

PROPOSED TENTATIVE

The operative pleading is the fifth amended complaint, filed on September 12, 2023. Plaintiffs Monica and Ifrain Araiza (plaintiffs) have advanced the following three (3) causes of action against State of California (defendant): 1) dangerous condition of public property; 2) negligence; and 3) wrongful death. Plaintiffs are the parents of decedent Selena Araiza. Briefly, on February 14, 2020, driver Joseph Hernandez was driving southbound on State Route 1, with decedent as a passenger. As a result of “improper merging lanes,” a vehicle driven by Hanson (an employee of the Bureau of Prisons – FCI Lompoc), driving in the opposite direction, was unable to safely merge into traffic and collided with Hernandez’s vehicle, resulting in decedent’s death. Defendant answered on October 9, 2023. Jury trial is scheduled for March 2, 2026. A CMC is scheduled for January 21, 2026. A settlement conference is scheduled for December 19, 2025.

The matter before the court is defendant’s motion to compel plaintiffs’ further responses to special interrogatories (Set 3) (hereafter, Set 3), Nos. 31, 32, 33, 34, 35, 40, 43, 49, 52, 55, 57, 58, 60, 61, and 63. Defendant has filed a separate statement, along with 22 exhibits. Plaintiffs have filed opposition and an opposition separate statement. Defendant filed a reply on September 24, 2025, although it was late, as it was not filed at least five court days before the hearing (September 26, 2025 is a holiday). All briefing has been reviewed.

A) Factual Background

To fully understand the current discovery dispute at issue, the court is required to explore its factual underpinnings, as detailed in the 22 exhibits offered by defendant. Defendant propounded and served Set 3 on February 10, 2025. Plaintiffs had 30 days to respond, meaning responses were therefore due on or about March 12, 2025. Defendant sent an email to plaintiff’s counsel about the responses on March 18, 2025. Plaintiffs’ counsel indicated he had suffered a family emergency, and would not be available until April 7, 2025. Defense counsel replied, “To clarify, can we expect to receive your verified response without objection by April 7, 2025?” Plaintiffs indicated that responses would be made by April 20, 2025. Defense counsel indicated that the timeframe “is acceptable if we can stipulate to moving the trial and mediation dates” Defense counsel sent two emails, thereafter, noting that it agreed to the April 20, 2025 deadline if plaintiffs would stipulate to moving the trial date. On March 26, 2025, defense counsel indicated that he was out of the country due to a family death, agreed to an April 20, 2025 response date, and would not stipulate to a new trial date. In a March 26, 2025 email, defendant agreed to extend the deadline to April 1, 2025 (based on three conditions), as detailed in Exhibit 8.¹ On April 1, 2025, plaintiffs provided objections only to Set 3, Nos. 30 to 65 (Exhibit 9).

¹ In this email, as relevant for our purposes, defendant indicated as follows: “Out of a strong desire to resolve this informally, we will give you until April 1, 2025, to either serve an amended verified response to Special Interrogatory No. 10 [following an earlier discovery dispute], serve verified responses absent objections to the discovery requests we sent on February 10, 2025; or agree to move the trial date.” As indicated in the body of this order, plaintiff filed objections only.

Thereafter, on April 2, 2025, in a “meet and confer letter,” defendant indicated that because no “responses” were provided to any of the interrogatories in Set 3, all objections “have been waived.” Defendant urged plaintiffs to respond to the interrogatories “without objection.” On April 15, 2025, plaintiffs’ counsel replied as follows: “We may need to extend it for at least six months as we live in extraordinary times now.” Defense counsel replied that same day: “An extension on your amended responses to April 30 is agreeable if you agree to extend the deadline for a motion to compel further responses to May 15, 2025.” (Exhibit 11.) The parties thereafter agreed that plaintiffs would respond to the discovery requests by May 10, 2025 (Exhibit 12), then May 20, 2025 (Exhibit 13), and then June 16, 2025 (Exhibit 14). Plaintiffs supplied unverified supplemental responses on June 16, 2025, providing essentially the same objections to Set 3, Nos. 30 to 65 as was provided on April 1, 2025 (Exhibit 16).² The next day, defendant asked for verifications (even though objection-only responses do not need to be verified, as indicated by Code of Civil Procedure section 2030.250, subdivision (a) [the party to whom the interrogatories are directed shall sign the response under oath unless the response contains only objections].)³ On July 22, 2025, defendant again sent out a meet and confer letter, again reiterating that plaintiffs’ objections were waived, and requesting substantive responses, giving plaintiffs until August 4, 2025 to respond. (Exhibit 18.) On July 31, 2025, defendant agreed to a 10-day extension of the deadline for a second supplemental response “once we receive the verifications for your responses served on June 16, 2025.” (Exhibit 19.) The parties then agreed for a new date of August 18, 2025 (Exhibit 20). On August 18, 2025, plaintiffs served supplemental responses (as relevant for our purposes) to Set 3, special interrogatory Nos. 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 46, 47, 48, 49, 50, 51, 52, 55, 57, 58, 59, 60, 61, 63, and 64. Plaintiffs’ replies included a farrago of objections and responses. The responses were not verified. (Exhibit 21.) The present motion to compel further responses (per Code of Civil procedure section 2023.300 – see notice of motion) was filed on September 3, 2025.

