



Superior Court of California County of San Benito

Tentative Decisions for April 11, 2025

Courtroom #2: Judge Pro Tempore Page Galloway

CL-23-00388 McGraw and Sons, Inc. v. Kaelin Ali, Gregory Higashi 4-11-25

Plaintiff's 3-6-25 Motion for order to Deem Matters in the Plaintiff's Request for Admissions, Set one, as admitted, and monetary Sanctions (Kaelin Ali); Plaintiff's 3-6-25 Motion for order to Deem Matters in the Plaintiff's Request for Admissions, Set one, as admitted, and monetary Sanctions (Gregory Higashi).

The motions are unopposed. Proof of Service in file

Plaintiff: Tom Jeffrey

Defendant: Self Represented (Kaelin Ali)

Defendant: Self Represented (Gregory Higashi)

This case arises from the allegation that the Defendants, and each of them, are liable for an unpaid debt of \$7772.50 pursuant to a written contract. The Defendants have failed to pay the sums due. The Plaintiff asserts causes of action for 1) Open Book Account, 2) Account Stated, and 3) Breach of Contract.

The Plaintiff initially took the Defendants' default and entered default judgment against them. Subsequently, on 9-4-24 the parties signed a stipulation and order to vacate the Default and Set Aside the Default judgment.

Defendants filed individual Answers to the complaint on 9-5-24. Each Defendant in their respective answer made a general denial and asserted affirmative defenses.

3-6-25 Motion to Deem Admitted, Monetary Sanction (Ali) Plaintiff served Defendant Ali with a request for admissions on or about 10-1-24. No response was received. Plaintiff on 12-1-24 wrote to Defendant noting the responses were overdue and that a motion to compel would be filed in responses were not received by 12-20-24. No responses were received.

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***Please contact Judicial Courtroom Assistant, Adriana Ramirez, at
(831) 636-4057 x115 or aramirez@sanbenitocourt.org with
any objections or concerns**

Plaintiff moves pursuant to CCP§2033.280 (c) for an order establishing admissions, as required when no response has been received by the hearing date. The statute also states that sanctions for bringing this motion are mandatory. Plaintiff requests \$660.00 representing the time to prepare for and attend hearing, drafting, and for filing fees.

3-6-25 Motion to Deem Admitted, Monetary Sanction (Higashi) Plaintiff served Defendant Ali with a request for admissions on or about 10-1-24. No response was received. Plaintiff on 12-1-24 wrote to Defendant noting the responses were overdue and that a motion to compel would be filed in responses were not received by 12-20-24. No responses were received. Plaintiff moves pursuant to CCP§2033.280 (c) for an order establishing admissions, as required when no response has been received by the hearing date. The statute also states that sanctions for bringing this motion are mandatory. Plaintiff requests \$660.00 representing the time to prepare for and attend hearing, drafting, and for filing fees

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.) 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: The Plaintiff has provided declaration attesting that the Requests for Admissions were served on Defendants by mail on 10-1-24. No responses have been served on the Plaintiff by either Defendant. Therefore, the Plaintiff’s motion to deem admitted all matters in each of the Request for Admissions is proper to grant. Moreover, pursuant to statute, monetary sanction for having to bring this motion is mandatory and is reasonable to grant under the circumstances with respect to each motion now pending before the court.

Proposed ruling. The Plaintiff’s motions to deem matters in the requests for admission directed to each Defendant as admitted are granted. The Plaintiff’s requests for monetary sanctions of \$660.00 for each motion are granted.

END OF TENTATIVE RULING