

CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT,
DIVISION EIGHT

Politsch v. Metroplaza Partners, LLC

Politsch · No. B332393 · Decided March 3, 2025

SUMMARY

The California Court of Appeal affirmed an order setting aside a default judgment against Metroplaza Partners, LLC in a premises liability action. The court held that equitable relief was warranted because Metroplaza presented a potentially meritorious defense, established that it was not served with the summons and complaint, and provided a reasonable explanation for its delay in seeking relief based on its attorney’s failure to advise it. The court found no abuse of discretion despite Metroplaza’s eight-year delay after learning of the judgment.

CASE DETAILS

COURT	California Court of Appeal, Second Appellate District, Division Eight
WRITING FOR THE COURT	Grimes, Acting P. J.; Wiley, J.; Viramontes, J.
JURISDICTION	California Court of Appeal, Second Appellate District, Division Eight
DECIDED	March 3, 2025
DOCKET	B332393
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from an order of the Los Angeles County Superior Court setting aside a default and default judgment on equitable grounds.
STANDARD OF REVIEW	An order vacating a default on equitable grounds is reviewed for abuse of discretion; reversal is warranted only if the ruling is so irrational or arbitrary that no reasonable person could agree with it.
PRECEDENTIAL VALUE	Published and certified for publication
PARTIES	Barbara Politsch v. Metroplaza Partners, LLC

TOPICS

- default judgment
- service of process
- civil procedure
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the superior court abused its discretion by setting aside the default and default judgment on the basis of extrinsic mistake or fraud.
2. Whether Metroplaza established the requirements for equitable relief from a default judgment, including a meritorious defense, a satisfactory excuse for failing to defend, and diligence in seeking relief.
3. Whether Metroplaza's eight-year delay after learning of the default judgment conclusively demonstrated a lack of diligence.

HOLDINGS

1. Equitable relief from a default judgment is available only in exceptional circumstances, and a party seeking relief based on extrinsic mistake must demonstrate a meritorious case, a satisfactory excuse for failing to defend, and diligence in seeking to set aside the judgment.
2. The superior court acted within its discretion in finding that Metroplaza had a meritorious defense and a satisfactory excuse because the evidence supported that Metroplaza was not the proper premises-liability defendant and had not been served with the summons and complaint.
3. Metroplaza's failure to seek relief for eight years after learning of the default judgment did not, as a matter of law, establish a lack of diligence requiring denial of relief; the superior court reasonably credited Metroplaza's evidence that it relied on its longtime attorney, who failed to advise it to act.

KEY QUOTATIONS

“When a default judgment has been obtained, equitable relief may be given only in exceptional circumstances.” (9)

“To set aside a judgment based upon extrinsic mistake one must satisfy three elements. First, the defaulted party must demonstrate that it has a meritorious case. Second[], the party seeking to set aside the default must articulate a satisfactory excuse for not presenting a defense to the original action. Last[], the moving party must demonstrate diligence in seeking to set aside the default once . . . discovered.” (9)

“The trial court’s ruling was well within the bounds of reason, and so we affirm.” (15)

FACTUAL BACKGROUND

Politsch was injured in August 2006 when she tripped and fell outside a Dollar Rent-A-Car office. Metroplaza had sold the property on June 16, 2005, more than a year before the accident, and asserted that it had no subsequent responsibility for or control over the premises. Although proofs of service stated that Metroplaza's registered agent had been personally served, the agent declared that he did not recall receiving the summons and complaint and that the purported process server was not a registered California process server. Metroplaza learned of the default judgment in January 2014 but did not seek relief until August 2022 after its longtime attorney failed to advise it to act.

PROCEDURAL HISTORY

Politsch obtained a default judgment for \$175,627.47 in a premises-liability action. Metroplaza later moved to set aside the default judgment, asserting it had not been served, had a meritorious defense because it no longer owned the property, and had delayed acting because its attorney failed to advise it to seek relief. The superior court granted the motion under its equitable powers, and the Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- Manson, Iver & York v. Black (2009) 176 Cal.App.4th 36, 42, 49
- Luxury Asset Lending, LLC v. Philadelphia Television Network, Inc. (2020) 56 Cal.App.5th 894, 907-908
- Rappleyea v. Campbell (1994) 8 Cal.4th 975, 981-982
- Stiles v. Wallis (1983) 147 Cal.App.3d 1143, 1146-1150
- McCreddie v. Arques (1967) 248 Cal.App.2d 39, 43-48
- Hudson v. Foster (2021) 68 Cal.App.5th 640, 648, 668
- Department of Industrial Relations v. Davis Moreno Construction, Inc. (2011) 193 Cal.App.4th 560, 570-571
- Kramer v. Traditional Escrow, Inc. (2020) 56 Cal.App.5th 13, 19-20
- Mechling v. Asbestos Defendants (2018) 29 Cal.App.5th 1241, 1249