UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

Brum v. MarketSource, Inc.

Brum · No. 2:17-cv-00241-DAD-JDP · Decided December 5, 2025

SUMMARY

The United States District Court for the Eastern District of California granted plaintiffs' ex parte application to continue deadlines in a putative class action. The court found excusable neglect and good cause to modify the scheduling order, resetting the final pretrial conference to April 13, 2026, and the jury trial to June 16, 2026.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Dale A. Drozd
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	December 5, 2025
DOCKET	2:17-cv-00241-DAD-JDP
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs filed an ex parte application to continue the final pretrial conference and jury trial because their renewed motion for class certification remained pending. The court granted the application and amended the scheduling order.
STANDARD OF REVIEW	A district court's decision to modify a scheduling order is reviewed under the good-cause standard of Federal Rule of Civil Procedure 16(b)(4), with the inquiry focused primarily on the diligence of the party seeking modification. Ex parte relief requires irreparable prejudice absent immediate relief and lack of fault or excusable neglect in creating the need for emergency relief.
PRECEDENTIAL VALUE	Unknown
PARTIES	Jennifer Brum, et al. v. MarketSource, Inc., et al.

TOPICS

motion to amend · class actions · civil procedure

PRACTICE AREAS

civil procedure | class action litigation | commercial litigation

QUESTIONS PRESENTED

1. Whether plaintiffs satisfied the requirements for ex parte relief by showing irreparable prejudice and excusable neglect.
2. Whether plaintiffs demonstrated good cause and sufficient diligence under Federal Rule of Civil Procedure 16(b)(4) to modify the scheduling order.
3. Whether the final pretrial conference and jury trial should be continued until after resolution of the pending renewed motion for class certification.

HOLDINGS

1. Plaintiffs were entitled to ex parte relief because proceeding with the final pretrial conference before resolution of the pending class-certification motion would irreparably prejudice them, and their delay in seeking modification constituted excusable neglect.
2. Plaintiffs demonstrated good cause and sufficient diligence to modify the scheduling order under Federal Rule of Civil Procedure 16(b)(4).

KEY QUOTATIONS

> *"Rule 16(b)'s "good cause" standard primarily considers the diligence of the party seeking the amendment. The district court may modify the pretrial schedule if it cannot reasonably be met despite the diligence of the party seeking the extension."* (at 2)

FACTUAL BACKGROUND

Plaintiffs had a renewed motion for class certification pending when the final pretrial conference and jury trial dates approached. The pretrial conference was scheduled before the court was expected to resolve the class-certification motion, which plaintiffs argued would improperly limit the scope of trial preparation and the eventual trial. Plaintiffs had not filed a properly noticed motion to modify the scheduling order when they filed the renewed class-certification motion, but the court found no indication of bad faith or prejudice to defendant from continuing the dates.

PROCEDURAL HISTORY

The final pretrial conference was set for December 8, 2025, and trial was set for February 9, 2026. Plaintiffs filed a renewed motion for class certification on June 30, 2025, and later sought ex parte relief to continue the deadlines because the motion had not been resolved. Defendant opposed the application, arguing that plaintiffs caused the emergency and had not shown good cause or diligence. The court found excusable neglect, sufficient diligence, irreparable prejudice, and good cause, and reset the pretrial conference and trial dates.

DISPOSITION

other

CASES CITED

- Jenkins v. City of Los Angeles, No. 2:24-cv-01056-MWC-AJR, 2025 WL 2019789, at *1 (C.D. Cal. Jan. 6, 2025)
- Pioneer Investment Services Company v. Brunswick Associates Ltd. Partnership, 507 U.S. 380, 395 (1993)
- Iopa v. Saltchuk-Young Bros., Ltd., 916 F.3d 1298, 1301 (9th Cir. 2019)
- FMC Corp. v. Vendo Co., 196 F. Supp. 2d 1023, 1030 (E.D. Cal. 2002)
- Zivkovic v. S. Cal. Edison Co., 302 F.3d 1080, 1087 (9th Cir. 2002)
- Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 608-609 (9th Cir. 1992)

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