

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

Gallusz v. LPP Mortgage, Inc.

No. 25-CV-885 JLS (BLM) (S.D. Cal. May 21, 2025) · No. 25-CV-885 JLS (BLM) · Decided May 21, 2025

SUMMARY

The United States District Court for the Southern District of California denied Plaintiff Klara Gianna Gallusz’s motion for reconsideration of the order denying her application for a temporary restraining order concerning a threatened nonjudicial foreclosure. The court held that Plaintiff had not shown newly discovered evidence, clear error, or an intervening change in controlling law. The court also denied Plaintiff’s request for an order to show cause regarding Rule 11 sanctions because the request did not comply with Rule 11(c)(2) and Defendant’s opposition was not frivolous or otherwise sanctionable.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Janis L. Sammartino
JURISDICTION	United States District Court for the Southern District of California
DECIDED	May 21, 2025
DOCKET	25-CV-885 JLS (BLM)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for reconsideration of the court's prior order denying her application for a temporary restraining order and requested an order to show cause why Rule 11 sanctions should not be imposed. The district court denied both requests.
STANDARD OF REVIEW	A motion for reconsideration is an extraordinary remedy committed to the district court's sound discretion and generally requires newly discovered evidence, clear error or manifest injustice, or an intervening change in controlling law. Rule 11 sanctions are governed by an objective reasonableness standard and are discretionary.
PRECEDENTIAL VALUE	unpublished
PARTIES	Klara Gianna Gallusz v. LPP Mortgage, Inc. f/k/a LPP Mortgage LTD

TOPICS

motion for reconsideration

sanctions

injunctions

wrongful foreclosure

civil procedure

PRACTICE AREAS

civil procedure

real estate litigation

foreclosure litigation

sanctions

QUESTIONS PRESENTED

1. Whether Plaintiff established grounds for reconsideration of the order denying her application for a temporary restraining order.
2. Whether Defendant or its counsel should be required to show cause why sanctions should be imposed under Federal Rule of Civil Procedure 11.

HOLDINGS

1. Reconsideration was properly denied because Plaintiff identified neither newly discovered evidence nor an intervening change in controlling law, and she failed to show clear error or manifest injustice. Her arguments largely repeated matters previously considered by the court.
2. The request for Rule 11 sanctions was properly denied because it did not comply with Rule 11(c)(2)'s separate-motion and twenty-one-day safe-harbor requirements, and Defendant's opposition to the TRO application was not frivolous, legally unreasonable, without factual foundation, or brought for an improper purpose.

KEY QUOTATIONS

“A motion for reconsideration is not an opportunity to renew arguments considered and rejected by the court, nor is it an opportunity for a party to re-argue a motion because it is dissatisfied with the original outcome.”
(at 4)

“sanctions should be reserved for the ‘rare and exceptional case where the action is clearly frivolous, legally unreasonable or without legal foundation, or brought for an improper purpose.’” (at 6)

FACTUAL BACKGROUND

Plaintiff sought to prevent a threatened nonjudicial foreclosure sale of her San Diego residence scheduled for April 16, 2025. After removal to federal court, the court temporarily stayed the sale, considered the parties' submissions, and denied Plaintiff's temporary restraining order application because she failed to show a likelihood of success on the merits and because the equities and public interest weighed against relief. Plaintiff then argued that the court had overlooked filings, relied on defective or unauthenticated evidence, misstated jurisdictional doctrine, and permitted foreclosure without proof of enforcement authority.

PROCEDURAL HISTORY

Plaintiff filed a state-court complaint seeking declaratory and injunctive relief to prevent a threatened nonjudicial foreclosure sale. Defendant removed the action to federal court on diversity grounds. After the court denied

Plaintiff's application for a temporary restraining order, Plaintiff moved for reconsideration and separately sought sanctions against Defendant and its counsel. The court denied the motion for reconsideration and denied the sanctions request.

DISPOSITION

other

CASES CITED

- Evanston Ins. Co. v. Venture Point, LLC, No. 220CV01783KJDEJY, 2021 WL 5500486, at *1 (D. Nev. Nov. 23, 2021)
- Wood v. Ryan, 759 F.3d 1117, 1121 (9th Cir. 2014)
- McDowell v. Calderon, 197 F.3d 1253, 1255 (9th Cir. 1999) (en banc)
- Young v. Wolfe, No. CV 07-03190 RSWL-AJWx, 2017 WL 2798497, at *5 (C.D. Cal. June 27, 2017)
- Smith v. Clark Cnty. Sch. Dist., 727 F.3d 950, 955 (9th Cir. 2013)
- Stanislaus Food Prod. Co. v. USS-POSCO Indus., No. 1:09-CV-00560-LJO, 2012 WL 6160468, at *3 n.2 (E.D. Cal. Dec. 11, 2012)
- Fisher v. Roe, 263 F.3d 906, 912 (9th Cir. 2001)
- Payton v. Woodford, 346 F.3d 1204 (9th Cir. 2002)
- Kona Enters., Inc. v. Est. of Bishop, 229 F.3d 877, 883, 890 (9th Cir. 2000)
- Navajo Nation v. Confederated Tribes & Bands of the Yakama Indian Nation, 331 F.3d 1041, 1046 (9th Cir. 2003)
- 389 Orange St. Partners v. Arnold, 179 F.3d 656, 665 (9th Cir. 1999)
- Wagnier v. Nat'l City Mortg. Inc., No. 09cv2721-GPC-BGS, 2013 WL 3810592, at *2 (S.D. Cal. July 22, 2013)
- FTC v. Neovi, Inc., No. 06-CV-1952-JLS JMA, 2009 WL 56130, at *2 (S.D. Cal. Jan. 7, 2009), aff'd, 604 F.3d 1150 (9th Cir. 2010)
- Devinsky v. Kingsford, No. 05 Civ. 2064 (PAC), 2008 WL 2704338, at *2 (S.D.N.Y. 2008)
- Arellano v. Santos, No. 3:18-cv-02391-BTM-WVG, 2019 WL 1040134, at *3 (S.D. Cal. Mar. 4, 2019)
- Warren v. Guelker, 29 F.3d 1386, 1388, 1390 (9th Cir. 1994)
- Conn v. Borjorquez, 967 F.2d 1418, 1420 (9th Cir. 1992)
- Operating Eng'rs Pension Tr. v. A-C Co., 859 F.2d 1336, 1344 (9th Cir. 1988)
- Townsend v. Holman Consulting Corp., 929 F.2d 1358, 1362 (9th Cir. 1991) (en banc)
- Zaldivar v. City of L.A., 780 F.2d 823, 832 (9th Cir. 1986)
- Lloyd v. Schlag, 884 F.2d 409, 412 (9th Cir. 1989)
- Primus Auto. Fin. Serv., Inc. v. Batarse, 115 F.3d 644, 649 (9th Cir. 1997)
- Cooter & Gell v. Hartmarx Corp., 496 U.S. 384 (1990)

