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

Plaintiff In Pro Per,

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MATTHEW R. WALSH
19197 GOLDEN VALLEY RD #333
SANTA CLARITA, CA 91387,

Plaintiff In Pro Per,

vs.

ROKOKO ELECTRONICS (AND DOES 1 THROUGH 50, INCLUSIVE)
31416 AGOURA RD STE 118
WESTLAKE VILLAGE, CA 91361

Defendant

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

Before: Hon. Otis D. Wright II
Courtroom 5D

Hearing Date: October 20, 2025
Hearing Time: 1:30 PM

NOTICE OF MOTION AND MOTION FOR SANCTIONS

Concurrently filed with:
- Personal Declaration of Matthew R. Walsh Re: Case Overview

- Declaration of Matthew R. Walsh ISO Motion for Sanctions Re: Evidentiary package

- Declaration of Matthew R. Walsh re: False Statements Made to the Court

- Proposed Order

NOTICE OF MOTION AND MOTION FOR SANCTIONS

TO THE HONORABLE COURT, THE CLERK OF THE COURT AND ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE: Plaintiff regrettably and respectfully moves the Court for sanctions against Defendant Rokoko Electronics and their Counsel of record ReedSmith under Rule 37 + inherent authority. Plaintiff understands the seriousness of requesting sanctions and understands that from a pro se Plaintiff, they are especially criticized and frowned upon; but in this case Plaintiff truly does not believe he has any other choice; Defendant's constant conduct is case-destroying. **Given the Court's inherent authority to manage proceedings and sanction bad-faith litigation conduct, Plaintiff respectfully requests that the Court rule on this matter sua sponte if it deems appropriate, without awaiting further motion practice.**

Should the Court deny Plaintiff's motion for sanctions, he believes the prejudicial behavior will continue making this judicial process far more unfair or destabilized than it already has been and one day, Plaintiff will be unable to defend himself against a lie so egregious that it is deemed true and will cost Plaintiff dearly. Beyond this, Defendant's gish gallop of lies, omissions and deceit are so common; that it deprives Plaintiff of an exhausting amount of time, energy and

resources to continually disprove them before the Court before they are uncontroverted and accepted as fact. This is not equity or justice.

This motion is based on this Notice of Motion, the accompanying Memorandum of Points and Authorities, attached exhibits, all pleadings and papers on file in this action and any argument the Court may hear; as well as the concurrently filed:

1) Personal Declaration of Matthew R. Walsh Re: Case Overview
2) Declaration of Matthew R. Walsh ISO Motion for Sanctions Re: Evidentiary package
3) Declaration of Matthew R. Walsh re: False Statements Made to the Court

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CERTIFICATION OF MEET AND CONFER

On June 26, 2025, during a meet-and-confer call, I informed Defendants' counsel that I would be seeking sanctions based on their spoliation of evidence, obstruction of discovery, and false statements to this Court. I have reiterated this position

approximately forty-seven (47) times in writing. Despite these repeated notices (Exhibit 21), Defendants refused to meaningfully confer or resolve the issues and instead continued or multiplied the very conduct they were warned about. Accordingly, Plaintiff has satisfied the requirements of L.R. 7-3 beyond rationale in these matters.

MEMORANDUM OF POINTS AND AUTHORITIES

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INTRODUCTION

This case cannot proceed on a fair or accurate record while Defendants continue to abuse the judicial process. What should be a straightforward dispute under the DMCA and Copyright Act has instead been met with spoliation of evidence, harassment, coordinated defamation, ghostwritten filings by unadmitted counsel, material omissions, fraudulent misrepresentations, repeated false statements to the Court and two counts of spoliation of key evidence. These are not isolated errors — they are part of a pattern of litigation misconduct designed to delay, obscure, and avoid the merits.

The actions of Defendant and Counsel alike are purposeful and expertly crafted as their only survival tool in a case so evidenced against them. However, despite all that has occurred Plaintiff does not seek terminating sanctions; though this Court has previously imposed them for less. He seeks only symmetry: that Defendants and their 1,300-lawyer firm be held to the same rules that have been applied to him. Defendants chose not to file an Answer, chose not to plead affirmative defenses, and instead gambled on a defective Motion to Dismiss,

filed on the final day after a generous extension, without a Local Rule 7-3 conference, and without curing defects long apparent in the record.

The relief Plaintiff requests is modest but essential: strike the tainted Motion to Dismiss, deny Defendants' attempt to evade the rules, and allow this case to proceed on the merits. Anything less would reward gamesmanship, prejudice Plaintiff, and erode the integrity of this Court's process.

