

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL**

MINUTE ORDER

DATE: 02/14/2025

TIME: 9:00 AM

DEPT: C-67

JUDICIAL OFFICER: MICHAEL T. SMYTH

CLERK: Herlinda Chavarin

REPORTER/ERM: Debbie Wood CSR 6515

BAILIFF/COURT ATTENDANT: M. Micone

CASE NO: **37-2023-00040740-CU-OR-CTL** CASE INIT.DATE: 09/19/2023

CASE TITLE: **Caan vs Pennymac Loan Services LLC [IMAGED]**

CASE CATEGORY: Civil CASE TYPE: (U)Other Real Property: Other Real Property

HEARING TYPE: Discovery Hearing

MOVING PARTY:

APPEARANCES

BABAK SEMNAR, Attorney for Plaintiff(s).

Daryoosh Khashayar, attorney for David Caan, Plaintiff, present in person.

Jessica McElroy, attorney for Pennymac Loan Services LLC, Defendant, present in person.

The Court, having taken the above entitled matter under submission earlier this date and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

ORDER

Plaintiffs David and Melina Caan's Motion to Compel Deposition is **MOOT**. The deposition apparently went forward on February 10, 2025. Sanctions are imposed in the reduced amount of \$2,000 against Defendant and their counsel payable within 30 days.

The court retains jurisdiction to hear a discovery motion even if responses are subsequently served. (*Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 408-409 (*Sinaiko*)). In such a case, the court may exercise its discretion to impose sanctions. (*Ibid.*)

Under Code of Civil Procedure Section 2025.450(a), a party's attendance at a deposition may be compelled if the party fails to appear for or proceed with the examination, and the party did not serve a valid objection under section 2025.410. Valid objections must specify the "error or irregularity" in the deposition notice pursuant to Code of Civil Procedure sections 2025.210 through 2025.280. Errors or irregularities might be found if the deposition is not scheduled at least 10 days after the notice were served or at a location impermissibly far from the deponent's residence. (See, e.g., Code Civ. Proc., §§

2025.270, 2025.250.) Unavailability or failure to recall an event is not a valid ground for an objection or a reason to fail to appear for a deposition. Even if professional courtesy dictates cooperating on deposition dates, the deponent has an affirmative obligation to file a motion to quash (for procedural errors) or a motion for protective order (to adjust the timing and location or to avoid harassment and embarrassment). A motion to quash the deposition would have automatically stayed any need to attend. (Code Civ. Proc., § 2025.410(c).)

In reviewing the objections served by Defendant, they are primarily to the substance of Plaintiffs' inquiries and not a valid ground for avoiding a deposition without some other leave of court. Defendant had ample time between April 2024 and September 2024 to work with counsel to find an amenable date or file a motion with the court but did neither. Plaintiff is entitled to sanctions as imposed.

IT IS SO ORDERED:

Michael T. Smyth

Judge Michael T. Smyth