JIMMIE DAVIS PARKER, ESQ. (SBN: 252023) LAW OFFICE OF JIMMIE DAVIS PARKER, APC 4241 ARDEN WAY SAN DIEGO, CALIFORNIA 92103 619-887-3300		ELECTRONICALLY FILED Superior Court of California, County of San Diego 05/22/2018 at 09:50:00 AM Clerk of the Superior Court By Jessica Pascual,Deputy Clerk
JDParker@gmail.com		
Attorney for Plaintiffs Zhala Tawfiq, Paris Kargar, and 3 Brothers Taco Shop, Inc. dba Tres Taqueria		
SUDEDIOD COUDT OF TH	је стате ое	
SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF SAN DIEGO		
FOR THE COUN	II OF SAN D	IEGO
ZHALA TAWFIQ, et al.) Case No.: 3	87-2017-00019692-CU-FR-CTL
Plaintiffs,) [IMAGED	FILE]
v.) [Assigned to]	Hon. Timothy Taylor for all purposes]
MISS MIDDLE EAST BEAUTY PAGEANT USA, INC., et al.,	/	FS ZHALA TAWFIQ, PARIS AND THREE BROTHERS TACC
Defendants.) MOTION	OTICE OF MOTION AND FO DEEM FACTS ADMITTED MONETARY SANCTIONS
ELIE MALOUF, et al.)) Complaint	Filed: May 31, 2017
Cross-complainants,) Trial Date:	August 10, 2018
v.) Date: June) Time: 1:30	
RAMI ATTALLAH) Location: (
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Defendant.)	
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1TO CLERK OF THE COURT, HONORABLE JUDGE, ALL PARTIES AND THEIR2RESPECTIVE COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on June 29, 2018 at 1:30 PM or as soon thereafter as the 3 matter may be heard in Department 72 of the above-entitled court, Plaintiffs ZHALA 4 TAWFIQ, PARIS KARGAR and THREE BROTHERS TACO SHOP, INC. (hereinafter 5 "Plaintiffs"), will and hereby move, the Court for an order under the California Civil 6 Discovery Act, Sections 2023.010, et seq., specifically, 2033.280 of the Code of Civil Procedure 7 that the truth of all specified matters, and the genuineness of all specified documents, in 8 their Request For Admissions to Kalasho Defendants (Set Two), served on Defendants 9 BESSMON KALASHO, JESSICA KALASHO, MISS MIDDLE EAST BEAUTY PAGEANT 10 USA, INC., dba "Miss Middle East USA Beauty Pageant"; MIDDLE EASTERN CHAMBER 11 OF COMMERCE fka SAN DIEGO EAST COUNTY CHALDEAN AMERICAN CHAMBER 12 OF COMMERCE (collectively the "Kalasho Defendants"), via U.S. Mail and electronic 13 service, on April 4, 2018, be deemed admitted, and for monetary sanctions against the 14 Kalasho Defendants and their attorney(s) in the amount of \$2,035. The motion is made on 15 the grounds that the Kalasho Defendants failed to serve a timely response to the moving 16 party's above-described Request for Admissions.

This motion is based on this notice of motion; on the Declaration of Jimmie Davis
Parker, Esq. ISO Plaintiffs' Motion to Deem Facts Admitted and for Monetary Sanctions
(hereinafter "Parker Decl.") and the copies of the Requests for Admissions with proofs of
service; the memorandum of points and authorities filed herewith; on the records and file
herein; and on such evidence as may be presented at the hearing of the motion.

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PLAINTIFFS ZHALA TAWFIQ, PARIS KARGAR AND THREE BROTHERS TACO SHOP, INC. MOTION TO DEEM FACTS ADMITTED AND FOR MONETARY SANCTIONS

- 1 -

1	Respectfully Submitted,	
2	DATE: May 22, 2018	LAW OFFICE OF JIMMIE DAVIS
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13		IIMMIE DAVIS PARKER, ESO. 4241 Arden Way
14		4241 Arden Way San Diego, CA 92103 Telephone: 619/887-3300 Email: jdparker@gmail.com Attorney for Plaintiffs THREE BROTHERS TACO SHOP, INC., PARIS KARGAR and ZHALA TAWFIO
15		Email: jdparker@gmail.com Attorney for Plaintiffs THREE
16		BROTHERS TACO SHOP, INC., PARIS KARGAR and ZHALA TAWFIQ
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MEMORANDUM OF POINTS AND AUTHORITIES

I. **INTRODUCTION** 2

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This motion seeks relief under Civil Discovery Act for the Kalasho Defendants' 3 wholesale failure to respond to Plaintiffs' Request for Admissions Set Two. 4