BACKGROUND

This action arises from Plaintiff's claims under the DMCA, Copyright Act, and state law, alleging that Defendants engaged in systemic misconduct relating to their products, business practices, and litigation conduct.

Since the outset of this case, Defendants and their counsel have engaged in a pattern of obstruction, including spoliation of key evidence, submission of false or misleading filings, and ghostwriting by unadmitted counsel. These actions strike at the core of the Court's ability to adjudicate the pending Motion to Dismiss on a fair and accurate record.

A detailed chronology of the case and misconduct, supported by contemporaneous documents, metadata, and other evidence, is set forth in the

Declaration of Matthew R. Walsh ("Walsh Decl.") and accompanying exhibits, incorporated herein by reference.

Ultimately, despite Defendant's repeated misconduct, Plaintiff does not seek terminating sanctions as this very Court has priorly issued for less. He simply asks the Court to hold Defendants to the same rules that bind every litigant. A 1,300-lawyer firm chose not to file an Answer, chose not to plead affirmative defenses, and instead gambled on a defective Motion to Dismiss filed on the final day after a generous extension by the Court — without a Local Rule 7-3 conference and without curing defects that have been apparent since June 26, 2025. For all their gamesmanship, they must be held to the consequences of their own choices. Plaintiff was stricken for less, more than once. The fairest sanction that Defendant and Counsel could receive is one of simple judicial symmetry: that this case proceed on the merits, free from Defendants' interruptions designed only to avoid them.

LEGAL STANDARD

1) **FRCP 11(b) & (c): Certifications to the court** — papers must not be presented for improper purpose, must have evidentiary support, and legal contentions must be warranted. Sanctions allowed for violations

2) **FRCP 16(f): Sanctions for failing to obey pretrial orders**, including scheduling and Rule 26 obligations.

3) **FRCP 37(b): Sanctions for failing to comply with discovery orders** — may include striking pleadings, prohibiting defenses, or default judgment.

4) **FRCP 37(c): Sanctions for failure to disclose**, supplement, or admit — allows evidence preclusion or other sanctions.

5) **FRCP 37(e): Sanctions for spoliation of electronically stored information (ESI)**. Court may impose adverse inference, striking pleadings, or terminating sanctions if prejudice/bad faith is shown.

6) FRCP 41(b): Involuntary dismissal for failure to comply with rules or court orders.

7) **FRCP 12(f): The Court may strike from a pleading** any "insufficient defense" or "redundant, immaterial, impertinent, or scandalous matter."

8) **FRCP 26(d)(1): Discovery timing** — no discovery before Rule 26(f) conference unless otherwise ordered by the court.

9) **FRCP 26(g): Certifications on discovery responses** — requires good faith and prohibits evasive or incomplete answers.

10) **L.R. 7-3: Requires parties to confer at least 7 days before filing most motions** (including motions to dismiss) to discuss thoroughly the

substance of the motion and potential resolution. Failure can justify striking the motion.

11) **L.R. 11-1: Papers must be signed by attorneys of record**; ghostwriting or filings by non-admitted counsel are improper.

12) **L.R. 83-2.1.1.1: Attorneys must be admitted to practice** in the Central District to appear — failure to do so before ghostwriting/signing documents violates this rule.

13) **L.R. 83-7: Sanctions for failure to comply with Local Rules** — includes monetary sanctions, striking pleadings, or other orders the Court deems appropriate.

14) **Leon v. IDX Sys. Corp., 464 F.3d 951, 958 (9th Cir. 2006)** – *"A party that has despoiled evidence can be sanctioned by a district court under two sources of authority: the inherent power of federal courts to levy sanctions in response to abusive litigation practices, and the availability of sanctions under Rule 37 against a party who fails to obey an order to provide or permit discovery."*

15) **Leon v. IDX Sys. Corp., 464 F.3d 951, 958 (9th Cir. 2006)** (quoting *Anheuser–Busch, Inc. v. Natural Beverage Distribs.*, 69 F.3d 337, 348 (9th Cir. 1995)) – *"A terminating sanction, such as dismissal, is appropriate only when a*

party has engaged deliberately in deceptive practices that undermine the integrity of judicial proceedings."

