

SANCHEZ v SENDER'S MARKET, INC., et al

24CV47302

DEFENDANT ROTH INDUSTRIES' MOTION TO COMPEL RESPONSES

This is a breach of contract claim brought by Cynthia Sanchez ("Plaintiff") against Slakey Brothers, Sender's Market, Inc., and Roth Industries. ("Defendants").

Now before the Court is Defendant Roth Industries' motion to compel.

The motion does not comply with Local Rule 3.3.7. All matters noticed for the Law & Motion calendar shall include the following language in the notice:

3 3 7 Tentative Rulings (Repealed Eff 7/1/06, As amended 1/1/18) All parties appearing on the Law and Motion calendar shall utilize the tentative ruling system. Tentative Rulings are available by 2:00 p.m. on the court day preceding the scheduled hearing and can be accessed either through the court's website or by telephoning 209-754-6285. The tentative ruling shall become the ruling of the court, unless a party desiring to be heard so advises the Court no later than 4:00 p.m. on the court day preceding the hearing including advising that all other sides have been notified of the intention to appear by calling 209-754-6285. Where appearance has been requested or invited by the Court, all argument and evidence is limited pursuant to Local Rule 3 3. All matters noticed for the Law & Motion calendar shall include the following language in the notice:

Pursuant to Local Rule 3 3 7, the Court will make a tentative ruling on the merits of this matter by 2:00 p.m. the court day before the hearing. The complete text of the tentative ruling may be accessed on the Court's website or by calling 209-754-6285 and listening to the recorded tentative ruling. If you do not call all other parties and the Court by 4:00 p.m. the court day preceding the hearing, no hearing will be held and the tentative ruling shall become the ruling of the court [emphasis in original.]

Failure to include this language in the notice may be a basis for the Court to deny the motion.

Accordingly, the motion is **DENIED**, WITHOUT prejudice to refile.

The clerk shall provide notice of this ruling to the parties forthwith. No further formal Order is required.

SANDERS v LUHRASSEBI, et al

25CV48201

PLAINTIFF'S MOTION FOR PROTECTIVE ORDER

Lynne Sanders ("Plaintiff") filed her Complaint arising out of allegations of predatory lending against Loancutters, Inc. dba Evoque Lending ("Evoque"), Mehdi Luhrassebi ("Luhrassebi"), Frank Ortiz ("Ortiz"), Lee Kulick ("Kulick"), and Pasquale Chiechi and Antonia Chichi as Co-Trustees of the Chiechi Family Trust dated February 4, 1993 ("Lenders.")

Now before the Court is Plaintiff's motion for protective order.

The motion does not comply with Local Rule 3.3.7. All matters noticed for the Law & Motion calendar shall include the following language in the notice:

3 3 7 Tentative Rulings (Repealed Eff 7/1/06, As amended 1/1/18) All parties appearing on the Law and Motion calendar shall utilize the tentative ruling system. Tentative Rulings are available by 2:00 p.m. on the court day preceding the scheduled hearing and can be accessed either through the court's website or by telephoning 209-754-6285. The tentative ruling shall become the ruling of the court, unless a party desiring to be heard so advises the Court no later than 4:00 p.m. on the court day preceding the hearing including advising that all other sides have been notified of the intention to appear by calling 209-754-6285. Where appearance has been requested or invited by the Court, all argument and evidence is limited pursuant to Local Rule 3.3. All matters noticed for the Law & Motion calendar shall include the following language in the notice:

Pursuant to Local Rule 3 3 7, the Court will make a tentative ruling on the merits of this matter by 2:00 p.m. the court day before the hearing. The complete text of the tentative ruling may be accessed on the Court's website or by calling 209-754-6285 and listening to the recorded tentative

ruling. If you do not call all other parties and the Court by 4:00 p.m. the court day preceding the hearing, no hearing will be held and the tentative ruling shall become the ruling of the court [emphasis in original.]

Failure to include this language in the notice may be a basis for the Court to deny the motion.

Accordingly, the Court **DENIES** Plaintiff's Motion for Protective Motion, With Leave to Amend.

The clerk shall provide notice of this ruling to the parties forthwith. No further formal Order complying with Rule 3.1312 in conformity with this Ruling.

FARIDI v TDS TRUSTEE SERVICES

25CV48053

DEFENDANT’S DEMURRER/MOTION TO STRIKE AS TO FIRST AMENDED COMPLAINT

Plaintiff Tariq Jamil Faridi (“Plaintiff”) filed his Complaint arising out of a real property dispute with Defendant Steve Carlson (“Carlson”) and TDS Trustee Services, Inc. (“TDS.”)

Now before the Court is a demurrer filed by TDS. TDS demurs to all six causes of action.

I. BACKGROUND

Plaintiff filed his complaint against Carlson on May 19, 2025. Plaintiff filed a first amended complaint against Carlson on July 3, 2025. Plaintiff is an individual residing at 486 Rich Gulch Rd, Mokelumne Hill, CA 95249 (“Property”) and asserts that he is the lawful occupant and homestead of the Property. Non-party Steve Carison is an individual who claims adverse possession based on a contested Trustee's Deed. TDS is the foreclosure trustee who recorded the Trustee's Deed Upon Sale.

On July 11, 2025, upon Plaintiff’s motion, all causes of action against Carlson were dismissed *with* prejudice. At the case management conference on September 24, 2025, Plaintiff was directed to file proof of service of the FAC. Carlson is not currently a party to this action. There is no evidence that Plaintiff ever served the FAC and summons on Carlson.

