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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF SAN DIEGO - HALL OF JUSTICE COURTHOUSE**

11 GRECIA FIGUEROA,

12 Plaintiff(s),

13 v.

14 NATHAN FLETCHER, an individual; SAN
DIEGO METROPOLITAN TRANSIT
15 SYSTEM, a California public agency; and,
DOES 1-20, Inclusive,

16 Defendant(s).
17

CASE NO.: 37-2023-00012828-CU-OE-CTL
[Unlimited Jurisdiction]

*Assigned for all purposes to the Honorable
Matthew C. Braner, Dept. C-60*

**SEPARATE STATEMENT IN SUPPORT
OF DEFENDANT NATHAN
FLETCHER'S MOTION TO COMPEL
PLAINTIFF'S RESPONSE TO REQUEST
FOR PRODUCTION OF DOCUMENTS,
SET ONE**

DATE: October 27, 2023
TIME: 9:00 a.m.

Complaint Filed: March 28, 2023
Trial Date: Not Set

21 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:**

22 Defendant Nathan Fletcher hereby submits this Separate Statement in Support of
23 Defendant's Motion to Compel Compliance with Plaintiff's Responses to Defendant's Request
24 for Production of Documents, Set One and arguments as to why compliance and production
25 should be required.

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1 **DEFINITIONS AS DRAFTED IN REQUESTS FOR PRODUCTION, SET ONE**

2 For the purpose of this request, the following definitions shall apply:

3 1. The terms “PLAINTIFF,” “YOU,” and “YOURS,” as used herein, refer to
4 PLAINTIFF Grecia Figueroa, and her attorney, or any person acting as her agent or otherwise
5 on her behalf.

6 2. The term “DEFENDANT” as used herein refers to named DEFENDANT Nathan
7 Fletcher or to any PERSON acting as an agent or otherwise on behalf of DEFENDANT.

8 3. The term “PERSON,” as used herein, includes a natural person, firm, association,
9 organization, partnership, business, trust, corporation, company, or public entity.

10 4. The term “COMPLAINT” as used herein refers to the Complaint filed by
11 PLAINTIFF in this action on March 28, 2023, and styled *Figueroa v. Fletcher, et al.* (San Diego
12 County Superior Court; Case No. 37-2023-00012828-CU-OE-CTL).

13 5. The terms “DOCUMENT” and/or “DOCUMENTS,” as used herein, include
14 writings, tape recordings, transcriptions, notes, computer disks, electronic data files, information
15 stored on computer or on any type of computer readable storage media and capable of being
16 reproduced by printed representation, or any other form of physical evidence. Specifically, the
17 terms “DOCUMENT” and/or “DOCUMENTS,” as used herein, include any matter or tangible
18 thing containing or recording any electronic data, handwriting, typewriting, printing,
19 photographing, or any other means of recording on any tangible thing, any form of
20 communication, INCLUDING letters, words, pictures, sounds, or symbols, or combinations
21 thereof, and it further includes any oral communication later reduced to writing or confirmed by
22 writing. By way of example only, the terms “DOCUMENT” and/or “DOCUMENTS,” as used
23 herein, include, but are not limited to, any letter, correspondence, note, book, pamphlet, article,
24 bulletin, directive, review, report, publication, memorandum, diary, log, test, analysis, study,
25 projection, check, invoice, receipt, bill, audit report, contract, agreement, work paper, calendar,
26 envelope, paper, telephone message, post-it notes, tapes, drawings, charts, accounts, graphs,
27 ledgers, statements, reports, financial data, oral communications reduced to writing or confirmed
28 by writing, meeting agendas, meeting notes, and all other writings or communications,

1 INCLUDING all non-identical copies, drafts, preliminary sketches, no matter how produced or
2 maintained in YOUR actual or constructive possession, custody, or control or of which YOU
3 have knowledge or the existence of, and whether prepared, published, or release by YOU or by
4 any other PERSON. **The terms “DOCUMENT” and/or “DOCUMENTS,” as used herein,**
5 **shall also include all ESI. All ESI should be produced in its useful form or translated into**
6 **a usable form for production.** Without limitation on the foregoing, the terms “DOCUMENT”
7 and/or “DOCUMENTS” shall also include any copy that differs in any respect from the original
8 or any other versions of the DOCUMENT, such as, but not limited to, copies containing
9 notations, insertions, corrections, redlining, marginal notes, recommendations, drafts, or any
10 other variations.

