

*California Capital Insurance Company v. Hoehn (2024)*

Supreme Court of California

S277510

**FACTS AND PROCEDURAL HISTORY**

In 2010, Plaintiff, California Capital Insurance Company, filed a lawsuit against Defendant Cory Michael Hoehn for allegedly causing a fire that destroyed a building in which he resided. On several occasions, Plaintiff attempted to serve Defendant with the summons and complaint but was unsuccessful. However, on one attempt, the summons and complaint were served upon Defendant's girlfriend, and a copy of the summons and complaint was then sent to his home address. Approximately one year later, Plaintiff requested and obtained a default judgment against Defendant. It was not until Defendant's wages were garnished almost nine years after the default judgment was entered against him that he became aware of the lawsuit.

In light of this revelation, Defendant filed a motion to vacate the judgment on the grounds of improper service of process. In a supporting declaration, Defendant claimed that he did not recall receiving or seeing the summons and complaint at any time. He also claimed that his girlfriend did not live with him then and that he received no paperwork from her. Despite this declaration, the trial court denied the motion, and the Court of Appeal affirmed the decision, holding that the motion was subject to a two-year time limit after the entry of the default judgment under California Code of Civil Procedure (CCP) §473.5. The California Supreme Court granted review.

**HOLDING/REASONING**

The California Supreme Court held that the two-year time limit under CCP §473.5 does not apply to motions to vacate judgments due to improper service of process under CCP §473(d). The court reasoned that the judicially created rule imposing a two-year time limit for such motions is not supported by the statute's text, legislative intent, or credible rationale. The court emphasized the importance of actual notice to prevent fundamental injustices, as illustrated by Defendant's situation, where he only learned of the lawsuit nine years after the default judgment. Thus, the court concluded that a motion to vacate a judgment for lack of proper service under CCP §473(d) is not subject to the two-year limitation specified in CCP §473.5 because if it were, Defendant's due process rights would be violated. Accordingly, the judgment of the Court of Appeal was reversed, and the matter was remanded to that court for further proceedings.