JOHN A. VOS, TRUSTEE V EVANS

23CV46959

FORMER COUNSEL'S MOTION TO PRESERVE ATTORNEY CHARGING LIEN

This is an action involving a petition for partition of real property brought by Plaintiffs John A Vos, Trustee of the Vos Family Trust Dated 8/31/2011 ("Vos"), Walter Lander, Trustee of the Walter Lander Revocable Trust formed on December 10, 1996 ("Lander"), IRA Services Trust Company CFBO Walter Landers IRA Account 562476, dba Forget Trust Co ("IRA Services") and Corcoran Sherman LLC ("LLC") against a variety of Defendants including Kristan E. Evans ("Evans.")

Now before the Court is a motion captioned as a "motion to recognize and preserve attorney charging lien" brought by Attorneys Real Estate Group ("AREG") which was formal counsel for Evans.

I. Relevant Background

On January 9, 2024, Evans entered into an Attorney-Client Retainer Agreement ("Agreement") with AREG for legal services to "Defend and prosecute Partition Action venued in Calaveras County, CA." (Declaration of Teresa M. Boyd ("Boyd Decl.") ¶ 2, Ex. A.) The Agreement included an Evergreen Retainer whereby an initial retainer of $5,000.00 was deposited into the Client's Trust Account. The hourly rate for Attorneys was $400.00 and $190.00 for Paralegal/Assistant. (*Id*. at ¶ 6.) The Agreement further provides for an attorney charging lien against recovery proceeds. (*Id*. at ¶ 9.)

On September 9, 2024, Evans consented to a Substitution of Attorney wherein she substituted Attorney Kelly A. Vierra for AREG. (Boyd Decl. ¶ 9, Ex. B.) On September 29, 2025, AREG caused to be filed a Notice of Attorney Lien in the amount of $41,568.94 (Boyd Decl. ¶ 6, Ex. C.)

AREG now seeks to have this Court enter an order recognizing and enforcing the charging lien.

II. Legal Standard and Discussion

In California, an attorney's lien is created either by contract or by implication where the retainer agreement clearly provides that the attorney may look to the judgment to seek attorney's fees. (*Carroll v. Interstate Brands Corp.* (2002) 99 Cal.App.4th 1168, 1172.) Although not required to by law, it is common practice and often advisable for the attorney to file a notice of lien in the underlying action. (*Ibid*.) However, a notice of lien is not the same thing as the lien or lien claim. (*Ibid*.)

“Appellate courts have consistently held that the trial court in the underlying action has no jurisdiction to determine the existence or validity of an attorney's lien on the judgment.” (*Carroll*, supra 99 Cal.App.4th at 1173.) This is because “the attorney is not a party to the underlying action and has no right to intervene, [thus] the trial court acts in excess of its jurisdiction when it purports to determine whether the attorney is entitled to foreclose a lien on the judgment.” (*Ibid*.) Therefore, “an order within the underlying action purporting to affect an attorney’s lien is void.” (*Ibid;* see also Law *Offices of Stanley J. Bell v. Shine, Browne &* Diamond (1995) 36 Cal.App.4th 1011, 1019 [attorney “contractual lien must be enforced, however, in an independent action by the attorney against the client and the attorney has no right to intervene in the main action to which he is not a party.”])

Under *Carroll* and other applicable authority, this court has no jurisdiction over a fee dispute involving an agreement between a party in the action and the attorney to that party and such a contractual lien must be enforced in an independent action.

Accordingly, the motion to recognize and preserve attorney’s lien is **DENIED**.

The clerk shall provide notice of this ruling to the parties forthwith. The Court intends to sign the Order submitted by Defendant.

TRINITY ALPS FARMS, INC. v BARRETT FARMS, LLC, et al

24CF14779

PLAINTIFF'S RENEWED MOTION TO DETERMINE APPEARANCE OF BARRETT FARMS, LLC/PLAINTIFF'S MOTION FOR TERMINATING SANCTIONS AS TO DEFENDANTS DASHIEL MILLER AND BARRETT FARMS, LLC

This case involves a contract dispute involving an agreement to purchase two 40-ft freezer container units from Defendants by Plaintiff. Defendants are Barrett Farms LLC ("Barrett"), Wildseed LLC ("Wildseed"), Michael McClaren ("McClaren") and Dashiel Miller ("Miller.")

Now before the Court is Plaintiff's renewed motion to "determine appearance and request for entry of default" as to Barrett. Defendants have not filed an opposition.

I. Facts Relevant to the Motion To Determine Appearance

On September 30, 2024, Plaintiff filed its Complaint against Barrett and Does 1-10. On December 20, 2024, Plaintiff filed proof of service of the Complaint and summons on Barrett by personal service. At a Case Management Conference ("CMC") on January 8, 2025, Miller (who is not an attorney) appeared on behalf of Barrett. At that CMC, the Court noted that the Complaint had been properly served and that no answers had been filed. On that same date, Miller filed an Affidavit in response to the Complaint which was treated as an Answer by the clerk. The Answer does not reference Barrett or attempt to respond on behalf of Barrett.

