN FARMER'S
2 interest and ownership in AUTOPEDIA, as described in YOUR response "Second Affirmative
3 Defense", to Plaintiff's Form Interrogatory No. 15.1, page 9.

4
5 **REQUEST FOR PRODUCTION NO. 10:**

6 All WRITINGS that evidence, refer, relate, or pertain to any and all documents including
7 but not limited to the 'AGREEMENT' reflecting your assertion that the damages Plaintiff
8 FARMER claims in his complaint on file herein, were caused by and/or are otherwise the fault of
9 others, including but not limited to, Plaintiff, Plaintiff's agents, employees, and/or Defendants or
10 Cross Defendants, and that if any liability is found on the part of YOU, then Plaintiff
11 FARMER'S recovery should be barred or reduced by such above-mentioned parties
12 comparative or contributory negligence, or conduct, as described in YOUR response "Third
13 Affirmative Defense", to Plaintiff's Form Interrogatory No. 15.1, page 9.

14
15 **REQUEST FOR PRODUCTION NO. 11:**

16 All WRITINGS that evidence, refer, relate, or pertain to any and all documents including
17 but not limited to the 'AGREEMENT' reflecting your assertion that the damages Plaintiff
18 FARMER claims in his complaint on file herein, should be barred because Plaintiff FARMER
19 does not come to court with clean hands, as described in YOUR response "Fourth Affirmative
20 Defense", to Plaintiff's Form Interrogatory No. 15.1, page 10.

21
22 **REQUEST FOR PRODUCTION NO. 12:**

23 All WRITINGS that evidence, refer, relate, or pertain to any and all documents including
24 but not limited to the 'AGREEMENT' reflecting your assertion that the damages Plaintiff
25 FARMER claims in his complaint on file herein, should be barred because Plaintiff FARMER is
26 not entitled to the relief requested in his complaint because FARMER is estopped to make the
27
28

1 claims asserted, as described in YOUR response "Fifth Affirmative Defense", to Plaintiff's Form
2 Interrogatory No. 15.1, page 10.

3 **REQUEST FOR PRODUCTION NO. 13:**

4 All WRITINGS that evidence, refer, relate, or pertain to any and all documents including
5 but not limited to the 'AGREEMENT' reflecting your assertion that the damages Plaintiff
6 FARMER claims in his complaint on file herein, should be barred as to YOU by the doctrine of
7 waiver, as described in YOUR response "Sixth Affirmative Defense", to Plaintiff's Form
8 Interrogatory No. 15.1, page 11.

9 **REQUEST FOR PRODUCTION NO. 14:**

10 All WRITINGS that evidence, refer, relate, or pertain to any and all documents including
11 but not limited to the 'AGREEMENT' reflecting your assertion that the damages Plaintiff
12 FARMER claims in his complaint on file herein, should be barred as to YOU by the improper
13 conduct of plaintiff FARMER, including his failure to mitigate damages and take proper action
14 to mitigate or reduce Plaintiff's alleged losses, as described in YOUR response "Seventh
15 Affirmative Defense", to Plaintiff's Form Interrogatory No. 15.1, page 11.

16 **REQUEST FOR PRODUCTION NO. 15:**

17 All WRITINGS that evidence, refer, relate, or pertain to any and all documents including
18 but not limited to the 'AGREEMENT' reflecting your assertion that the damages Plaintiff
19 FARMER claims in his complaint on file herein, should be barred as to YOU by Plaintiff's
20 failure to exercise all reasonably available remedies prior to commencing this present action; and
21 Plaintiff's failure to exercise reasonable care in protecting his own interests in relation to the
22 events alleged in the Complaint in that the losses alleged were legally and proximately caused by
23 his own conduct, as described in YOUR response "Eighth Affirmative Defense", to Plaintiff's
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1 Form Interrogatory No. 15.1, page 12.

2 **REQUEST FOR PRODUCTION NO. 16:**

3 All WRITINGS that evidence, refer, relate, or pertain to any and all documents including
4 but not limited to the 'AGREEMENT' reflecting your assertion that the damages Plaintiff
5 FARMER claims in his complaint on file herein, should be barred as to YOU by the contractual
6 provisions of the parties' "AGREEMENT", and/or the conditions precedent to claim under such
7 agreement have not or never occurred, as described in YOUR response "Ninth Affirmative
8 Defense", to Plaintiff's Form Interrogatory No. 15.1, page 12.