16) **Anheuser–Busch, Inc. v. Natural Beverage Distribs., 69 F.3d 337, 348 (9th Cir. 1995)** – *"In determining whether dismissal is warranted, the Court must weigh the following factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its dockets; (3) the risk of prejudice to the party seeking sanctions; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions."*

17) **Halaco Eng'g Co. v. Costle, 843 F.2d 376, 380 (9th Cir. 1988)** – *"Dismissal under a court's inherent powers is justified in extreme circumstances, in response to abusive litigation practices, and to ensure the orderly administration of justice and the integrity of the court's orders."*

18) **Computer Task Group, Inc. v. Brotby, 364 F.3d 1112, 1115 (9th Cir. 2003)***; In re Exxon Valdez, 102 F.3d 429, 432 (9th Cir. 1996) – "The thresholds for terminating sanctions under the Court's inherent power and under Rule 37 are largely identical. Under Rule 37, terminating sanctions are reserved for cases in which a party's noncompliance is due to willfulness, fault, or bad faith."*

ARGUMENT

For the following reasons, Plaintiff seeks sanctions:

1. **FALSE CLAIMS OF HARASSMENT**

[Persuant to Rule 11(b)(3) & inherent authority sanctions are appropriate]. While stating ***"This lawsuit was filed by Matthew R. Walsh ("Plaintiff") and is just the latest event in a long-standing harassment campaign against Defendant."*** (Dkt #15, line 15). Defendant used their public Wikipedia page to removed protected speech simply notating the case number(s), subject(s) and a link to their terms of service. Defendant further decided to publicly declare the following:

a. "*Removed section on 'Legal Issues' as it pertains to an ongoing court case and was added by the plaintiff as* ***defamation****."*

b. "***False information*** *regarding an unsettled legal dispute removed."*

c. *"****False accusations*** *about legal violations and* ***supposed lawsuits*** *removed."*

d. These permanent statements carried over into the media where public sentiment began echoing Defendant's words almost

verbatim. The IP addresses of the posters (**2a02:aa7:4046:2d91:1ce9:eff5:4232:a710**, and **2a02:aa7:411b:afd6:f406:eb5b:122d:9ddf** and under anonymous username Sharleenbrando123) positively identify Defendant's as the poster(s) as demonstrated in (Exhibit 1)

e. **FALSE CLAIMS / HARASSMENT: WEAPONIZING AFFILIATED MEDIA TO HARASS PLAINTIFF**

Around the same time as the Wikipedia harassment, a major podcast called Corridor Digital (~10 million subscribers) covered the case in EP#227 labeling it *"Don't take headlines at face value"* and captioning it *"Sam caught a interesting headline about Rokoko Studio and a recent lawsuit.. We Dive IN!"* echoing similar sentiments to what Defendant has stated. Of significant import, Rokoko and Corridor Digital have a long standing relationship going back years. Within the 10M listener podcast they accuse Plaintiff of: **(first)** Libel **(second)** Using bots to post Reddit comments as self-promotion of the case **(third)** Using alternative accounts to "bump up the drama" **(fourth)** *"a single person just making mountains and mountains of data and text."* **(fifth)** *"There*

is 2 lawsuits, a state lawsuit and a federal lawsuit in the state. Lawsuit was not accepted. Yeah, not even accepted." **(sixth)** Attempting to discredit Plaintiff's claims of IP theft/reasale even though Defendant admits it **(seventh)** *"But the last thing is they said he, he said he hired a "private investigator." "This guy's actually unhinged"* **(eighth)** *"It's basically guys just confused about the terms of service."* **(ninth)** *"This guy is off his rocker"* (Exhibit 22)

f. It is clear from inference and Rokoko's longstanding relationship with Corridor Digital that their slanderous statements against Plaintiff to their 10M subscribers *is part of the same coordinated harassment campaign* Defendant enacted on Wikipedia and accuses Plaintiff of. Plaintiff reserves the right to amend this motion or request judicial notice of evidence pending subpoena return.

2. **NO NOTICE OF REMOVAL PRIOR TO DOING SO**

[Persuant to 28 U.S.C. § 1446(d), inherent authority, 28 U.S.C. § 1927 and Rule 11(b)(1), sanctions are appropriate.]

Defendant removed the case to Federal on June 12, 2025; however,

required notice was provided to Plaintiff prior. In fact, Counsel never spoke to Plaintiff prior to this day and it was for less than 1 minute (Exhibit 2). Counsel hung up the call so fast that Plaintiff actually had to call them back twice moments later to recount what was even said. They did so simply to avoid Default in State court which would have occurred in hours if not for the improper removal. They couldn't engage on the merits and win, so they played procedural games to stall, avoid and gain advantages they should not have access to (e.g., using unadmitted attorneys, openly practicing despite Court order not to, creating falsities that must either be disproven by Plaintiff or accepted, removing under diversity instead of federal question to mute or conflict California laws with Delaware laws instead).

