

1 MATTHEW R. WALSH
2 19197 GOLDEN VALLEY RD #333
3 SANTA CLARITA, CA 91387
4 (661) 644-0012

5 Plaintiff In Pro Per,

6 **UNITED STATES DISTRICT COURT**

7 **CENTRAL DISTRICT OF CALIFORNIA**

MATTHEW R. WALSH
Plaintiff In Pro Per,

vs.

ROKOKO ELECTRONICS
(AND DOES 1 THROUGH 50,
INCLUSIVE)

Defendant

Case No.: 2:25-CV-05340-ODW-RAO

*[Assigned to Hon. Otis D. Wright, II,
Courtroom 5D; Hon. Rozella A. Oliver,
Courtroom 590]*

Hearing Date: January 26, 2025
Hearing Time: 1:30 PM

**DECLARATION OF MATTHEW R.
WALSH re: DEFENDANTS RULE
37 LETTER**

8
9 I, Matthew R. Walsh, declare I am the Plaintiff in this matter. I have personal
10 knowledge of the following facts and if called as a witness I could and would
11 testify competently hereto. All text, images and exhibits herein are true and
12 accurate copies which I have received or have made and I am authenticating all of
13 them under the penalty of perjury.

14

15 1. **DEFENDANT REFUSED TO CURE DEFECTIVE DOCUMENTS**

16 On November 10, 2025 and November 11, 2025 Defendant served
17 noncompliant discovery documents which had numbers that overlapped and
18 were not sequential.

19 2. Defendant was notified four times of the defects.

20 3. Defendant refused to cure them by the response deadline (December 3,
21 2025).

22 4. Plaintiff was well aware of Defendants strategy, so, he filed (Dkt #109)
23 “NOTICE OF DEFENDANTS REFUSAL TO CURE DEFECTIVE
24 DISCOVERY REQUESTS, PLAINTIFFS INABILITY TO RESPOND”.
25 Defendant too ignored this filing.

26 5. **DEFENDANT REFUSED TO CURE, FORCED WAIVER -**

27 On December 10, 2025 Defendant sent a Rule 37 letter asserting:

- 28 a. Rights to object have now been waived
- 29 b. Even if their numbers overlapped, Plaintiff still must answer.
- 30 c. Just because they didn’t produce any discovery, doesn’t mean Plaintiff
31 can withhold. (not the issue here)

32 d. They will seek costs and sanctions against Plaintiff for moving him to
33 Compel, instead of simply curing the discovery requests and re-
34 serving them.

35 6. A copy of the letter is attached hereto (Exhibit 1)

36 7. **DEFENDANT DEMANDED PLAINTIFF ANSWER ANYWAYS**

37 Plaintiff indicated in numerous e-mails that they were defective and instead
38 of curing them over about a month and a half, Defendant just denied that
39 there was any issue. When finally presented with Docket #109 (which they
40 had never even read); they admit they are defective but demand they be
41 answered anyways as-is (Exhibit 2)

42 8. **DEFENDANT RE-SERVED DISCOVERY, STILL DID NOT CURE**

43 9. Plaintiff received re-served discovery from Defendant on Monday,
44 December 15, 2025 and they once again refused to cure the numbering
45 defect but demand that it be answered. (Exhibit 3)

46 10. In a meet and confer on December 16, 2025; Defendant stated "*you are*
47 *really going to put this in your sanctions motion?*" and then stated "*We will*
48 *oppose on the grounds you are intentionally moving around Rule 11 safe*
49 *harbor provisions*" ... "*The judge will not be happy you are wasting his time*
50 *with this.*"

51 **11. THE RULES DISALLOW THIS**

52 It is not Plaintiff's job to continually fact-check the Defendant, verify their
53 caselaw, nor perform document review and fix defects in their filings. This
54 problem could have been solved in under a minute, however, they simply
55 refuse to act in good faith. Rule 34(b)(2)(A) - (B) requires that a discovery
56 request must be: clear, unambiguous, sequential, readable, capable of being
57 answered without inference.

58 12. Overlapping numbering violates the rules because it invites: ambiguity,
59 uncertainty about which question is being answered, uncertainty about
60 which request corresponds to which response, risk of mismatch between
61 objections and items, risk of Defendant claiming "Plaintiff didn't answer X"
62 when Plaintiff actually did.

