

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA

**Bennett v. Via Path Technologies, et al.**

Bennett · No. 2:24-cv-0769-TLN-CKD P · Decided July 30, 2025

SUMMARY

The magistrate judge recommends dismissing the action without prejudice because the plaintiff did not file an amended complaint or request an extension after the original complaint was dismissed with leave to amend. The recommendation is submitted to the assigned district judge under 28 U.S.C. § 636(b)(1), and the plaintiff is given fourteen days to file objections.

CASE DETAILS

|                       |                                                                                                                                                                            |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of California                                                                                                        |
| WRITING FOR THE COURT | Carolyn K. Delaney                                                                                                                                                         |
| JURISDICTION          | United States District Court for the Eastern District of California                                                                                                        |
| DECIDED               | July 30, 2025                                                                                                                                                              |
| DOCKET                | 2:24-cv-0769-TLN-CKD P                                                                                                                                                     |
| DISPOSITION           | other                                                                                                                                                                      |
| PROCEDURAL POSTURE    | Findings and recommendations by a magistrate judge recommending dismissal without prejudice after plaintiff failed to file an amended complaint within the granted period. |
| PRECEDENTIAL VALUE    | Nonprecedential findings and recommendations; not a final district court judgment in the source document.                                                                  |
| PARTIES               | David Bennett v. Via Path Technologies, et al.                                                                                                                             |

TOPICS

- civil procedure
- pleadings
- default

PRACTICE AREAS

- Civil procedure
- Prisoner civil rights

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice when the plaintiff failed to file an amended complaint within the time allowed and did not seek an extension.

## HOLDINGS

1. The magistrate judge recommended that the action be dismissed without prejudice because plaintiff failed to file an amended complaint or seek an extension after the court-ordered deadline expired.

## KEY QUOTATIONS

“Accordingly, *IT IS HEREBY RECOMMENDED* that this action be dismissed without prejudice.” (at 1)

## FACTUAL BACKGROUND

Plaintiff's complaint was dismissed, and he was granted thirty days to file an amended complaint. Plaintiff neither filed an amended complaint nor sought an extension of time after the deadline expired.

## PROCEDURAL HISTORY

The court previously dismissed plaintiff's complaint by order filed May 29, 2025, while granting thirty days leave to amend. The deadline expired without an amended complaint or a request for an extension. The magistrate judge therefore recommended dismissal without prejudice and advised plaintiff of the fourteen-day objection period under 28 U.S.C. § 636(b)(1).

## DISPOSITION

other

## CASES CITED

- Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991)

## INSTRUCTIONS FOR AN AI ASSISTANT

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