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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

KALILAH ANTOINE-LITTLE,

Plaintiff and Appellant,

v.

RACHEL SMEDLEY et al.,

Defendants and Respondents.

E051399

(Super.Ct.No. RIC429913)

OPINION

APPEAL from the Superior Court of Riverside County. Gloria Trask, Judge.

Affirmed.

Kalilah Antoine-Little, in pro. per., for Plaintiff and Appellant.

Gilbert, Kelly, Crowley & Jennett, Peter J. Godfrey, Timothy W. Kenna and Andrew C. Hubert for Defendants and Respondents.

Kalilah Antoine-Little (plaintiff) appeals from a judgment dismissing her personal injury suit. She contends that the trial court erred prejudicially by denying her request to continue the trial date and by granting defendants' request for trial preference.

We conclude that any error in denying the requested continuance was not prejudicial, and we will therefore affirm the judgment.<sup>1</sup>

### **FACTUAL AND PROCEDURAL HISTORY**

Plaintiff's complaint is not contained in the record on appeal. We glean from her opening brief and from the record that she filed a complaint for damages arising from physical injuries she sustained in an automobile accident in 2000, when plaintiff was a minor, aged 13. Her complaint was filed on May 6, 2005. Throughout most of the proceedings, plaintiff represented herself. She obtained counsel, who substituted in on January 8, 2007. On May 18, 2007, after arbitration, plaintiff requested a trial de novo. On March 3, 2008, plaintiff substituted a different law firm as her attorney of record. That law firm was relieved on April 2, 2009.

The case was set for trial on May 11, 2009. Plaintiff requested a 90-day continuance in order to obtain new counsel to represent her at trial. Plaintiff and her mother explained that plaintiff was a full-time student and that although she and her mother had made efforts to find a new attorney, they had not yet been successful. The court denied the motion because the case was "fairly old," having been filed in May 2005. The case was put on 12-hour trailing.

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<sup>1</sup> Plaintiff does not cite to any order for trial preference in the record, and we have found none contained in the record on appeal or referenced in the register of actions. As we understand her argument, she is contending that denying her motion for a continuance of the trial effectively granted trial preference to defendants. Accordingly, we will address only her contention that the denial of the continuance was erroneous and prejudicial.

Thereafter, the parties stipulated to a new trial date, November 2, 2009.

Defendants' attorney filed a notice of continued trial date on June 1, 2009.

Plaintiff failed to appear for trial on November 2, 2009. The court granted defendants' oral motion to dismiss. Judgment was entered on July 8, 2010, and notice of entry of the judgment was filed on August 6, 2010. Plaintiff filed her notice of appeal on July 22, 2010.

**DENIAL OF PLAINTIFF'S REQUEST TO CONTINUE THE TRIAL WAS NOT  
PREJUDICIAL**

Trial courts generally have broad discretion in deciding whether to grant a motion for a continuance. (*Freeman v. Sullivant* (2011) 192 Cal.App.4th 523, 527.) Even if an order denying a continuance is an abuse of discretion, it results in reversible error only if it resulted in a miscarriage of justice. (*Ibid.*)

Here, even though plaintiff's case was, as the trial court said, "fairly old," as of May 11, 2009, it was almost a year shy of the mandatory five-year dismissal date, having been filed on May 6, 2005.<sup>2</sup> Consequently, it is arguable that the court should have granted a continuance, whether for 90 days as requested or for a shorter period, in order to allow plaintiff to obtain counsel. However, plaintiff was not actually required to go to trial that day; rather, she and defendants agreed to continue the trial date to November 2, 2009, and the court accepted their stipulation. This five-month continuance was nearly double the 90 days plaintiff requested. Her inability to obtain counsel for trial was

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<sup>2</sup> "An action shall be brought to trial within five years after the action is commenced against the defendant." (Code Civ. Proc., § 583.310.)

therefore not due to the court's denial of her request. Consequently, plaintiff has failed to demonstrate that the court's order, even if erroneous, resulted in a miscarriage of justice. (*Freeman v. Sullivant, supra*, 192 Cal.App.4th at p. 527.)

**DISPOSITION**

The judgment is affirmed. Defendants are awarded costs on appeal.

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/s/ McKinster  
Acting P.J.

We concur:

/s/ Richli J.  
/s/ Miller J.