

**Judge Mosbarger – Law & Motion – Wednesday, May 7, 2025 @ 9:00 AM
TENTATIVE RULINGS**

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

EVENT: Petitioners Aaron and Hilda Bowen's Motion to Recover Motions to Dismiss Pursuant to Code of Civil Procedure Sections 583.310 et seq.

The Court deems the instant Motion a valid motion for reconsideration under *Code of Civil Procedure* §1008, the Petitioners having shown that the issue involves a pure question of law, there is sufficient explanation for why the issue was not raised previously, and both parties have had the opportunity to respond. Thus, the Court in its discretion, has considered the merits of the Motion. Dismissal pursuant to *Code of Civil Procedure* §583.310 must be "without prejudice." This principle is supported by California law, which establishes that dismissals for procedural derelictions under Chapter 1.5, including *Code of Civil Procedure* §583.310, are to be without prejudice. Specifically, *Code of Civil Procedure* §581(b)(4), states that an action may be dismissed "without prejudice" when dismissal is made pursuant to the applicable provisions of Chapter 1.5, which includes CCP §583.310. See, *Franklin Capital Corp. v. Wilson* (2007) 148 Cal.App.4th 187, 214-215. As such, the Court was in error when it dismissed this matter with prejudice. Petitioners Aaron and Hilda Bowen's Motion to Reconsider Motions to Dismiss Pursuant to *Code of Civil Procedure* Sections 583.310 et seq. is GRANTED. The Court hereby vacates and strikes its April 3, 2025 Ruling on (1) Defendants And Respondent City Of Chico's Motion To Dismiss Pursuant To Code Of Civil Procedure Section 583.310, Et Seq.; (2) Defendants Jack Danielsons And Heidi Danielson's Motion To Dismiss For Plaintiffs' Failure To Bring Case To Trial Within Five (5) Years Of Filing; And (3) Joinders Thereto and will prepare and enter a new Ruling with the only modification being to Page 3, Lines 19-20, changing the language "with prejudice" to "without prejudice". The Court advances the Status Conference set for 10:30 a.m. and continues that matter to June 25, 2025 at 10:30 a.m. for status of judgment.

2. 22CV02789 PETERSON, TAFT V. CANTERBURY, STEVE

EVENT: Order of Examination [Steven Canterbury]

The Court will swear in the Judgment Debtor, Steve Canterbury, for examination.

3. 23CV03194 CHEN, MAOMEI V. TOBUREN, FRANCIS ET AL

EVENT: Plaintiff's Motion for Leave to File First Amended Complaint

The Court finds that while *Code of Civil Procedure* §473(a)(1) permits a court "in furtherance of justice . . . [to] allow a party to amend any pleading...", here, the prejudice to Defendant, failure by Plaintiff to sufficiently establish that amendment would further the interests of justice, and Plaintiff's unexcused delay in seeking the requested relief, require denial of the motion. Plaintiff's Motion for Leave to File First Amended Complaint is DENIED.

4-6. 24CV03824 MAZAREI, AMIN REZA V. MARTIN, ADAM ET AL

EVENTS: (1) Plaintiff's Motion to Compel Further Responses to Plaintiff's Special and Form Interrogatories, Set One

(2) Plaintiff's Motion to Compel Further Responses to Plaintiff's Requests for Admission, Set One

(3) Plaintiff's Motion to Compel Further Responses to Requests for Production, Set One

Plaintiff's Objections to Evidence are overruled. Plaintiff's Motion to Compel Further Responses to Plaintiff's Special and Form Interrogatories, Set One; Plaintiff's Motion to Compel Further Responses to Plaintiff's Requests for Admission, Set One; and Plaintiff's Motion to Compel Further Responses to Requests for Production, Set One are denied as moot, Plaintiff having subsequently received Code compliant responses. The Court also denies Plaintiff's request for sanctions. Defendant shall submit a form of order within two weeks.