

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PRECEDENTIAL VALUE	unpublished district court order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)

OPINION

Torres v. General Motors LLC

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 MIGUEL TORRES,) Case No.: 24-cv-02474-BEN-JLB) 12 Plaintiff,

) ORDER GRANTING MOTION TO

13 v.) DISMISS WITHOUT PREJUDICE

) 14 GENERAL MOTORS LLC, a limited) liability company; and DOES 1 through 15) 10
inclusive,) 16 Defendants.) 17

I. INTRODUCTION

18 Before the Court is Defendant General Motors LLC’s (“GM”) Motion to Dismiss 19 the
Complaint, filed on January 3, 2025, pursuant to Federal Rule of Civil Procedure 20 12(b)(6).
(ECF No. 4). The Motion was originally noticed for hearing on February 3, 21 2025. However, the
Court, exercising its discretion to manage its docket, vacated the 22 hearing date sua sponte and
took the matter under submission without oral argument. 23 Plaintiff was served with the Motion
to Dismiss and, pursuant to the Civil Local 24 Rules, was expected to respond within the time
provided by the rules. Plaintiff has not 25 filed any response or requested an extension of time.
The Court now considers whether 26 dismissal of the action is appropriate, considering the Court
is not in receipt of any 27 opposition. For the reasons discussed below, the Court GRANTS the
Motion to Dismiss 28 1 WITHOUT PREJUDICE. 2

II. PROCEDURAL BACKGROUND

3 Plaintiff filed the Complaint in San Diego Superior Court on November 25, 2024. 4 (ECF No.
1). Defendant GM removed the case to this Court on December 27, 2024, 5 asserting federal
jurisdiction under 28 U.S.C. § 1331. (ECF No. 1). On January 3, 2025, 6 GM filed its Motion to
Dismiss the Fourth and Fifth Causes of Action of the Complaint 7 under Fed. R. Civ. P. 12(b)(6).
(ECF No. 4). The hearing on the motion was initially set 8 for February 3, 2025, but was vacated
by this Court and taken under submission. 9 Under Civil Local Rule 7.1(e)(2), Plaintiff was
required to file any opposition 10 papers no later than fourteen (14) calendar days before the
hearing date—on or before

11 January 20, 2025. To date, no opposition has been filed.

12 III. LEGAL STANDARD

13 Dismissal of an action is authorized under several provisions of the Federal Rules 14 of Civil
Procedure and the Civil Local Rules of this District when the deadline for filing a 15 response has
passed without any opposition appearing on the docket. Rule 12(b)(6) 16 permits dismissal where
a complaint fails to state a claim upon which relief can be 17 granted. Rule 41(b) authorizes
dismissal “[i]f the plaintiff fails to prosecute or to comply 18 with these rules or a court order.” See

Fed. R. Civ. P. 41(b). 19 Civil Local Rule 7.1(e)(2) requires that opposition briefs be filed at least fourteen 20 (14) calendar days before the hearing date. Rule 7.1(f)(3)(c) provides that in the event a 21 party does not timely oppose a motion, this “may constitute a consent to the granting of a 22 motion or other request for ruling by the court.” Civil Local Rule 83.1(a) further 23 authorizes dismissal. 24 The Ninth Circuit has repeatedly upheld dismissals in similar circumstances. See 25 *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (affirming dismissal where plaintiff [did 26 not] comply with local rule requiring timely opposition); *Henderson v. Duncan*, 779 F.2d 27 1421, 1423 (9th Cir. 1986) (articulating five-factor test for dismissal under Rule 41(b)). 28 ///

IV. DISCUSSION

2 In *Henderson*, the Ninth Circuit identified five factors courts must consider in 3 evaluating whether dismissal for lack of opposition is warranted: (1) the public’s interest 4 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. /d. at 1423. 7 All five factors support dismissal here. First, the absence of a timely opposition 8 delays resolution and frustrates the public interest in efficient administration of justice. 9 Second, the court’s need to manage its docket weighs heavily in favor of dismissal, as 10 procedural compliance is necessary to orderly adjudication. Third, GM faces prejudice 1! || from continued uncertainty and expense in litigating claims to which no response has 12 made. Fourth, although disposition on the merits is generally preferred, Plaintiffs 13 inaction outweighs merit-based preference. Finally, no lesser sanction would be effective 14 || under the circumstances. Plaintiffs had normal notice and opportunity to respond and 13 not done so. 16 Additionally, the lack of a filed opposition within the time required by Civil Local 17 7.1(e)(2) constitutes consent to granting the motion under Civil Local Rule 18 117.1(3)().

19 V. CONCLUSION

20 For the foregoing reasons, and pursuant to Fed. R. Civ. P. 12(b)(6), 41(b), and 21 || Civil Local Rules 7.1 and 83.1, the Court hereby ORDERS as follows: 22 1. Defendant GM’s Moton to Dismiss (ECF No. 4) is GRANTED; 23 2. Plaintiffs Fourth and Fifth Causes of Action are DISMISSED WITHOUT 24 PREJUDICE for lack of opposition. 25 IT IS SO ORDERED. (: 26 || DATED: May 16, 2025

7 HON. ROGER T. BENITEZ

28 United States District Judge 3.