63 13. In a practical example, the issue becomes clear:

- 64 a. **REQUEST FOR ADMISSION 27:** ADMIT you were at [location]
65 on [Date, Time]: **ANSWER:** True
- 66 b. Then later in the sequence, the number is duplicated
- 67 c. **REQUEST FOR ADMISSION 27:** ADMIT you fired the gun that
68 later cost [victim] their life. **ANSWER:** False

69 14. This creates a severe logical paradox in which one answer could be
70 substituted for another and have major consequences and therefore
71 Defendant is entirely at fault for any such delays with discovery.

72
73 I declare under penalty of perjury under the laws of the United States of America
74 that the foregoing is true and correct.

75
76 Executed this 10th day of December, 2025, in Santa Clarita, California.

77 

Matthew R. Walsh
Plaintiff In Pro Per

78

79

80

81

82

83

84

85

EXHIBIT 1



Driving progress
through partnership

Katherine J. Ellena
Direct Phone: +1 213 457 8254
Email: kellena@reedsmith.com

Reed Smith LLP
515 S. Flower Street
Suite 4300
Los Angeles, CA 90071
+1 213 457 8000
Fax +1 213 457 8080
reedsmith.com

December 10, 2025

By Electronic Mail

Matthew R. Walsh
19197 Golden Valley Rd. #333
Santa Clarita, CA 91387
(661) 644-0012
matthew@winteryear.com

Re: Local Rule 37-1 Meet and Confer Regarding Failure to Respond to Rokoko’s First Sets of Requests for Production and Interrogatories

Dear Mr. Walsh,

Pursuant to Local Rule 37-1, Rokoko requests a meet and confer regarding your failure to respond to Rokoko’s First Set of Interrogatories and First Set of Requests for Production (the “Requests”) propounded on November 3, 2025. You have failed to serve any written responses or objections to these Requests, and the deadline for responses—December 3, 2025—has since passed.

Under the Federal Rules of Civil Procedure, written responses and objections were due within thirty days of service. *See* F.R.C.P. Rule 6(a); Rule 33(b)(2); Rule 34(b)(2)(A). Because that deadline has expired without any response from Plaintiff or request for an extension, any objections in forthcoming responses are henceforth waived. *See Bryant v. Armstrong*, 285 F.R.D. 596, 602 (S.D. Cal. 2012) (*quoting Richmark Corp. v. Timber Falling Consultants*, 959 F.2d 1468, 1473 (9th Cir. 1992)) (failure to object to discovery requests within the time required constitutes a waiver of any objection).

Any attempt to characterize Rokoko’s properly served discovery as “unserved” or otherwise a nullity due to your position that the Requests somehow do not comply with Local Rules 33-1 and 34-1 is not a basis to refuse to provide responses. Moreover, the Requests clearly comply with those Local Rules, which require the discovery to be “numbered sequentially without repeating the numbers used on any prior set.”

To the extent you contend that you were not obligated to provide written responses to the Requests on the basis that Rokoko has not produced documents in response to your discovery requests, “[n]umerous courts have held that Rule 26(d) prohibits a party from delaying or withholding discovery on the basis that the party has not obtained responses to its own discovery request.” *Thomson v. Persistence Techs. BVI Pte Ltd.*, No. 2:23-cv-04669-MEMF-MAR, 2025 LX 458942, at *16 (C.D. Cal. Oct. 10, 2025); *see also Fresenius Med. Care Holding, Inc. v. Baxter Int’l, Inc.*, 224 F.R.D. 644, 653 (N.D. Cal. 2004) (“[n]or may

ABU DHABI ♦ ASTANA ♦ ATHENS ♦ ATLANTA ♦ AUSTIN ♦ BEIJING ♦ BRUSSELS ♦ CENTURY CITY ♦ CHICAGO ♦ DALLAS ♦ DENVER ♦ DUBAI ♦ FRANKFURT
HONG KONG ♦ HOUSTON ♦ LONDON ♦ LOS ANGELES ♦ MIAMI ♦ MUNICH ♦ NEW YORK ♦ ORANGE COUNTY ♦ PARIS ♦ PHILADELPHIA ♦ PITTSBURGH
PRINCETON ♦ RICHMOND ♦ SAN FRANCISCO ♦ SHANGHAI ♦ SILICON VALLEY ♦ SINGAPORE ♦ TYSONS ♦ WASHINGTON, D.C. ♦ WILMINGTON

