

**Judge Benson – Law & Motion – Wednesday, February 18, 2026 @ 9:00 AM
TENTATIVE RULINGS**

1-4. 20CV01781 Leland, Morrissey & Knowles, LLP v. Bailey, Catherine et al.

EVENT: (1) Catherine Bailey’s Motion for Reconsideration to strike November 19, 2025 order deeming admissions admitted (Continued from 12/24/25)

(2) Catherine Bailey’s Motion to Compel Responses a Second Time To Request for Production of Documents, Set One, Form Interrogatories, and Appropriate Responses to Request for Admissions; with Request for Sanctions

(3) Plaintiff’s Motion for Sanctions Pursuant to CCP 128.7

(4) Plaintiff’s Motion for Sanctions Pursuant to CCP 128.5

Motion to Strike November 19, 2025 Order

The Court will hear from the parties and specifically from Ms. Bailey whether she was served with the discovery requests which were the subject of the November 19, 2025 hearing. The Court understands Ms. Bailey’s position that she was not served with the motion, but the Court’s question is whether she was served with the underlying discovery requests.

The motion is a bit confusing because Ms. Bailey states in paragraph 1 “... did not receive any motion to deem admissions admitted or any discovery as admitted ...” [Emphasis Added] The Court’s initial impression of that statement is that Ms. Bailey never received the requests for admissions which were subject of the November 19, 2025 hearing.

However, paragraph 2 of the motion states “Sara Knowles representing Leland, Morrissey, and Knowles, LLP (LMK) has received two copies of the discovery she requested and the court has received two proofs of service. It makes no sense to “Deem the Admissions as Admitted” when several months ago, the court has received the copy, and has discussed it in both Tentative Ruling and Hearing.”

Paragraph 5 continues “On November 13, 2024 ... (LMK) ... was mailed the discovery and documents she requested. The proof of service was signed by Robert Bush. Please See Exhibit D Proof of Service signed by Robert Bush (Discovery mailed on 11/13/2024)”

It appears to the Court (although the Court requires clarification from Ms. Bailey) that Ms. Bailey is confusing discovery requests (including requests for admissions) previously propounded by Ms. Knowles in 2024 with separate request for admissions propounded in 2025 which were the subject of the November 19, 2025 hearing. It goes without saying that discovery responses provided in 2024 are not relevant to whether separate responses to separate discovery requests propounded in September 2025 were provided.

In reviewing the 2024 discovery responses Ms. Bailey provided, the responses included interrogatories and requests for admissions. However, the requests for admissions propounded in 2024 are different than the request for admissions propounded in 2025.

For example, according to Ms. Bailey's 2024 responses, request for admission no.1 was "Admit that the Appeal, which is known as the Third District Court of Appeals, Case Number C089334, was settled by you." Whereas, Request no. 1 to the 2025 request for admissions, labelled as "Set No.: Two", states "Admit that as of September 9, 2020 that YOU (as used herein, "You" and "YOUR" includes you, your agents, your employees, your insurance companies, their agents, their employees, your attorneys, your accountants, your investigators, and anyone else acting on your behalf) owed Leland, Morrissey & Knowles, LLP the sum of \$16,320.38."

Thus, the November 19, 2025 hearing concerned request for admissions set two served on September 10, 2025. The question is, did Ms. Bailey receive Request for Admissions, Set Two, purportedly served on September 10, 2025?

Ms. Bailey's Motion to Compel Further Discovery Responses

The Court has Jurisdiction to Hear the Motion

Plaintiff argues that because the Court did not indicate that its denial of the December 10, 2025 motion was without prejudice, the Court cannot hear this motion, citing CRC 3.1308. However, CRC 3.1308 does not stand for that proposition.

45 Day Rule

CCP 2030.300(c)

Unless notice of this motion is given within 45 days of the service of the verified response, or any supplemental verified response, or on or before any specific later date to which the propounding party and the responding party have agreed in writing, the propounding party waives any right to compel a further response to the interrogatories.

[Emphasis Added]

In reviewing Ms. Knowles' objection only responses, the responses are not verified. Because the responses are not verified, the 45-day rule does not apply, see *Golf & Tennis Pro Shop, Inc. v. Superior Court* (2022) 84 Cal.App.5th 127, 135.

The Proof of Service Issue

“... even where proof of service must conform to the requisites of Code of Civil Procedure section 1013a, only substantial compliance is required.” (*Him v. City and County of San Francisco* (2005) 133 Cal.App.4th 437, 443) If substantial compliance is the standard, case law indicates that substantial compliance occurs when “the person to be served in fact actually received [the summons].” (*Ramos v. Homeward Residential, Inc.* (2014) 223 Cal.App.4th 1434, 1443)

It is undisputed that Plaintiff’s counsel eventually received the discovery requests and thus had actual notice. As a result the Court finds Plaintiff had actual notice. Consequently, Plaintiff can no longer rely on its discovery response predicated on the notice objection.

