

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Feb 06, 2019

SEAN F. MCAVOY, CLERK

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CHS INC, a Minnesota cooperative
corporation,

Third Party Plaintiff,

v.

JORDAN BAKER and JANE
BAKER,

Third Party Defendants.

NO: 2:17-CV-197-RMP

ORDER OF DISMISSAL WITHOUT
PREJUDICE FOR FAILURE TO
PROSECUTE

CHS INC, a Minnesota cooperative
corporation,

Cross Claimant,

LEON R. BAKER; LESLIE N.
BAKER; LORI J. BAKER; LEON R.
BAKER FARMS, LLC; JAMES
LEON BAKER; REID T. BAKER;
and LORRAINE BAKER,

Cross Defendants.

ORDER OF DISMISSAL WITHOUT PREJUDICE FOR FAILURE TO
PROSECUTE ~ 1

1 On August 17, 2018, the Court entered an Order Granting Plaintiff Keystone
2 National Bank's Motions for Summary Judgment, ECF No. 62, leaving CHS, Inc. as
3 the Third-Party Plaintiff/Cross Claimant in this matter. A five (5) day jury trial is
4 scheduling to commence on February 25, 2019, with a pretrial conference scheduled
5 for February 12, 2019.

6 In early October 2018, Third-Party Plaintiff/Cross Claimant CHS Inc.
7 indicated via email with the Court that this matter would be resolved by late
8 October 2018. However, because there has been no further communication from
9 CHS, the Court entered an Order to File Status Report on January 23, ECF No. 27,
10 directing Third-Party Plaintiff/Cross Claimant CHS, Inc. to file a written status
11 report, within ten days, regarding whether it is anticipated that this case will
12 proceed to trial. As of today's date, nothing further has been filed, nor has there
13 been any further communication with the Court from the parties.

14 If a litigant fails to prosecute its crossclaims, the Court may dismiss those
15 claims. Fed. R. Civ. P. 41(b); 41(c). Dismissal for failure to prosecute is within
16 the discretion of the district court. *Lal v. California*, 610 F.3d 518, 523 (9th Cir.
17 2010).

18 Accordingly, **IT IS HEREBY ORDERED:**

- 19 1. Third-Party Plaintiff/Cross Claimant CHS Inc claims are dismissed
20 without prejudice and without costs to any party for failure to prosecute the
21 case.

1 2. All pending motions, if any, are **DENIED AS MOOT**.

2 3. All scheduled court hearings, if any, are **STRICKEN**.

3 **IT IS SO ORDERED.** The District Court Clerk is directed to enter this
4 Order, provide copies to counsel, and **close this case**.

5 **DATED** February 6, 2019.

6
7 *s/ Rosanna Malouf Peterson*
8 ROSANNA MALOUF PETERSON
9 United States District Judge
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