9 **REQUEST FOR PRODUCTION NO. 17:**

10 All WRITINGS that evidence, refer, relate, or pertain to any and all documents including
11 but not limited to the 'AGREEMENT' reflecting your assertion that the damages Plaintiff
12 FARMER claims in his complaint on file herein, should be barred as to YOU by the affirmative
13 negligence and active misconduct by other party defendants or other unnamed parties, as a result
14 of which YOU could not have prevented or been accountable for the alleged loss or damages to
15 Plaintiff, as described in YOUR response "Eleventh Affirmative Defense", to Plaintiff's Form
16 Interrogatory No. 15.1, page 13.

17 **REQUEST FOR PRODUCTION NO. 18:**

18 All WRITINGS that evidence, refer, relate, or pertain to any and all documents including
19 but not limited to the 'AGREEMENT' reflecting your assertion that the damages Plaintiff
20 FARMER claims in his complaint on file herein, should be barred as to YOU by intervening and
21 superseding causes, as described in YOUR response "Sixteenth Affirmative Defense", to
22 Plaintiff's Form Interrogatory No. 15.1, page 16.

23 ///

1 **REQUEST FOR PRODUCTION NO. 19:**

2 All WRITINGS that evidence, refer, relate, or pertain to any and all documents including
3 but not limited to the 'AGREEMENT' reflecting your assertion that Plaintiff FARMER had
4 access to the financial viability of his investment, and entered into the AGREEMENT with full
5 knowledge, opportunity for full investigation, and understanding of the nature of his interest in
6 AUTOPEDIA, INC. stock, as described in YOUR response "Seventeenth Affirmative Defense",
7 to Plaintiff's Form Interrogatory No. 15.1, page 17.
8

9 **REQUEST FOR PRODUCTION NO. 20:**

10 All WRITINGS that evidence, refer, relate, or pertain to any and all documents including
11 but not limited to the 'AGREEMENT' reflecting your assertion that Plaintiff's injuries and
12 damages were the direct result of consent by Plaintiff, as described in YOUR response
13 "Eighteenth Affirmative Defense", to Plaintiff's Form Interrogatory No. 15.1, page 17.
14

15 **REQUEST FOR PRODUCTION NO. 21:**

16 All WRITINGS that evidence, refer, relate, or pertain to any and all documents including
17 but not limited to the 'AGREEMENT' reflecting your assertion that Plaintiff's Complaint is
18 barred as to YOU by the fact that all acts were undertaken or performed by YOU with privilege
19 or justification, as described in YOUR response "Nineteenth Affirmative Defense", to Plaintiff's
20 Form Interrogatory No. 15.1, page 18.
21

22 **REQUEST FOR PRODUCTION NO. 22:**

23 All WRITINGS that evidence, refer, relate, or pertain to any and all sales or financial
24 data reflecting the actual cash value of all shares of AUTOPEDIA, INC. at the time of
25 incorporation of AUTOPEDIA, INC. on or about December 4, 1996.
26

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1 **REQUEST FOR PRODUCTION NO. 23:**

2 All WRITINGS that evidence, refer, relate, or pertain to any and all sales or financial
3 data reflecting the actual cash value of all shares of AUTOPEDIA, INC. at the time the written
4 agreement entitled "Stock Purchase Agreement" (hereinafter "the Agreement") was entered into
5 by Plaintiff FARMER and yourself ERIC J. PARK, on or about October 27, 1998, for the
6 express stated purpose of you, ERIC J. PARK, purchasing a majority of BRIAN FARMER'S
7 interest and ownership in AUTOPEDIA, INC.. This "Stock Purchase Agreement" (hereinafter
8 "the Agreement") attached as Exhibit "A" to the Complaint on file in this action.
9

10 **REQUEST FOR PRODUCTION NO. 24:**

11 All WRITINGS that evidence, refer, relate, or pertain to any and all sales or financial
12 data reflecting the actual cash value of all shares of AUTOPEDIA, INC. at the present time.
13

