

**Judge Mosbarger – Law & Motion – Wednesday, April 2, 2025 @ 9:00 AM  
TENTATIVE RULINGS**

**1-2. 19CV01362 BOWEN, AARON ET AL V. CITY OF CHICO ET AL**

*EVENTS: (1) Defendant and Respondent City of Chico’s Motion to Dismiss Pursuant to Code of Civil Procedure Sections 583.310, Et Seq.*

*(2) Defendants Jack Danielson and Heidi Danielson’s Motion to Dismiss for Plaintiffs’ Failure to Bring Case to Trial Within Five (5) Years of Filing*

Defendants Jack Danielson and Heidi Danielson’s (collectively “Danielson Defendants” herein) Request for Judicial Notice is granted, Defendant City of Chico’s (“The City” herein) Request for Judicial Notice is granted, and Plaintiffs Aaron Bowen and Hilda Bowen’s (collectively “Plaintiffs” herein) Request for Judicial Notice is granted.

The Danielson Defendants’ Objection to Supplemental Declaration of Glen Hansen is overruled.

The Court finds that Plaintiffs were limited to just six additional months to bring this matter to trial due to California Rule of Court emergency rule 10(a) related to COVID-19, which would be on or before November 3, 2024. Trial was set in this case for May 19, 2025 (6 months and 16 days after November 3, 2024). As a result, *Code of Civil Procedure* §583.350 does not afford Plaintiffs relief from mandatory dismissal under *Code of Civil Procedure* §583.310. Since Plaintiffs failed to establish a statutory exception, neither the COVID-19 emergency rules nor *Code of Civil Procedure* §583.50 provide a basis for relief from mandatory dismissal in this case.

*Code of Civil Procedure* §583.310 provides that “[a]n action shall be brought to trial within five years after the action is commenced against the defendant.” While each party has a different interpretation, the issue before the Court is defining and determining whether the December 16, 2020 hearing on the writ of mandamus claim means the case, at least in part, was “brought to trial”. The Court concludes that it was not, and Plaintiffs’ argument that a partial trial on the writ of mandamus claims negates the application of the five-year statute, lacks merit.

Finally, it is solely Plaintiffs’ burden to ensure compliance with the five-year statutory deadline. *Oswald v. Landmark Builders, Inc.* (2023) 97 Cal.App.5th 240, 250 [“Plaintiffs cannot foist onto the court their responsibility to bring their case to trial. That obligation lies solely on plaintiffs, who bore the responsibility to identify any problems concerning the scheduling of the trial and seek an order rescheduling the trial date to a date within the [statutory period]” (emphasis in original)]. If the five-year statutory deadline is approaching, a “plaintiff has a duty to call the chronology of his case to the court’s attention” and move for trial preference. *Wale v. Rodriguez* (1988) 206 Cal.App.3d 129, 133; *Taylor v. Hayes* (1987) 199 Cal.App.3d 1407, 1411 [“[A]ll plaintiffs are under a continuing duty to correctly compute the statutory five years and to advise the court of the impending deadline.”]. The Court concludes that it was not impossible, impracticable or futile to meet the statutory deadline here, and thus the 274/128-day time periods encompassing the writ proceedings and appeal of the writ proceedings are not properly

considered in computing the deadline by which Plaintiffs were required to bring the action to trial.

Defendant and Respondent City of Chico's Motion to Dismiss Pursuant to Code of Civil Procedure Sections 583.310, Et Seq.; Defendants Jack Danielson and Heidi Danielson's Motion to Dismiss for Plaintiffs' Failure to Bring Case to Trial Within Five (5) Years of Filing; and the Joinders of Defendant/Cross-Complainant Canyon Oaks Property Owners Association, Inc. are granted, and this case is dismissed pursuant to *Code of Civil Procedure* §583.310. The Court vacates the Mandatory Settlement Conference on April 9, 2025, the Trial Readiness Conference on May 15, 2025, and the Jury Trial on May 19, 2025.

Counsel for the Defendants shall submit a form of order consistent with this ruling within two weeks.

**3-4. 21CV01399 BELTRAMO, KEN ET AL V. BYERS, CHRISTOPHER ET AL**

*EVENTS: (1) Plaintiff's Motion to Enforce Settlement*

*(2) Status Conference*

The Court finds that the Defendants have not breached the Settlement Agreement as it relates to the agreed upon payment of \$7,000, finding that the plain language of the Settlement Agreement is unclear and ambiguous as to the commencement of the 90-day deadline. The payment by Defendants of \$7,000 was completed on March 4, 2025, and therefore there was no breach by Defendants in that regard. The Motion is denied. The Court sets this matter for a Status Conference on May 7, 2025 at 10:30 a.m. for status of dismissal.

