

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Courthouse News Service v. Toste

No. 1:21-cv-01790-ADA-SAB (E.D. Cal. Mar. 3, 2023) · No. 1:21-cv-01790-ADA-SAB · Decided March 3, 2023

SUMMARY

The United States District Court for the Eastern District of California addressed a stipulated dismissal under Federal Rule of Civil Procedure 41(a) concerning Defendant Amanda Toste. The court directed the clerk to terminate Toste as a defendant, with prejudice, while the claims against the remaining defendants remained active.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 3, 2023
DOCKET	1:21-cv-01790-ADA-SAB
DISPOSITION	other
PROCEDURAL POSTURE	The parties filed a stipulation under Federal Rule of Civil Procedure 41(a) seeking dismissal with prejudice of Defendant Amanda Toste in her official capacity as court executive officer and clerk of the Merced County Superior Court.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

civil procedure

pleadings

PRACTICE AREAS

civil procedure

civil rights

QUESTIONS PRESENTED

1. Whether the parties could dismiss one defendant from the action under Federal Rule of Civil Procedure 41(a) while claims against other defendants remained pending.

HOLDINGS

- 1. Federal Rule of Civil Procedure 41(a) permits dismissal of some or all defendants, including dismissal of all claims against one defendant while the action continues against other defendants.

KEY QUOTATIONS

“Filing a notice of voluntary dismissal with the court automatically terminates the action as to the defendants who are the subjects of the notice.” (at 2)

FACTUAL BACKGROUND

Courthouse News Service brought an action against Amanda Toste and other defendants. The parties filed a stipulated dismissal of Toste, in her official capacity as court executive officer and clerk of the Merced County Superior Court, with prejudice. The stipulation did not dismiss the claims against the other defendants.

PROCEDURAL HISTORY

The plaintiff and defendants stipulated to dismissal of Amanda Toste from the action. The court determined that Rule 41(a) permits dismissal of some defendants and directed the Clerk to terminate Toste as a defendant. Claims against the other named defendants remained active.

DISPOSITION

other

CASES CITED

- Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)
- Concha v. London, 62 F.3d 1493, 1506 (9th Cir. 1995)
- Hells Canyon Pres. Council v. U.S. Forest Serv., 403 F.3d 683, 687 (9th Cir. 2005)

OPINION

Courthouse News Service v. Toste

PER CURIAM.

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UNITED STATES DISTRICT COURT

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EASTERN DISTRICT OF CALIFORNIA

10 11 COURTHOUSE NEWS SERVICE, Case No. 1:21-cv-01790-ADA-SAB 12 Plaintiff,

AMENDED ORDER DIRECTING THE

CLERK OF THE COURT TO TERMINATE

13 v. AMANDA TOSTE AS A DEFENDANT IN

THIS ACTION

14 AMANDA TOSTE, et al., (ECF No. 31) 15 Defendants. 16 17 On March 1, 2023, the parties
filed a stipulated dismissal pursuant to Federal Rule of Civil
18 Procedure 41(a) as to the dismissal of Defendant Amanda Toste, in her official capacity as court
19 executive officer/clerk of the Merced County Superior Court. (ECF No. 31.) The dismissal of
20 this Defendant is with prejudice. (Id.) The claims against the other named Defendants are not
21 subject to the stipulation and will remain active. (Id.)
22 Rule 41(a) of the Federal Rules of Civil Procedure allows a party to dismiss some or all of
23 the defendants in an action through a Rule 41(a) notice. *Wilson v. City of San Jose*, 111 F.3d 24
688, 692 (9th Cir. 1997); see also *Concha v. London*, 62 F.3d 1493, 1506 (9th Cir. 1995) (“The 25
plaintiff may dismiss either some or all of the defendants—or some or all of his claims—through
26 a Rule 41(a)(1) notice.”)); *Hells Canyon Pres. Council v. U.S. Forest Serv.*, 403 F.3d 683, 687
27 (9th Cir. 2005) (The Ninth Circuit has “only extended the rule to allow the dismissal of all
claims against one defendant, so that a defendant may be dismissed from the entire action.”).
“Filing a 1] notice of voluntary dismissal with the court automatically terminates the action as to
the 2 defendants who are the subjects of the notice.” *Concha*, 62 F.3d at 1506. 3 Accordingly, the
Clerk of the Court is DIRECTED to terminate Defendant Amanda Toste 4| asa defendant in this
action. 5

6 IT IS SO ORDERED. DAA Le

7 | Dated: _March 3, 2023 _

UNITED STATES MAGISTRATE JUDGE

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