3. **FILING NON-COMPLIANT DOCUMENTS**

[Pursuant to the inline-quoted Local Rules, especially L.R. 11-9, inherent authority and 28 U.S.C. § 1927 sanctions are appropriate.]

While Plaintiff early-on filed documents which violated Local Rules; he learned, adapted and cleaned up filings going forward. Defendant however, filed their Motion to Dismiss (Dkt #42) violating the following local rules: **(first)** Local Rules 7-3 ("failure to meet and confer"),

(second) 11-3.1 ("lacking consecutive line numbers"), **(third)** 7-5(a) ("lacking a brief but complete memorandum .. and the points and authorities"), **(fourth)** 11-7 ("Appendices are mixed with the body"), **(fifth)** 11-8 ("headings and subheadings missing"), **(sixth)** 11-6.1 ("false word count"), **(seventh)** 11-6.2 ("false word count on certificate"), **(eighth)** further it contains an intentionally false certification statement to the court and therefore for these reasons according to Local Rule 11-9 carries sanctions. This was not the only improper filing, but the most blatant in violation. Defendant was notified over six times after filing that it was defective and did nothing to correct it.

4. **ATTEMPTS TO OBSTRUCT PLAINTIFF'S DISCOVERY EFFORTS**

[Pursuant to Rule 37(a)(5), Rule 37(b), Rule 26(g)(1)(B)(ii), 28 U.S.C. § 1927, and the Court's Inherent Authority, sanctions are appropriate]

On September 12, 2025 Counsel attempted to stop Plaintiff from effecting discovery by falsely stating to Plaintiff *"As we mentioned before, any form of discovery is premature prior to the occurrence of a Rule 26(f) conference, which the parties have not conducted"* (Exhibit 3). In this e-mail as they had referenced the Scheduling Order; it is clear they

were aware that it verbatim stated: *"It is advisable for counsel to begin to conduct discovery actively before the Court issues a Scheduling Order"*. This is not the first time in this case that Defendant's Counsel attempted to steer Plaintiff into self-doubt and coerce him to abandon legally available practices through fear of retaliation by stating *"In the interim, Rokoko reserves all rights to move to quash* ***and/or seek a protective order*** *over the improper discovery requests that you continue to serve"*.

5. Additionally prior on August 7, 2025 Plaintiff lawfully issued two subpoenas to DocuSign not as a part of normal discovery, but instead to resolve issues regarding the integrity of the docket and expose false statements and omissions by Defendant. Counsel immediately replied stating *"Presently, both of your subpoenas directed to Docusign are premature"* --*"the subpoenas are defective on their face. Please immediately confirm that you will withdraw both subpoenas. Rokoko reserves all rights to object to the propriety of the subpoenas on other grounds, including without limitation as to relevance and privacy"* (Exhibit 4). This was yet another of Defendant's attempts to prevent Plaintiff from learning the truth of Rokoko and Counsel's blatant falsities and forbidden tactics including but not limited to Counsel ghostwriting

utterly false personal declarations and Defendant rubber stamping them.

6. **DISSUADING PLAINTIFF FROM FILING MOTIONS**

[Pursuant to Fed. R. Civ. P. 11(b), 28 U.S.C. § 1927, the Court's inherent authority, and Local Rule 83-7, sanctions are appropriate.]

Through the Course of this case, Counsel through e-mail and phone have continually attempted to control the outcome of the case by telling Plaintiff his documents/filings are "incorrect", "meritless", "defective", "untimely" and "frivolous". Counsel has done everything possible to try and intimidate and control a pro per using fear, the shadow of doubt and threatened sanctions including but not limited to these statements:

a. ***"Any motion to remand on the basis that you stated below would be frivolous"***

b. ***"Accordingly, the subpoenas are defective on their face."***

c. ***"Rokoko expressly reserves all rights, including the right to seek fees and costs for any such frivolous motion."***

d. ***"we intend to file a motion to dismiss unless you voluntarily dismiss this action. Please confirm that you will do so, otherwise Rokoko will have no choice but to proceed with its motion."***

e. ***"Any contemplated motion to strike is duplicative and a waste of judicial resources. "***

f. ***"Please immediately confirm that you will withdraw both subpoenas. Rokoko reserves all rights to object to the propriety of the subpoenas on other grounds, including without limitation as to relevance and privacy."***

g. ***"I am not your lawyer, but I am pretty sure (giggles) that.. (giggles)… you know, is not the right (giggles) vehicle for that… But you are pro per, so, you know… (giggles) whatever (giggles)"***

h. ***"Rokoko reserves all rights to move to quash and/or seek a protective order over the improper discovery requests that you continue to serve."***

i. ***"you have violated Penal Code § 625 and we expressly reserve all rights to seek all available statutory and civil remedies."***

7. **FALSE STATEMENTS TO THE COURT**

[Pursuant to Fed. R. Civ. P. 11(b)(3)–(4), 28 U.S.C. § 1927, the Court's inherent authority, and Local Rule 83-7, sanctions are appropriate.]

