

1. NICHOLS, ET AL. v. HARVEST SMALL BUSINESS FINANCIAL, LLC, ET AL., 25CV3370**OSC Re: Preliminary Injunction**

On December 15, 2025, plaintiffs Ashley Nichols and Steven Nichols (collectively, “plaintiffs”) filed a verified complaint against defendants Harvest Small Business Finance, LLC (“Harvest”) and Beacon Default Management (collectively, “defendants”) for (1) declaratory relief; (2) promissory estoppel (against Harvest only); (3) unfair business practices; (4) negligence (against Harvest only); and (5) intentional infliction of emotional distress. The prayer for relief includes a request for a temporary restraining order (“TRO”), preliminary injunction, and permanent injunction enjoining defendants from proceeding with foreclosure on plaintiffs’ *commercial property* pending adjudication of this action.

A judge may not grant a preliminary injunction without notice to the opposing party. (Code Civ. Proc., § 527, subd. (a).) A preliminary injunction may be sought by noticed motion under Code of Civil Procedure section 1005 or by an application for an order to show cause (“OSC”). An OSC must be used if a TRO is sought or when the defendant has not appeared in the action. (Cal. Rules of Ct., R. 3.1150, subd. (a).) The OSC must be served in the same manner as a summons and complaint on a defendant that has not appeared. (Cal. Rules of Ct., R. 3.1150, subd. (a).) The court notes that, to date, neither defendant has made an appearance in this case; therefore, an OSC must be used.

On December 15, 2025 (the same day the complaint was filed in this case), plaintiffs filed an ex parte application for a TRO and OSC. In an ex parte minute order issued December 17, 2025, the court denied plaintiffs’ request for a TRO because plaintiffs had not made a factual showing of irreparable harm or immediate danger (there was no indication that a trustee’s sale was imminent or had even been scheduled); in the same minute order, the court set an order to show cause (“OSC”) regarding preliminary injunction for January 16, 2026.

On December 30, 2025, plaintiffs filed proof of personal service of the following documents on both defendants December 22, 2025: summons, complaint, declarations from both plaintiffs in support of their application for TRO and OSC regarding preliminary injunction, and “minutes” (the court notes that, to date, it has only issued one minute order in this case, that being the minute order of December 17, 2025; the OSC re: preliminary injunction is contained in the court’s December 17, 2025, minute order).¹

The court finds defendants have been served with the summons and complaint, as well as the minute order setting the OSC, and both plaintiffs’ declarations supporting their ex parte application for a TRO and OSC.

On January 13, 2026, plaintiffs filed a notice of defendants’ non-opposition.

The complaint mentions a “related action,” *Nichols, et al. v. Harvest Small Business Financial, LLC, et al.* (El Dorado Super. Ct., case No. 253274), which was filed on December 8, 2025, one week before the instant action was commenced.² However, there is no notice of related case in the court’s file. (Cal. Rules of Ct., R. 3.300, subd. (b).) The related action involves the same parties and appears to arise out of the same commercial loan as the instant case. A hearing on plaintiffs’ motion for preliminary injunction enjoining defendants from foreclosing on *plaintiffs’ residence* in case No. 25CV3274 is currently set for January 26, 2026, in Department 9.

¹ The proofs of service filed December 30, 2025, also state that plaintiffs’ motion and notice of motion for preliminary injunction were personally served upon defendants. The court notes, however, that no *motion* for preliminary injunction has been filed in this case. In case No. 25CV3274, plaintiffs filed a motion for TRO and preliminary injunction on December 8, 2025.

² The complaint in case No. 25CV3274 asserts causes of actions against defendants for: (1) attempted wrongful foreclosure; (2) fraud; (3) breach of implied covenant of good faith and fair dealing; (4) unfair business practices; (5) economic duress; (6) unconscionable residential collateralization; (7) predatory use of junior lien position; and (8) cancellation of written instrument.

Without reaching the merits of the instant motion, it appears to the court that the instant case and case No. 25CV3724 are actions involving a common question of law or fact pending before the court; and therefore, consolidation may be appropriate. (Code Civ. Proc., § 1048, subd. (a).)

TENTATIVE RULING # 1: APPEARANCES ARE REQUIRED AT 1:30 P.M., FRIDAY, JANUARY 16, 2026, IN DEPARTMENT FOUR TO DISCUSS THE RELATED ACTION (CASE NO. 25CV3274) AND POSSIBLE CONSOLIDATION OF THE ACTIONS UNDER CODE OF CIVIL PROCEDURE SECTION 1048.

2. CAPITAL ONE, N.A. v. McGINNIS, 25CV1362**Motion to Deem Matters Admitted**

On November 12, 2025, plaintiff Capital One, N.A. (“plaintiff”) filed its motion to deem matters admitted. Proof of service filed November 17, 2025, shows the moving papers were served upon defendant’s counsel via mail that same day.

Defendant filed no opposition to the motion.