On April 4, 2018, the undersigned served the requests for admissions at issue on the Kalasho Defendants redundantly by mail, by electronic service and upon both, Counsel of Record, Mr. Liosi, and putative counsel, Mr. Finigan.¹ See Declaration of Jimmie Davis Parker Filed ISO of Motion to Deem Facts Admitted ("Parker Decl.") at ¶2, Exhs. A, B. The time for the Kalasho Defendants to serve a timely response expired on May 9, 2018. The moving party has received no response to date (Parker Decl. at ¶3); no further meet and confer is required when there has been no response provided. See St. Mary v. Superior Court (Schellenberg) (2014) 223 Cal.App.4th 762, 777–778, citing Weil & Brown, Cal. Practice Guide: Civil Procedure Before Trial (The Rutter Group 2013), ¶ 8:1371, p. 8G-25.

13 Plaintiffs seek an order that the genuineness of any documents and the truth of any 14 matters specified in the requests be deemed admitted², and that the Kalasho Defendants 15 and/or their attorney pay the moving party \$2,035³ in monetary sanctions as required by 16 statute, as the relief requested is mandatory. Code Civ. Proc. §§ 2033.280(b), (c); St. Mary v. 17 Superior Court (2014) 223 Cal.App.4th 762, 774-776.

18 II. LEGAL ARGUMENT

19 A. The Kalashos' Failure to Respond Requires the Court Order the Genuineness of Documents and the Truth of Matters Encompassed Within the Request 20

If a party to whom requests for admission have been directed fails to serve a timely response, the requesting party may move for an order that the genuineness of any 22 documents and the truth of any matters specified in the requests be deemed admitted. Code 23

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27 ³ Undersigned's rate has already been deemed reasonable by this Court at \$395/hr. See ROA 127. The undersigned estimates five hours incurred in drafting and presenting the motion (assuming no response) and \$60 in filing fees 28 totaling \$2,035. See Parker Decl., ¶4.

²⁵ ¹ The instant motion was also served redundantly. See Proof of Service filed concurrently herewith.

² The RFA seeks admissions for 92 Requests (bringing the total requests outstanding to 109). The RFA was

²⁶ accompanied by a declaration of counsel as required under 2033.030, as the complexity of the case, number of parties and causes of action necessitated the number of RFAs. See Parker Decl., ¶4, Exh. C.

Civ. Proc. § 2033.280(b). In the event of the wholesale failure to respond to RFA's, the Court
 is required to make the requested order for deemed admissions. Code Civ. Proc. §
 2033.280(c); *St. Mary v. Superior Court* (2014) 223 Cal.App.4th 762, 774–776.

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In this case, the time for the responding party to serve a timely response expired on May 9, 2018, and no response has been served at this time. Parker Decl., ¶3. Indeed, the attorneys for the Kalasho Defendants have not responded to any telephonic or email communication (nor Motions) from the undersigned since early February 2018, in essence refusing to participate in the case at all. *Id*. In the face of Kalasho Defendants' non-response to Plaintiffs' Request for Admission to Kalasho Defendants Set (Two), California Code of Civil Procedure section 2033.280(c) mandates the Court make the requested order that the genuineness of any documents and the truth of any matters specified in the requests be deemed admitted.

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B. Under California Law, the Court Must Impose a Monetary Sanction on the Party Whose Failure to Serve a Timely Response Necessitated the Motion for Deemed Admissions.

15 The court must impose a CCP § 2023.030 monetary sanction on the party, attorney, 16 or both, whose failure to serve a timely response to requests for admission necessitated a motion for deemed admissions. Code Civ. Proc. § 2033.280(c). St. Mary v. Superior Court 17 18 (2014) 223 Cal.App.4th 762, 776. ("The court must also impose monetary sanctions upon the 19 party and/or the attorney for the failure to serve a timely response to the RFAs."). As a result of the Kalasho Defendants' failure to respond to the Request for Admissions to 20 Kalasho Defendants Set (Two) described above, the moving party has necessarily incurred 21 reasonable expenses in the amount of \$2,035. Parker Decl., ¶5. 22

III. CONCLUSION

For the aforementioned reasons, Plaintiffs respectfully request that the Court issue relief in the proposed form filed concurrently herewith.

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2	DATE: May 22, 2018	LAW OFFICE OF JIMMIE DAVIS
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13		IIMMIE DAVIS PARKER, ESO. 4241 Arden Way
14		4241 Arden Way San Diego, CA 92103 Telephone: 619/887-3300 Email: jdparker@gmail.com Attorney for Plaintiffs THREE BROTHERS TACO SHOP, INC., PARIS KARGAR and ZHALA TAWFIO
15		Email: jdparker@gmail.com Attorney for Plaintiffs THREE
16		BROTHERS TACO SHOP, INC., PARIS KARGAR and ZHALA TAWFIQ
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