There is a long list of false statements made to the Court and to Plaintiff. These false statements are not substantive or made in good faith, with

clean intentions. They are designed to be unjust and cause vast burden upon Plaintiff to *prove* himself against entirely false statements with the obvious intention that should he *not* be able to object; he accepts them as truth.

[NOTE: To comply with Local Rules, the 23 listed false statements can be read in Declaration of Matthew R. Walsh ISO Motion for Sanctions Re: False Statements]

8. **NO CONTRARY EVIDENCE**

This is not a sanctionable act, however, Plaintiff wishes to set the tone for the claims already made before this Court. Defendant has not submitted a single piece of contradictory evidence, expert testimony or even so much as having the data or evidence evaluated by *anyone*; capable or not… Yet they feel inclined to present those statements before the Court.

9. **FORGED SIGNATURES**

Multiple documents bear forged signatures (Exhibit 13). As a signature is a certification of a completed document – simple logic explains, you

cannot sign a blank piece of paper or incomplete document and let another fill in anything they wish; nor can they sign your name. The methodology (Exhibit 13) used to prove the existence of forged signatures is simple: **(first)** extract the original PDF file's metadata using the industry standard tool 'exiftool'. **(second)** Analyze the metadata, which shows all of the files were either created or last edited (most over many hours) in -04:00 time-zone (Eastern/Chicago) instead of -07:00 time zone (Pacific/Los Angeles) where the only admitted attorney resides. **(third)** Analyze each of the attorney's e-mail headers to find which one matches the metadata time-zone. **(fourth)** Compare them and conclude that Emily Graue is the one ghostwriting and forging signatures. **(finally)** At a minimum, these documents are:

a. **The Removal Cover Sheet**

b. **The Notice of Removal**

c. **The Declaration of Katherine J. Ellena**

d. **The Ex Parte Motion for Extension of Time**

10. **UNAUTHORIZED PRACTICE OF LAW AFTER BEING REMOVED FROM THE COURT DOCKET**

[Pursuant to Fed. R. Civ. P. 11(b), Fed. R. Civ. P. 26(g), 28 U.S.C. §

1927, the Court's inherent authority, and Local Rule 83-7, sanctions are appropriate.]

(first) Emily Graue and Michael Galibois never sought pro hac vice status while practicing since May 7, 2025. **(second)** They removed to Federal Court on day 30 without applying whatsoever for pro hac vice. **(third)** Once in Federal Court, they continued practicing law. **(fourth)** On June 16, 2025 they both were removed from Court which stated *"You have been removed as counsel of record from the docket in this case, and you will not be added back to the docket until your Pro Hac Vice status has been resolved."*. Instead of ceasing to practice law – they continued **(A)** ghostwriting, **(B)** forging signatures (Exhibit 13), **(C)** calling Plaintiff, **(D)** e-mailing Plaintiff (Exhibit 14), **(E)** making demands to Plaintiff, **(F)** authoring and filing at least four (4) documents , **(G)** authoring the declaration of Katherine J. Ellena instead of her doing so; all while their pro hac vice status had not been granted until June 20, 2025 (Exhibit 14). **They practiced law for 44 days without pro hac vice.** Had they not acted within the rules and laws – they would have been Defaulted in State Court and on 9/9/2025 the Court would have heard Plaintiff's Motion for Summary Judgment. They *chose* to break the law and the rules to secure a victory in continuing the case which they

could not achieve otherwise without UPL.

11. **REFUSING MEET AND CONFER**

[Pursuant to Local Rule 7-3, Fed. R. Civ. P. 16(f), 28 U.S.C. § 1927, the Court's inherent authority, and Local Rule 83-7, sanctions are appropriate.]

