

**CAUSE NO. 2023-08294**

<b>BOREALIS PROPERTIES LIMITED</b>	§	<b>IN THE DISTRICT COURT</b>
	§	
	§	
<b>v.</b>	§	<b>234TH JUDICIAL DISTRICT</b>
	§	
<b>FORTUNA CAPITAL LLC and LEANDRO CARBONI</b>	§	<b>HARRIS COUNTY, TEXAS</b>
	§	

**PLAINTIFF BOREALIS PROPERTIES LIMITED’S MOTION TO COMPEL**

Plaintiff Borealis Properties Limited moves the Court to compel Defendants Fortuna Capital LLC and Leandro Carboni to respond to post-judgment discovery requests served on Defendants.

On May 11, 2023, Plaintiff served post-judgment requests for production and interrogatories on both Fortuna and Carboni, as permitted by Texas Rule of Civil Procedure 621a. Ex. A. The discovery requests were served via email. Ex. B. Plaintiff’s post-judgment discovery is substantially similar to the post-judgment discovery Plaintiff served on Fortuna and Carboni in Cause No. 2022-47763; *Borealis Properties v. Fortuna Capital LLC*; pending in the 151st Judicial District Court in Harris County, Texas.

In accordance with Texas Rules of Civil Procedure 21a(c), 196.2(a), and 197.2(a), Defendants’ responses to the discovery requests were due June 10, 2023, thirty (30) days after service. Defendants, who have not appeared in this case in any capacity at any time, failed to respond. Although Defendants have provided some information in response to the post-judgment discovery sent in Cause No. 2022-47763, the Defendants’ responses are incomplete and inadequate.

As a result of Defendants’ failure to timely respond to Plaintiff’s discovery requests, Defendants have waived all objections to Plaintiff’s discovery requests. Tex. R. Civ. P. 193.2(e). If a party fails to respond to requests for production or interrogatories, “the

discovering party may move for an order compelling . . . an answer or answers, or inspection or production in accordance with the request.” Tex. R. Civ. P. 215.1(b)(3).

Plaintiff now moves the Court to compel Defendants to respond completely and without objection to Plaintiff’s discovery requests. For these reasons, Plaintiff respectfully requests the Court enter an Order compelling Defendants to respond to Plaintiff’s discovery requests within five (5) calendar days of the entry of such an Order, and all other relief, in law and in equity, to which Plaintiff may justly be entitled.

Dated: June 16, 2023

Respectfully submitted,

**LEWIS BRISBOIS BISGAARD & SMITH LLP**

/s/ Shane L. Kotlarsky

SHANE L. KOTLARSKY

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**ATTORNEY FOR PLAINTIFF**

**BOREALIS PROPERTIES LIMITED**

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing document was served on the following in accordance with the Texas Rules of Civil Procedure, on June 16, 2023.

Leandro Carboni  
Fortuna Capital LLC c/o Leandro Carboni  
3816 Marlowe Street  
Houston, Texas 77005  
*Defendants*

/s/ Shane L. Kotlarsky

SHANE L. KOTLARSKY

**CERTIFICATE OF CONFERENCE**

I certify that I have attempted to confer with Defendants about this motion but have received inadequate responses.

/s/ Shane L. Kotlarsky  
SHANE L. KOTLARSKY

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Rocio Rivera on behalf of Shane Kotlarsky

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Filing Code Description: Motion (No Fee)

Filing Description: Plaintiff Borealis Properties Limited's Motion to Compel

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