

James D. Crosby (State Bar No. 110383)
Tereza L. Callender (State Bar No. 351838)
Law Offices of James D. Crosby
550 West C Street, Suite 620
San Diego, California 92101
(619) 450-4149
Email: crosby@crosbyattorney.com
Email: tcallender@crosbyattorney.com

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

7/15/2025 10:08:54 PM

Clerk of the Superior Court
By T. Cutts ,Deputy Clerk

Attorneys for Defendant City Heights
Community Development Corporation

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO, CENTRAL DIVISION

FATIMA ABDELRAHMAN, an individual;
NADIA ABDULRAHMAN, an individual;
NATALINA KANTIEKO, an individual, and;
IDZAI MUBAIWA, an individual,

Plaintiffs,

v.

CITY HEIGHTS COMMUNITY
DEVELOPMENT CORPORATION, a
California Non-Profit Corporation; and DOES 1-
50, inclusive,

Defendants.

And Related Cross-Actions

Case No.: 37-2024-00027594-CU-OR-CTL
[Consolidated Case – Subordinate Case is
37-2024-00010272-CL-MC-CTL]

POINTS AND AUTHORITIES IN SUPPORT
OF MOTION TO COMPEL FURTHER
PRODUCTION AND RESPONSES FROM
PLAINTFF NATALINA KANTIEKO TO
DEFENDANT’S REQUEST FOR
PRODUCTION OF DOCUMENTS AND
THINGS, SET NO. ONE, AND FURTHER
RESPONSES TO DEFENDANT’S SPECIAL
INTERROGATORIES, SET NO. ONE, AND
FORM INTERROGATORIES – GENERAL,
SET NO. ONE, AND REQUEST FOR
SANCTIONS IN THE AMOUNT OF \$4,570
AGAINST NATALINA KANTIEKO

Date: September 12, 2025
Time: 11:00 a.m.
Dept.: C-63
Judge: Hon. Katherine A. Bacal

I. Introduction

Plaintiff Natalina Kantieko (“Kantieko”) failed to fully and adequately respond to Request for Production of Documents and Things, Set No. One, Special Interrogatories, Set No. One, and Form Interrogatories – General, Set No. One, propounded by defendant City Heights Community Development Corporation (“CHCDC”). The Court should grant this motion, order Kantieko to provide further responses and production, and impose sanctions against Kantieko because (1) Kantieko’s verifications of the responses are improper and ineffective; (2) the requests at issue seek

documents and information within the permissible scope of discovery; and (3) CHCDC incurred, and anticipates to further incur, attorneys' fees and costs in the amount of \$4,570 to address this discovery and bring this motion.

II. Factual Background

Plaintiff Kantieko filed this action on June 12, 2024. ROA #1. On August 13, 2024, defendant CHCDC, through counsel, propounded discovery requests on plaintiffs consisting of Requests for Production of Documents, Special Interrogatories, and Form Interrogatories ("August 13 Discovery"). JDC Dec. ¶4. The Requests for Production and Special Interrogatories propounded as part of the August 13 Discovery were withdrawn, pursuant to agreement with plaintiffs' counsel on September 12, 2024, with the understanding that they would be redrafted and propounded again subject to certain conditions. JDC Dec. ¶5. Plaintiffs provided responses to the August 13 Form Interrogatories on September 26, 2024. NOL Ex. 5; JDC Dec. ¶6.

On December 18, 2024, defendant CHCDC, through counsel, propounded the redrafted Requests for Production and Special Interrogatories on plaintiffs ("December 18 Discovery"). JDC Dec. ¶7. After numerous extensions, plaintiffs provided responses to the December 18 Discovery on March 14, 2025. NOL Ex. 1, 3; JDC Dec. ¶8. On April 8, 2025, CHCDC, through counsel, sent meet and confer letters regarding plaintiffs' responses to the December 18 Discovery to plaintiffs' counsel. NOL Ex. 7; JDC Dec. ¶9. On May 1, 2025, plaintiff's counsel responded, representing that plaintiffs would provide supplemental responses on June 10, 2025, and agreed that CHCDC could have until July 10, 2025 to move to compel, if necessary. NOL Ex. 8; JDC Dec. ¶10-11. Plaintiffs provided supplemental responses to the December 18 Discovery on June 10, 2025. NOL Ex. 2, 4; JDC Dec. ¶12. On June 25, 2025, CHCDC, through counsel, sent meet and confer letters regarding plaintiffs' supplemental responses. JDC Dec. ¶13. On July 7, 2025, having received no response to the supplemental meet and confer letters from plaintiffs' counsel, counsel for CHCDC requested until July 15, 2025 to move to compel, if necessary. JDC Dec. ¶13. Plaintiffs' counsel agreed. JDC Dec. ¶13. On July 10, 2025, counsel for CHCDC received a response to its June 25, 2025 meet and confer letter on Kantieko's supplemental responses from plaintiffs' counsel, which indicated that the issues addressed below could not be resolved. JDC Dec. ¶15.

