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**Hearing Date:** 9/3/2024

**Department:** 61

YASHAR ALI vs LOS ANGELES MAGAZINE, LLC, A CALIFORNIA  
LIMITED LIABILITY COMPANY

TENTATIVE

Defendant Los Angeles Magazine's Motions to Dismiss is GRANTED.

Defendant Los Angeles Magazine's Motion for Terminating, Issue, and  
Evidentiary Sanctions against Plaintiff Yashar Ali is DENIED as moot.

Future court dates are advanced and vacated.

Defendant to provide notice.

DISCUSSION

#### I. MOTION TO DISMISS

(a) The court may in its discretion dismiss an action for delay in prosecution pursuant to this article on its own motion or on motion of the defendant if to do so appears to the court appropriate under the circumstances of the case.

(b) Dismissal shall be pursuant to the procedure and in accordance with the criteria prescribed by rules adopted by the Judicial Council.

(Code Civ. Proc. § 583.410.)

“The court on its own motion or on motion of the defendant may dismiss an action under Code of Civil Procedure sections 583.410-583.430 for delay in prosecution if the action has not been brought to trial or conditionally settled within two years after the action was commenced against the defendant.” (Cal. Rules of Court (CRC) Rule 3.1340, subd. (a).) Factors to consider in determining whether to dismiss a matter include:

1) The court's file in the case and the declarations and supporting data submitted by the parties and, where applicable, the availability of the moving party and other essential parties for service of process;

(2) The diligence in seeking to effect service of process;

(3) The extent to which the parties engaged in any settlement negotiations or discussions;

(4) The diligence of the parties in pursuing discovery or other pretrial proceedings, including any extraordinary relief sought by either party;

(5) The nature and complexity of the case;

(6) The law applicable to the case, including the pendency of other litigation under a common set of facts or determinative of the legal or factual issues in the case;

(7) The nature of any extensions of time or other delay attributable to either party;

(8) The condition of the court's calendar and the availability of an earlier trial date if the matter was ready for trial;

(9) Whether the interests of justice are best served by dismissal or trial of the case; and

(10) Any other fact or circumstance relevant to a fair determination of the issue

THE ISSUE.

(CRC Rule 3.1342, subd. (e)(1)–(10).)

Defendant Los Angeles Magazine, LLC (Defendant) moves to dismiss the case of Plaintiff Yashar Ali (Plaintiff) for lack of prosecution. Plaintiff filed his complaint on June 9, 2022, and the present motion was filed on July 3, 2024. Defendant argues that Plaintiff has taken no steps to prosecute his case since filing his First Amended Complaint on December 21, 2022. (Motion at p. 7.) Since that time, this court granted in part Defendant’s anti-SLAPP motion and motion for attorney fees over Plaintiff’s opposition. On January 3, 2024, this court granted Plaintiff’s counsel’s motion to be relieved. And on March 18, 2024, this court granted in part Defendant’s unopposed motion to compel further responses from Plaintiff. Defendant notes that Plaintiff has not served further responses in compliance with this court’s order. (Hedrick Decl. ¶¶ 23–24.) And Defendant notes that Plaintiff has not served any discovery upon Defendant in this litigation. (Hedrick Decl. ¶ 24.) Trial in this matter is set to begin on December 10, 2024.

Plaintiff has failed to prosecute this case in a reasonable manner. More than two years have elapsed since the case’s inception, and Plaintiff has neither propounded discovery nor provided responses ordered by the court. Plaintiff has filed no opposition to the present motion, which, per the court rules governing motions of this type, “may be construed by the court as an admission that the motion is meritorious, and the court may grant the motion without a hearing on the merits.” (CRC Rule 3.1342, subd. (b).)

The motion to dismiss is therefore GRANTED.

## II. MOTION FOR SANCTIONS

Defendant’s concurrent motion seeking terminating, evidentiary, and issue sanctions against Plaintiff based on his failure to comply with this court’s order of March 18, 2024, compelling further responses, is DENIED as moot.