11 6. The term “COMMUNICATIONS,” as used herein means, and includes, any
12 contact or act by which any information or knowledge is transmitted or conveyed between
13 two (2) or more PERSONS INCLUDING written contact (by such means as letters, memoranda,
14 telegrams, electronic mail, telexes, facsimiles, tape recordings, voice recordings, computer
15 transmissions, computer readable recordings, e-mail, text message, instant messenger, online
16 chat, or any other DOCUMENTS or ESI), oral contact (by such means as face-to-face
17 communications or telephone conversations), or any other transfer of information, written or
18 otherwise.

19 7. The term “ESI” as used herein refers to each and every form of matter, of any
20 kind, type, nature, or description, that is or has been in YOUR possession, custody, or control,
21 INCLUDING DOCUMENTS, electronic mail, voicemail, word processing documents,
22 spreadsheets, databases, images, and sound recordings, which is generated, recorded, preserved
23 or maintained by electronic means or in electronic form, INCLUDING information generated,
24 recorded, preserved or maintained on computer hard drives, floppy disks, e-mail, computer files,
25 deleted computer files, mirror image files, file menus, file directories, file distribution lists,
26 acknowledgment of receipt files, backup computer files, magnetic tapes, computer archives,
27 computer memory, computer disk, computer card, film, microfilm, microfiche, microforms,
28 photographs, or any other form of computer readable storage media, and also INCLUDING drafts

1 or copies of any of the foregoing that contain any notes, comments, metadata, or markings of any
2 kind not found on the original ESI or that are otherwise not identical to the original ESI.

3 8. The terms “RELATE TO” or “RELATING TO” should be understood to apply to
4 the content of the DOCUMENT if that DOCUMENT consists of, embodies, comprises, concerns,
5 constitutes, evidences, memorializes, reflects, refers to, pertains to, alludes to, responds to,
6 describes, analyzes, constructs, discusses, mentions, comments on, demonstrates, substantiates,
7 shows, supports, proves or disproves, or in any other way deals with, or is logically or factually
8 connected with or is about or regarding, the subject matter of the request in which the term
9 “RELATES TO” or “RELATING TO” appears.

10 9. “And” and “or” shall be construed either conjunctively or disjunctively as
11 necessary to bring within the scope of the discovery request all responses that might otherwise
12 be construed to be outside of its scope.

13 10. “Any,” “all,” “every,” and “each” shall be construed as inclusive or exclusive, as
14 necessary to afford the broadest and most comprehensive possible scope to the Request
15 containing such terms.

16 11. The term “INCLUDING” as used herein means “including without limitation” or
17 “including, but not limited to.”

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

19 All COMMUNICATIONS with DEFENDANT Nathan Fletcher, including, but not
20 limited to, all text messages, Instagram direct messages (“DM’s”), Facebook messages, Twitter
21 direct messages, e-mails, WhatsApp messages, or any other written form of
22 COMMUNICATION (whether electronic, digital, or physical).

23 **A. RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

24 Objection(s): This request is premature. Responding Party objects to the extent this
25 interrogatory calls for information that is, or should be, equally available to Propounding Party.
26 Furthermore, this interrogatory is overbroad, particularly with regard to time and scope, and
27 contains improper subparts. Finally, Responding Party objects to the extent this interrogatory

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1 seeks information protected by the attorney-client privilege, attorney work product doctrine, or
2 the right to privacy.

3 Subject to and without waiving the foregoing objection(s), Responding Party responds as
4 follows: Responding Party will produce responsive, non-privileged documents/things presently
5 in its possession, custody, or control to the extent such documents/things are relevant to this
6 action. Discovery and investigation are ongoing, Responding Party reserves the right to amend
7 and/or supplement this response when and if additional information is ascertained.