The following can be gleaned from an examination of these documents. Plaintiffs were less than forthcoming in the early stages of this discovery request, as counsel ignored deadlines that had to be met after Set 3 was propounded. That being said, plaintiffs’ counsel had a valid reason for the delay, having suffered at least two family emergencies. Even with that, communications between the parties occurred after the critical deadline had passed – March 12, 2025, which was the date plaintiffs’ initial responses were due. If we stopped there, the matter could be easily resolved. But matters did not stop there. Although defendant from the beginning has insisted that plaintiffs have waived any objections as the initial responses were untimely responses (Code Civ. Proc., § 2030.290, subd. (a)), defendant routinely provided conditional extension after conditional extension after conditional extension. As reflected in a mishmash of

² The court has compared the objections advanced in Exhibit 9 to the objections advanced in Exhibit 16. While the objections in the latter do not track the objections in the former jot-for-jot, they are substantially similar. The objections in the latter track the objections in the former for the most part. It appears plaintiff provided no responses in Exhibit 16 other than objections.

³ It is not clear from the defendant’s motion whether plaintiff provided only objections to the special interrogatories not at issue (Nos. 1 to 29), or responses. If responses rather than objections were provided, those responses had to be verified.

esoteric email exchanges., defendant did not file a motion to compel further responses until very late in the game, after supplemental responses were provided.

In light of this fractured record, the court concludes that plaintiffs have not waived their right to object to the interrogatories propounded, while at the same time (despite the protracted delay) the court determines that defendant's motion will be deemed to be timely (made no more than 45 days after the supplemental responses). The court acknowledges that this determination is made from a sense of practicality rather than any clear direction. A review of the 22 exhibits offered by defendant leaves the court with no meaningful ability to determine with any precision what the parties agreed to, what deadlines were developed, and when responses were due (or not). It is simply easier for the court to examine the merits head on, rather than attempt to decipher the procedural morass that has been presented (i.e., who waived what and when). The court will therefore address the merits of plaintiffs' objections to each of 15 special interrogatories, as developed in the separate statements, below.

Nevertheless, the court puts the parties on notice – they must do better. This is not the first discovery “dispute” this court has seen between the parties, and the present dispute could have been avoided if the parties had been more precise in their communications and less conditional in their demands. While discovery disputes occur even in the best of situations, the parties should not make disputes worse through dilatory conduct and convoluted demands. Statutory discovery deadlines exist for a reason, and deviations therefrom should involve clear directives channeled through precise communications. The court expects the parties to treat the statutory discovery deadlines in the future with the respect they deserve, for trial is looming. The court does not want to see a repetition of the Rube Goldberg⁴-like, convoluted solutions offered by the parties as detailed in the 22 exhibits presented to the court, should another discovery dispute arise in the future.

B) Merits

The court will explore the merits of each special interrogatory request made, and determine the merits of plaintiffs' objections (through supplemental responses)⁵ as to each.

- **No. 31:** Defendant asked plaintiffs to identify all documents (author, type, to whom the document was addressed or sent, file number, its present location, all copies thereof, and a general description of the subject matter), that supports plaintiffs' contention that “erosion or other processes from adjacent land caused the roadway to lack sufficient traction or friction,” as stated in their supplement response to Special Interrogatory No. 10, subdivision (b), served on May 7, 2024.

⁴ Rube Goldberg was known for his cartoons depicting complicated gadgets performing simple tasks in convoluted ways.