14 **REQUEST FOR PRODUCTION NO. 25:**

15 All WRITINGS that evidence, refer, relate, or pertain to any and all sales or financial
16 data reflecting the actual number of shares and the actual cash value of all shares of
17 AUTOPEDIA, owned by any and all current shareholders of AUTOPEDIA at the present time.
18

19 **REQUEST FOR PRODUCTION NO. 26:**

20 All WRITINGS that evidence, refer, relate, or pertain to any and all sales or financial
21 data reflecting the actual number of shares and the actual cash value of all shares of
22 AUTOPEDIA, ever sold to and/or purchased by any and all shareholders of AUTOPEDIA.
23

24 **REQUEST FOR PRODUCTION NO. 27:**

25 All WRITINGS that evidence, refer, relate, or pertain to any and all AUTOPEDIA
26 documents used for the purpose of providing marketing, advertising, and informational services
27 through an internet automotive website since the time of incorporation of AUTOPEDIA, INC. on
28

1 or about December 4, 1996 to the present day.

2 **REQUEST FOR PRODUCTION NO. 28:**

3 All WRITINGS that evidence, refer, relate, or pertain to any and all AUTOPEdia
4 documents used for the purpose of providing all records of all profits derived, losses incurred,
5 and a full accounting of all funds ever received by or spent by AUTOPEdia, thereof since the
6 time of incorporation of AUTOPEdia, INC. on or about December 4, 1996 to the present day.
7

8 **REQUEST FOR PRODUCTION NO. 29:**

9 All WRITINGS that evidence, refer, relate, or pertain to any and all AUTOPEdia
10 documents used for the purpose of reflecting any and all actions of the Board of Directors on
11 behalf of AUTOPEdia since the time of incorporation of AUTOPEdia, INC. on or about
12 December 4, 1996 to the present day.
13

14 **REQUEST FOR PRODUCTION NO. 30:**

15 All WRITINGS that evidence, refer, relate, or pertain to any and all AUTOPEdia
16 documents reflecting a full and final accounting from Defendant PARK, of all the funds/fees
17 received for services from all of the customers of the AUTOPEdia business; an accounting of
18 these funds Defendant used to pay all company, business-related expenses on a monthly basis;
19 all of these funds Defendant used to pay any other non-business related or personal expenditures
20 and provide a monthly written accounting showing the division equally of the "profits" and/or
21 dividends remaining between Plaintiff and Defendant at the end of each month, since the
22 execution of the AGREEMENT on October 27, 1998.
23
24

25 **REQUEST FOR PRODUCTION NO. 31:**

26 All WRITINGS that evidence, refer, relate, or pertain to any and all AUTOPEdia
27 documents filed on behalf of AUTOPEdia, or any member of the Board of Directors of
28

1 AUTOPEdia, with any government agencies including but not limited to the California
2 Secretary of State, County of Orange, City of Huntington Beach, since the time of incorporation
3 of AUTOPEdia, INC. on or about December 4, 1996 to the present day.

4
5 **REQUEST FOR PRODUCTION NO. 32:**

6 All WRITINGS that evidence, refer, relate, or pertain to all Books of Account maintained
7 by YOU, which evidence entries made in the books of all sales, purchases, receipts, payments,
8 transactions, property, and income of any kind from any investments you acquired an ownership
9 interests in, due to your position with AUTOPEdia, since the time of incorporation of
10 AUTOPEdia, INC. on or about December 4, 1996 to the present day.

11
12 **REQUEST FOR PRODUCTION NO. 33:**

13 Copies of any and all City, County, State, or Federal business or professional licenses
14 possessed by YOU, or any individual working at your direction, since the time of incorporation
15 of AUTOPEdia, INC. on or about December 4, 1996 to the present day.

