

Superior Court of California County of San Benito



Tentative Decisions for December 13, 2024

Courtroom #2: Judge Pro Tempore Page Galloway

CL-23-00366 OneMain Financial Group, LLC. v. Brian J. Maddux 12-13-24

Matter is on calendar for Plaintiff's 10-14-24 motion to deem Requests for Admissions, set one, admitted

Plaintiff: Harlan M. Reese

Defendant: Self Represented.

Plaintiff's 9/21/23 complaint seeks \$18,522.28 in damages for breach of contract and for common counts for an open book account for money due, and because there was an account stated in writing by and between the parties in which it was agreed Defendant was indebted to the Plaintiff, for money lent to the Defendant by Plaintiff at Defendant's request. Plaintiff asserts on or about 10-24-22 the parties entered into a written contract for the loan of monies which the Defendant then failed to repay. Monies were paid, laid out or expended to or for Defendant at Defendant's insistence and request, Defendant received these sums, and pursuant to the terms of the parties' written agreement, Defendant was to repay these sum, which he failed to do. This suit follows

Defendant filed an unverified answer 11-6-23, admitting the claims made but arguing that the Defendants contract is misleading in requiring the interest portions to be repaid prior to the principal, and renegotiation of the loan would have nullified the prior payments made. He is willing to work out a "reasonable" payment plan. The Answer is unverified.

10-14-24 Plaintiff' filed their motion to deem Requests for Admission admitted. The motion is timely served. Plaintiffs served Defendant with Requests for Admission, set one, on 3-22-24, by mail. The responses were due 35 days later. No responses were received. The failure to serve a response to properly served Requests for Admissions within the time

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any objections or concerns**

permitted allows a party to petition the court to deem those matters admitted, and to deem documents genuine. If there is no response to the request for admission the court must deem these matters admitted. (CCP§2033.280 et seq.)

The motion is unopposed.

Legal Authority: A party served with requests for admissions has 30 days to serve their response after being served with the requests. (CCP§2033.250.) If no response is received, the propounding party must bring a formal “deemed admitted motion” to have requests for admission which has received no timely response deemed admitted. (*Stover v. Bruntz* (2017) 12 Cal. App. 5th 19, 30; *St. Mary v. Sup. Ct.* (2014) 2223 Cal. App. 4th 76, 775-776.) The motion may also request monetary sanction (CCP§2033.280 (b).) Service of responses before the hearing defeats the motion, but imposing monetary sanctions remains mandatory. There is no meet and confer requirement for a motion to deem admitted under CCP§2033.280 as there is for a motion to compel further response. (*St. Mary v. Sup Ct., supra*, at 777-778.) Unless the judge determines that a responding party has served, before the hearing on the motion, a proposed response to the requests for admission in substantial compliance with CCP§2033.220 the judge must order the requests for admission deemed admitted. Such an order establishes, by judicial fiat, that a non-responding party has responded to the requests by admitting the truth of the matters contained in the requests. (*St. Mary v. Sup. Ct, supra*, at 776.)

Analysis: As of the time of this writing no responses to the request for admissions have been served on the propounding party. Pursuant to the declaration of counsel, the request was served, and the time to respond passed without a response from the Defendant. Therefore, the court will deem the matters admitted as requested.

Proposed Order: Plaintiff’s motion is granted as prayed.

END OF TENTATIVE RULING