⁵ There is a puzzling disconnect between plaintiff's opposition separate statement and his response memorandum of points and authorities in opposition. In the former, plaintiffs address responses that are not at issue in the motion to compel further responses – Nos. 36, 37, 38, 39, 41, 42, 44, 46, 47, 48, 50, 51, 59, and 62. In his response memorandum of points and authorities, by contrast, plaintiff completely overlooks any discussion of his responses that are at issue in the present motion as to Nos 40, 43, 49, 52, 55, 57, 58, and 60, all the while discussing responses to No. 62 and 64, which are not at issue. This briefing has made the court's task more difficult.

- Plaintiffs in their Supplemental Response: 1) objected because the response called for expert testimony beyond the knowledge of a lay witness⁶; and 2) claimed generically that the location of the auto collision occurred in the hill and a landside area, “which is a Code violation. As a result, to prevent sand, slide, coming into or out of the roadway, one needs to build retaining walls per the State, City, and County building codes to prevent the hill, sand and or debris from sliding. The document are [*sic*] in possession of the State of CA, as they with other government agencies created these building codes.”
- **Plaintiffs’ objections are without merit; more must be provided, for the following reasons:**
 - It is appropriate for one party to serve discovery requests on another party to ascertain what contentions will be made and upon what facts the responding party relies to support those contentions. (Code Civ. Proc., § 2030.010, subd. (b).) Plaintiff has to identify all documents that support the proposition. It has not done so.
 - More pointedly, plaintiffs have failed to explain why they are not required to identify the existence of any expert opinion document (either relied upon or generated by the expert) that supports the contention at issue. (*Williams v. Superior Court* (2017) 3 Cal.4th 531, 641 [a party may use an interrogatory to request the identity and location of those with knowledge of discoverable information]; see Code Civ. Proc., § 2030.010, subd. (b) [an interrogatory may relate to certain contentions, or facts, witnesses and writings on which contention is based].) Indeed, “an interrogatory is not objectionable because an answer to it involves an opinion or contention that relates to fact or the application of law to fact, or would be based on information obtained or legal theories developed in anticipation of litigation in preparation of trial.” (Code Civ. Proc., § 2030.010, subd. (b).) Plaintiff fails to account for this statutory language. Perhaps more dispositively, plaintiff does not invoke the work-product doctrine or the attorney-client privilege (or any other privilege for that matter) to preclude disclosure of the expert’s identity and/or identification of a written document relied on by that expert. In the interrogatory context, it is the responding party’s burden to support an objection (here, plaintiff), and that has not been accomplished. (*Williams, supra*, 3 Cal.5th 531, 541 [if a timely motion to compel has been filed, the burden is on the responding party to justify an objection].) Case law has made it clear that while a party may not ask for the contents of an expert’s reports or the opinions of an expert communicated to counsel, *it is proper to ask for the asserted facts constituting the general*

⁶ Plaintiffs renew this objection in all responses but Nos. 60, 61, and 63. Because the analysis with regard to this objection applies equally well to the same objection made to every other interrogatory but these three, the court will detail its analysis here, and later reference it with a “No. 31” notation for ease of reference.

positions of the responding party, and to that extent, the codified rule trumps the work product protection. Here, or in any other interrogatory discussed below, defendant is not asking for the contents of any expert opinion, or the details of any opinion, or the details of the sources of these viewpoints, but the facts offered to support the proposition through identified documents and identified witnesses. These requests are therefore permissible, as they are in line with fundamental law relative to discovery. Simply put, in the court's view, defendant is not attempting to discover the contents of an expert report or the actual opinions of any experts, but is seeking to learn what the issues are and what facts (through identified documents and identified witnesses) plaintiff is relying upon to support the identified contention. (*Tehachapi-Cummings County Water Dist. v. Superior Court* (1968) 267 Cal.App.2d 42, 46.) In this respect, no distinction can be drawn between facts or document supplied by or relied upon by law witnesses and facts or documents that may have been noted for their significance by experts. Without this information, in fact, defendant would approach trial blindfolded, the precise result discovery rules are intended to prevent. The court therefore rejects plaintiff's attempts to portray any of the interrogatories here as anything but a legitimate request for facts, witness identities, and appropriate documents relied upon to support the contentions. Nothing more is requested (and nothing more need be disclosed).