16
17 **REQUEST FOR PRODUCTION NO. 34:**

18 A full and complete copy of all computer data including all E-Mails possessed by YOU
19 that refers, relates or pertains to, including but not limited to, any and all notes, invoices, sales or
20 financial transactions, investment activity, accounting data, billing entries, or communications of
21 any kind between YOU and Plaintiff and/or any other individuals, regarding AUTOPEdia
22 business, from the time you entered the written agreement entitled "Stock Purchase Agreement"
23 (hereinafter "the Agreement") that was entered into by Plaintiff FARMER and yourself ERIC J.
24 PARK, on or about October 27, 1998.

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27 **REQUEST FOR PRODUCTION NO. 35:**

28 All WRITINGS that constitute YOUR notes, journals and memoranda possessed by YOU

1 that refers, relates or pertains to including but not limited to, any and all notes, invoices, sales or
2 financial transactions, investment activity, accounting data, billing entries, or communications of
3 any kind between YOU and Plaintiff and/or any other individuals, regarding AUTOPEDIA
4 business, from the time you entered the written agreement entitled "Stock Purchase Agreement"
5 (hereinafter "the Agreement") that was entered into by Plaintiff FARMER and yourself ERIC J.
6 PARK, on or about October 27, 1998.
7

8 **REQUEST FOR PRODUCTION NO. 36:**

9 All WRITINGS that evidence, refer, relate, or pertain to the written agreement entitled
10 "Stock Purchase Agreement" (hereinafter "the Agreement") that was entered into by Plaintiff
11 FARMER and yourself ERIC J. PARK, on or about October 27, 1998, attached as Exhibit "A",
12 to the Complaint on file in this action.
13
14

15
16 DATED: JULY 14, 2008

17 By: 
18 **JAMES F. RYAN, Esq., Attorney for**
19 **Plaintiff, BRIAN FARMER**
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EXHIBIT

D

JAMES F. RYAN
ATTORNEY AT LAW
8667 VIA MALLORCA, SUITE 72
LA JOLLA, CALIFORNIA 92037
TEL: 858.455.6698

August 21, 2008

Frederick W. Lee
Attorney at Law
5821 Beach Blvd.
Buena Park, California 90621

Via Facsimile and U. S. Mail
(714) 739-5870

RE: FARMER v. PARK, OCSC No. 30-2008-0013341
PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS

Dear Mr. Lee:

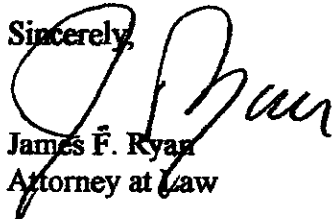
Per my telephone message left with your secretary "Young" on Tuesday, August 19, 2008; this letter will serve as our "meet and confer" effort regarding you and your client's failure to respond to Plaintiff's "Request for Inspection and Production of Documents [Set One]" that were served on July 14, 2008. Both written responses and the production of the requested documents were due to be received on or before August 18, 2008.

California Code of Civil Procedure Section § 2023.010 defines misuses of the discovery process as:

- (d) failing to respond or submit to an authorized method of discovery;
- (i) failing to confer by telephone with an opposing attorney in a reasonable and good faith attempt to resolve any dispute concerning discovery.

As of today's date, I have not received any reply to my "meet and confer" telephone message left with your office. Therefore, in light of the above, I have calendared a Motion to Compel Responses to our Request for Inspection and Production of Documents, and request for sanctions, set to go forward @ 10:00 AM on October 15, 2008, in Department C-22. Absent receipt of full and complete responses to our discovery requests on or before August 26, 2008, the Motion will go forward.

Sincerely,


James F. Ryan
Attorney at Law

cc: Brian Farmer

EXHIBIT

C

FREDERICK W. LEE

ATTORNEY AT LAW

*5821 Beach Boulevard
Buena Park, California 90621
Phone: (714) 739-1234
Fax: (714) 739-5870*

*Frederick W. Lee
Steven Johnson*

August 26, 2008

SENT VIA U.S. MAIL

James F. Ryan
Attorney at Law
8667 Via Mallorca, Suite 72
La Jolla, California 92037

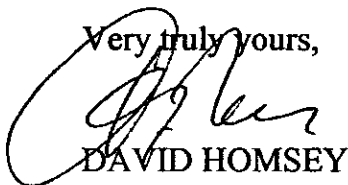
**Re: Farmer vs. Park
Orange County Superior Court, case no. 30-2008 00103341**

Dear Mr. Ryan:

This will confirm our telephone conversation this afternoon, wherein we requested an additional copy of the Request for Production, as well as your previously filed CMC Statement. As discussed, we are not claiming that you did not properly serve these items, only that for unknown causes such were either never received or inadvertently misplaced before being brought to the attention of Mr. Lee. Therefore, the Request was not calendared nor did our client ever have the opportunity to review the request. I understand that you will be emailing additional copies so that we can immediately direct them to the client, and I will notify you as soon as such is complete so that we can hopefully avoid any further dispute.