III. Legal Authority on a Motion to Compel

Code of Civil Procedure section 2030.300 provides, in pertinent part, that:

On receipt of a response to the interrogatories, the propounding party may move for an order compelling a further response if the propounding party deems that any of the following apply:

- (1) An answer to a particular interrogatory is evasive or incomplete
- (2) An exercise of the option to produce documents under Section 2030.230 is unwarranted or the required specification of those documents is inadequate.
- (3) An objection to an interrogatory is without merit or too general.

Code of Civil Procedure section 2031.310 provides, in pertinent part, that:

On receipt of a response to a demand for inspection, copying, testing or sampling, the demanding party may move for an order compelling further response to the demand if the demanding party deems that any of the following apply:

- (1) A statement of compliance with the demand is incomplete.
- (2) A representation of inability to comply is inadequate, incomplete or evasive.
- (3) An objection in the response is without merit or too general.

California's discovery procedures are designed to minimize the opportunities for fabrication and forgetfulness, and to eliminate the need for guesswork about the other side's evidence, with all doubts about discoverability resolved in the favor of disclosure. *Glenfed Dev. Corp. v. Superior Court* (1997) 53 Cal.App.4th 1113, 1119. One of the "principal purposes of discovery [is] to do away with the sporting theory of litigation – namely, surprise at trial." *Greyhound Corp. v. Superior Court* (1961) 56 Cal.2d 355, 376.

IV. Argument

A. Kantieko's Verifications Are Improper and Ineffective

Parties to whom interrogatories and requests for production have been propounded are required to respond in writing, **under oath**. Cal. Civ. Proc. §§2030.210, 2031.250. Unverified discovery responses "are tantamount to no responses at all." *Steven M. Garber & Associates v. Eskandarian* (2007) 150 Cal.App.4th 813, 817, fn. 4. Kantieko's responses to the Request for Production of Documents, Set No. One, Special Interrogatories, Set No. One, and Form Interrogatories – General, Set No. One, propounded by CHCDC, were accompanied by verifications which were improper, ineffective, and render the responses useless to defendant at trial.

1 Kantieko utilized the following language to “verify” her responses to the Requests for
2 Production of Documents, Set No. One (“RFP”) and Special Interrogatories (“SROGs”) propounded
3 by CHCDC, as well as her supplemental responses thereto:

4 I, Natalina Kantieko, declare: **I have reviewed the above responses to**
5 **discovery.** I declare under penalty of perjury under the laws of the State of
6 California that the foregoing responses are true and correct, except for statements
made on information and belief and as to such statements, I believe them to be
true.

7 NOL Ex. 1, Pg. 100, Ex. 2, Pg. 29, Ex. 3, Pg. 49, Ex. 4, Pg. 20.

8 Yet, the following different language was utilized to “verify” her responses to Form
9 Interrogatories (“FROGs”):

10 I, Natalina Kantieko, declare: I have reviewed the above responses to discovery
11 **with the help of my daughter translating.** I declare under penalty of perjury
12 under the laws of the State of California that the foregoing responses are true and
correct, except for statements made on information and belief, and as to such
statements, I believe them to be to be [sic] true.

13 NOL Ex. 5, Pg. 31. Kaniteko’s FROG responses were accompanied by a separate declaration by
14 Joice Thomas, which states:

15 Pursuant to Evidence Code section **751**, I declare that I am bilingual in English
16 and the Sudanese dialect of Arabic, the language spoken by the witness. I have
17 reviewed the above document and made a true **interpretation** of the above
18 interrogatories and the witness’s responses to such interrogatories. I declare under
the penalty of perjury, under the laws of the State of California, that the above is
true and correct **interpretation** of the witness’s responses using my best skill and
judgment.

