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 2 ROBERTA LINDSEY SCOTT (SBN 117023)
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 6 Sacramento, CA 95814-2403
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9 Attorneys for Plaintiff
 10 ERIC GRANT

11 **ENTERED**
 12 APR 24 2008

FILED
ENDORSED

2008 APR 22 PM 2:30
 LAW AND MOTION #1

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 14 IN AND FOR THE COUNTY OF SACRAMENTO

15 ERIC GRANT,
 16 Plaintiff,
 17 v.
 18 JOHN GOEMANS, and ROES 1 through 10,
 19 inclusive,
 20 Defendants.

Case No.: 07AS04172

**MEMORANDUM IN SUPPORT OF
 MOTION TO COMPEL FURTHER
 RESPONSE TO REQUEST FOR
 PRODUCTION OF DOCUMENTS AND
 FOR EVIDENTIARY AND MONETARY
 SANCTIONS**

DATE: May 21, 2008
 TIME: 9:00 A.M.
 DEPT: 54

Complaint filed: September 11, 2007

I. INTRODUCTION

21 Plaintiff Eric Grant ("Grant") brought this action against defendant John Goemans ("Goemans")
 22 to ascertain Goemans' rights, if any, to fees paid for professional legal services provided by Grant to
 23 certain plaintiffs referred to as Jane Doe and John Doe (hereafter the "Does") in litigation in the United
 24 States District Court for the District of Hawaii.¹

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 26
 27 ¹ The true names and identities of the plaintiffs in the underlying Hawaii litigation have remained confidential because of the
 28 controversial subject matter of that litigation. Specifically, it sought a determination whether a school's practice of giving a
 preference to applicants of native Hawaiian ancestry constituted discrimination on the basis of race in violation of federal
 civil rights statutes.

{00038733.DOC; 1}

**MEMORANDUM IN SUPPORT OF MOTION TO COMPEL FURTHER RESPONSE TO REQUEST FOR
 PRODUCTION OF DOCUMENTS AND FOR EVIDENTIARY AND MONETARY SANCTIONS**

1 Grant served Goemans with a Request for Production of Documents, Set One, on September 27,
2 2007. (Declaration of Roberta Lindsey Scott ("Scott Decl."), ¶ 2 and Exhibit A.) After being granted
3 multiple extensions, Goemans served responses on December 13, 2007. (Scott Decl., Exhibit B.)
4 Goemans' response to Request for Production No. 4 was incomplete and non-responsive. Therefore,
5 Grant filed a motion to compel further responses set for hearing on March 5, 2008. The motion to
6 compel covered various other discovery responses in addition to category number 4 of the Request for
7 Production of Documents. The Court's tentative ruling, unopposed by Goemans, granted the motion
8 and directed defendant to serve "further responses, verified and without objection, no later than
9 March 17, 2008." (Scott Decl., ¶ 4 and Exhibit C.)

10 On or about March 3, 2008, Goemans mailed a "Supplemental Response to Request for
11 Production of Documents, Set One" to Grant's counsel. (Scott Decl., ¶ 5 and Exhibit D.)

12 Goemans' supplemental response is still inadequate and non-Code compliant. Without
13 responding that the documents exist, do not exist, or have been lost or misplaced, the response
14 essentially states that any documents would be in Hawaii and in storage.

15 This litigation seeks to establish the amount, if any, under quantum meruit theory that defendant
16 Goemans is entitled to recover for legal services purportedly rendered in the Underlying Litigation.
17 Grant needs to review Goemans' files to determine the scope, if any, of Goemans' services to the Does.
18 This is the crux of Goemans' entitlement, if any, to fees in this action under a quantum meruit theory.

19 Grant has attempted to meet and confer with Goemans' counsel. The supplemental response in
20 question is, as represented by Goemans' counsel, "the best [Goemans] can do" since any responsive files
21 or documents are in Hawaii and, at the time of the conversations with his counsel, Goemans was
22 reportedly in Florida. However, since the response, Goemans has been to (and may still be in) Hawaii.
23 (Declaration of James J. Banks, ¶ 2; Scott Decl., ¶ 8). However, Goemans has neither augmented nor
24 supplemented his responses, nor has he produced any documents.

25 Under the circumstances, this Court should not hesitate to enter an order (1) compelling
26 Goemans to provide the requested discovery responses and the documents; (2) imposing evidentiary
27 sanctions pursuant to Code of Civil Procedure section 2023.030(c) that (a) for purposes of this action it
28 is deemed that Goemans does not have any of the requested documents and (b) prohibiting him from

1 discovery responses. If Goemans opposes this motion to compel, sanctions against it in the amount of
2 Grant's costs incurred in bringing this motion, at this time no less than \$583.00, should be imposed.²

3 **III. CONCLUSION**

4 Grant therefore respectfully requests this Court to (1) order Goemans to provide a further,
5 complete and verified response to the Request for Production of Documents, Set One and the responsive
6 documents themselves within seven business days of the hearing on this motion; (2) issue an order
7 imposing evidentiary sanctions that, for purposes of this action, it will be deemed that defendant
8 Goemans has no files, including both pleading and correspondence files, maintained for the Underlying
9 Litigation and prohibiting Goemans from introducing, referring to, mentioning, or arguing at any law
10 and motion proceeding or trial in this matter, any of the documents that would fall within these
11 categories; and (3) pay Banks & Watson monetary sanctions, at this time no less than \$583.00, with the
12 written response and documents and sanctions to be provided to Banks & Watson all within seven
13 business days of the hearing on this motion.

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15 DATED: April 22, 2008

Respectfully submitted,

16 BANKS & WATSON

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18 By: 

JAMES J. BANKS
Attorneys for Plaintiff ERIC GRANT

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27 ² The amount of requested sanctions is based upon the hourly rate of Grant's counsel primarily responsible for drafting the
28 motion times the 2.2 hours she spent preparing the motion and supporting papers. (Scott Decl., ¶ 9.)

1 **BANKS & WATSON**
2 **CASE NAME:** *Eric Grant v. John Goemans, et al.*
3 **COURT:** Sacramento County Superior Court
4 **CASE NO:** 07AS04172

5 **PROOF OF SERVICE**

6 STATE OF CALIFORNIA)
7) ss.
8 COUNTY OF SACRAMENTO)

9 At the time of service, I was over 18 years of age and not a party to this action. My business
10 address is 813 Sixth Street, Suite 400, Sacramento, California 95814.

11 On April 22, 2008, I served the within copy of:

12 **MEMORANDUM IN SUPPORT OF MOTION TO COMPEL FURTHER RESPONSE TO**
13 **REQUEST FOR PRODUCTION OF DOCUMENTS AND FOR EVIDENTIARY AND**
14 **MONETARY SANCTIONS**

15 on the person(s) below, as follows:

16 Mr. John Gardner Hayes Attorney for Defendant John Goemans
17 11150 West Olympic Boulevard
18 Suite 1050
19 Los Angeles, CA 90064

20 (✓) **BY UNITED STATES MAIL** – I enclosed the document in a sealed envelope or package
21 addressed to the person(s) at the address(es) listed above and placed the envelope for collection
22 and mailing, following our ordinary business practices. I am readily familiar with this office's
23 practice for collection and processing correspondence for mailing. On the same day that
24 correspondence is placed for collection and mailing, it is deposited in the ordinary course of
25 business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I
26 am employed in the county where the mailing occurred. The envelope or package was placed in
27 the mail at Sacramento, California.

28 I declare under penalty of perjury under the laws of the State of California that the foregoing is
true and correct. Executed on April 22, 2008, at Sacramento, California.


Diane Brown