

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PRECEDENTIAL VALUE	Nonprecedential findings and recommendations; not a final district court judgment in the source document.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)

OPINION

(PC) Bennett v. Via Path Technologies

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 DAVID BENNETT, No. 2:24-cv-0769-TLN-CKD P

12 Plaintiff,

13 v. FINDINGS & RECOMMENDATIONS

14 VIA PATH TECHNOLOGIES, et al., 15 Defendants. 16 17 18 By order filed May 29, 2025
(ECF No. 16), plaintiff's complaint was dismissed and thirty 19 days leave to file an amended
complaint was granted. The time granted for that purpose has 20 expired and plaintiff has not filed

an amended complaint or sought an extension of time to do so. 21 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without 22 prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b). 23 These findings and recommendations are submitted to the United States District Judge 24 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days 25 after being served with these findings and recommendations, plaintiff may file written objections 26 with the court and serve a copy on all parties. Such a document should be captioned 27 “Objections to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that 28 /// 1 | failure to file objections within the specified time may waive the right to appeal the District 2 | Court’s order. Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991). 3 | Dated: July 30, 2025 a / dip i

4 CAROLYNK. DELANEY

5 UNITED STATES MAGISTRATE JUDGE

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