

Hunt, Kathleen A.  
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El Cerrito, CA 94530

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**Superior Court of California, County of Alameda**  
**Rene C. Davidson Alameda County Courthouse**

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Beagle  <p style="text-align: center;">Plaintiff/Petitioner(s)</p> VS.  Cochran  <p style="text-align: center;">Defendant/Respondent(s) (Abbreviated Title)</p>	No. <u>RG15794528</u>  Order  Motion for Further Production of Documents Granted
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The Motion for Further Production of Documents filed for Peter S Beagle was set for hearing on 11/07/2017 at 09:00 AM in Department 16 before the Honorable Michael M. Markman. The Tentative Ruling was published and was contested.

The matter was argued and submitted, and good cause appearing therefore,

**IT IS HEREBY ORDERED THAT:**

Plaintiff's Motion for Terminating Sanctions against Defendants Connor Freff Cochran; Conlan Press, Inc.; and Avicenna Development Corporation ("Defendants") is **GRANTED**. The Court **DISMISSES WITH PREJUDICE** the Cross-Claims of Defendants Cochran, Conlan and Avicenna.

On September 23, 2016, Defendants were ordered jointly and severally to pay \$24,915 in attorneys' fees and costs to Cross-Defendant Kathleen Hunt. Apparently, Defendants have not yet paid the sanction. The Court orders that the sanction be paid within 30 days of this order.

On April 4, 2017, this Court ordered Defendants to serve verified responses, without objection, to a number of Plaintiff's Form Interrogatories as well as to serve verified responses to various document requests, and to produce responsive documents by May 4, 2017.

Counsel for Plaintiff's Declaration attests that as of the date Plaintiff filed this motion, dated August 7, 2017:

- (1) On April 28, 2017, Defendants provided their amended answers to Plaintiff's form interrogatories and document requests, which contained the same objections that were overruled in the Court's April 4, 2017 order.
- (2) Defendants Conlan and Avicenna have not produced any documents as required by the April 4, 2017 order.
- (3) Although Defendant Cochran was granted several extensions to comply by Plaintiffs beyond the original May 4, 2017 deadline, Defendant Cochran has only produced some documents and has not fully complied.

Counsel for Plaintiff's Supplemental Brief clarifies further that Defendant Cochran has only produced emails and related attachments from January 2010 - September 2011. Many of these were non-responsive to any request, were multiple drafts of assorted works by Beagle, and contained hundreds of bates-stamped blank pages. Defendant Cochran also provided multiple audio files, including music files,

which were entirely non-responsive to any request. In addition, Cochran's amended responses contained the very same improper objections that had been specifically disallowed by this Court's order nearly six months ago.

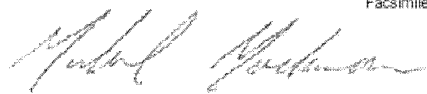
Pursuant to section 1005(b) of the Code of Civil Procedure, Defendants' deadline to file an opposition to this motion was October 11, 2017. Defendants' filed an opposition with the Court on October 19, 2017, eight (8) days late. At the October 24, 2017 hearing, Defendants' Counsel admitted in court that Defendants Conlan and Avicenna have not produced any documents since the Court's April 4, 2017 order. Defendants did not file a supplemental brief.

The Court concludes that terminating sanctions are justified against Defendants Connor Freff Cochran, Conlan Press, Inc., and Avicenna Development Corp. It does not appear that lesser sanctions will induce these Defendants' compliance. (See *R. S. Creative, Inc. v. Creative Cotton, Ltd.* (1999) 75 Cal.App.4th 486, 496; *Kaplan v. Eldorado Ins. Co.* (1976) 55 Cal.App.3d 587, 591.) The conduct at issue here is unusual and egregious.

The Court will permit Plaintiff to renew his request for further issue sanctions prior to trial. Specifically, Defendants' ongoing failures to comply with the Court's discovery orders may have a direct bearing on Defendants' abilities to assert affirmative defenses to a number of Plaintiff's claims. The failures to comply with Court orders may also have a direct bearing on whether Plaintiff's may ask the Court to deem certain issues established at the time of trial. Further monetary sanctions may also be appropriate.

Plaintiff's unopposed request for monetary sanctions against Defendants is GRANTED in the amount of \$3,060 against Defendant Connor Freff Cochran. The Court orders that the sanction be paid within 30 days of this order.

Dated: 11/07/2017

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Judge Michael M. Markman

SHORT TITLE:

Beagle VS Cochran

CASE NUMBER:

RG15794528

ADDITIONAL ADDRESSEES

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