- Further, plaintiffs cannot simply claim -- as they do -- that the hill is a "Code Violation." Plaintiff must give the document citation where the proposition is found. More must be provided.
- Finally, plaintiff alludes to a document or documents that are in the possession of the State of California that support the proposition at issue. The response is insufficient. Plaintiff must identify the document specifically. If the question requires reference to some other document, it should be identified and its contents summarized so that the answer by itself is fully responsive to the interrogatory. (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 783-784.) Defendant is not asking for their production, but their existence (their identity). More must be provided than the generic response given.
- The court overrules plaintiffs' objections and directs compliance.
- **No. 32:** This interrogatory tracks No. 31, except defendant is asking plaintiffs to identify *any person* that plaintiffs believe supports the contention that "erosion or other process from adjacent land caused the roadway to lack sufficient traction or friction" as stated in their supplemental response to Special Interrogatory No. 10, subdivision (b) served on May 7, 2024.
 - Plaintiffs have provided the same objections and responses here as they did for No. 31, with one addition. Plaintiffs went on in their response to indicate

as follows: “The building codes for retaining walls were written[,] implemented and established by the state of California, and cities[’] building department which adopted codes to prevent hills, sand, and debris from sliding as in this case into the freeway on Route 1, where vehicles are navigating at a high speed of 65 MPH. Although the fatal auto collision occurred in the area where there is a hillside on both directions. The [S]tate of California did not install any retaining wall to prevent hills, sand and debris from sliding as in this case into the freeway on Route 1[,] which is a violation of their own statute[s] which obviously they would not want to enforce.”

- These additions add nothing to the calculus. The same analysis associated with No. 31 applies here. Plaintiffs have simply failed to identify any person that supports the proposition offered. Plaintiffs must identify the person or persons that support the factual contentions, within the same parameters above as to No. 31. The responses offered simply to not answer the interrogatory propounded.
- The court overrules plaintiffs’ objections and directs compliance.
- **Nos, 33, 34, and 35:** These three special interrogatories involve plaintiffs’ contention that “material used to construct and/or maintain the roadway were improper or no longer in proper condition at the time of auto commissions’ as stated in plaintiff’s supplemental response to Special Interrogatory No. 10 subsection ‘c’ served on May 7, 2024.” No. 33 asks plaintiffs to provide all facts that support this contention. No. 34 asks plaintiffs to identify all documents that support this contention. And No. 35 asks plaintiffs to provide a list of all persons who support the proposition.
 - Plaintiffs’ Supplemental Response as to all three: “These interrogator[ies] call[] for expert witness testimony beyond a lay person’s knowledge. Further, Route 1 where the scene of the subject Auto Commission occurred[,], [t]here was an open hold on the roadway that was left open. This defective asphalt draining culvert was created by the defendants State of CA and Et Al [*sic*], as they deliberately, intentionally reconstructed, paving the roadway and installed drainage culvert by grading as they lifted the floor line. As a result, they left an open hold in the roadway. The documents are in the possession of the [Department of Transportation (DOT)] as they are the plans that designed when they reconstructed Rout I[,], which included the subject. Auto collision scene [*sic*]. Gary Gsell is a witness and most likely DOT traffic engineer who designed the reconstruction plans. Obviously, these plans are in the possession of the State of California . . . who constructed the drainage holes that the State of California [itself] constructed and built on Route 1[,], which are left open in roadway without any warning signs nor barricades and as result Mr. Hanson’s vehicle while he was driving on Route 1 at 75 MPH caused his tire to go into that unseen Drainage hold and his tires spun making a 180-turn forcing his vehicle into the other direction causing at least two fatalities. The State of California should have modified these issues, but they