19 NOL Ex. 5, Pg. 31.

20 The two versions of Kantieko’s “verifications” are inconsistent – she was either able to
21 review the responses, period, or she needed the assistance of her daughter translating to do so.
22 Furthermore, plaintiffs’ counsel has stated, in previous declaration(s) and communications, that
23 plaintiffs (including Kantieko) **cannot “speak” or “read” English.** NOL Ex. 6; JDC Dec. ¶17;
24 NOL Ex. 9, JDC Dec. ¶17. He has also stated that Kantieko “cannot truly authenticate documents
25 other than perhaps photographs” due to her inability to read English. NOL Ex. 9; JDC Dec. ¶17.
26 Kantieko has also herself stated, in numerous “verified” pleadings and documents, that **she cannot**
27 **read or speak English.** ROA #59 CSAC ¶¶118, 125, 132, 138; NOL Ex. 5, Pg. 7 [FROG Nos. 2.9-
28 2.10]. As such, it is unclear how Kantieko’s responses to the RFPs and SROGs, **written in English,**

1 could have been reviewed by, or read or communicated to, Kantieko. Additionally, the
2 inconsistencies between the RFP/SROG “verifications” and the FROG “verifications” raise the
3 obvious question – if Kantieko needed her daughter’s assistance in translating FROG responses, and
4 their counsel attests that she cannot read or speak English, how can the standard verification
5 language utilized in her responses to the RFPs and SROGs be deemed valid and truthful? It simply
6 cannot.

7 Verified responses to discovery requests are admissible evidence. *Melendres v. Superior*
8 *Court* (2013) 215 Cal.App.4th 1343, 1349 (“[T]here [are] two purposes to a verification: **first, to**
9 **ma[ke] the discovery responses admissible...**”). To the extent that Kantieko’s “verified” discovery
10 responses will be utilized as evidence at trial, Cal. Evid. Code §751(a) states that “[a]n interpreter
11 shall take an oath that he or she will make a true interpretation of the witness’ answers to questions
12 to counsel, court, or jury, in the English language, with his or her best skill and judgment.”
13 Additionally, Cal. Evid. Code §751(c) states that “[a] translator shall take an oath that he or she will
14 make a true translation in the English language of any writing he or she is to decipher or translate.”

15 Cal. Rules of Court 2.890 provides that an “interpreter must accurately and **completely**
16 represent his or her certifications, training, and relevant experience.” Cal. Rule Court. 2.890(a).
17 Additionally, he or she must “be **impartial** and **unbiased** and must refrain from conduct that may
18 give an appearance of bias.” *Id*, subd. (c)(1). “An interpreter must [also] disclose to the judge and to
19 all parties any actual or apparent conflict of interest... **A conflict may exist if the interpreter is**
20 **acquainted with or related to any witness or party to the action of if the interpreter has an**
21 **interest in the outcome of the case.”** *Id.*, subd. (c)(2). Furthermore, “[a]n interpreter must maintain
22 an **impartial**, professional relationship with all court officers, attorneys, jurors, parties, and
23 witnesses.”

24 Kantieko’s discovery responses are **evidence**. They are **party admissions** and can be used at
25 trial as direct proof and for impeachment purposes. With respect to Kantieko’s RFP and SROG
26 responses, absent proper verifications, accounting for a translator that was presumably utilized,
27 including a declaration of the certified translator utilized, describing how the discovery responses
28 were translated and stating that they were translated truthfully, there is a substantial risk that the

1 evidence will become meaningless and useless for defendant at trial. Simply stating that she
2 “reviewed” the responses written in English, when she has declared that she does not read or speak
3 English, is improper, at best.

4 Kantioko’s verification of the FROG responses, and her daughters accompanying declaration
5 thereto, are also insufficient because there is no evidence that “her daughter” is a certified translator
6 or that she is unbiased or impartial. Cal. Rule Court 2.890. In fact, there is a clear conflict of interest
7 as Joice Thomas is Kantioko’s daughter. *Id.*, subd. (c)(2). The declaration by Joice Thomas is also
8 ambiguous as it states she made a “true interpretation” of Kantioko’s Form Interrogatory responses,
9 rather than a “translation”. It is unclear how she is “interpreting” said responses.

