

**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

OPINION

(PC) Tomasini v. Chau

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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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

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