8 **I. REASONS FURTHER RESPONSE SHOULD BE COMPELLED:**

9 Plaintiff has not produced any documents in response to this request despite specifically
10 agreeing that she “will produce responsive, non-privileged documents/things presently in its
11 possession, custody, or control to the extent such documents/things are relevant to this action.”
12 Her objections reference “interrogatories” which are not at issue in this set of discovery. The
13 request is not premature given that Mr. Nathan Fletcher is a defendant in this matter and Code of
14 Civil Procedure 2031.020(a) expressly permits “a defendant [to] make a demand for inspection,
15 copying, testing, or sampling without leave of court at any time.” The request also does not
16 contain any subparts, nor does it seek any information protected by the attorney-client privilege
17 or attorney work product doctrine. Instead, it seeks communications between Plaintiff and Mr.
18 Fletcher, which Plaintiff has put directly at issue. Regarding Plaintiff’s boilerplate “privacy”
19 objection, Plaintiff has put her communications with Mr. Fletcher directly at issue in her
20 Complaint (filed March 28, 2023) and First Amended Complaint (filed July 14, 2023). Indeed,
21 she specifically incorporates and references her communications throughout her Complaint and
22 First Amended Complaint and those communications are used to support each of her causes of
23 action. The request is plainly appropriate and directly relevant to the allegations at issue.

24 **II. REQUEST FOR PRODUCTION NO. 2:**

25 All photos depicting both YOU and DEFENDANT Nathan Fletcher.

26 **A. RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

27 Objection(s): This request is premature. Responding Party objects to the extent this
28 interrogatory calls for information that is, or should be, equally available to Propounding Party.

1 Furthermore, this interrogatory is overbroad, particularly with regard to time and scope. Finally,
2 Responding Party objects to the extent this interrogatory seeks information protected by the
3 attorney-client privilege, attorney work product doctrine, or the right to privacy.

4 Subject to and without waiving the foregoing objection(s), Responding Party responds as
5 follows: Responding Party will produce responsive, non-privileged documents/things presently
6 in its possession, custody, or control to the extent such documents/things are relevant to this
7 action. Discovery and investigation are ongoing, Responding Party reserves the right to amend
8 and/or supplement this response when and if additional information is ascertained.

9 **1. REASONS FURTHER RESPONSE SHOULD BE COMPELLED:**

10 Plaintiff has not produced any documents in response to this request despite specifically
11 agreeing that she “will produce responsive, non-privileged documents/things presently in its
12 possession, custody, or control to the extent such documents/things are relevant to this action.”
13 Her objections reference “interrogatories” which are not at issue in this set of discovery. The
14 request is not premature given that Mr. Nathan Fletcher is a defendant in this matter and Code of
15 Civil Procedure 2031.020(a) expressly permits “a defendant [to] make a demand for inspection,
16 copying, testing, or sampling without leave of court at any time.” The request also does not
17 contain any subparts, nor does it seek any information protected by the attorney-client privilege
18 or attorney work product doctrine. Instead, it simply seeks photos that depict both Plaintiff and
19 Mr. Fletcher. Regarding Plaintiff’s boilerplate “privacy” objection, Plaintiff has put her
20 interactions with Mr. Fletcher directly at issue in her Complaint (filed March 28, 2023) and First
21 Amended Complaint (filed July 14, 2023). Indeed, these interactions can be evaluated, in-part,
22 by reviewing all photographs that depict *both* Mr. Fletcher and Plaintiff. The request is plainly
23 appropriate and directly relevant to the allegations at issue.

24 **III. REQUEST FOR PRODUCTION NO. 3:**

25 All DOCUMENT(S) RELATING TO YOUR COMMUNICATIONS with PLAINTIFF
26 in the last five (5) years.

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1 **A. RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

2 Objection(s): This request is premature. Responding Party objects to the extent this
3 interrogatory calls for information that is, or should be, equally available to Propounding Party.
4 Furthermore, this interrogatory is overbroad, particularly with regard to time and scope. Finally,
5 Responding Party objects to the extent this interrogatory seeks information protected by the
6 attorney-client privilege, attorney work product doctrine, or the right to privacy.

7 Subject to and without waiving the foregoing objection(s), Responding Party responds as
8 follows: Responding Party will produce responsive, non-privileged documents/things presently
9 in its possession, custody, or control to the extent such documents/things are relevant to this
10 action. Discovery and investigation are ongoing, Responding Party reserves the right to amend
11 and/or supplement this response when and if additional information is ascertained.