10 If and when Kantioko’s “verified” discovery responses are used as proof or for impeachment
11 purposes at trial, Kantioko can now simply say that the response being utilized was translated
12 differently to her or that she didn’t understand it to mean what it says. That would effectively, and
13 unfairly, negate the fair use of such evidence by defendant. There has been no evidence thus far that
14 the RFP and SROG responses have been translated to Kantioko, truthfully or otherwise, how they
15 have been translated, to and from what language, and by whom they have been translated, assuming
16 that they were. Defendant will be unable to utilize Kantioko’s responses as evidence at trial because
17 her “verifications” are not in compliance with the relevant provisions of the Evidence code.
18 Furthermore, utilizing her “daughter” to translate her FROG responses does not comply with Cal.
19 Rules of Court 2.890 which requires interpreters to be certified and unbiased.

20 Counsel for plaintiff will presumably claim that his clients are “indigent” and that requiring a
21 certified translator would “close the doors” to the Court for litigants similarly situated to his clients,
22 as he has stated multiple times. However, the California Rules of Court were not written to apply
23 only to litigants with financial means to hire a translator. This issue has been before the Court on a
24 number of occasions and plaintiffs’ counsel has never once included in any declaration that he has
25 sought assistance, from the Court or otherwise, in obtaining a certified translator for his clients. This
26 translator issue is simply a byproduct of, and case support requirement attendant to, the case
27 plaintiffs’ counsel chose to take. It has been an issue present in this matter since its inception.
28 Plaintiffs’ counsel took this case and, with it, all the accompanying responsibilities and client

1 difficulties. He should not be heard to complain about the burdens of a burdensome case he chose to
2 take.

3 The “verifications” utilized in Kantieko’s discovery responses are akin to providing no
4 verifications as they largely defeat the evidentiary purpose of providing verified responses in the first
5 place. As such, the responses provided by Kantieko are tantamount to her having provided no
6 responses at all. *Steven M. Garber & Associates, supra*, 150 Cal.App.4th at 817, fn. 4. Kantieko
7 should be compelled to provide responses to CHCDC’s RFPs, SROGs, and FROGs supported by
8 **adequate and effective verifications**, accompanied by the declaration of an **unbiased certified**
9 **translator who has truthfully and completely translated** each request and response to her.

10 B. Kantieko’s Medical Records Relevant to Her Emotional Distress Claims

11 A plaintiff may not withhold information relating to any medical condition they have put at
12 issue by bringing a lawsuit. *Britt v. Superior Court* (1978) 20 Cal.3d 844, 863-864. Litigants are
13 only entitled to retain the confidentiality of **unrelated** medical or psychotherapeutic treatment. *Id.* A
14 plaintiff puts his or her **mental and emotional state** in controversy by **alleging a defendant has**
15 **caused him to suffer mental and emotional distress**. *Vinson v. Superior Court* (1987) 43 Cal.3d
16 833, 839-840. A “[p]laintiff cannot be allowed to make her very serious allegation without affording
17 defendants an opportunity to put their truth to the test.” *Id.* at p. 842. When a plaintiff has put her
18 physical and mental condition at issue, medical records documenting the plaintiff’s health issues are
19 **directly relevant to causation and damages**. See *Britt v. Superior Court, supra*, 20 Cal.3d at 849
20 (in seeking recovery for physical and mental injuries, plaintiff “**unquestionably waived**” privileges
21 as to “all information concerning the medical conditions which they have put in issue.”) Where a
22 defendant is accused of causing a plaintiff’s “mental and emotional ailments”, and the defendant
23 denies those charges, “the existence and extent of [the plaintiff’s] mental injuries is indubitably in
24 dispute.” *Vinson, supra*, 43 Cal.3d at 839-840. “In addition, by asserting a causal link between
25 [plaintiff’s] mental distress and defendants’ conduct, plaintiff implicitly claims it was not caused by
26 a preexisting mental condition, thereby raising the question of alternative sources for the distress.”
27 *Id.* at 840. In such a scenario, the plaintiff’s “mental state is in controversy.” *Id.* Furthermore, where
28 “the truth of these claims is relevant to plaintiff’s cause of action and justifying facts have been

1 shown with specificity... defendants must be allowed to investigate the continued existence and
2 severity of plaintiff's alleged damages."¹ *Id.* at 840-841.

