Foster vs Gildred Mini Coop : Post-Judgment Motion Analysis and Case Trajectory Update

I. DOCUMENT COMPARISON AND ANALYSIS

Original Case Trajectory (2023-2024)

The initial Foster v. Gildred case concluded with gildred mini coop:

- August 2, 2024: Complete dismissal without leave to amend by Judge Bowman
- Discovery sanctions: $3,260 awarded to defendant
- All claims dismissed: Contract, fraud, and tort claims all failed
- Case closed: Judgment of dismissal entered

Current Motion to Vacate (Dated 2026)

The attached motion reveals a dramatically different trajectory:

- October 31, 2025: New judgment and injunction allegedly entered
- Cross-complaint activity: Defendant Gildred apparently filed cross-claims
- Summary adjudication: Granted without Foster's participation
- Injunctive relief: Compelling removal of websites/domains

II. LEGAL CLAIMS IN MOTION TO VACATE

A. Procedural Due Process Violations

Foster's Allegations:

- Judgment entered without evidentiary hearing
- No proof of Foster's ownership/control of cited websites
- Summary adjudication without proper notice or opportunity to be heard
- Violation of CCP § 527(d) specificity requirements for injunctions

Legal Standard: CCP § 437c requires strict compliance with summary judgment procedures

B. Abuse of Process/Malicious Prosecution Claims

Key Elements Alleged:

1. Favorable Termination: Gildred's voluntary dismissal of breach-of-contract cause
2. Lack of Probable Cause: Re-litigation of matters resolved in 2020 New York settlement
3. Malice: Pattern of duplicative filings and harassment
4. Double Jeopardy: Same URLs addressed in both New York settlement and California injunction

Legal Authority: Sheldon Appel Co. v. Albert & Oliker (1989) 47 Cal.3d 863, 871

C. Impossibility of Performance

Foster's Position:

- Injunction compels actions over property not proven to be his
- Third-party website control cannot be guaranteed
- Constitutional due process violation (Gray v. Bybee standard)

III. JUDICIAL POSTURE ANALYSIS: NO RESPONSE BY MARCH 10, 2026

Procedural Implications of Non-Response

Factor	Standard Approach	Current Situation
Response Deadline	30 days before hearing	Expired by March 10, 2026
Motion Hearing	April 10, 2026	No opposition filed
Default Risk	Opposition may be deemed waived	Significant advantage to Foster
Judicial Discretion	Court may still require proof	Evidence burden remains on movant

Strategic Implications for Foster

Advantages: Delmore Greene LLP history includes Delmore Greene v. San Diego Superior Court and Defendant Tom Gildred historical filings are always an aggressive response to motions with cluster filings. Gildred Posture in an Uncontested Motion No formal opposition, by silence is strategic that the court may address its own:

- Procedural Victory: Demonstrates defendant's lack of substantive response
- Burden Shift: Focus moves to Foster's evidence and legal arguments
- Judicial Attention: Court may view non-response as significant

Remaining Challenges:

- Evidence Requirement: Must still prove factual allegations
- Legal Standards: Motion to vacate requires clear procedural violation
- Burden of Proof: Foster must demonstrate mistake, inadvertence, or due process violation

IV. ANALYSIS OF CLAIMED EVIDENCE

A. 2020 New York Settlement (Exhibit A)

Significance:

- Res Judicata Effect: Prior judgment may bar re-litigation
- Same Subject Matter: Identical URLs in both proceedings
- Settlement Scope: $150,000 judgment suggests comprehensive resolution

B. URL Comparison Chart (Exhibit B)

Evidentiary Value:

- WHOIS Data: Public records showing third-party ownership
- Burden Shifting: Defendant should have verified ownership before seeking injunction
- Impossibility Proof: Cannot control domains not owned

C. Judicial Reassignment History (Exhibit E)

Pattern Demonstrated:

- Multiple Judges: Nocks → Katz → Bowman
- Procedural Disruption: Continuity concerns
- Bias Claims: Unresolved recusal motions

V. JUDICIAL POSTURE ASSESSMENT

Current Procedural Standing

Based on the March 10, 2026 no-response status:

Strong Position for Foster:

1. Procedural Default: Defendant's failure to respond
2. Unopposed Motion: Court may grant on procedural grounds alone
3. Due Process Claims: Serious constitutional issues raised
4. Evidence Package: Comprehensive exhibit list addressing key issues

Judicial Concerns Likely:

1. Jurisdiction: How did the case proceed post-2024 dismissal?
2. Standing: Foster's right to challenge subsequent proceedings
3. Finality: Res judicata effect of original dismissal
4. Equity: Whether injunctive relief was properly granted

Expected Court Analysis Framework

Issue	Foster's Argument	Court's Likely Analysis
Due Process	No hearing/notice provided	Review procedural compliance
Specificity	Injunction too broad/vague	Apply CCP § 527(d) standards
Evidence	No ownership proof required	Examine summary adjudication basis
Double Jeopardy	Re-litigation of settled matters	Analyze res judicata/collateral estoppel

VI. REFRESH SUMMARY: CASE STATUS AS OF APRIL 10, 2026 HEARING

A. Procedural Posture

- Motion Pending: Motion to Vacate filed with comprehensive briefing
- No Opposition: Defendant failed to respond by March 10, 2026 deadline
- Hearing Scheduled: April 10, 2026, 8:30 AM, Dept. C-74, Judge Bowman

- Evidence Submitted: Eight exhibits addressing core legal issues

B. Key Legal Issues for Resolution

1. Jurisdiction: Basis for post-dismissal proceedings
2. Due Process: Adequacy of notice and hearing procedures
3. Res Judicata: Effect of 2020 New York settlement
4. Equity: Appropriateness of injunctive relief without ownership proof

C. Expected Hearing Outcomes

Most Likely Scenarios:

Scenario 1: Motion Granted (High Probability)

- No opposition filed
- Due process violations appear substantial
- Court may vacate or modify injunction

Scenario 2: Hearing Continued (Moderate Probability)

- Court seeks clarification on jurisdictional issues
- Additional briefing requested on res judicata effects

Scenario 3: Motion Denied (Low Probability)

- Court finds procedural compliance adequate
- Injunction deemed properly supported

D. Strategic Implications

For Foster:

- Strong Position: Unopposed motion with comprehensive evidence
- Risk Mitigation: Multiple legal theories presented
- Equity Arguments: Abuse of process claims well-documented

For Litigation System:

- Precedent Setting: Treatment of pro se post-judgment motions
- Procedural Fairness: Due process in summary proceedings
- Judicial Efficiency: Resolution of duplicative litigation

VII. CONCLUSION AND JUDICIAL POSTURE PREDICTION

The lack of response by March 10, 2026 creates a significantly favorable procedural posture for Foster's Motion to Vacate. Combined with the substantial legal arguments presented—particularly regarding due process violations and res judicata effects—the motion appears likely to succeed in whole or in part.

Key Judicial Considerations:

1. Uncontested Nature: Courts generally give serious consideration to unopposed motions
2. Constitutional Issues: Due process claims require careful judicial attention
3. Equity Principles: Prevention of abuse of process serves judicial integrity
4. Practical Impossibility: Injunctions requiring impossible performance are typically modified

Predicted Outcome: Motion Granted with Modifications

- Vacatur or significant modification of October 31, 2025 injunction
- Possible sanctions for abuse of process
- Establishment of procedural safeguards for any future related litigation

The case trajectory has evolved from a 2024 dismissal to a 2026 motion challenging post-judgment proceedings, representing a complex procedural history that the court will need to reconcile with established res judicata and due process principles.

The lodgment filing has effectively transformed this from a procedural motion into a constitutional law case, dramatically improving Foster's prospects for meaningful relief.
https://youtube.com/shorts/sIro3g8N5Ws?feature=share
https://youtube.com/shorts/sIro3g8N5Ws?feature=share
https://youtube.com/shorts/D13VNX1hdrE?feature=share
https://youtube.com/shorts/oUo2ca9rwr4?feature=share
https://youtube.com/shorts/7cSeBlxzIW8?feature=share
https://youtube.com/shorts/7cSeBlxzIW8?feature=share