- did not want to spend 100 dollars to guard these drainages, but left them as open unguarded drainages are all over the State of California at Route 1.”
- It does not help that plaintiffs’ responses at times contain incomplete sentences.
 - As noted, No. 33 asks for facts, No. 34 asks for documents, and No 35 asks for identities of persons who can support the contention at issue. The analysis above (with regard to No. 31) rebuts plaintiffs’ objection based on expert testimony.
 - Despite this, it appears that as to No. 33, no more facts are required, as plaintiff has provided them in full. Unless plaintiffs wish to add something further, plaintiffs need not make any additional responses. The court denies the motion to compel further responses as to No. 33.
 - That is not the case with Nos. 34 and 35. As to No. 34, plaintiffs must identify the specific document that supports the contention. It is not enough to say generically that California possesses the plans. If the question requires reference to some other document, it should be identified and its contents summarized so that the answer by itself is fully responsive to the interrogatory. (*Deyo, supra*, 84 Cal.App.3d at pp. 783-784.) That is, plaintiffs must identify the specific plans at issue that support the contention. This would include any documents relied upon by the expert (within the confines of the rules articulated above with regard to No. 31.) Further, while plaintiffs have identified a person – Gary Gsell as a witness – it must identify all persons who can support the contention made. Nos. 34 and 35 are therefore incomplete. More (and more specificity) must be provided. The court grants the motion to compel with regard to Nos. 34 and 35.
 - **No. 40:** Defendant asks plaintiffs to identify all documents that support their contention that “the curvature and other geometry of the roadway was dangerous” as stated in their supplemental response to Special Interrogatory no. 10 subsection ‘f’ on May 7, 2024.
 - Plaintiffs’ Supplemental Response: “This interrogatory calls for expert witness testimony beyond a lay person’s knowledge. Further, Route 1 where the scene of the Subject Auto Collision occurred. [*Sic.*] Further, [t]he curve is the last curve prior to the subject auto collision site which occurred on 02/14/2020 on State Route 1 approximately .5 miles So[u]th of Santa Rosa Rd. The last curve is a trap as the Nothing Route 1 lanes merge from two lanes into one lane and the visibility is not clear which renders it unsafe. This is the last curve which the state could have extended the ‘merging of the lanes’ another 100 to 200 yards which would have been safe as the visibility would be clear for all of the drivers navigating Rout 1 north. At this point the roadway on Route 1 north is a straight road for at least several miles without curves. The documents are in possession of the defendants as they designed the plans.”
 - This interrogatory asks plaintiffs to identify the documents that support the contention at issue. The court overrules any objection advanced by plaintiffs

based on the fact an expert opinion is called for, as discussed above with regard to No. 31.

- It is not enough for plaintiffs to point to plans in defendant's possession. Plaintiffs have to be specific about the plans examined and reference them with specificity. Again, as noted above, if the question requires reference to some other document, it should be identified and its contents summarized so that the answer by itself is fully responsive to the interrogatory. (*Deyo, supra*, 84 Cal.App.3d at pp. 783-784.) Defendant is not asking for disclosure, just their identification. Plaintiffs have to respond with more specifically.
- The court overrules plaintiffs' objections and directs compliance.
- **No. 43:** Defendant asks plaintiffs to "identify all documents that support your contention that there was 'improper signage' as stated in your supplemental response to Special Interrogatory No. 10 subsection 'h' served on May 7, 2024."
 - Plaintiffs' Supplemental Response: "This interrogatory calls for expert witness testimony beyond a lay person's knowledge. Prior to the last curve before the subject auto collision, there were no signs warning that there are open holes in the roadway. Further, some of the signs on route 1 have vegetation which makes it hard to see. In addition, some of the signs had coral weeds grown adjacent to them. Lastly, at nighttime these signs are not visible to drivers who are navigating route 1 North. There was no sign. The documents are the google pictures and documents that were provided to the defendants previously"
 - The court again overrules plaintiffs' argument that this interrogatory impermissibly calls for the testimony of the expert witness, as discussed above in No. 31. The same analysis there applies here. Plaintiffs should identify any documents relied upon by the expert, along the lines discussed above.
 - And (once again) plaintiffs do not satisfy their burden to identify documents when it replies generically that it has provided all the documents already. Plaintiffs should identify the document, and when it was disclosed to defendant. (See *Deyo, supra*, 84 Cal.App.3d at pp. 783-784.) That is reasonable.
 - The court overrules plaintiffs' objections and directs compliance.
- **No. 49:** Defendant asks plaintiffs to identify all documents that support your contention that there was a "improper lighting at the time of the auto collision' as stated in your supplemental response to Special Interrogatory No. 10, subsection 'k' served on May 7, 2024."
 - Plaintiffs' Supplemental Response: "This interrogatory calls for expert witness testimony beyond a lay person's knowledge. There is no lighting on this roadway where the subject Auto Collision occurred at night. Dark roads are difficult to navigate, and signs are difficult to read when there are no lights. Furthermore, holes in the roadway cannot be seen when there are no lights on the roadway in the nighttime or when it is dark, especially when there are no warning signs to alert drivers, pedestrians, motorcyclists of holes in the