3 Kantieko has brought a claim for, and seeks damages for, intentional infliction of emotional
4 distress. ROA #59, CSAC ¶¶ 77, 80-97. Plaintiff Kantieko alleged "CHCDC's actions... were
5 intended to and **did cause extreme emotional distress** on... Kantieko... Plaintiffs **are entitled to**
6 **general and specific damages for the intentional infliction of emotional distress.**" ROA #59,
7 CSAC ¶¶94-95. The California Civil Jury Instruction No. 1600, for Intentional Infliction of Emotion
8 Distress, requires plaintiff to **prove**: "That [Kantikeo] suffered **severe emotional distress.**" Whether
9 or not Kantieko has experienced or suffered severe emotional distress has been put directly at issue
10 by her own pleadings. Furthermore, to the extent that Kantieko has in fact suffered severe emotional
11 distress, whether or not said emotional distress was caused by defendant, or some other alternative
12 source, has also "implicit[ly]" been put at issue by Kantieko's claims. *Vinson, supra*, 43 Cal.3d at
13 839-840.

14 In addition to the claims in the CSAC, Kantieko's Form Interrogatory Responses also make
15 the following claims: (1) "Plaintiff experienced significant stress, anxiety, anger, humiliation,
16 sadness, frustration, and resentment. The plaintiff suffered somatic manifestations of stress,
17 including increased back and hand pain" NOL Ex. 5, Pg. 8-9 [FROG 6.2]; (2) "Plaintiff suffered
18 severe emotional distress from being locked out of New Roots Farm and being deprived of access to
19 her plots and crops, and her access was not restored until on or after April 16, 2024. Thereafter,
20 Plaintiff Natalina Kantieko continued to suffer stress and anxiety by the presence and surveillance of
21 City Heights CDC's security guards." NOL Ex. 5, Pg. 16 [FROG 10.3].

22 Kantieko has put her mental and emotional state directly at issue. To succeed on her
23 intentional infliction of emotional distress claim, Kantieko must prove that she actually suffered
24 severe emotional distress and that the alleged emotional distress was caused by defendant CHCDC.
25 CACI 1600. Defendant CHCDC is "entitled" to conduct discovery to investigate the existence, or

26
27 ¹ While *Vinson* case examined the appropriateness of a mental examination, the cited portions of this case are still
28 applicable to written discovery seeking a plaintiff's medical records, especially considering production of such records
are arguably less intrusive than subjecting a plaintiff to a mental examination.

1 continued existence, of Kantieko's alleged mental and emotional distress. Kantieko should be
2 compelled to produce all medical records relevant to those claims. If no medical records supporting
3 her claims for mental and emotional distress exist, Kantieko should be compelled to so state,
4 especially considering Kantieko is seeking "specific" damages. ROA #59, CSAC ¶95.

5 **V. Sanctions Are Appropriate**

6 Unless this court determines that Kantieko acted with substantial justification in providing
7 inadequate responses to CHCDC's discovery requests, or in opposing this motion, this court **must**
8 impose sanctions. Cal. Civ. Proc. Code §2031.310(h). Kantieko failed to provide compliant verified
9 responses to discovery which was standard or directly relevant to the numerous factual allegations
10 Kantieko has made "under oath" in her "verified" compliant and various declarations. Plaintiff's
11 counsel has been put on notice numerous times of the deficiency of the verifications as written, yet,
12 he continues to utilize them. JDC Dec. ¶15. Additionally, Kantieko refuses to produce her medical
13 records which are directly related to her claims of mental and emotional distress.

14 Even assuming Kantieko provides properly verified responses, and produces her relevant
15 medical records, prior to the hearing on this motion, Kantieko should not be permitted to avoid the
16 consequences of her misuse of the discovery process which cost CHCDC time and expense in filing
17 this motion. The Court may award sanctions "even though no opposition to the motion was filed, or
18 opposition to the motion was withdrawn, or the requested discovery was provided to the moving
19 party after the motion was filed." Cal. Rules of Court 3.1348(a).

20 In meeting and conferring on this discovery and preparing this motion to compel, and for
21 additional anticipated expenses, CHCDC has incurred or reasonably will incur fees and expenses in
22 the amount of \$4,570. JDC Dec., ¶18.

23 //

24 //

25 //

26 //

27

28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Date: July 15, 2025

James D. Crosby
Attorney for Defendant, City Heights
Community Development Corporation