On November 21, 2025, Plaintiff filed a self-titled Motion to Reinstate Steve Carlson as Defendant. The Court denied the motion, without prejudice, due to Plaintiff’s failure to comply with Local Rule 3.3.7. On May 22, 2026, the Court denied Plaintiff’s motion for leave to file a second amended complaint, also due to Plaintiff’s failure to comply with Local Rule 3.3.7.

Although not necessary for the Court’s rulings as to the demurrer to each cause of action, Defendant TDS’ Request for Judicial Notice is GRANTED.

II. Legal Standard

“A demurrer tests the sufficiency of a complaint and admits all facts properly pleaded.” (*Setliff v. E.I. Du Pont de Nemours & Co.* (1995) 32 Cal. App. 4th 1525, 1533.) The court assumes the truth of the allegations asserted but does not assume the truth of “contentions, deductions, or conclusions of law.” (*California Logistics, Inc. v. State of California* (2008) 161 Cal. App. 4th 242, 247.) The court can further look at those facts that “reasonably can be inferred from those expressly pleaded and matters of which judicial notice has been taken.” (*Fremont Indemnity Co.*, 148 Cal. App. 4th 100, 111.) In considering the demurrer, the court must accept the allegations set forth in the complaint as true. (*Serrano v. Priest* (1971) 5 Cal.3d 584, 591.)

III. Discussion

A. Quiet Title

The elements of an action to quiet title are: 1) the plaintiff is the owner and in possession of the land and 2) the defendant claims an interest therein adverse to the plaintiff. (*South Shore Land Co. v. Petersen* (1964) 226 Cal.App.2d 725, 740.)

Plaintiff does not allege that he is the owner of the Property. Rather, he alleges he is the occupant and homestead owner. (FAC ¶ 1.) He asserts that Carlson improperly took ownership of the Property. However, Carlson is not a party to this action and was dismissed, with prejudice, by the Plaintiff. TDS does not assert an interest adverse to Plaintiff. TDS is only alleged to have recorded the Trustee Deed Upon Sale.

Accordingly, Plaintiff does not state a claim for adverse possession. Because Plaintiff cannot bring claims against Carlson due to the earlier dismissal, allowing amendment will serve no legitimate purpose. Accordingly, the **demurrer as to the cause of action for quiet title is sustained, without** leave to amend.

B. Trespass

Plaintiff's cause of action for Trespass alleges only that Carlson forcibly entered the Property. There are no allegations against TDS. Thus, as Carlson is not a party, the **demurrer as to the cause of action for trespass is sustained, without** leave to amend.

C. Wrongful Eviction

Wrongful eviction "occurs when the person recovering the property had no right to dispossess the other party from the property." (*Cunningham v. Universal Underwriters* (2002) 98 Cal.App.4th 1141, 1149-1150.) An essential element of a wrongful eviction claim is that the tenant has vacated the premises." (*Ginsberg v. Gamson* (2012) 205 Cal.App.4th 873, 899-900.)

Plaintiff does not allege that he has vacated the Property. Moreover, there are again, no allegations that TDS has engaged in any action to dispossess Plaintiff from the Property. TDS is alleged only to have recorded the Trustee Deed Upon Sale.

Accordingly, the **demurrer as to the cause of action for wrongful eviction is sustained, without** leave to amend.

D. Abuse of Process

"To succeed in an action for abuse of process, a litigant must establish that the defendant (1) contemplated an ulterior motive in using the process, and (2) committed a willful act in the use of the process not proper in the regular conduct of the proceedings." (*Rusheen v. Cohen* (2006) 37 Cal.4th 1048, 1057.)

Plaintiff's fourth cause of action for abuse of process states that "Carlson recorded fabricated and pseudo-legal documents to mislead officials and avoid proper judicial procedures." (FAC ¶ 23.) There are no allegations that TDS engaged in any abuse of process. Plaintiff has not opposed the motion and has not identified any amendments that could create a cause of action against TDS.

Accordingly, the **demurrer as to the cause of action for abuse of process is sustained, without** leave to amend.

E. Civil Conspiracy

“Conspiracy... is not an independent cause of action. [Cite.] When a plaintiff otherwise states a cognizable cause of action for a civil wrong, he or she may allege conspiracy as a basis for liability as to more than one defendant. [Cite.]” (*Faunce v. Cate* (2013) 222 Cal.App.4th 166, 172-173.) “The elements of civil conspiracy are (1) the formation of a group of two or more persons who agreed to a common plan or design to commit a tortious act; (2) a wrongful act committed pursuant to the agreement; and (3) resulting damages.” (*City of Industry v. City of Fillmore* (2011) 198 Cal.App.4th 191, 212.)

Plaintiff has not alleged any cognizable cause of action that could form the basis of his conspiracy claim. Moreover, because Carlson is not – and cannot be – a party to this action, there is no other party with whom TDS could have allegedly conspired.

Accordingly, the **demurrer as to the cause of action for civil conspiracy is sustained, without** leave to amend.

F. Declaratory Relief

Code of Civil Procedure section 1060 allows for the bringing of an action for declaratory judgment in order to ascertain the ongoing rights and duties of parties to an actual controversy.”

As Carlson is not a party to this action, and there are no valid claims alleged against TDS, there is no actual controversy present.

Accordingly, the **demurrer as to the cause of action for declaratory relief is sustained, without** leave to amend.

Accordingly, the Court **SUSTAINS** Defendant TDS’ demurrer as to all causes of action, **without** leave to amend, and Plaintiff’s **FAC is Ordered dismissed**.

The clerk shall provide notice of this ruling to the parties forthwith. Defendant TDS to submit a formal Order and Judgment complying with Rule 3.1312 in conformity with this Ruling.