

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

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.

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