On May 9, 2025, Plaintiff filed a First Amended Complaint ("FAC") which added Wildseed, McClaren and Miller as defendants. On August 19, 2025, McClaren and Wildseed filed an Answer to the FAC as well as a cross-complaint against Barrett and Miller.

On October 13, 2025, Plaintiff filed a Request for Entry of Default against Barrett which was denied by the Clerk on the grounds that Barrett had made a first appearance in the case. Barrett is an LLC and Miller is not a licensed attorney. On February 27, 2026, the Court heard Plaintiff's motion to determine appearance and enter default against Defendant Barrett and LLC. The Court denied the motion, giving LLC 30 days to obtain counsel and file responsive pleadings.

II. Legal Standard and Discussion

"[U]nder a longstanding common law rule of procedure, a corporation, unlike a natural person, cannot represent itself before courts of record in propria persona, nor can it represent itself through a corporate officer, director or other employee who is not an attorney. It must be represented by licensed counsel in proceedings before courts of record." (*CLD Construction, Inc. v. City of San Ramon* (2004) 120 Cal.App.4th 1141, 1145.) Miller filed a purported Answer on his own behalf but has no authority to file one on behalf of Barrett. Accordingly, Barrett has not yet entered an appearance in this matter.

Generally, a court may not strike the pleadings of a self-represented corporation without first giving them an opportunity to obtain counsel and cure the defect. (See *CLD Construction*, supra, 120 Cal.App.4th at pp. 1146–1147.) The Court gave Barrett thirty days from February 27, 2026, to obtain counsel and file a responsive pleading but it has not done so.

Accordingly, the Court finds Barrett was properly served on October 2, 2024, and has not entered an appearance in this matter.

Where a defendant has failed to appear and file an Answer within the specified period, the Court may enter default judgment. (Code Civil Procedure §585.) Accordingly, the motion to enter default judgment is **GRANTED**.

1. Facts Relevant to the Motion for Terminating Sanctions

On February 27, 2026, the Court granted Plaintiff's motion to compel responses to Form Interrogatories and Special Interrogatories and ordered Miller and Barrett to provide code-compliant responses within thirty (30) days. The Court also imposed monetary sanctions against Barrett and Miller. As of the date of the filing of the motion (June 4, 2026), neither Barrett nor Miller have responded as required by the Court's Order. (Declaration of Zachary R. Drivon ("Drivon Decl.") ¶ 3.)

On July 13, 2026, Plaintiff filed a Request for Entry of Default against Barrett and Miller.

2. Legal Standard and Discussion

California discovery law authorizes a range of penalties for conducting amounting the "misuse of the discovery process." (Code Civ. Proc. §2023.030.) Misuses of the discovery process include "[u]sing a discovery method in a manner that does not comply with its specified procedures" (Code Civ. Proc. § 2023.010(b)); "[f]ailing to respond or to submit to an authorized method of discovery" (id., subd. (d)); "[m]aking an evasive response to discovery" (id., subd. (f)); and "[d]isobeying a court order to provide discovery" (id., subd. (g).)

In selecting the appropriate sanction, a trial court "should consider both the conduct being sanctioned and its effect on the party seeking discovery." (*Doppes v. Bentley Motors, Inc.* (2009) 174 Cal.App.4th 967, 992.) The Court should also attempt to tailor the sanction to the harm caused by the discovery abuse. (*Ibid*.)

> "A decision to order terminating sanctions should not be made lightly. But where a violation is willful, preceded by a history of abuse, and the evidence shows that less severe sanctions would not produce compliance with the discovery rules, the trial court is justified in imposing the ultimate sanction." (*Mileikowsky v. Tenet Healthsystem* (2005) 128 Cal.App.4th 262, 279-280.)

The Court has already adjudicated that default should be entered against Barrett and default was entered as to Miller as well.. Accordingly, the **motion for terminating sanctions is moot and accordingly denied, but without prejudice to renew if for any reason the defaults are set aside.**

[Additionally, in the event either or both defaults are set aside for any reason, the Court notes the following:

The Court concludes that terminating sanctions are not appropriate currently. A terminating sanction "is a proper sanction to punish the failure to comply with a rule or an order only if the court's authority cannot be vindicated through the imposition of a less severe alternative." (*Rail Services of America v. State Comp. Ins. Fund* (2003) 110 Cal.App.4th 323, 331.) Further, "the discovery statutes evince an incremental approach to discovery sanctions, starting with monetary sanctions and ending with the ultimate sanction of termination." (*Padron v. Watchtower Bible & Tract Society of New York, Inc.* (2017) 16 Cal.App.5th 1246, 1259.)

