

Superior Court of California County of San Benito



Tentative Decisions for February 21, 2025

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 Motion for Judgment on the Pleadings

Motion is unopposed.

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.

12-13-24 Motion to deem admitted matter in Plaintiff's Request for Admissions, set one, Granted.

1-15-25 Plaintiff moves pursuant to CCP§438 for the court to issue judgment on the pleadings. The court has the power to render judgment on the pleadings. A motion for judgment on the pleadings may be based on matters that are subject to judicial notice. Further such motion is equivalent to

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any objections or concerns**

a demurrer and is governed by the same standards of review. All properly pled material facts are deemed true. (*Pang v. Beverly Hosp., Inc.* (2000) 79 Cal. App. 4th 986, 989.) The court may also take judicial notice of a parties admissions or concessions that cannot be reasonably controverted, even if they negate express allegations in the pleading. (*Id. at 989.*) Judicial admissions may be made in response to request for admission, and any facts admitted in response to requests for admission constitute judicial admissions. (*Barsegian v. Kessler & Kessler* (2013) 215 Cal. App. 4th 446, 451, 452.) Therefore based on the matters deemed admitted pursuant to this court's order dated 12-13-24 which directly contradict the Defendant's general denial and all affirmative defenses raised, the court should grant the motion.

1-15-25 Plaintiff requests the court to take judicial notice of the Defendant's answer, their motion to deem admitted, and the court's ruling and order issued in that motion dated 12-13-24.

Legal Authority: As noted in CCP§438 , the motion for judgment on the pleadings is subject to the same rules governing demurrer and as such the grounds for the motion must appear on the face of the challenged pleading, or from any matter of which the court is required to take judicial notice. (CCP§438 sub (d).) See also *Ventura Coastal, LLC. v. Occupational Safety & Health Appeals Bd.* (2020) 57 Cal. App. 5th, 1, 14.) Such motion may only be made on the grounds set out in CCP§438 sub (c)(1). A Plaintiff's motion for judgment on the pleadings may only be made on the grounds that the complaint states facts sufficient to constitute a cause of action against the defendant, and the answer does not state facts sufficient to constitute a defense to the complaint. (CCP§ 438 sub (c)(1)(A).) Additionally, like a demurrer there is a requirement that there be a meet and confer before the filing of the motion. Such efforts must be made in person or by telephone (CCP§439 (a).)

Analysis: Here while the Plaintiff has put forward sufficient grounds in their complaint and provided, in the form of the matters deemed admitted in their Request for Admissions, Set One, which contravene the Defendant's general denial and his affirmative defenses, the Plaintiff appears to have satisfied meet and confer with the Defendant, as the Plaintiff sent a letter to the Defendant seeking to engage in meet and confer but received no response. (CCP§439(a) (3)(B).) As a result of the Defendant's general admissions which contradict entire his general denial and affirmative defenses in the answer, and serve to admit the truth of the allegations framed in the Plaintiff's underlying complaint, the court finds that judgment on the pleadings without leave to amend should be granted in favor of the Plaintiff.

Proposed Order: The court grants the Plaintiff's request for judicial notice as prayed. The motion for Judgment on the Pleadings is Granted in favor of the Plaintiff.

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Matter is on calendar for Plaintiff's 1-15-25 motion to deem Requests for Admissions, set one, admitted

Plaintiff: Harlan M. Reese, Pearse F. Early

Defendant: Self Represented.

Plaintiff's 9-19-25 complaint seeks \$7,265.55 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.

Defendant filed a verified answer 10-25-24. She makes a general denial, and asserts the Plaintiff lacks standing, fails to state a cause of action, that the suit is barred by the statute of limitations, has waived the right to sue, failed to mitigate, and that the causes of action are framed ambiguously. She requests dismissal, costs, sanctions, and mandatory ADR per the CA rules of court 3.221, as well as a proper declaration of venue. She further asserts that the Plaintiff debt collection agency or their attorney are subject to the Rosenthal Fair Debt Collection Act, and are in violation of the same and the violations either offset or eliminate the Defendant's debt, if any. She alleges that the Plaintiff's attorney did not disclose in their initial communication that they were attempting to collect a debt this in violation of the RFDCA,

1-15-25 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 11-15-24, 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 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