

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

Mauzy v. Mauzy

Mauzy · No. 3:25-cv-00344-CAB-BLM · Decided August 12, 2025

OPINION

Mauzy v. Mauzy

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 MATT MAUZY, Case No.: 3:25-cv-00344-CAB-BLM 12 Plaintiff,

ORDER DENYING MOTION TO

13 v. MODIFY DISMISSAL

14 JENNIFER MAUZY, and DOES 1–10,

[Doc. No. 11] 15 Defendants. 16 17 On July 21, 2025, Defendant Jennifer Mauzy filed a motion seeking the Court to 18 modify its previous dismissal of Plaintiff’s case from without prejudice to with prejudice. 19 [Doc. No. 11.] The Court initially dismissed Plaintiff’s complaint with leave to amend 20 because it may have been saved by amendment. [Doc. No. 7]; see *Eminence Cap., LLC v. 21 Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003) (“Dismissal with prejudice and without 22 leave to amend is not appropriate unless it is clear . . . that the complaint could not be saved 23 by amendment.”). After Plaintiff did not amend by the deadline, Defendant filed a motion 24 to dismiss for failure to prosecute and Plaintiff filed a notice of voluntary dismissal without 25 prejudice. [Doc. Nos. 8, 9.] The Court subsequently dismissed the case without prejudice 26 on July 15, 2025. [Doc. No. 10.] 27 On July 29, 2025, the Court granted in part Defendant’s motion to modify the 28 dismissal and dismissed Plaintiff’s federal claims with prejudice. [Doc. No. 12.] Now, the 1 || Court, on its own motion, hereby withdraws that order. See *Fid. Fed. Bank, FSB v. Durga 2 || Ma Corp.*, 387 F.3d 1021, 1024 (9th Cir. 2004) (“The district court has discretion to correct 3 ||a judgment for mistake or inadvertence, either on the part of counsel or the court itself.”). 4 || Federal Rule of Civil Procedure 41(a)(1)(A)() “allows a plaintiff to unilaterally voluntarily 5 || dismiss, so long as it does so before an answer or a motion for summary judgment.” *Aetna 6 v. Gilead Scis., Inc.*, 599 F. Supp. 3d 913, 918 (N.D. Cal. 2022). That dismissal is 7 || without prejudice unless the notice of voluntary dismissal states otherwise. See *id.*; Fed. 8 ||R. Civ. P. 41(a)(1)(B). Plaintiff filed a notice of voluntary dismissal without prejudice 9 || pursuant to Rule 41(a)(1)(A)(@) before Defendant filed an answer or a motion for summary 10 ||/judgment. [Doc. No. 9.] Accordingly, the Court DENIES Defendant’s motion to modify 11

Court's dismissal order. The case is dismissed without prejudice. 12 Itis SO ORDERED. 13 14
Dated: August 12, 2025 (GB 15 Hon. Cathy Ann Bencivengo 16 United States District Judge 17
18 19 20 21 22 23 24 25 26 27 28

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