12 **1. REASONS FURTHER RESPONSE SHOULD BE COMPELLED:**

13 As an initial matter, DEFENDANT Nathan Fletcher’s Request for Production No. 3
14 requested the production of “All videos depicting both YOU and DEFENDANT Nathan
15 Fletcher.” Despite this, Plaintiff indicates that she “will produce responsive, non-privileged
16 documents/things presently in its possession, custody, or control to the extent such
17 documents/things are relevant to this action” in response to a *different* request. In particular, she
18 states she will produce “All DOCUMENT(S) RELATING TO YOUR COMMUNICATIONS
19 with PLAINTIFF in the last five (5) years.” Obviously, this response is nonsensical. Her
20 objections also do not make sense, given that “interrogatories” are not at issue in this set of
21 discovery. Mr. Fletcher’s actual RFP No. 3 is not premature given that he is a defendant in this
22 matter and Code of Civil Procedure 2031.020(a) expressly permits “a defendant [to] make a
23 demand for inspection, copying, testing, or sampling without leave of court at any time.” Mr.
24 Fletcher’s actual RFP No. 3 also does not contain any subparts, nor does it seek any information
25 protected by the attorney-client privilege or attorney work product doctrine. Instead, it seeks
26 videos that depict both Plaintiff and Mr. Fletcher. Regarding Plaintiff’s boilerplate “privacy”
27 objection, Plaintiff has put her interactions with Mr. Fletcher directly at issue in her Complaint
28 (filed March 28, 2023) and First Amended Complaint (filed July 14, 2023). Indeed, these

1 interactions can be evaluated, in-part, by reviewing all videos that depict both Mr. Fletcher and
2 Plaintiff. The request is plainly appropriate and directly relevant to the allegations at issue.

3 **IV. REQUEST FOR PRODUCTION NO. 4:**

4 All voice recordings between YOU and DEFENDANT Nathan Fletcher.

5 **A. RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

6 Objection(s): This request is premature. Responding Party objects to the extent this
7 interrogatory calls for information that is, or should be, equally available to Propounding Party.
8 Furthermore, this interrogatory is overbroad, particularly with regard to time and scope. Finally,
9 Responding Party objects to the extent this interrogatory seeks information protected by the
10 attorney-client privilege, attorney work product doctrine, or the right to privacy.

11 Subject to and without waiving the foregoing objection(s), Responding Party responds as
12 follows: Responding Party will produce responsive, non-privileged documents/things presently
13 in its possession, custody, or control to the extent such documents/things are relevant to this
14 action. Discovery and investigation are ongoing, Responding Party reserves the right to amend
15 and/or supplement this response when and if additional information is ascertained.

16 **1. REASONS FURTHER RESPONSE SHOULD BE COMPELLED:**

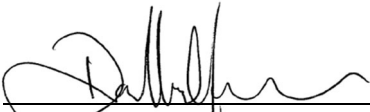
17 Plaintiff has not produced any documents in response to this request despite specifically
18 agreeing that she “will produce responsive, non-privileged documents/things presently in its
19 possession, custody, or control to the extent such documents/things are relevant to this action.”
20 Her objections reference “interrogatories” which are not at issue in this set of discovery. The
21 request is not premature given that Mr. Nathan Fletcher is a defendant in this matter and Code of
22 Civil Procedure 2031.020(a) expressly permits “a defendant [to] make a demand for inspection,
23 copying, testing, or sampling without leave of court at any time.” The request also does not
24 contain any subparts, nor does it seek any information protected by the attorney-client privilege
25 or attorney work product doctrine. Instead, it simply seeks photos that depict both Plaintiff and
26 Mr. Fletcher. Regarding Plaintiff’s boilerplate “privacy” objection, Plaintiff has put her
27 interactions with Mr. Fletcher directly at issue in her Complaint (filed March 28, 2023) and First
28 Amended Complaint (filed July 14, 2023). Indeed, these interactions can be evaluated, in-part,

1 by reviewing all photographs that depict both Mr. Fletcher and Plaintiff. The request is plainly
2 appropriate and directly relevant to the allegations at issue.

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DATE: August 10, 2023

FISHER & PHILLIPS LLP

By: 

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