Here, defendants Barrett and Miller have failed to comply with a single court Order regarding discovery. There have not been multiple failures which would tend to show that the court's authority cannot be vindicated by alternative means. At the same time, the Court is cognizant of the fact that said defendants have been reluctant participants in these proceedings and have blatantly failed to comply with the Court's discovery Order.

Accordingly, the motion for terminating sanctions would be denied. However, due to defendants' failure to comply with the Court's discovery Order, it is appropriate to impose evidentiary sanctions precluding Barrett or Miller from presenting any evidence at any proceeding that involves matters that should have been provided in the required discovery responses. Determination of the scope of this evidentiary sanction will be determined by the Court at any future time that it becomes relevant.] The failure to do so may result in granting terminating sanctions in the future.

The clerk shall provide notice of this ruling to the parties forthwith. The Court intends to sign the submitted proposed Order on the granted motion.

CHARTER-SMITH, et al v MALLERY, et al

24CV47281

PLAINTIFFS' MOTION TO REVOKE NON-MONETARY STATUS

This case involves a dispute over real property known as 1374 Hubbard Road, Sheep Ranch, CA 95246 ("Property.") Now before the Court is Plaintiffs' motion to revoke non-monetary status of Defendant Mid Valley Title and Escrow ("Mid Valley Title.")

I. Facts

Alison Charter-Smith and Anthony Jaehnichen (collectively "Plaintiffs") are husband and wife and have owned the Property since 2015. (Complaint ¶ 1.) On about January of 2018 Plaintiffs secured a Promissory Notice in the amount of $478,000.00 (the "Loan") from lender PENSCO Trust Company LLC, custodian FBO Terry M. Mallery IRA. (Complaint ¶ 2.) The monthly payment for this loan was $3,883.75 and had a loan maturity date of February 1, 2021. (*Ibid*.) This Loan was arranged by Terry M. Mallery, a licensed real estate broker in the State of California ("Mallery.") (*Id*. ¶ 15.) Monterey Peninsula Capital Partners, Inc. ("Monterey") is the servicer on the loan, and the lender is Penso Trust Company FBO Terry M. Mallery. (MPA p. 2.) The non-judicial foreclosure trustee for the subject foreclosure is Mid Valley Title.

On August 27, 2019, Plaintiffs executed a First Modification to Promissory Note ("First Modification") and on May 4, 2020, they executed a Second Modification to Promissory Note ("Second Modification.") A Notice of Default for the Loan was recorded against the Property on or about July 5, 2023, listing a default of $31,389.46 as of July 5, 2023 (the "Notice of Default"). (Complaint ¶ 20.) Thereafter, a Notice of Trustee's Sale was recorded on October 5, 2023.

On January 9, 2024, Mallery purchased the Property at public auction, and the deed was recorded on January 24, 2024. On or about February 13, 2024, Plaintiffs were notified that the Property had been purchased by Mallery and Richard Kostas, a manager at Monterey.

On March 20, 2024, Plaintiffs filed the instant lawsuit against multiple defendants including Mallery, Pacific Premier Trust FKA Pensco Trust Company, LLC, Mid Valley Title, Monterey, and various John Does. The Complaint brought causes of action for: 1) Wrongful Foreclosure, 2) Violation of Civil Code § 2924(m), 3) Violation of California Constitution Article XV, Section One and California Civil Code section 1916-3, 4) Breach of Contract, 5) Unfair Business Practices, 6) Slander of Title, 7) Fraud, and 8) Negligent Misrepresentation.

On July 26, 2024, Mid Valley Title filed a Disclaimer of Interest and agreed to be "bound by whatever non-monetary order or judgment this Court issues regarding" the Deed of Trust. (RJN 1.)

On October 10, 2024, Plaintiff served discovery on Mid Valley Title and received discovery responses on November 21, 2024. (Declaration of Nelson Goodell ("Goodell Decl.") ¶ 5.) The production revealed that without Plaintiffs' knowledge or consent, a Rescission of Full Reconveyance was recorded on November 29, 2022, by Mid Valley Title which stated the full reconveyance of Deed of Trust Document No. 2028-000695 "was executed in error and is hereby withdrawn, canceled and declared of no force or effect, and that the lien on the property covered thereby shall be in no way affected by such erroneous instrument" ("Rescission of Full Reconveyance"). (RJN 9). A Deed of Full Reconveyance was recorded on November 22, 2022, by Mid Valley which stated that the document "does hereby reconvey to the [Plaintiffs], without warranty, all of the estate, title and interest acquired" under the original Deed of Trust Document No. 2018- 000695 (the "Deed of Full Reconveyance"). (RJN 8).