Only one 7-3 conference has ever been held, on June 26, 2025. Plaintiff had to *beg* for that meeting. While Plaintiff was *begging* for that meeting, Counsel again refused simply spun a false e-mail narrative (knowing this contact would also end up on the record) stating *"We attempted to meet and confer with you and you were not willing to engage. You have also stated that you will oppose any motion we file.* ***We have met our meet and confer obligations*** *but, as I stated, I am happy to* ***resume*** *the meet and confer discussion with you".* Further, in Defendants Motion to Dismiss (Dkt #42, attachment 1, p2) Counsel admits to not engaging in 7-3 conferences prior and outlines their reasoning why they feel like they shouldn't have to comply. This admission and those actions make the following documents filed without legal basis:

a. **Docket #1 – Notice of Removal**

b. **Docket #2 – Civil cover sheet**

c. Docket #15 – Ex Parte for Extension of Time

d. Docket #23 – Motion to Dismiss

e. Docket #42 – Refiled Motion to Dismiss

After that meet and confer, Counsel once again refused to engage to the point where Plaintiff had to send e-mails such as *"You have 24 hours to agree to a meet and confer call or I will be filing a Notice of Breakdown in Meet and Confer"* and *"I have not heard from you since 6/26. I have requested meet and confer."*

12. **ABUSING MEET AND CONFER**

On June 26, 2025; the only meet and confer that has ever occurred was mostly 1hr 11 minutes of Emily Graue and Katherine J. Ellena actually screaming and yelling things like *"DO YOU REALLY THINK I'D ENGAGE IN WHAT YOU ARE ACCUSING ME OF?! I AM AN OFFICER OF THE COURT!!"* and Emily Graue as well joining in and berating Plaintiff to the point he threatened to hang up the call 3 times if they did not stop; which they didn't.

13. The call continued for 1hr and 11 minutes in which Counsel called Plaintiff "confused" and "incorrect" and essentially every talking point. They called all of his evidence "fabricated", "false", "worthless" and "meritless". Even the highly technical and forensic evidence was shrugged off and disregarded. Counsel undermined every attempt for Plaintiff to explain the technical side but they either couldn't understand what he was saying or it was so technical that they didn't want to listen anymore. For each law or case cited, Counsel refused to continue the call and forced Plaintiff to actually look them up online while he waited to "prove" they were right. Her exact words were "*This is a requirement of meet and confer"* – No, it was about humiliation.

14. Eventually Emily turned to angry monologous venting and Plaintiff went entirely silent and refused to even speak any longer. She'd yell *"NOTHING TO SAY?"* and rather than argue, Plaintiff would just at a low volume mumble *"nope", "yep"* instead of engaging any longer. If her ranting required a response and Plaintiff tried, Emily would again interrupt and speak over him loudly and say *"ITS MY TURN TO SPEAK! YOU GOT TO SPEAK THIS WHOLE TIME! AND FRANKLY YOU HAVE BEEN EXTREMELY RUDE! ITS MY TIME NOW!"*. The

conversation became so contentious that at the final point Plaintiff said *"If you want to scream at me, fine, but I am $250/hr. You can yell all you want, but you won't do it for free on my time. If you agree, I'll send an invoice and you can continue, otherwise we need to wrap this up"*

Clearly Counsel knew they crossed a line in this call as it would be the last time that Emily Graue would ever be involved front-of-the-house in the case again. She was removed from the e-mail chain by Counsel after and would never even so much as send another e-mail again to Plaintiff; even once she was re-added.

15. **THREATS OF CRIMINAL AND CIVIL PROSECUTION**

[Pursuant to Local Rule 7-3, Fed. R. Civ. P. 16(f), the Court's inherent authority, and Local Rule 83-7, sanctions are appropriate.]

On July 6, 2025 Plaintiff requested another meet and confer to strike their Motion to Dismiss, however, he stated *"Please let me know when your next availability is, also, please keep it professional this time – I don't want another repeat of our last meeting: + Being literally yelled at to the point I had to continually threaten to end the call if she didn't calm down, + Being talked over constantly at high voices, + Being talked-at and stonewalled, + Being giggled at and told "im sure (giggle) that's not*

the right (giggle) you know – vehicle for that, + Being talked down to because I'm "a pro per. I expect professionalism, as you are required to do by your code of conduct. That call was ***transcribed*** *by the way"* (typed, not recorded). *"I am considering releasing it to the Court as further evidence towards sanctions. Come respectfully and professionally, or assign another attorney who will."*. Once Counsel received this e-mail; they responded by threatening criminal and civil action *"To the extent you have recorded any of our meet and confer conversations, including our call on June 26th, you have violated Penal Code § 625 and we expressly reserve all rights to seek all available statutory and civil remedies".* Counsel then, the next day, issued a correction upon her Penal Code: *"Mr. Walsh: I inadvertently cited to the wrong Penal Code section in my email below. The correct Penal Code section is 632".* After these exchanges, Plaintiff simply cancelled a future meet and confer to seek striking the Motion to Dismiss (after he notified them about seven times that it was defective and they did nothing to cure) by stating *"Disregard the meet and confer request. I have no interest in repeating the last experience."*

16. **GHOSTWRITING PERSONAL DECLARATIONS**

[Pursuant to Fed. R. Civ. P. 11(b), 28 U.S.C. § 1927, the Court's inherent authority, and Local Rule 83-7, sanctions are appropriate.]

