

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Tomasini v. Chau

Tomasini v. Chau · No. 2:18-cv-0286 DAD AC P · Decided March 10, 2023

SUMMARY

The United States District Court for the Eastern District of California denied Paul C. Tomasini's motion for reconsideration of an earlier order denying a stay. The court granted his motion to voluntarily dismiss deceased defendant D. Gentry and successors in interest, and modified the discovery and pretrial motion deadlines.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 PAUL C. TOMASINI, No. 2:18-cv-0286 DAD AC P 12 Plaintiff, 13 v.
ORDER 14 JAMES CHAU, et al., 15 Defendants. 16 17 Before the court are plaintiff's motion
for reconsideration of the order denying his request 18 for a stay (ECF No. 65) and his motion to
voluntarily dismiss defendant D. Gentry (ECF No. 66).

19 Reconsideration of prior orders is generally available only on grounds of newly 20 discovered
evidence, clear error, or an intervening change in the controlling law. *Marlyn 21 Nutraceuticals,*
Inc. v. Mucos Pharma GmbH & Co., 571 F.3d 873, 880 (9th Cir. 2009). None of 22 these factors
are present here.

The motion for a stay was based on plaintiff's separation from his 23 legal property; he now
informs the court that he has been reunited with his files but faces other 24 circumstances that
warrant a stay. ECF No. 65.

The motion for reconsideration will be denied, 25 but the operative discovery and scheduling
order will be amended in light of the status of the case 26 generally. 27 On December 8, 2022,
defendants filed a notice of death of defendant D. Gentry. ECF 28 No. 58. Plaintiff has now
notified the court that he will not be seeking to substitute Gentry's 1 || successors in interest
pursuant to Federal Rule of Civil Procedure 25(a), but wishes instead to 2 | dismiss Gentry.

ECF No. 66. The motion will be granted. 3 The court previously indicated that discovery
deadlines would be reset once the status of 4 | defendant Gentry was clarified. ECF No. 63 at 3.
New discovery and dispositive motions 5 || deadlines are accordingly set below. Due to the
number of extensions previously granted, which 6 || have continued discovery well beyond the

original deadline of June 24, 2022 (ECF No. 38 at 5), 7 || the discovery period will be left open for a relatively brief additional period.

8 CONCLUSION 9 For the reasons state above, IT IS HEREBY ORDERED that: 10 1. Plaintiff's motion for reconsideration (ECF No. 65) is DENIED; 11 2. Plaintiffs motion to voluntarily dismiss deceased defendant D. Gentry and any and all 12 || of her successors in interest (ECF No. 66) is GRANTED. See generally Federal Rule of Civil 13 || Procedure 41(a)(2); 14 3.

The operative Discovery and Scheduling Order is modified as follows: 15 a. The parties may conduct discovery until April 21, 2023. Any motions to compel 16 || discovery shall be filed by that date; 17 b. All pretrial motions, except motions to compel, shall be filed on or before July 14, 18 | 2023. 19 | DATED: March 9, 2023 * 20 Htttenr— Lhor—e_ ALLISON CLAIRE 21 UNITED STATES MAGISTRATE JUDGE 22 23 24 25 26 27 28