

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Torres v. General Motors LLC

Torres · No. 24-cv-02474-BEN-JLB · Decided May 16, 2025

SUMMARY

The United States District Court for the Southern District of California granted General Motors LLC’s motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). The court dismissed the plaintiff’s Fourth and Fifth Causes of Action without prejudice because the plaintiff did not oppose the motion, relying on the applicable local rules and Rule 41(b).

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Roger T. Benitez
JURISDICTION	United States District Court for the Southern District of California
DECIDED	May 16, 2025
DOCKET	24-cv-02474-BEN-JLB
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendant moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss the Fourth and Fifth Causes of Action after removal from state court. The plaintiff filed no opposition, and the district court granted the motion without prejudice.
STANDARD OF REVIEW	The court evaluated dismissal under Federal Rules of Civil Procedure 12(b)(6) and 41(b), applying the Ninth Circuit's five-factor test for dismissal based on failure to prosecute or comply with court rules.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

- motions to dismiss
- civil procedure
- commercial litigation

PRACTICE AREAS

- civil procedure
- commercial litigation

QUESTIONS PRESENTED

1. Whether the court should dismiss the Fourth and Fifth Causes of Action after plaintiff failed to file a timely opposition to GM's motion to dismiss.
2. Whether dismissal without prejudice was warranted under Federal Rules of Civil Procedure 12(b)(6) and 41(b), the applicable Civil Local Rules, and the Ninth Circuit's five-factor dismissal test.

HOLDINGS

1. A district court may dismiss an action without prejudice when a plaintiff fails to timely oppose a motion and fails to comply with applicable local rules, after considering the required dismissal factors and determining that lesser sanctions would not be effective.
2. GM's motion to dismiss the Fourth and Fifth Causes of Action was granted without prejudice.

KEY QUOTATIONS

"In Henderson, the Ninth Circuit identified five factors courts must consider in evaluating whether dismissal for lack of opposition is warranted: (1) the public's interest expeditious resolution of litigation, (2) the court's need to manage its docket, (3) the > of prejudice to the defendant, (4) the public policy favoring disposition of cases on © || their merits, and (5) the availability of less drastic sanctions." (at 2)

"Plaintiffs Fourth and Fifth Causes of Action are DISMISSED WITHOUT PREJUDICE for lack of opposition." (at 3)

FACTUAL BACKGROUND

Plaintiff Miguel Torres filed an action against General Motors LLC and Doe defendants. After removal, GM sought dismissal of the Fourth and Fifth Causes of Action. Plaintiff received notice of the motion but filed neither an opposition nor a request for an extension by the applicable deadline.

PROCEDURAL HISTORY

Plaintiff filed the complaint in San Diego Superior Court on November 25, 2024. General Motors removed the action to the Southern District of California on December 27, 2024, invoking federal-question jurisdiction under 28 U.S.C. § 1331. GM moved to dismiss the Fourth and Fifth Causes of Action on January 3, 2025. The court vacated the hearing, took the motion under submission without oral argument, and granted dismissal without prejudice because plaintiff did not timely oppose the motion.

DISPOSITION

dismissed

CASES CITED

- Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995)
- Henderson v. Duncan, 779 F.2d 1421, 1423 (9th Cir. 1986)

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