Matthew R. Walsh
December 10, 2025
Page 2

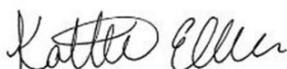
ReedSmith

a party condition its compliance with its discovery obligations on receiving discovery from its opponent.”).¹

Please provide your availability before December 22, 2025 for a telephonic conference regarding your failure to respond to the Requests. If you will not agree to provide responses, Rokoko intends to move for an order compelling responses and for all fees and costs incurred with Rokoko’s efforts to do so.

Rokoko reserves all rights.

Best,


Katherine J. Ellena
Reed Smith LLP

KJE:jv

¹ As you will also recall, you informed us that you would “never agree” to the redline suggestions that we made on the proposed ESI protocol. When we asked that you suggest times to meet and confer over the ESI protocol, we did not hear from you.

88

89

90

91

92

EXHIBIT 2

93
94
95

Defendant was made aware that their discovery requests are defective and must be corrected.

RE: Rokoko - Joint Rule 26(f) Report.docx



matthew@winteryear.com

To 'Ellena, Katherine J.'

Cc 'Galibois, Michael B.'; 'Graue, Emily H.'; 'Gorospe, Valentino'



11/9/2025

I would never agree to that ESI protocol.

Statements like this "If a database or other source of structured data contains responsive information, the parties should promptly meet and confer to determine a mutually-agreeable format for review and/or production of the responsive data." Are just designed to slow this process down and stonewall further.

I want things as native files, in their original format, as they are; untouched and untampered with. No exceptions. Your Exhibit A and Exhibit B are not going to cut it. No intermediary file formats.

Also, your discovery that you sent me is noncompliant and violates L.R. 33-1/34-1 so I cannot accept improper documents as properly served. Please re-serve them and we will restart the clock.

96
97

98 Defendant refused to look at the documents and instead declared they are not
99 defective.

From: Ellena, Katherine J. <KEllena@reedsmith.com>
Sent: Sunday, November 9, 2025 11:13 AM
To: matthew@winteryear.com
Cc: Galibois, Michael B. <MGalibois@reedsmith.com>; Graue, Emily H. <EGraue@reedsmith.com>; Gorospe, Valentino <VGorospe@reedsmith.com>
Subject: RE: Rokoko - Joint Rule 26(f) Report.docx

Matt –

If you want to meet and confer over the ESI Protocol, please suggest some times that you are available this week.

As for your statement that the discovery we propounded on you is not compliant with the Local Rules, that is not accurate. The discovery requests are sequentially numbered. There is no need to re-serve them.

Thanks,

Katherine J. Ellena | Senior Associate
kellena@reedsmith.com

ReedSmith LLP

515 Flower St., Suite 4300 | Los Angeles, CA 90071 | Direct: 213.457.8254 | Cell: 424.302.1476 | Reception:

100

101

102

103

Defendant sent a Rule 37 letter (Exhibit 1) stating Plaintiff had waived his

104

objections and must answer or be compelled. Plaintiff responded:

RE: Local Rule 37-1 Meet and Confer Regarding Failure to Respond to Rokoko's ...



matthew@winteryear.com

To 'Valencia, Heather R.'

Cc 'Ellena, Katherine J.'; 'Gorospe, Valentino'; 'Galibois, Michael B.'; 'Graue, Emily H.'



Wed 5:10 PM

You replied to this message on 12/10/2025 5:14 PM.

Hello everyone,

I did not waive any objections.

I explained to you over a month ago that I could not answer because your numbers were not sequential. They overlap. You simply refused to even check them to verify, but it's not something I was making up. They go from like 58 back down to 52. That would create serious inconsistencies with answers and is against Local Rules.

I notified the Court that you refuse to correct them, and I couldn't answer discovery (please see Docket #109). You'll notice an exhibit indicating exactly what I stated to you prior.

If you fix your numbering and serve them, we can start the discovery clock and I am more than happy to answer them. I just couldn't do so as provided.

Thanks!