Thank you for your attention and cooperation.

Very truly yours,


DAVID HOMSEY
Legal Assistant

EXHIBIT

D

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): JAMES F. RYAN SBN 169980 ATTORNEY AT LAW 8667 VIA MALLORCA, SUITE 72 LA JOLLA, CALIFORNIA 92037 TELEPHONE NO.: (858) 455-6898 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): BRIAN FARMER	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE STREET ADDRESS: 700 CIVIC CENTER DRIVE WEST MAILING ADDRESS: P.O. BOX 838 CITY AND ZIP CODE: SANTA ANA, CALIFORNIA 92702-0838 BRANCH NAME: CENTRAL JUSTICE CENTER	
PETITIONER/PLAINTIFF: BRIAN FARMER RESPONDENT/DEFENDANT: ERIC J. PARK	
PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL	CASE NUMBER: 30-2008-00103341

(Do not use this Proof of Service to show service of a Summons and Complaint.)

1. I am over 18 years of age and not a party to this action. I am a resident of or employed in the county where the mailing took place.
2. My residence or business address is:
 8667 VIA MALLORCA, SUITE 72
 LA JOLLA, CALIFORNIA 92037
3. On (date): APRIL 30, 2008 I mailed from (city and state): SAN DIEGO, CALIFORNIA
 the following documents (specify):
 FORM INTERROGATORIES, SET ONE (1)

The documents are listed in the Attachment to Proof of Service by First-Class Mail—Civil (Documents Served) (form POS-030(D)).

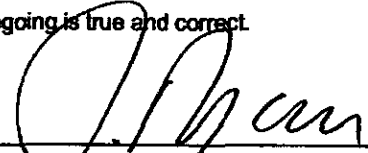
4. I served the documents by enclosing them in an envelope and (check one):
 - a. depositing the sealed envelope with the United States Postal Service with the postage fully prepaid.
 - b. placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
5. The envelope was addressed and mailed as follows:
 - a. Name of person served: **ERIC M. SASAHARA, ESQ.**
 - b. Address of person served:
6281 BEACH BLVD., SUITE 301
BUENA PARK, CALIFORNIA 90621

The name and address of each person to whom I mailed the documents is listed in the Attachment to Proof of Service by First-Class Mail—Civil (Persons Served) (POS-030(P)).

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

Date: APRIL 30, 2008

JAMES F. RYAN
 (TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)


 (SIGNATURE OF PERSON COMPLETING THIS FORM)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): JAMES F. RYAN SBN 169980 ATTORNEY AT LAW 8667 VIA MALLORCA, SUITE 72 LA JOLLA, CALIFORNIA 92037 TELEPHONE NO.: (858) 455-6898 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): BRIAN FARMER	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE	
SHORT TITLE OF CASE: FARMER v. PARK	
<p style="text-align: center;">FORM INTERROGATORIES—GENERAL</p> Asking Party: BRIAN FARMER, PLAINTIFF Answering Party: ERIC J. PARK, DEFENDANT Set No.: ONE (1)	CASE NUMBER: <p style="text-align: center; font-size: 1.2em;">30-2008-00103341</p>

Sec. 1. Instructions to All Parties

- (a) Interrogatories are written questions prepared by a party to an action that are sent to any other party in the action to be answered under oath. The interrogatories below are form interrogatories approved for use in civil cases.
- (b) For time limitations, requirements for service on other parties, and other details, see Code of Civil Procedure sections 2030.010–2030.410 and the cases construing those sections.
- (c) These form interrogatories do not change existing law relating to interrogatories nor do they affect an answering party's right to assert any privilege or make any objection.