Mid Valley Title failed to produce the Deed of Full Reconveyance in their November 2024 document production. According to Plaintiffs' counsel, he did not receive this document until August 13, 2025, from the county recorder's office (Goodell Decl. ¶ 9.)

Due to this new information, Plaintiffs filed a Motion Seeking Leave to File their First Amended Complaint on September 25, 2025. An Amended Notice of Motion was filed and served on counsel for Mid Valley, Christina Yu, on October 17, 2025. (Goodell Decl. ¶ 11, RJN 2.) In the Motion to Amend, Plaintiffs requested Mid Valley's non-monetary status be revoked, as Mid Valley failed to provide the Deed of Full Reconveyance in their document production, despite having already produced the Rescission of Full Reconveyance. As stated throughout the operative Second Amended Complaint ("SAC"), "the preparation, execution, notarization, issuance and recordation of the Rescission of Full Reconveyance by Mid Valley was done without any basis in law authorizing it to do so. No statute, no case law, no regulation nor any other source of law provides to Mid Valley as substitute trustee the power and authority to unilaterally rescind the Deed of Full Reconveyance, restore the lien on the property and/or revive the forgiven and extinguished modified Loan." (*Id.* ¶ 12; RJN 6 ¶30-31). Mid Valley Title did not oppose this motion. (*Id.* ¶13.)

The Court granted the Motion on November 14, 2025. On November 25, 2025, Plaintiffs' counsel emailed all counsel (including Ms. Yu) the proposed order granting the Motion for Leave to Amend and requesting any opposition by November 30, 2025. (Goodell Decl. ¶ 15.) Mid Valley did not advise whether they approved or not and on December 4, 2025, plaintiff filed a Notice of Entry of Order including a provision:

> Plaintiffs also seek to add additional factual allegations about Defendant Mid Valley Title and Escrow's filing of a Deed of Full Reconveyance in favor of Plaintiffs in November 2022 and a subsequent rescission of such reconveyance seven days later. No defendant has filed any opposition to the motion to amend. (Goodell Decl. ¶ 14; RJN 3.)

Plaintiffs filed their FAC but erroneously forgot to include verifications. (Goodell Decl. ¶ 19.) Accordingly, with stipulation from Defendant Pacific Premier, a second amended complaint ("SAC") was filed on January 23, 2026 (RJN 6) and was electronically served on Ms. Yu the same day. (RJN 7.) Mid Valley Title was served the SAC by messenger on February 17, 2026. (Goodell Decl. ¶ 21, 22, Ex. 4.)

On April 1, 2026, Plaintiffs' counsel emailed Ms. Yu stating that the SAC had been served on her clients, but Mid Valley Title had still not appeared and accordingly, Plaintiffs would be seeking default within one week. (Goodell Decl. ¶ 23.)

Mid Valley Title and others argued thereafter that neither the amended complaint, nor the order granting the motion for leave to amend, specifically revoked the non-monetary status.

Accordingly, the instant motion followed.

II. Legal Standard and Discussion

Civil Code section 2924l(a) provides:

> In the event that a trustee under a deed of trust is named in an action or proceeding in which that deed of trust is the subject, and in the event that the trustee maintains a reasonable belief that it has been named in the action or proceeding solely in its capacity as trustee, and not arising out of any wrongful acts or omissions on its part in the performance of its duties as trustee, then, at any time, the trustee may file a declaration of nonmonetary status. (Civil Code, § 2924l, subd. (a).)

Mid Valley Title filed such a declaration in this action on July 26, 2024 ("DNS"). The statute further states "In the event of a timely objection to the declaration of nonmonetary status, the trustee shall thereafter be required to participate in the action or proceeding. (Id., § 2924l, subd. (e).) No objection was made at the time the DNS was filed. However, the statute further provides:

> Additionally, in the event that the parties elect not to, or fail to, timely object to the declaration of nonmonetary status, but later through discovery, or otherwise, determine that the trustee should participate in the action because of the performance of its duties as a trustee, the parties may file and serve on all parties and the trustee a motion pursuant to Section 473 of the Code of Civil Procedure that specifies the factual basis for the demand. Upon the court's granting of the motion, the trustee shall thereafter be required to participate in the action or proceeding, and the court shall provide sufficient time prior to trial for the trustee to be able to respond to the complaint, to conduct discovery, and to bring other pretrial motions in accordance with the Code of Civil Procedure. (*Ibid*.)

Code Civil Procedure section 473 provides, that the Court, "may, in furtherance of justice, and on any terms as may be proper, allow a party to amend any pleading or proceeding by adding or striking out the name of any party." (Code Civ. Proc., § 473, subd. (a)(1).)