A party served with requests for admission must serve a response within 30 days. (Code Civ. Proc., § 2033.250.) Failure to serve a response entitles the requesting party, on motion, to obtain an order that the genuineness of all documents and the truth of all matters specified in the requests for admission be deemed admitted. (Code Civ. Proc., § 2033.280, subd. (b).) When such a motion is made, the court must grant the motion and deem the requests admitted unless it finds that prior to the hearing, the party to whom the requests for admission were directed has served a proposed response that is in substantial compliance with the provisions governing responses. (Code Civ. Proc., § 2033.280, subd. (c); *St. Mary v. Superior Court* (2014) 223 Cal.App.4th 762, 776, 778; see also *Demyer v. Costa Mesa Mobile Home Estates* (1995) 36 Cal.App.4th 393, 395–396 [“two strikes and you’re out”].)

In this case, plaintiff’s counsel declares that Request for Admission (Set One) was served on defense counsel August 11, 2025, via mail. (D’anna Decl., ¶ 2 & Ex. 1.) Accordingly, defendant’s deadline to serve his verified response was September 15, 2025 (30 calendar days, extended by five days for mail service). (Code Civ. Proc., §§ 1013, subd. (a), 2033.250, subd. (a).) As of November 6, 2025 (the date of plaintiff’s counsel’s declaration), defendant had served no response. (D’anna Decl., ¶ 3.)

The court grants plaintiff’s motion to deem matters admitted.

TENTATIVE RULING # 2: PLAINTIFF’S MOTION TO DEEM MATTERS ADMITTED IS GRANTED. THE TRUTH OF ALL MATTERS SPECIFIED IN PLAINTIFF’S REQUEST FOR

ADMISSION (SET ONE) ARE DEEMED ADMITTED. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

3. BERTO v. ERMINERO, ET AL., 24CV2840**Motion to Compel Further Discovery Responses**

On November 17, 2025, pursuant to Code of Civil Procedure sections 2030.300 and 2031.310, defendants Elisa Erminero (as trustee of the Erminero Trust) and Grand Welcome (collectively, “defendants”) timely³ filed the instant motion to compel plaintiff Madeline Berto’s (“plaintiff”) further responses to defendants’ Form Interrogatories (Set One) and Request for Production (Set One). Defendants also seek a monetary sanction against plaintiff in the total amount of \$2,275.00. Defense counsel declares he met and conferred with plaintiff prior to filing the instant motion. (Crochet Decl., ¶¶ 23–24 & Exs. K, K(1).)

Plaintiff, who is currently represented by counsel,⁴ filed no opposition to the motion.

1. Background

This is a slip and fall case. On June 10,⁵ 2025, defendants propounded upon plaintiff⁶ by mail the first set of Form Interrogatories and Request for Production. (Crochet Decl., ¶ 6 & Exs. D, E.) On September 30, 2025, plaintiff electronically served her verified responses upon defendants without objections, as the responses were untimely.

Defendants contend plaintiff’s responses are insufficient.

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³ Plaintiff electronically served her verified responses to the discovery requests on September 30, 2025. Accordingly, the 45-day deadline for defendants to file motions to compel further responses was November 18, 2025 (45 calendar days, extended by two court days for electronic service). (Code Civ. Proc., §§ 1013, subd. (e), 2030.300, subd. (c) [interrogatories], 2031.310, subd. (c) [production demands].)

⁴ On July 11, 2025, plaintiff filed a substitution of attorney indicating she is being represented by Ellis Law Group, LLP.

⁵ Defendants allege they propounded the discovery on June 20, 2025; however, the proofs of service in the exhibits show the discovery was propounded on June 10, 2025.

⁶ At the time, plaintiff was representing herself in pro per. (See Sub. of Atty., filed May 27, 2025.)

2. Legal Principles

After receiving a response to interrogatories, the propounding party may move for an order compelling a further response if the propounding party deems that an answer to a particular interrogatory is evasive or incomplete. (Code Civ. Proc., § 2030.300, subd. (a)(1).)

Similarly, after receiving a response to a demand for production, the party making the demand may move to compel further response to the demand if a statement of compliance with the demand is incomplete, a representation of the party's inability to comply is inadequate, incomplete, or evasive, or an objection in the response is without merit or too general. (Code Civ. Proc., § 2031.310, subd. (a).)

Except in cases of certain electronically stored information, "the court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel further response to a demand, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust." (Code Civ. Proc., §§ 2030.300, subd. (c) [interrogatories], 2031.310, subd. (h) [production demands].)

3. Discussion

3.1. Form Interrogatories (Set One)

The answer to each interrogatory must be "as complete and straightforward as the information reasonably available to the responding party permits." (Code, Civ. Proc., § 2030.2220, subd. (a); *Collin v. CalPortland Co.* (2014) 228 Cal.App.4th 582, 590; *Ahn v. Kumho Tire U.S.A., Inc.* (2014) 223 Cal.App.4th 133, 145.) The answers should reveal all information that is then available to the responding party. (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 782.) Answers are evasive if they deliberately misconstrue the questions or are "deftly worded conclusionary answers designed to evade a series of explicit questions." (*Id.* at p. 783.)