- roadway. Witness Gary Gsell and the Expert witness is too premature at this point who may have responsive documents.”
- Again, the court overrules plaintiffs’ objections to the extent they claim the interrogatory impermissibly calls for expert witness testimony beyond a lay person’s knowledge, for the same reasons articulated above with regard to No. 31. Plaintiffs are directed to answer within the boundaries established above.
 - Plaintiffs’ response is otherwise inadequate. Plaintiffs must identify the documents that support the fact there is no lightning. If an expert relied on documents to reach such a conclusion, plaintiffs must identify the documents. (*Deyo, supra*, 84 Cal.App.3d at pp. 783-784.) If counsel relied on documents to support this conclusion, plaintiffs must identify the documents. The fact some expert may have responsive documents does not answer the specific interrogatory asked. Plaintiff must provide more specific answers.
 - The court overrules plaintiffs’ objections and directs compliance.
- **No. 52:** Defendant asks plaintiffs to identify all documents supporting “your contention that there was an ‘obstruction of motorist’s views’ as stated in your supplemental response to Special Interrogatory No. 10 subsection ‘1’ served on May 7, 2024.”
 - Plaintiffs’ Supplemental Response: “This interrogatory calls for expert witness testimony beyond a law person’s knowledge. Right before the merging of two lanes into one lane, there is a curve in which at nighttime, without any lights in the area, a driver cannot see the merger of lanes due to the curve. Further, the DOT wants drivers, motorcyclist[s] and others to merge on a blind curve. Interestingly, after the lane merge, the roadway is straight without any curves for at least over several miles (perhaps up to 10 miles of straight road). As discusse[d], *supra*, they could have merged the lanes approximately 200 to 500 feet further northbound on Route 1 North and there would be no[] blind side traveling in the dark. Witness: Gary Gsell.”
 - As above, the court overrules plaintiffs’ objection that the document request requires mention of an expert witness, on the same rationale and parameters noted with No. 31.
 - Further, plaintiffs have not identified any documents – and they must. If the question requires reference to some other document, it should be identified and its contents summarized so that the answer by itself is fully responsive to the interrogatory. (*Deyo, supra*, 84 Cal.App.3d at pp. 83-784.) If the documents do not exist, say so. Giving a witness name is not identifying documents, as requested. Speculation is not enough.
 - The court overrules plaintiffs’ objections and directs compliance.
 - **No. 55:** Defendant asks plaintiffs to identify all documents “supporting your contention that ‘the volume and speed on Route 1 at the sight of the collision warranted a reduction of speed’ as stated in your supplemental response to Special Interrogatory No. 10, subsection ‘m’ served on May 7, 2025.”

- Plaintiffs’ Supplemental Response: “This interrogatory calls for the expert witness testimony beyond a lay person’s knowledge. The expert Gary Gsell which is premature at this time may have responsive documents.”
- The court once again rejects plaintiffs’ objection that the interrogatory impermissibly calls for expert witness testimony beyond a lay person’s knowledge. The analysis in No. 31 applies.
- Plaintiffs have failed to provide the identity of any document relied upon that supported the contention made. (*Deyo, supra*, 84 Cal.App.3d at pp. 783-784.) No privilege has been invoked, and none has been shown. It is unresponsive to say that a witness (such as Gary Gsell) “may have responsive documents.” Plaintiffs must identify the documents relied upon. If there were no documents, plaintiffs must say so.
- The court overrules plaintiffs’ objections and directs compliance.
- **No. 57:** Defendant asks plaintiffs to “list all facts that support your contention that ‘the tree at the site of the collisions was not trimmed properly which obstructed the driver’s view’ as stated in your supplemental response to Special Interrogatory No. 10 subdivision ‘n’ on May 7, 2024.”
 - Plaintiffs’ Supplemental Response: “This interrogatory calls for expert witness testimony beyond a lay person’s knowledge. The expert witness Gary Gsell which is premature at this time may have responsive documents.”
 - Plaintiffs’ response is inadequate. The court overrules the objection based on expert witness testimony, for the same reasons discussed in No. 31.
 - Further, plaintiffs are required to disclose the facts that support the proposition (even if those facts were relied upon by an expert).
 - The court overrules plaintiff’s’ objections and directs compliance.
- **No. 58:** Defendant asks plaintiffs “to identify all documents that support your contention that “the tree at the site of the collisions was not trimmed properly which obstructed the driver’s view as stated in your supplemental response to Special Interrogatory No. 10, subsection ‘n’ served on May 7, 2024.
 - Plaintiffs’ Supplement Response: “This interrogatory calls for expert witness testimony beyond a lay person’s knowledge, The location of the tree and vegetation is right after the sign and before the last curve prior to the merger from two lanes into one lane on Route 1 North. Gary Gsell is the witness.”
 - Once again, the court overrules plaintiffs’ objection that the interrogatory calls for expert witness testimony beyond a lay person’s knowledge, for the very same reasons discussed in No. 31 above. The interrogatory is not asking plaintiffs to reveal communications made to counsel or the contents of any report, but documents relied on to support that proposition. That does not require expert witness testimony.
 - Further, if the question requires reference to some other document, it should be identified and its contents summarized so that the answer by itself is fully responsive to the interrogatory. (*Deyo, supra*, 84 Cal.App.3d at pp. 783-784.) It is insufficient to point to the identity of witness – that does not comply with