Here, Plaintiffs assert that they determined through discovery that Mid Valley Title should participate in the instant action because of the improper/illegal performance of its duties, and accordingly brings the instant Motion, specifying in detail the factual bases for their demand. (See, e.g., Goodell Decl., ¶¶ 7-35.) Since no trial date has been set, Mid Valley Title if required to participate, clearly will be provided sufficient time to do so.

Mid Valley Title's opposition essentially sounds in demurrer, arguing that Plaintiffs cannot state a claim against them because they are immune under Civil Code section 2924(d) and Civil Code section 47. However, while trustees are given some immunity, the type and application of that immunity are not appropriate for resolution here. Here, the Court is asked to determine whether the addition of Mid Valley Title as an active party is in the furtherance of justice and whether it would be unjust to require Mid Valley Title to participate in the litigation if it were utterly clear that it could have no liability.

Plaintiffs are asserting, in their SAC, that Mid Valley Title acted outside the scope of duties that would make it immune because it acted without any legal authority and outside its duties as a trustee. (SAC ¶ 77) and did so with malice or fraudulently (*Id.* ¶ 80.) As Mid Valley Title's immunity is not utterly clear under these circumstances, the

Court cannot conclude it is improper to remove Mid Valley Title's status as a non-monetary defendant.

Accordingly, the motion to revoke non-monetary status as to Mid Valley Title is **GRANTED**.

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

MCT GROUP v WALSH

25CF15585

PLAINTIFF'S MOTION TO COMPEL RESPONSES

Now before the Court is a motion to compel responses to discovery brought MCT Group ("Plaintiff") against David C. Walsh ("Defendant.")

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. Plaintiff to submit a formal Order and Judgment complying with Rule 3.1312 in conformity with this Ruling.

SANDERS v LUHRASSEBI, et al

25CV48021

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 against Special Interrogatories (SROGs) propounded by Evoque. The Court has considered the opposition filed by Evoque but disregards the opposition filed by Lenders, as they are not involved in the discovery in dispute.

I. Factual and Procedural Background

A. Factual Background

Evoque is a residential mortgage and/or private money-lending corporation primarily engaged in commercial and residential lending. (SAC ¶ 23.) Luhrassebi is believed to be the sole officer of Evoque and acts as its CEO, Secretary, CFO, and agent of service of process. (*Id*. ¶ 24.) Kulick is a senior loan consultant for Evoque and is alleged to have acted as an agent for Evoque. (*Id.* ¶ 26.)

Plaintiff has lived in the home located at 632 HWY 4, Murphys, CA 95237 (the "Property") since 1996 (SAC ¶ 2.) In 2022, Plaintiff began to suffer financial difficulties. At that time, however, she did not have a mortgage (having previously paid it entirely off), her credit score was 579, and she had a monthly income of $1,300.00. (*Id.* ¶ 4.) Based on advertisements, Plaintiff reached out to Evoque which told her that her credit score did not matter and that the loan would fund quickly. (*Ibid*.)

Plaintiff alleges that she was very clear with Evoque's agents that the purpose of any loan was personal and had nothing to do with starting or operating a business. (*Id*. 40.) Nonetheless, Plaintiff alleges that she was repeatedly instructed to sign paperwork representing that the Loan was for business purposes, such as advertising and supplies, and that it was for the purpose of a non-existent company called "Lynn Sanders Housekeeping Services." (*Id*. ¶¶ 7, 39.) At the same time, Plaintiff alleges that her monthly income was fraudulently changed on the form from $1300 to $1800. (*Id*. ¶ 9.) Other forms filled out apparently on her behalf also contained false information. (*Ibid*.)

In September of 2022, Plaintiff was offered a commercial bridge loan ("Loan.") (SAC ¶ 43.) Though structured as a commercial loan, the Loan was secured by a Deed of Trust by the Lenders on the Property. Plaintiff alleges that the Lenders are the beneficiaries of the Loan. (*Ibid*.) Evoque is alleged to have acted as a dual agent for both Plaintiff and the Lenders. (*Id*. ¶ 41.) The Loan was structured as a commercial, interest-only, hard money loan, with a principal amount of $115,000 and an initial rate of 9.99%. (SAC ¶ 43.)

Plaintiff alleges that Evoque Defendants were aware that she did not have sufficient earning power to make the necessary payments on the defined Loan terms. (SAC ¶ 48). She alleges that they seized the opportunity and fraudulently mischaracterized the Loan as a "non-consumer fiduciary loan." (*Ibid*.)

Plaintiff made a consistent and good faith effort to meet her loan obligations by making twenty-one interest-only payments totaling $14,475.32 between 2023 and 2024. (SAC ¶ 55.) On December 31, 2024, the loan maturity date, the balloon installment of interest became due and payable. Plaintiff received a statement demanding a balance of $123,779.11. To date, Plaintiff now owes a total of $126,806.24, more than the actual loan amount itself. (*Ibid*.)

