

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Pontus Mag Vallejo, LLC v. West American Insurance Company

Pontus Mag Vallejo · No. 22-cv-1086-BAS-DDL · Decided March 3, 2023

SUMMARY

The United States District Court for the Southern District of California granted the parties’ joint motion to dismiss the action under Federal Rule of Civil Procedure 41(a)(1)(A)(ii). The action was dismissed with prejudice, each party was ordered to bear its own costs and attorneys’ fees, and the Clerk was directed to close the matter.

CASE DETAILS

COURT	United States District Court for the Southern District of California
JURISDICTION	United States District Court for the Southern District of California
DECIDED	March 3, 2023
DOCKET	22-cv-1086-BAS-DDL
DISPOSITION	dismissed
PROCEDURAL POSTURE	The parties jointly moved to dismiss the action with prejudice under Federal Rule of Civil Procedure 41(a)(1)(A)(ii).
STANDARD OF REVIEW	Not applicable; the Court ruled on a stipulated voluntary dismissal.
PRECEDENTIAL VALUE	Unpublished district court order; precedential status unknown

TOPICS

- motions to dismiss
- civil procedure
- insurance
- commercial litigation

PRACTICE AREAS

- civil procedure
- insurance
- commercial litigation

QUESTIONS PRESENTED

- Whether the parties’ joint stipulation and motion satisfied the requirements for voluntary dismissal under Federal Rule of Civil Procedure 41(a)(1)(A).
- Whether the action should be dismissed with prejudice and the parties ordered to bear their own costs and attorneys’ fees.

HOLDINGS

1. A plaintiff may voluntarily dismiss an action by filing a stipulation of dismissal signed by all parties who have appeared, and the parties' joint filing complied with Rule 41(a)(1)(A) and the district's local procedures.
2. The action was dismissed with prejudice because the parties stipulated to that form of dismissal.

KEY QUOTATIONS

"Dismissal is effective upon the filing of a compliant notice or stipulation, as described in Rule 41(a)(1)(A), and no court order is required." (1)

"Thus, the Court DISMISSES WITH PREJUDICE the instant action. The parties shall bear their own costs and attorneys' fees." (2)

FACTUAL BACKGROUND

The action was pending between Pontus Mag Vallejo, LLC and West American Insurance Company. The parties jointly requested dismissal with prejudice and filed a signed stipulation in the form required by the district's local procedures.

PROCEDURAL HISTORY

Plaintiff commenced this insurance action against Defendant in the Southern District of California. The parties later filed a signed joint motion styled as a joint motion to dismiss, and the Court granted it, dismissed the action with prejudice, directed the Clerk to close the matter, and ordered the parties to bear their own costs and attorneys' fees.

DISPOSITION

dismissed

CASES CITED

- Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)
- Stone v. Woodford, No. CIV-F-05-845 AWI-DLB, 2007 WL 527766 (E.D. Cal. 16, 2007)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 11 PONTUS MAG VALLEJO, LLC, Case No. 22-cv-1086-BAS-DDL 12
Plaintiff, ORDER GRANTING JOINT 13 v. MOTION TO DISMISS 14 WEST AMERICAN
INSURANCE (ECF No. 30) COMPANY, 15 Defendant. 16 17 Before this Court is the parties'
joint motion to dismiss the instant action with 18 prejudice under Federal Rule of Civil Procedure
("Rule") 41(a)(1)(A)(ii).

(Joint Mot., ECF 19 No. 30.) 20 Under Rule 41(a)(1)(A), a plaintiff has an absolute right to voluntarily dismiss its 21 action by (1) filing a notice of voluntary dismissal before a defendant has filed an answer 22 or moved for summary judgment, or (2) filing a stipulation of dismissal signed by all 23 parties who have appeared. Fed. R. Civ. P. 41(a)(1)(A)(i), (ii); see also *Wilson v. City of San Jose*, 111 F.3d 688, 692 (9th Cir.

1997). Dismissal is effective upon the filing of a 25 compliant notice or stipulation, as described in Rule 41(a)(1)(A), and no court order is 26 required. *Stone v. Woodford*, No. CIV-F-05-845 AWI-DLB, 2007 WL 527766 (E.D. Cal. 27 28 1 16, 2007). A dismissal is without prejudice unless the parties stipulate otherwise. 2 || Fed. R. Civ. P. 41(a)(1)(B). 3 Nonetheless, the local civil rules of this district require that where, as here, litigants 4 ||seek voluntary dismissal by filing a signed stipulation pursuant to Rule 41(a)(1)(A)(i1), 5 ||such a stipulation must be filed as a joint motion.'

In accordance with this district's local 6 || civil rules, the parties filed Rule 41(a)(1)(A)(i1)-compliant stipulation, which they styled 7 a Joint Motion. (See ECF No. 30.) 8 Having considered the parties' request, the Court GRANTS the Joint Motion. (ECF 9 || No. 30.)

Thus, the Court DISMISSES WITH PREJUDICE the instant action. The 10 parties shall bear their own costs and attorneys' fees. The Clerk of Court is directed to 11 ||close this matter. 12 IT IS SO ORDERED. /, 13 || DATED: March 3, 2023 Lin A (Lyohaa 6 14 United States District Judge 15 16 17 18 19 20 21 22 23 24 25 26 27 28 ' See Electronic Case Filing Administrative Policies and Procedures Manual, United States District Court for the Southern District of California.