Ms. Bailey is admonished that proofs of service are required concerning both the service of the discovery request as well as service of any subsequent motion.

Meet and Confer

Obregon v. Superior Court (1998) 67 Cal.App.4th 424, 431:

A determination of whether an attempt at informal resolution is adequate also involves the exercise of discretion. The level of effort at informal resolution which satisfies the "reasonable and good faith attempt" standard depends upon the circumstances. In a larger, more complex discovery context, a greater effort at informal resolution may be warranted. In a simpler, or more narrowly focused case, a more modest effort may suffice.

This was not a complex issue, thus extensive meet and confer efforts were not required. It is obvious that Ms. Bailey’s point of contention was that no substantive response was provided, only objections. For practical purposes there was really only one objection. Plaintiffs’ point of contention was the lack of a proof of service concerning the discovery requests. In light of the Court’s finding the notice issue has been resolved, there is nothing left to meet and confer about at this stage.

Separate Statement

With respect to both request for admissions and form interrogatories, the motion does not meet all of the requirements of a separate statement enumerated under CRC 3.1345(c). The moving papers came close to complying with CRC 3.1345(c) as to the request for admissions – only omitting the text of the response as required by CRC 3.1345(c)(2). As to form interrogatories, the attempt at a separate statement left more to be desired.

Notwithstanding the foregoing, in the interest of moving this case forward (this case is approaching 6 years old with a trial date in April) and in consideration of this Court’s

general policy against “hide the ball” tactics in discovery, the Court grants the motion with respect to request for admissions and form interrogatories as follows:

Plaintiff shall provide further verified responses within 20 days’ notice of this order, removing the existing objection that the discovery requests were not accompanied with a proof of service. Plaintiff will be permitted to interpose discovery appropriate objections where warranted, but the Court notes that at least some of the requests appear to be appropriate necessitating a substantive response.

Ms. Bailey is admonished that going forward the Court expects compliance with CRC 3.1345(c). The purpose of that rule, in addition to assisting the parties, is to assist the court “so that no person is required to review any other document in order to determine the full request and the full response.” (CRC 3.1345(c))

As to production of documents, the separate statement requirement theoretically does not apply as the motion states that no response was provided. The opposition seems to indicate that substantive responses to the production of document requests were provided, thus the motion appears to be moot with respect to production of documents.

Plaintiff’s Motion Pursuant to CCP 128.7

On the Court’s motion, the motion is continued to February 25, 2026 at 9:00am.

Plaintiff’s Motion Pursuant to CCP 128.5

On the Court’s motion, the motion is continued to February 25, 2026 at 9:00am.

Additionally, the Court will hear from Ms. Knowles as to the status of the case with respect to Cross-Defendant Sara Knowles. The Court will hear from Ms. Knowles as to whether CCP 1013a allows her to serve documents by mail if she is “a party to the cause”.

In the interests of eliminating these types of service disputes going forward, both parties are ordered to serve all subsequent documents by email. (Court records demonstrate both parties have effectively communicated by email in the past) Each party is ordered to check their email on a daily basis while this case remains pending.

According to the Court’s file, and unless counsel and the parties indicate otherwise, email of record is as follows:

Ms. Bailey - cbailey9200@outlook.com

5. 21CV02036 Eicher, Robert J et al v. Minto, James D et al.

EVENT: Plaintiffs' Motion for Leave to File Late Memorandum of Costs and Motion for Attorney Fees

Plaintiffs' Motion for Leave to File Late Memorandum of Costs and Motion for Attorney Fees is GRANTED. The evidence provided by Plaintiff's counsel indicates counsel's firm failed to properly calendar the memorandum of costs and attorney fee motion, despite the firm's calendaring policy. Calendar errors by an attorney or a member of his staff are, under appropriate circumstances, excusable. (*Nilsson v. Los Angeles* (1967) 249 Cal.App.2d 976, 983) The Court finds counsel and by extension the firm's conduct constituted excusable neglect.

Regarding prejudice, the Court is unpersuaded by Defendant's arguments. The notice of appeal was filed on 11/10/25, a mere 20 days after the notice of entry of judgment was served, and over a month before Plaintiff's deadline to file a motion for attorney fees. Defendant could not have assumed or known that Plaintiff would fail to timely file a motion at the time the notice of appeal was filed.

Plaintiff shall separately file and serve the memorandum of costs and attorney fee motion within 5 days of this order. Plaintiff shall prepare and submit the form of order within two weeks.

6. 25CV02163 Wells Fargo Bank, N A v. Lindstadt, Landon B

EVENT: Plaintiff's Motion for Order Deeming the Truth of Matters Specified in Requests for Admissions as Admitted

Plaintiff's Motion for Order Deeming the Truth of Matters Specified in Requests for Admissions as Admitted is GRANTED. The Court will sign the proposed order.