In February 2025, Plaintiff received a notice from FCI Lender Service, Inc., the Lenders' authorized servicing agent, instructing her to pay the balance due, $126,020.13 by March 29, 2025, or risk foreclosure of her home. (SAC ¶ 18.)

B. Discovery

This action was filed a little over one year ago on April 23, 2025. Shortly thereafter, in October 2025, Plaintiff served discovery on Defendants, including Evoque. To date, Plaintiff has served 7 specially prepared interrogatories, 7 requests for admission, 26 document requests, and Judicial Council Form Interrogatories. (Declaration of Kelly W. Weil "Weil Decl." at ¶ 2.)

On February 18, 2026, Evoque served the following discovery on Plaintiff: 161 specially prepared interrogatories, 83 requests for admission, 141 document requests, and Judicial Council Form Interrogatories (including 17.1 requests). (Weil Decl. at ¶ 3.) Evoque granted Plaintiff an extension to respond to the discovery requests on three different occasions. Plaintiff has now provided written responses to all requests that are not subject to the instant motion.

On April 20, 2026, Plaintiff sent a meet-and-confer correspondence to Evoque identifying the interrogatories as problematic and harassing. (Weil Decl. at ¶ 8, Exhibit B.) On April 22, 2026, Evoque responded with a letter, arguing that this protective order was made in bad faith and that the requests were proper. (Weil Decl. at ¶ 9, Exhibit C.) To further attempt to resolve the dispute without court intervention, counsel for Evoque and Plaintiff met over Zoom. (Weil Decl. at ¶ 11.) Counsel had a productive meeting but eventually reached an impasse on each issue identified in this motion. (Weil Decl. at ¶ 12.) Plaintiff sent a confirming email regarding the substance of the meeting. (Weil Decl. at ¶ 13, Exhibit D.) Evoque's counsel agreed to withdraw 11 of the 161: Special Interrogatories No. 76, 82, 91, 93, 94, 95, 98, 99, 103, 105, 106. (Weil Decl. at ¶ 14, Exhibits E.)

Accordingly, at issue are Special Interrogatories 1-75, 77-81, 83-90, 92, 96, 97, 100-102, 104, and 107-160.

II. Legal Standard and Discussion

Pursuant to Code of Civil Procedure § 2030.030(a)(1), a party may propound on another party, as a matter of right, "thirty-five specially prepared interrogatories that are relevant to the subject matter of the action." Further special interrogatories may be propounded if the party "attaches a supporting declaration" describing why further special interrogatories are warranted based on the complexity or quantity of issues in the case, the financial burden of conducting the discovery by oral deposition, or the expedience of using this method of discovery. (Id. at § 2030.040(a).) Such declaration must be attached to any set of special interrogatories that exceeds the thirty-five limit. (Id. at § 2030.050.)

Pursuant to Code of Civil Procedure § 2030.090, "[t]he court, for good cause shown, may make any order that justice requires to protect any party or other natural person or organization from unwarranted annoyance, embarrassment, or oppression, or undue burden and expense." (Id., § 2030.090(b).) The protective order may include, inter alia, that the entire set of interrogatories, or certain interrogatories, need not be answered; or that the number of specially prepared interrogatories is unwarranted. (Id. at §§ 2030.090(b)(1)- (2).) Such motion for a protective order must be made "promptly" and "shall be accompanied by a meet and confer declaration under Section 2016.040." (Code Civ. Proc. § 2030.090(a).)

There is no specific deadline for a motion for protective order. (See Code Civ. Proc., § 2025.420, subd. (a).) Thus, while Defendant argues that Plaintiffs improperly delayed the motion for protective order, the Court disagrees. Given the vast extent of discovery requests, the timing of the motion for protective order is reasonable. Plaintiff attempted to resolve the matter amicable and without Court interference and when it became clear that this was not possible, promptly filed the motion.[1] The Court further finds there was sufficient meet and confer attempts prior to the motion.

Plaintiff seeks a Protective Order striking or limiting the Special Interrogatories issued to Plaintiff. Plaintiff makes the following arguments:

(1) The number of requests is not proportional to this action,

(2) Special Interrogatories No. 22, 26, 27, 36, 64, and 67 are argumentatively or harassingly phrased,

(3) Special Interrogatories No. 72 through 125, and 127 through 137 call for Plaintiff to state facts already alleged in a verified complaint,

(4) Special Interrogatories No. 6 through 9, 18, and 53 are overbroad and contain many subparts, and

(5) Special Interrogatories No. 47, 48, and 61 invade Plaintiff's right to privacy under the California Constitution.

Defendant complains that Plaintiff never specified discovery that is duplicative, burdensome, oppressive, vague, or otherwise improper, and a generalized burden does not show good cause for the Protective Order.