Matt

105

106

107 Plaintiff then sent Dkt #109 as a Courtesy since they had not looked at it; which
108 clearly shows the errors:

RE: Local Rule 37-1 Meet and Confer Regarding Failure to Respond to Rokoko's ...



matthew@winteryear.com

To: 'Valencia, Heather R.'

Cc: 'Ellena, Katherine J.'; 'Gorospe, Valentino'; 'Galibois, Michael B.'; 'Graue, Emily H.'



Wed 6:28 PM

i You replied to this message on 12/10/2025 7:14 PM.



Open PDFs in Adobe Acrobat ×

109 attached to save you some time dealing with ECF.

Please see the exhibits.

From: matthew@winteryear.com <matthew@winteryear.com>
Sent: Wednesday, December 10, 2025 5:15 PM
To: 'Valencia, Heather R.' <HValencia@ReedSmith.com>
Cc: 'Ellena, Katherine J.' <KEllena@reedsmith.com>; 'Gorospe, Valentino' <VGorospe@reedsmith.com>; 'Galibois, Michael B.' <MGalibois@reedsmith.com>; 'Graue, Emily H.' <EGraue@reedsmith.com>
Subject: RE: Local Rule 37-1 Meet and Confer Regarding Failure to Respond to Rokoko's First Sets of Requests for Production and Interrogatories

As the delay with the aforementioned now pushes discovery squarely during the holidays, I will not be available to answer them if served now as I will be travelling with family to remote locations and have no computer or internet access during that time.

I am requesting an extension that they be served after the new year (essentially a two week extension) and then I can answer them accurately. If you are not willing to do so, I will have to file a Request for Extension on the Court citing my Dkt #109 entry as the cause.

Let me know if that works.

Thanks,
Matt

109

110

111 Defendant, after seeing Dkt #109 and after a month and a half of denying they
112 were defective, finally admits they are; however, demands that they be answered
113 as-is anyways:

RE: Local Rule 37-1 Meet and Confer Regarding Failure to Respond to Rokoko's ...



Ellena, Katherine J. <KEllena@reedsmith.com>
To: matthew@winteryear.com; Valencia, Heather R.
Cc: Gorospe, Valentino; Galibois, Michael B.; Graue, Emily H.



8:43 AM

Hi Matt –

We do not view a typographical error in the numbering of two of the 60 RFPs as a basis to refuse to provide responses by the December 3rd deadline, including to Rokoko's Interrogatories. Please provide complete responses to all of the discovery by next Friday, December 19, 2025, which is a more than a two week extension from the original response deadline. If you do not provide responses by then, we will proceed with seeking relief from the Court and we reserve all rights.

Katherine J. Ellena | Senior Associate
kellena@reedsmith.com

ReedSmith LLP

114

115

116

117

118

119

120

121

EXHIBIT 3

122 Defendant served the same discovery sets once more after much back and forth
123 regarding curing the numbering, however, again, refused to cure.

← Back to message

Last changed: Monday, December 15, 2025

 Rokoko - First Set of ROGs to Walsh.docx
70 KB

 Rokoko - First Set of RFPs to Walsh.docx
76 KB

the present.

REQUEST FOR PRODUCTION NO. 58:

Documents Relating to Your work as a testifying expert, as referenced in Your September 18, 2025 Supplemental Declaration, ECF No. 74, from January 1, 2009 to the present.

REQUEST FOR PRODUCTION NO. 52:

Expert reports prepared by You in any matter in which You have been retained as a testifying expert, as referenced in Your September 18, 2025 Supplemental Declaration, ECF No. 74, from January 1, 2009 to the present, including without limitation Your engagement as an expert witness in the action captioned *Fay Latture v. Emmerling, Reed, Friefeld, and Keyes*.

REQUEST FOR PRODUCTION NO. 53:

Transcripts from any testimony You have provided in any matter in which You have been retained as a testifying expert, as referenced in Your September 18, 2025 Supplemental Declaration, ECF No. 74, from January 1, 2009 to the present, including without limitation Your engagement as an expert witness in the action captioned *Fay Latture v. Emmerling, Reed, Friefeld, and Keyes*.

DATED: November 3, 2025

REED SMITH LLP

By _____
Katherine Ellena
Michael Galibois (*pro hac vice*)

124