

## Cal Code Civ Proc § 2025.480

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*Deering's California Codes Annotated > CODE OF CIVIL PROCEDURE (§§ 1 – 2107) > Part 4 Miscellaneous Provisions (§§ 1834 – 2107) > Title 4 Civil Discovery Act (Chs. 1 – 20) > Chapter 9 Oral Deposition Inside California (Arts. 1 – 6) > Article 4 Objections, Sanctions, Protective Orders, Motions to Compel, and Suspension of Depositions (§§ 2025.410 – 2025.480)*

### **§ 2025.480. Motion for order compelling answer or production; Time for motion; Notice; Discovery of electronically stored information; Certified copy of relevant parts of transcript; Monetary and other sanctions**

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(a) If a deponent fails to answer any question or to produce any document, electronically stored information, or tangible thing under the deponent's control that is specified in the deposition notice or a deposition subpoena, the party seeking discovery may move the court for an order compelling that answer or production.

(b) This motion shall be made no later than 60 days after the completion of the record of the deposition, and shall be accompanied by a meet and confer declaration under Section 2016.040.

(c) Notice of this motion shall be given to all parties and to the deponent either orally at the examination, or by subsequent service in writing. If the notice of the motion is given orally, the deposition officer shall direct the deponent to attend a session of the court at the time specified in the notice.

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

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

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

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

- (1) It is possible to obtain the information from some other source that is more convenient, less burdensome, or less expensive.
- (2) The discovery sought is unreasonably cumulative or duplicative.
- (3) The party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought.
- (4) The likely burden or expense of the proposed discovery outweighs the likely benefit, taking into account the amount in controversy, the resources of the parties, the importance of the issues in the litigation, and the importance of the requested discovery in resolving the issues.

(h) Not less than five days prior to the hearing on this motion, the moving party shall lodge with the court a certified copy of any parts of the stenographic transcript of the deposition that are relevant to the motion. If a deposition is recorded by audio or video technology, the moving party is required to lodge a certified copy of a transcript of any parts of the deposition that are relevant to the motion.

(i) If the court determines that the answer or production sought is subject to discovery, it shall order that the answer be given or the production be made on the resumption of the deposition.

(j) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel an answer or production, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(k) If a deponent fails to obey an order entered under this section, the failure may be considered a contempt of court. In addition, if the disobedient deponent is a party to the action or an officer, director, managing agent, or employee of a party, the court may make those orders that are just against the disobedient party, or against the party with whom the disobedient deponent is affiliated, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Chapter 7 (commencing with Section 2023.010). In lieu of or in addition to this sanction, the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against that party deponent or against any party with whom the deponent is affiliated.

(l)

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

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

## History

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Added Stats 2004 ch 182 § 23 (AB 3081), operative July 1, 2005. Amended Stats 2005 ch 22 § 21 (SB 1108), effective January 1, 2006, ch 294 § 21 (AB 333), effective January 1, 2006; Stats 2012 ch 72 § 26 (SB 1574), effective January 1, 2013.

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