Code of Civil Procedure limits propounding parties to 35 Special Interrogatories. (Code Civ. Proc., § 2030.030(a)(1).) If a responding party objects because the number of interrogatories is unwarranted, then "the propounding party shall have the burden of justifying the number of these interrogatories." (Code Civ. Proc., § 2030.040(b).) As is the case here, because Plaintiff seeks a protective order on the ground that the number

[1]Evoque also argues that Motion is improper because it lacks a separate statement. Courts have discretion to deny discovery motions where a filed separate statement lacks the content and format required by the California Rules of Court. (*Mills v. U.S. Bank* (2008) 166 Cal.App.4th 871, 893. However, there is no clear requirement that a motion for protective order requires a separate statement – though it is certainly helpful to the Court. (See, *Lee v. Marriott*, 2025 Cal. Super LEXIS 61679, *2.)

of specially prepared interrogatories is unwarranted, Evoque bears the burden of justifying same.

The factors to consider when determining whether a greater number of interrogatories are warranted include "(1) The complexity or the quantity of the existing and potential issues in the particular case; (2) The financial burden on a party entailed in conducting discovery by oral deposition; (3) The expedience of using this method of discovery to provide to the responding party the opportunity to conduct an inquiry, investigation, or search of files or records to supply the information sought." (Code Civ. Proc., § 2030.040(a).)

Evoque does not address these factors. It simply asserts that the amount of money sought by Plaintiff demonstrates that this is a complex matter thus justifying 161 special interrogatories. They also complain that Plaintiff "cherry-picked" the ones to which she would respond and because she responded to some, she essentially waived her right to object to excessive number of special interrogatories. However, Evoque provides no legal authority or support for these contentions.

Weighing the heavy burden of response to 161 special interrogatories and the fact that Defendant has not demonstrated the need for the large number, the Court will limit the SROGS to the first 35.[2] Because the Court has limited the number to the first 35, it need not address Plaintiff's concerns with SROGS 36-161.

However, Plaintiff takes issue with SROGs 6-19, 18, 22, 26 and 27. As to these SROGs, Plaintiff bears the burden of showing that the protective order is warranted.

As to SROGs 6-19, Plaintiff seeks a protective order on the grounds that they are overbroad and/or contain many subparts. The Court agrees that the SROGs 6-9, and 12-15 and 18 which seek communication from "anyone" are overly broad because "anyone" could potentially include limitless and timeless communication with neighbors, friends, and even attorneys. The Court also agrees that the reference in SROG 6 to conversations about the "Loan" before the loan application was made may be nonsensical because the "Loan" would not have existed before the application was made and accepted. The Court does not agree that SROGs 16 or 17 are overbroad, vague or contain subparts.

As to SROG 22, it asks: "If there were any LOAN terms that you did not understand as of October 10, 2022, then why did you sign the LOAN DOCUMENTS anyway? Plaintiff objects on the grounds that the question is harassing and simply seeks to support

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[2] The Court is concerned that the excessive number of SROGS were propounded, not in a good faith attempt to gather facts, but in an unwarranted attempt to exhaust or harass the Plaintiff. (Weil Decl. ¶ 5, averring that Evoque's counsel stated, "As you can see from our recently served discovery requests, my clients are prepared to litigate this matter, and we will be digging into your client's personal and financial life to find more evidence to undermine her claim.")

Evoque's theory of the case. The Court disagrees. SROG 22 seeks relevant and discoverable information.

As to SROG 26 and 27, they ask: "Why did you sign the document attached hereto as Exhibit A [and B] if you believed the statements you made in that document were false?" Plaintiff objects to this as both harassing and requiring her to assume facts which have not been established, namely that she believed the statement made in the document were false. Courts have previously concluded that the objection based on the form of the question are intended for live deposition testimony, not when responding to written interrogatories with the advice and counsel of an attorney. (*W. Pico Furniture Co. v. Superior* Court (1961) 56 Cal.2d.407, 421.) Plaintiff should answer SROG 26 and 27 and make any objections to the form, content, or appropriateness therein.

Accordingly, and as set forth in this Ruling, the Court **GRANTS the Motion for Protective Order, as specified herein.**

Evoque seeks **sanctions** which are **DENIED**.

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

ECHAVARRIA v FCA US, LLC, et al

25CV48122

PLAINTIFF’S MOTION TO COMPEL INITIAL DISCLOSURES

This matter involves claims surrounding a car warranty brought by Alexis M. Echavarria (“Plaintiff”) against FCA US, LLC (“FCA”), Central Valley Chrysler Jeep Dodge Ram (“Chrysler”) and Does 1-10.

Now before the Court is a motion to compel initial disclosures brought by Plaintiff.

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.