Counsel has ghostwritten multiple documents in this case and either placed a signature on behalf of another involved person, or have asked them to simply rubber stamp the declaration.

a. Plaintiff's forensic evidence demonstrates that Emily Graue drafted Katherine J. Ellena's personal declaration and signed her name under penalty of perjury (Exhibit 13). This revelation also explains why Katherine J. Ellena's declaration contains at least two counts of hearsay from Emily Graue's perspective. (Exhibit 15)

b. DocuSign records demonstrate that Counsel drafted Mikkel Overby's second declaration (Dkt #62, attachment 1) which makes false statements, misrepresentations of office size, omissions and further was **rubber stamped by Overby within 90 seconds of receipt.** In contrast to his first (Dkt #1, attachment 1) which was wet-inked by him personally. (Exhibit 5)

Plaintiff contends, if you cannot even trust the declaration of someone because not only does it contain lies, but it wasn't even written by that person; and instead written by other involved parties as a means of

collusion – how can any testimony ever be trusted? How can Plaintiff expect a fair trial? He can't.

17. **SPOLIATION OF EVIDENCE #1**

[Pursuant to Fed. R. Civ. P. 37(e), the Court's inherent authority, and Ninth Circuit spoliation precedent (e.g., Leon v. IDX Sys. Corp., 464 F.3d 951 (9th Cir. 2006)), sanctions are appropriate.]

(first) Defendant received a draft of the Complaint as early as March, 2025. Defendant received a near-final copy on April 17, 2025. They hired Counsel on May 7, 2025. **(second)** Defendant had all archived copies of their Terms and Conditions (the core of this case) removed entirely once they realized it was referenced in the Complaint. **(third)** Plaintiff checked the source code of their website which specifically shows that they changed the terms and conditions page and deleted the archived versions of prior years as their website source code stated: *"Last Published: Thu May 01 2025 07:59:21 GMT+0000"*. **(fourth)** Plaintiff then added to the Complaint that Defendant spoliated evidence. **(fifth)** The matter was filed on May 14, 2025. **(sixth)** Defendant realizing that spoliation was added to the Complaint then undid their changes as their website source code confirms: *"Last Published: Wed May 21 2025 at*

09:42:30 GMT+000" **(seventh)** With all archived copies of the terms and conditions page destroyed, Defendant enabled the page to once again be archived, which it has been continually since. (Exhibit 16)

a. Unfortunately, those public versions of the terms and conditions, any and all gradual changes; if any are now lost because Defendant and Counsel wished to delete the one piece of evidence which would certainly prove their intent to do many of the things they are accused of.

18. **SPOLIATION OF EVIDENCE #2**

[Pursuant to Fed. R. Civ. P. 37(e), the Court's inherent authority, and Ninth Circuit spoliation precedent (e.g., Leon v. IDX Sys. Corp., 464 F.3d 951 (9th Cir. 2006)), sanctions are appropriate.]

On August, 21 2025, four days after Plaintiff presented evidence to the Court (Dkt #17, exhbit 17) showing that Rokoko Electronics was registered to the CEO/CFO/Secretary Jakob Balslev's luxury apartment at 4140 Cesar Chavez St., San Francisco, CA 94131. Defendant Rokoko Electronics spoliated evidence to mask and destroy Plaintiff's nerve center argument by amending its California SOS filing on August 21,

2025 to hide, obfuscate and remove that home address and substitute a Sacramento registered agent. This change came only after Plaintiff exposed their California contacts in depth. (Exhibit 18)

CONCLUSION

As a small act of candor to the Court – I *really* don't want to file this motion. I am actually embarrassed to be 'another pro se screaming for sanctions'. For me, this is definitely last case scenario and not a sudden decision. I've been slowly amending it since June 26, 2025; I simply cannot continue to endure this conduct without seeking the Court's intervention. Grant or Deny, it needs to be addressed.