**5. 22CV02114 BANEGAS, KIMBERLY V. WITTMEIER, INC ET AL**

*EVENT: Plaintiff's Motion for Extension of Time to File motion for Attorney's Fees*

Pursuant to the California Rules of Court, Rule 3.1702(d), the Court in its discretion finds good cause to grant the Motion. Plaintiff shall file and serve her Motion for Attorney's Fees no later than April 11, 2025. Counsel for the Plaintiff shall submit a form of order consistent with this ruling within two weeks.

**6-7. 23CV01363 SAXE, CHARLES C V. ANGALL, OLIVIA AMANDA**

*EVENTS: (1) Prove Up Hearing*

*(2) Case Management Conference \*Special Set*

The Court will conduct a prove-up hearing.

**8-9. 24CV00628 CRESPO, CARMEN V. EMERALD INVESTMENTS INC.**

*EVENTS: (1) Defendant's Motion to Compel Responses to Defendant's Form Interrogatories-General, Set One, and for Monetary Sanctions Against Plaintiff Carmen Crespo*

*(2) Defendant's Motion for Order Deeming Defendant's Requests for Admissions, Set One, Admitted per Code of Civil Procedure Section 2033.280, Subdivision (b), and for Monetary Sanctions Against Plaintiff Carmen Crespo*

Defendant's Motion to Compel Responses to Defendant's Form Interrogatories-General, Set One, and for Monetary Sanctions Against Plaintiff Carmen Crespo is granted. Plaintiff Carmen Crespo shall serve verified responses to Form Interrogatories-General, Set One, within 10 days' notice of this order. The Court awards sanctions against Plaintiff Carmen Crespo, in the amount of \$771.00, which shall be paid within 30 days' notice of this order.

Defendant's Motion for Order Deeming Defendant's Requests for Admissions, Set One, Admitted per Code of Civil Procedure Section 2033.280, Subdivision (b), and for Monetary Sanctions Against Plaintiff Carmen Crespo is granted. The Court awards sanctions against Plaintiff Carmen Crespo, in the amount of \$1,047.50, which shall be paid within 30 days' notice of this order.

Counsel for the Defendant shall submit a form of order consistent with this ruling within two weeks.

**10. 24CV02342 LOZADA, RACHEL ROMERO V. KEPLEY, DON ET AL**

*EVENT: Amended Motion Appealing Court Order*

When this matter was last before the Court on March 26, 2025, although Defendant Don Kepley notified the Court of his intention to present oral argument, he failed to notify Plaintiff's counsel, thus the matter was put over to the present date for oral argument. The Court provided notice to Plaintiff's counsel and Defendant Don Kepley was also ordered to provide notice.

The proof of service shows that service of the Amended Motion Appealing Court Order having been served by U.S. Mail on March 4, 2025, which is only 16 Court days' notice. Pursuant to Code of Civil Procedure §1005, an additional 5 calendar days' notice is required. Notice is therefore insufficient. In addition, the motion is procedurally defective in that there is no notice of motion [Cal. Rules of Ct. Rule 3.1112(a)(1)], and no supporting declaration or other evidence. However, even if the Court were to consider the merits of the Motion, there has been no showing of new or different facts, circumstances, or law. *Code of Civil Procedure* §1008(a), (b); *Rowan v. Kirkpatrick* (2020) 54 Cal.App.5th 289, 297; *Pazderka v. Caballeros Dimas Alang, Inc.* (1998) 62 Cal.App.4th 658, 670. Nor have Defendants presented a satisfactory explanation for failing to produce the evidence at an earlier time. *New York Times Co. v. Superior Court* (2005) 135 Cal.App.4th 206, 213. As such, the Motion is DENIED. Plaintiff's request for

sanctions pursuant to *Code of Civil Procedure* §128.7 is denied because Plaintiff failed allow for the 21-day safe harbor provision as required under subsection (c)(1). Counsel for the Plaintiff shall prepare and submit a form of order consistent with this ruling within two weeks.

**11. 24MH00508 CHICO POLICE DEPARTMENT V. WEBER, KRISTOPHER**

*EVENT: Petition Hearing*

The Court will hear from counsel.

**12. 25MH00081 PETITION OF: BULLIS, JACOB TIMOTHY DAYTON**

*EVENT: Hearing for Relief from Firearms Prohibition*

The Court will conduct a hearing.

**13. 25PR00008 MARLER FAMILY TRUST DATED JULY 18, 2001**

*EVENT: Order to Show Cause re: Preliminary Injunction*

The Court finds that Petitioner has established a reasonable probability of prevailing on her claims and that the balance of harm weighs in her favor. Therefore, Petitioner's request for preliminary injunction is granted. The Court will hear from counsel as to a suggested undertaking. Counsel for the Petitioner shall submit a form of order within two weeks.