

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Rodriguez v. Google LLC

No. 20-cv-04688-RS (N.D. Cal. Aug. 12, 2025) · No. 20-cv-04688-RS · Decided August 12, 2025

SUMMARY

The Northern District of California granted Sal Cataldo’s motion to voluntarily dismiss his claims without prejudice under Federal Rule of Civil Procedure 41(a)(2). The court held that Google had not shown the plain legal prejudice necessary to prevent the dismissal, including prejudice related to class representation and trial preparation. The court denied plaintiffs’ motion to exclude Cataldo’s deposition, concluding that the testimony remained relevant and could be admissible as unavailable-witness testimony or a party admission.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Richard Seeborg
JURISDICTION	United States District Court for the Northern District of California
DECIDED	August 12, 2025
DOCKET	20-cv-04688-RS
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff Sal Cataldo moved under Federal Rule of Civil Procedure 41(a)(2) to dismiss his claims without prejudice after an answer had been filed. Plaintiffs also moved in limine to exclude Cataldo's deposition testimony. The court granted the voluntary dismissal and denied the motion in limine.
STANDARD OF REVIEW	Under Rule 41(a)(2), dismissal after an answer has been filed is committed to the court's discretion and ordinarily should be granted unless the defendant demonstrates plain legal prejudice. Evidentiary admissibility was evaluated under the Federal Rules of Evidence.
PRECEDENTIAL VALUE	Unknown; federal district court order

TOPICS

- civil procedure
- motion in limine
- class actions
- hearsay
- evidence

PRACTICE AREAS

civil procedure

evidence

class actions

consumer privacy

QUESTIONS PRESENTED

1. Whether Cataldo should be permitted to voluntarily dismiss his claims without prejudice under Federal Rule of Civil Procedure 41(a)(2) over Google's objection.
2. Whether Cataldo's deposition testimony could be admitted despite his voluntary dismissal and Plaintiffs' hearsay objection.

HOLDINGS

1. A plaintiff who seeks dismissal after an answer has been filed should ordinarily be allowed to dismiss without prejudice unless the defendant establishes plain legal prejudice to a legal interest, legal claim, or legal argument. Google's loss of preferred live testimony, litigation expenses, trial preparation, and concern about the class did not constitute plain legal prejudice.
2. Cataldo's deposition was not inadmissible hearsay merely because he had been voluntarily dismissed. If Cataldo was unavailable, the sworn deposition could be admissible under Federal Rule of Evidence 804(a)(5)(A); even if available, his testimony could be admitted as a party-opponent admission under Rule 801(d)(2)(A).

KEY QUOTATIONS

“Such dismissal should be granted “unless a defendant can show that it will suffer some plain legal prejudice as a result.”” (at 1)

““Plain legal prejudice” means “prejudice to some legal interest, some legal claim, some legal argument.”” (at 1)

“None, however, amount to the sort of legal prejudice that could warrant forcing a plaintiff to prosecute a case he wants to drop.” (at 2)

““[N]o plaintiff should be forced to remain a plaintiff involuntarily unless a compelling reason exists.”” (at 3)

“Thus, Cataldo’s availability for trial aside, his deposition is not inadmissible hearsay and may be admitted as evidence.” (at 4)

FACTUAL BACKGROUND

Cataldo was a class representative who had been found to be an adequate and typical representative and had participated in a noticed deposition with counsel present. He agreed to dismiss his claims without prejudice less than three weeks before trial. Google argued that his departure would impair its defense, threaten the class, and deprive it of favorable live testimony, while Plaintiffs argued that his deposition was inadmissible hearsay.

PROCEDURAL HISTORY

Cataldo was a named plaintiff and class representative who had previously given a noticed deposition. Shortly before trial, he moved to dismiss his claims without prejudice. Google opposed the dismissal and opposed exclusion of Cataldo's deposition testimony. The district court granted dismissal but held that the deposition could be admitted at trial.

DISPOSITION

other

CASES CITED

- Westlands Water Dist. v. United States, 100 F.3d 94, 96-97
- In re Vitamins Antitrust Litig., 198 F.R.D. 296, 304 (D.D.C. 2000)
- Doe v. Arizona Hosp. and Healthcare Ass'n, No. 07-cv-1292-PHX-SRB, 2009 WL 1423378, at *13 (D. Ariz. 2009)
- Kurin, Inc. v. Magnolia Med. Tech., Inc., 2021 WL 5823707, at *2 (9th Cir. 2021)
- Hamilton v. Firestone Tire & Rubber Co., 679 F.2d 143, 145 (9th Cir. 1982)
- Ormond v. Anthem, Inc., No. 1:05-cv-1908-TWP-TAB, 2012 WL 1596321, at *2-*3 (S.D. Ind. 2012)
- Dysthe v. Basic Research, L.L.C., 273 F.R.D. 625, 629 (C.D. Cal. 2011)
- Opperman v. Path, Inc., No. 13-cv-453-JST, 2015 WL 9311888, at *3 (N.D. Cal. 2015)
- Pierce v. County of Orange, 526 F.3d 1190, 1202 n.9 (9th Cir. 2008)

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