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Got Jurisdiction?

Congratulations. Your mediation resulted in a written settlement agreement signed by the parties and a dismissal of the entire action. However, did your settlement allow the court to retain jurisdiction to enforce the agreement?

A court's jurisdiction over the parties and subject matter of a suit terminates after a final judgment is entered, or after a voluntary dismissal of an entire action. Code of Civil Procedure section 664.6 creates a statutory exception to these jurisdictional principles, and must be specifically requested.

The purpose of section 664.6 is to provide courts with continuing jurisdiction over parties and their litigation, to enforce their settlement agreement, despite a dismissal of the suit after the execution of the agreement. The procedure is to file a motion to enter judgment pursuant to the terms of the settlement.

The statutory request must be made:¹

1. For the court to “retain jurisdiction over the parties to enforce the settlement until performance in full of the terms of the settlement;”
2. During the “pending litigation” (not after a dismissal of the entire case);
3. “By the parties” themselves (not by their attorneys, spouses, or other agents);² and
4. “Orally before the court,” or in a signed “writing.”

If dismissal occurs without a proper jurisdiction request, don't despair. The dismissal of the suit does not adversely affect the settlement agreement itself or the right to have it enforced. Instead of an expedited motion procedure, a separate lawsuit must be filed (within the applicable statute of limitations period).

The enforcement procedure under section 664.6 is only available when a settlement satisfies the statutory requirements designed to ensure the parties have actually consented to the terms of the settlement.

¹ Code of Civil Procedure section 664.6; *City of Gardena v. Rikuo Corp.* (2011) 192 Cal.App.4th 595 (approving *Wackeen v. Malis* (2002) 97 Cal.App.4th 429).

² An exception to the “by the parties” requirement exists for certain construction defect cases under Code of Civil Procedure section 664.7.