interrogatory, which requires plaintiff to list the documents relied upon, not the identify of witnesses.

- The court overrules plaintiffs' objections and directs compliance.
- **No. 60:** Defendant asks plaintiffs to “state the exact location of the tree referenced in your supplemental response to Special Interrogatory No. 10 subsection ‘n’ served on May 7, 2024.”
 - Plaintiffs' Supplemental Response: “The location of the tree is right after the sign and before the last curve prior to the merger from two lanes into the one lane on Route 1 North In the area where the subject auto collision occurred.” (Capitalization omitted.)
 - The court sustains plaintiffs' objections and denies defendant's motion to compel further responses. The response adequately complies with the substance of the interrogatory. If defendant wanted a more formal identification, it should have asked for it. It did not.
- **No. 61:** Defendant asks plaintiffs to “state what you believe drivers on the roadway could not see due to the tree referenced in your supplemental response to Special Interrogatory No. 10 subsection ‘n’ served on May 7, 2024.”
 - Plaintiffs' Supplemental Response: “There were [*sic*] vegetation growing at the right or alongside the paddles and some tree branches (bushes) over hanged [*sic*] in front of the sign maker right before the last curve (right before the lane merger)[,] which made it difficult for the drivers to see at nighttime due to the darkness and no overhead lighting.”
 - Plaintiffs' response is adequate, and it responds to the interrogatory. If defendant wanted more precision, it should have asked for it. It did not.
 - The court denies defendant's motion to compel further responses as to the interrogatory.
- **No. 63:** Defendant asks plaintiffs to “identify any previous accident you contend were caused by poor lighting at the Incident location.”
 - Plaintiffs' Supplemental Response: “ The plaintiffs have already provided defendant with the Switers report which indicated that there were two accidents. Further, defendant themselves have these documents as they are the one generating these documents. Lastly, the plaintiff reserves the right to amend, supplement, and all [*sic*] of her responses up to an including and during the time of the trial.”
 - Plaintiffs' responses are inadequate. The interrogatory asks plaintiffs to identify any accidents, which has not been done. The interrogatory does not ask plaintiffs where the documents are located – simply to the identify any previous accidents plaintiffs contends were caused by poor lighting. Plaintiffs are being evasive.
 - The court grants the motion to compel further responses to this interrogatory.

C) Sanctions

Defendant asks in counsel's declaration for monetary sanctions pursuant to Code of Civil Procedure section 2023.030, subdivision (a), which allows for sanctions when a motion to compel further responses for interrogatories is sought. Defendant does not include in the notice of motion the sanction amount requested, its type, or the statutory authority for it; nor does it name the parties or attorney who should pay. Mr. Gorner in his declaration indicates that he spent 4 hours at \$275, meaning defendant requests monetary sanctions of \$1,110.