To simplify the process, Plaintiff reiterates what this very Court and the Hon. James V. Selna stated and required in an order for terminating sanctions in FTC v. Lights of America Inc. (Case #SACV 10-1333 JVS): *"A party that has despoiled evidence can be sanctioned by a district court under two sources of authority: "the inherent power of federal courts to levy sanctions in response to* ***abusive litigation practices****, and the availability of sanctions under Rule 37 against a party* ***who fails to obey an order to provide or permit discovery****." Leon v. IDX Sys. Corp. , 464 F.3d 951, 958 (9th Cir. 2006)".*

In the case of Walsh v Rokoko Electronics; Defendant Rokoko Electronics has done both (and more): Abuse litigation practices AND failed to obey an order to permit Plaintiff to begin discovery. The order in that case continued to state:

"A terminating sanction, such as dismissal, is appropriate only ***when "a party has engaged deliberately in deceptive practices that undermine the integrity of judicial proceedings."*** *Leon, 464 F.3d at 958 (quoting Anheuser-Busch, Inc. v. Natural Beverage Distribs., 69 F.3d 337, 348 (9th Cir. 1995)). In determining whether dismissal is warranted, the Court must weigh the following factors:* ***"(1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its dockets; (3) the risk of prejudice to the party seeking sanctions; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions."*** *Id. (quoting Anheuser-Busch, Inc. v. Natural Beverage Distribs., 69 F.3d 337, 348 (9th Cir. 1995)). "Dismissal under a court's inherent powers is justified in extreme circumstances, in response to abusive litigation practices, and to insure the orderly administration of justice and the integrity of the court's orders." Halaco Engineering Co. v. Costle, 843 F.2d 376, 380 (9th Cir. 1988)."*

This very Court further stated: "*The thresholds for terminating sanctions under the Court's inherent power and under Rule 37 are largely identical.* ***Under***

Rule 37, terminating sanctions are reserved for cases in which a party's noncompliance is due to "willfulness, fault, or bad faith." *Computer Task Group, Inc. v. Brotby, 364 F.3d 1112, 1115 (9th Cir. 2003); In re Exxon Valdez, 102 F.3d 429, 432 (9th Cir. 1996).*

Plaintiff has done *everything imaginable* to resolve this case through good faith avenues **(first)** Years of support communications with Defendant **(second)** Seven months of near daily discussions to simply purchase parts or later receive a repair or replacement and **(third)** Online Dispute Resolution and **(fourth)** Arbitration (Defendant initiated) and **(fifth)** Small claims court **(sixth)** State Civil Court **(seventh)** Federal Court. **(finally)** Defendant has no interest in trial or resolving this dispute. As Defendant has mentioned over 12 times in filings, they **not only** wish to dismiss this matter and avoid litigation, but entirely avoid product liability and liability for their actions whatsoever as they have for years while garnering a market value of $250M.

Plaintiff came correct, he came fair, he came compromising, he came truthful in front of this Court writing only when evidence was clear and present. Defendant did the entire opposite; through seven avenues of resolution mediums. **They, along with their Counsel, likely by design, have made it clear – the possibility of a fair case; much less a fair trial is numerically zero.** Plaintiff has

respectfully asked the Court to impose sanctions at nearly every step with clear, convincing and true evidence along the way. The threat of which has not deterred Defendant in the slightest. Conversely, it seems to have fueled their desires to further destabilize the judicial process since they simply cannot deny; nor win on the merits. Should the Court do nothing, one day their falsities or procedural sleights of hand may undeservingly provide them a black-hat victory despite the absolute substance present in this matter.

Plaintiff respectfully asks the Court to intervene in this matter and restore order.

PRAYER FOR RELIEF:

Plaintiff respectfully request that the Court:

- **IN LIEU OF APPROPRIATE TERMINATING SANCTIONS –**
  - Strike Defendant's Motion to Dismiss without leave to refile due to the eight Local Rules it already violates, in addition to it's untimeliness, false statements and fraudulent certifications.
  - As the Motion to Dismiss is the only answer on file, enter Clerks Default in this matter against Defendant.

- Restore fairness and allow Plaintiff's claims to be adjudicated on the merits — through dispositive motion practice (MTD, MTA) or trial — without interference from Defendant and Counsels simultaneously cohesive misconduct.

- **ADDITIONALLY –**
  - Impose sanctions on Defendant and their Counsel, including but not limited to admonishment for misconduct, to deter repetition of such conduct.
  - Award Plaintiff the costs and fees incurred in exposing and responding to Defendant's misconduct, and preserve Plaintiff's right to seek punitive damages at the damages phase of this action.

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

Executed this September 15, 2025, in Santa Clarita, California.

Matthew R. Walsh
Plaintiff In Pro Per

CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Plaintiff appearing in pro per, certifies that this brief contains 6,460 words, which complies with the word limit of L.R. 11-6.2.