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Once a California Default Judgment Has Aged for Over Two Years, It Cannot Be set aside Unless the Proof of Service Is Void On It's Face

To set aside a default judgment in California, either the judgment must be void on its face, or the motion brought within two years of entry. In a recent case the motion was filed more then two years after the judgment was entered. The trial court found that the evidence showed that there was no actual service on the defendant, and set aside the default judgment.

The appellate court reversed, finding that on a motion filed more than two years after entry of default judgment, the trial court was precluded from considering evidence offered in support of motion. It also found that proof of service on "John Doe, co-resident" was not void on its face. People in apparent charge of businesses and residences often refuse to give their true legal names. For this reason, it is an accepted practice to name such a person as "John Doe" or similar fictitious name, or by description.

In this case (successfully argued on appeal by this blogger) it is likely that the defendant did know about the attempts to serve him, but did not do anything about it until the effort to collect the judgment more then two years later. Things often do not go well for those who sleep on their rights.

Trackman v. Kenney (2010) 187 Cal.App.4th 175