Code of Civil Procedure section 2023.040 provides: "A request for a sanction shall, in the notice of motion, identify every person, party, and attorney against whom the sanction is sought, and specify the type of sanction sought. The notice of motion shall be supported by a memorandum of points and authorities, and accompanied by a declaration setting forth facts supporting the amount of any monetary sanction sought." "Adequate notice prior to imposition of sanctions is [also] mandated not only by statute, but also by the due process clauses of both the state and federal Constitutions. (Cal. Const., art. I, § 7; U.S. Const., 14th Amend.)" (*O'Brien v. Cseh* (1983) 148 Cal.App.3d 957, 961; accord, *Alliance Bank v. Murray* (1984) 161 Cal.App.3d 1, 6.) Cases interpreting these provisions have indicated that the individual or party against whom the sanctions must be identified in the notice of motion. (*Corralejo v. Quiroga* (1984) 152 Cal.App.3d 871, 874 [order imposing sanctions on attorney reversed where notice of motion did not clearly provide that sanctions were being sought against attorney]; cf. *Sole Energy Co. v. Hodges* (2005) 128 Cal.App.4th 199, 207-210 [default judgment reversed because moving party failed to specify in notice of motion that it sought terminating sanction, although notice of motion sought monetary sanctions and memorandum of points and authorities advised court it could consider terminating sanction]; see *Mattco Forge, Inc. v. Arthur Young & Co.* (1990) 223 Cal.App.3d 1429, 1435-1436 [the notice of motion must specify whether the moving party is seeking monetary, issue, evidence of terminating sanctions].)

The court cannot award monetary sanctions because 1) the notice of motion failed to identify the type of sanctions sought (or the authority justifying the type sought); and 2) the notice of motion failed to identify the persons against whom sanctions are sought (either the party or any attorney). Accordingly, the monetary sanction request fails to comply with due process and the express notice requirements of Code of Civil Procedure section 2023.040, and thus the court is not authorized to award the amount requested. (*Sole Energy Co., v. Hodges, supra*, 128 Cal.App.4th at pp. 209-210.)

The court denies any award for sanctions as unauthorized.

D) Summary of Court's Determinations

- The court finds the present motion is timely, and further, that plaintiffs have not waived any objections. The court acknowledges these determinations stem from

practicality rather than conviction. Although defendant insists plaintiffs waived any right to object, the email exchanges provided in the 22 exhibits submitted are at best ambiguous on this issue and otherwise contain at times perplexing conditional deadline discovery extensions, making it difficult if not impossible to discern who agreed to what and when. In the end it seems more efficient to address the discovery conflict rather than attempt to decipher the meaning of these voluminous emails. Nevertheless, the court puts both parties on notice -- they must communicate with each other more precisely should future discovery disputes arise. While discovery disputes cannot be avoided even at the best of times, the parties cannot make the situation worse by conducting themselves in an ill-disciplined, disjointed fashion, offering convoluted, Rube-Goldberg-like solutions that simply confuse rather than enlighten. The parties are directed to follow the clear statutory discovery procedures and timelines contained in the Civil Discovery Act, for trial is looming, with any future deviations ***clearly stated and communicated***, with agreements reached (or not reached) ***in writing***. The court does not want to see the types of unhelpful email exchanges/communications, as detailed in the 22 Exhibits offered by defendant to support the motion to compel, in any possible future discovery dispute.

- As to the merits of the present dispute, as to all but the last three special interrogatories at issue (Nos. 60, 61, and 63), plaintiffs object on the same ground -- contending the interrogatory calls for "expert testimony beyond a lay person's knowledge." This court overrules this objection, whether defendant is asking plaintiffs to detail the underlying facts, or to provide the identity of a document, to provide the identify of a witnesses that supports the contention in question. No interrogatory is asking plaintiffs to identify any privileged communication with an expert, or to disclose the contents of any written report authorized by the expert; defendant asks, as to all disputed contentions at issue, that plaintiffs provide the facts in support of the contention at issue, or identify any documents that support the contention at issue, or identify any person/witness that supports the contention at issue. Nothing further is asked for (or required). This is the type of evidence that is discoverable. This conclusion is bolstered by the fact plaintiffs at no time invoke either the work-product doctrine or the attorney-client privilege (or any other privilege for that matter) as to any fact, document, or person/witness. The court therefore overrules this objection made to all but three disputed interrogatory responses.
- In the end, the court grants the motion to compel further responses as to Special Interrogatories Nos. 31, 32, 34, 35, 40, 43, 49, 53, 55, 57, 58, and 63.
- The court denies the motion to compel further responses as to Special Interrogatory Nos. 33 (unless plaintiffs think other facts should be added), 60, and 61, as plaintiffs' responses are sufficient to comply with the interrogatory propounded.
- The court denies defendant's request for monetary sanctions; the court is not authorized to award the amount requested, given the defects in the notice of

motion under established case law, in violation of due process and Code of Civil Procedure section 2023.040.

- Plaintiffs have 30 days from today's hearing to provide appropriate responses.
- Defendant is directed to provide a proposed order for signature. The parties are directed to appear at the hearing either by Zoom or in person.