The court easily concludes defendants are entitled to further responses to the following Form Interrogatories because plaintiff's original response to each interrogatory is incomplete and/or evasive: 2.6, 6.4, 6.5, 6.6, 6.7, 8.3, 8.4, 8.7, 8.8, 9.1, 9.2, 10.2, 11.1, 12.4, and 12.6.

The court denies the motion to compel a further response to Form Interrogatory Number 12.1, which calls for the identity of any and all witnesses to the incident. Plaintiff responded, "N/A," meaning there are no witnesses. As such, the court finds plaintiff has fully answered the interrogatory.

Form Interrogatory 2.13 asks: "Within 24 hours before the INCIDENT did you or any person involved in the INCIDENT use or take any of the following substances: alcoholic beverage, marijuana, or other drug or medication of any kind (prescription or not)?" For each person, the interrogatory calls for (a) their name, address, and telephone number; (b) the nature or description of each substance; (c) the quantity of each substance used or taken; (d) the date and time of day when each substance was used or taken; (e) the address where each substance was used or taken; (f) the name, address and telephone number of each person who was present when each substance was used or taken; and (g) the name, address, and telephone number of any healthcare provider who prescribed or furnished the substance and the condition for which it was prescribed or furnished." Plaintiff responded: "No to alcohol and marijuana. Not sure as to prescription pain medication, but I don't think so."

"If an interrogatory cannot be answered completely, it shall be answered to the extent possible." (Code Civ. Proc., § 2030.220, subd. (b).) "If the responding party does not have personal knowledge sufficient to respond fully to an interrogatory, that party shall so state, but shall make a reasonable and good faith effort to obtain the information by inquiry to other natural persons or organizations, except where the information is equally available to the propounding party." (Code Civ. Proc., § 2030.220, subd. (c).)

Plaintiff's response does not specify to whom it refers (i.e., plaintiff or another person involved in the incident). Plaintiff mentions "pain medication" but does not specify the nature or description of the substance. Additionally, although plaintiff states she is "[n]ot sure as to prescription medication," she does not state she made a reasonable and good faith effort to obtain the information. For these reasons, the court grants defendants' motion to compel a further response to Form Interrogatory 2.13.

3.2. Request for Production (Set One)

Plaintiff responded to each of the disputed document demands as follows: "All responsive documents within Plaintiff's possession and control shall be produced." This is not a code-compliant response because it does not identify which documents were produced in response to the various demands. (Code Civ. Proc., § 2031.280, subd. (a).) Defendants claim plaintiff produced 40 pages of documents that are not bates-stamped or indicate to which demand they respond.

3.3. Monetary Sanction

Defendants seek a monetary sanction against plaintiff in the total amount of \$2,275.00, representing 6.5 hours of legal work at counsel's hourly rate of \$350.00. (Crochet Decl., ¶ 27.) However, counsel estimates he spent "approximately 20 hours pursuing this matter." (Crochet Decl., ¶ 27.) Having read and considered counsel's declaration, the court finds that \$1,750.00 (5.0 hours of legal work at \$350.00 per hour) is a reasonable sanction under the Civil Discovery Act. The court notes that no opposition or reply briefs were filed.

TENTATIVE RULING # 3: THE MOTION TO COMPEL FURTHER RESPONSES IS GRANTED IN PART AND DENIED IN PART. REFER TO FULL TEXT. PLAINTIFF SHALL SERVE VERIFIED FURTHER RESPONSES TO DEFENDANTS' FORM INTERROGATORIES (SET ONE) AND REQUEST FOR PRODUCTION (SET ONE) AS OUTLINED HEREIN AND PAY DEFENDANTS A TOTAL MONETARY SANCTION OF \$1,750.00 WITHIN 30 DAYS OF NOTICE OF ENTRY OF

ORDER. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

4. PEOPLE v. \$77,847.90 UNITED STATES CURRENCY, 25CV3100**Petition for Forfeiture**

On November 20, 2025, the People filed a Health and Safety Code section 11488.4, subdivision (a) petition for civil forfeiture against \$77,847.90 in United States Currency. There is no proof of service for the notice of hearing (issued November 20, 2025) in the court's file, and no indication of which individuals were designated in a receipt issued for the property seized. (See Health & Saf. Code, § 11488.4, subd. (c) [requiring service of process regarding the petition upon every individual designated in a receipt issued for the property seized].) Additionally, there is no proof of publication in the court's file, as required by Health and Safety Code section 11488.4, subdivision (e).

On January 5, 2026, claimant Izak Halter-Hurn filed a response opposing forfeiture.

TENTATIVE RULING # 4: MATTER IS DROPPED FROM THE CALENDAR DUE TO LACK OF SERVICE AND PROOF OF PUBLICATION. (HEALTH & SAF. CODE, § 11488.4, SUBDS. (c), (e).) NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.