Sec. 2. Instructions to the Asking Party

- (a) These interrogatories are designed for optional use by parties in unlimited civil cases where the amount demanded exceeds \$25,000. Separate interrogatories, *Form Interrogatories—Limited Civil Cases (Economic Litigation)* (form DISC-004), which have no subparts, are designed for use in limited civil cases where the amount demanded is \$25,000 or less; however, those interrogatories may also be used in unlimited civil cases.
- (b) Check the box next to each interrogatory that you want the answering party to answer. Use care in choosing those interrogatories that are applicable to the case.
- (c) You may insert your own definition of **INCIDENT** in Section 4, but only where the action arises from a course of conduct or a series of events occurring over a period of time.
- (d) The interrogatories in section 16.0, Defendant's Contentions—Personal Injury, should not be used until the defendant has had a reasonable opportunity to conduct an investigation or discovery of plaintiff's injuries and damages.
- (e) Additional interrogatories may be attached.

Sec. 3. Instructions to the Answering Party

- (a) An answer or other appropriate response must be given to each interrogatory checked by the asking party.
- (b) As a general rule, within 30 days after you are served with these interrogatories, you must serve your responses on the asking party and serve copies of your responses on all other parties to the action who have appeared. See Code of Civil Procedure sections 2030.260–2030.270 for details.

- (c) Each answer must be as complete and straightforward as the information reasonably available to you, including the information possessed by your attorneys or agents, permits. If an interrogatory cannot be answered completely, answer it to the extent possible.
- (d) If you do not have enough personal knowledge to fully answer an interrogatory, say so, but make a reasonable and good faith effort to get the information by asking other persons or organizations, unless the information is equally available to the asking party.
- (e) Whenever an interrogatory may be answered by referring to a document, the document may be attached as an exhibit to the response and referred to in the response. If the document has more than one page, refer to the page and section where the answer to the interrogatory can be found.
- (f) Whenever an address and telephone number for the same person are requested in more than one interrogatory, you are required to furnish them in answering only the first interrogatory asking for that information.
- (g) If you are asserting a privilege or making an objection to an interrogatory, you must specifically assert the privilege or state the objection in your written response.
- (h) Your answers to these interrogatories must be verified, dated, and signed. You may wish to use the following form at the end of your answers:

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

(DATE)

(SIGNATURE)

Sec. 4. Definitions

Words in **BOLDFACE CAPITALS** in these interrogatories are defined as follows:

(a) (Check one of the following):

- (1) **INCIDENT** includes the circumstances and events surrounding the alleged accident, injury, or other occurrence or breach of contract giving rise to this action or proceeding.

1 Frederick W. Lee Bar No: 201516
Eric M. Sasahara Bar No: 188883
2 LEE & SASAHARA, APC
6281 Beach Blvd., Suite 301
3 Buena Park, California 90621
Phone: (714) 739-1234
4 Fax: (714) 739-5870

5 Attorney for Defendant
ERIC J. PARK

6
7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

10
11 BRIAN FARMER,

12 Plaintiff,

13 vs.

14 ERIC J. PARK, an individual,
and DOES 1 through 10 inclusive,

15 Defendants.
16

CASE NO: 30-2008 00103341

Assigned for all purposes to
Hon. Sheila Fell, Judge
Dept: C22

**RESPONSES TO FORM
INTERROGATORIES PROPOUNDED
BY BRIAN FARMER TO DEFENDANT
ERIC J. PARK**
[Code Civ. Proc. § 2030.010 et seq.]

17
18 **PROPOUNDING PARTY:** Plaintiff BRIAN FARMER

19 **RESPONDING PARTY:** Defendant ERIC J. PARK

20 **SET NUMBER:** One (1) [Form Interrogatories]

21
22 **RESPONSES TO FORM INTERROGATORIES**

23 These responses are solely for the purpose of this action. Defendant has not yet completed
24 investigation of the facts related to this case, has not completed discovery in this action and has
25 not completed preparation for trial; therefore, the following Answers are given without prejudice
26 to his right to produce evidence of subsequently discovered facts.

27 ////

28 ////