

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

Christine DeMaria, et al. v. Robert Middleman, et al.

DeMaria v. Middleman · No. 2:23-cv-01798-KJM-CSK · Decided May 16, 2025

SUMMARY

The United States District Court for the Eastern District of California granted Defendant Robert Middleman’s motion to stay the case under the Servicemembers Civil Relief Act, 50 U.S.C. § 3932. The court held that his commanding officer’s memorandum satisfied the statutory documentation requirements and stayed the action until February 1, 2026.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 Christine DeMaria, et al., No. 2:23-cv-01798-KJM-CSK. 12 Plaintiffs,
ORDER 13 v. 14 Robert Middleman, et al., 1S Defendants. 16 17 Defendant Robert Middleman
moves to stay this case under 50 U.S.C. § 3932 because he 18 | has been called to active service in
the U.S. Navy Reserves.

See generally Mot., ECF No. 42; 19 | Mem., ECF No. 42-1. The matter is fully briefed. See
generally Opp’n, ECF No. 43; Reply, ECF 20 | No. 44. The court takes the motion under
submission without hearing oral arguments. See E.D. 21 | Cal. L.R. 230(g).

As explained below, the motion is granted. 22 When a plaintiff or defendant “is in military
service” and seeks a stay under § 3932, the 23 | court must stay the action for at least ninety days
if the moving party submits documentation 24 | satisfying two conditions: (1) “A letter or other
communication setting forth facts stating the 25 | manner in which current military duty
requirements materially affect the servicemember’s ability 26 | to appear and stating a date when
the servicemember will be available to appear” and (2) “A letter 27 | or other communication from
the servicemember’s commanding officer stating that the 28 | servicemember’s current military
duty prevents appearance and that military leave is not 1 authorized for the servicemember at the
time of the letter.” 50 U.S.C. § 3932(b)(2).

These 2 provisions are “always to be liberally construed to protect those who have been obliged to
drop 3 their own affairs to take up the burdens of the nation.” *Brewster v. Sun Tr. Mortg., Inc.*, 742
F.3d 4 876, 878 (9th Cir. 2014) (quoting *Boone v. Lightner*, 319 U.S. 561, 575 (1943)). 5
Defendant Middleman has attached a memo from his commanding officer. See generally 6
Spencer Mem., ECF No. 42-2.

According to that memo, Middleman was “selected for 7 involuntary mobilization to fill a critical position.” Id. ¶ 1. “The training requirements for [the 8 mobilization] are extensive and will require significant time away from work and family.” Id. 9 ¶ 3. Beginning in January 2025, Middleman was in training, and starting April 2025, Middleman 10 will be “overseas for six months.” Id. ¶ 4.

He will return from mobilization in “January 2026”; 11 the memo does not specify what day. Id. During this period, he “will not be authorized leave due 12 to the intense nature of [the] training cycle and mission requirements.” Id. ¶ 5. 13 This memo satisfies the requirements of § 3932(b)(2).

First, it states how Middleman’s 14 mobilization will “affect [his] ability to appear” and when. 50 U.S.C. § 3932(b)(2)(A). Second, 15 it states that his military duty “prevents [his] appearance and that military leave is not 16 authorized.” Id. § 3932(b)(2)(B). Middleman is therefore entitled to a mandatory stay under 17 § 3932(b). 18 Plaintiffs oppose Middleman’s motion because the memo from his commanding officer 19 does not clarify whether Middleman could participate remotely in a video deposition.

See Opp’n 20 at 2–3. They also argue a stay would lead to prejudice, as both parties are in their seventies. See 21 id. at 3 (citing Barth Decl. ¶ 3, ECF No. 43). These are valid concerns. But this court is bound to 22 interpret § 3932 “liberally” to protect the servicemembers who rely upon it. Brewster, 742 F.3d 23 at 878 (quoting Boone, 319 U.S. at 575). Section 3932 requires only that the attached 24 documentation include “facts stating the manner in which current military duty requirements 25 materially affect the servicemember’s ability to appear,” 50 U.S.C. § 3932(b)(2) (A) (emphasis 26 added), not facts demonstrating no appearance is feasible.

By stating that Middleman will be 27 overseas away from work and family through January 2026 in an “intense” mobilization with the 1 | Navy during which leave will not be authorized, the memo from his commanding officer satisfies 2 | the requirement that the mobilization “materially affect” his ability to appear in this action. 3 The motion to stay is granted.

This action is stayed until February 1, 2026. By that date, 4 | counsel for all parties must meet and confer and file a joint status report on the resumption of this 5 | litigation, including proposed dates and deadlines. Cf Mins. & Rule 16 Order, ECF No. 35 6 | (setting previously applicable pretrial dates). 7 This order resolves ECF No. 42. 8 IT IS SO ORDERED.

9 DATED: May 15, 2025. oUt 10 = 4 W/ STATES DISTRICT JUDGE