NICHOLAS v LEMP

25CV48280

PLAINTIFF'S MOTION TO FILE FIRST AMENDED COMPLAINT TO ADD SHANE MIRANDA; PLAINTIFF'S MOTION FOR JUDGMENT ON THE PLEADINGS

These matters involve real property disputes between Danny E. Nicholas ("Plaintiff") and Lani Arellanes ("Arellanes") and Cathy Lemp ("Lemp.")

Now before the Court are two motions brought by Plaintiff: 1) Motion for Leave to File First Amended Complaint ("FAC") and 2) Motion for Judgment on the Pleadings ("MJOP.") The motions are unopposed.

I. <u>Background Facts</u>

In or around October 24, 2021, Plaintiff entered into an agreement with Lani Arellanes (now deceased) which appears to have been memorialized in a handwritten document prepared and signed by Arellanes ("Agreement") (Petition to Void TOD, Ex. 1.) Pursuant to this Agreement, Plaintiff would build a 3-bedroom home for Arellanes on her property located at 2608 Arrowhead Street ("Arrowhead Property.") Arellanes would provide all materials and tools. In exchange, Arellanes would give Plaintiff a $53,000 1.1 acre property located at 2044 Yolo Court ("Yolo Property.")

The Agreement also stated:

> Should I become disabled or deceased or unable to complete this project to "occupancy" all properties 2044 Yolo Court and 2608 Arrowhead Street will become the property of Danny E. Nicholas to complete his project at Yolo Court. Neither his children nor mine are entitled to either properties.

Apparently things went awry in this relationship. On May 19, 2023, Plaintiff filed a lawsuit against Arellanes (Case No. 23CV46746) ("Case One") for breach of contract, common counts and fraud. Plaintiff alleges essentially that Arellanes prevented him from returning to the Arrowhead Property, thereby preventing him from finishing the job, and failed to pay him for any of the materials or loans he provided. He further alleges that she never transferred the interest in the Yolo Property. In Case One, Plaintiff seeks $116,260 in damages and filed a lis pendens on the Arrowhead Property to prevent Arellanes from selling it.

On September 10, 2025, Plaintiff filed a lawsuit against Cathy Lemp (Calaveras County Case No. 25CV48280) ("Case Two") to void a Transfer on Death deed ("TOD"). Specifically, Plaintiff sought to void the TOD which purported to transfer the Arrowhead Property from Arellanes to Lemp. The TOD appears to have been prepared by the law firm of JPink Law, was witnessed by Jay Pink, Esq. ("Pink") and was recorded on May 31, 2022. Plaintiff has also filed a Petition to Determine Succession to Primary Residence pursuant to Probate Code sections 13151 and 13152 in Case Two. According to Plaintiff, Lemp has recently quitclaimed the TOD for the Arrowhead Property to non-party Shane Miranda ("Miranda.")

The cases were consolidated.

II. Legal Standard and Discussion

A. Motion for Leave to File First Amended Complaint

Plaintiff seeks leave to file a First Amended Complaint ("FAC") to add Shane Miranda as a party to this matter.[3]

The court may, in furtherance of justice, and on such terms as may be proper, allow a party to amend any pleading. (Code Civ. Proc. §§ 473 &576.) Generally, leave to amend should be granted liberally. (*Hirsa v. Superior Court* (1981) 118 Cal.App.3d 486, 488-489.)

A motion to amend a pleading before trial must include a copy of the proposed amendment or amended pleading. (Cal. Rules of Court, Rule 3.1324, subd. (a)(1).) The motion must also be supported by a declaration which specifies the following: (1) the effect of the amendment; (2) why the amendment is necessary and proper; (3) when the facts giving rise to the amended allegations were discovered; and (4) the reasons why the request for amendment was not made earlier. (Cal. Rules of Court, Rule 3.1324, subd. (b).) Plaintiff's motion complies with the Rules of Court.

[3] Plaintiff routinely includes Shane Miranda in the caption of his pleadings in this case but Mr. Miranda has never been a party to this matter.

Plaintiff asserts that the amendment is necessary to substitute Shane Miranda for Doe 1 and to add factual allegations about Miranda's knowledge and involvement in the sale of the Property.

The **motion to amend is GRANTED**. Plaintiff must serve a summons and proof of service on Miranda before he will be obliged to answer as a named defendant in this matter.

B. Motion for Judgment on the Pleadings

The motion is for judgment on the pleadings is moot because the Court has granted leave to amend the Complaint.

The **motion for judgment on the pleadings is therefore DENIED, without prejudice**.

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

JENNINGS v WOMBLE, et al

26CV48608

DEFENDANT'S MOTION TO STRIKE PORTIONS OF THE FIRST AMENDED COMPLAINT

Now before the Court is a motion to strike portions of Plaintiff Bethany Jennings' First Amended Complaint brought by Defendants Calaveras United School District and Sharon Womble ("Defendants.")

Defendants' 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.