

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Theresa Brooke, et al. v. Castle Investments LLC

Case No. 1:25-cv-01194-KES-CDB · No. 1:25-cv-01194-KES-CDB · Decided January 6, 2026

OPINION

Brooke

PER CURIAM.

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UNITED STATES DISTRICT COURT

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EASTERN DISTRICT OF CALIFORNIA

10 11 THERESA BROOKE, et al., Case No. 1:25-cv-01194-KES-CDB 12 Plaintiffs, FINDINGS
AND RECOMMENDATIONS TO

DISMISS ACTION WITHOUT PREJUDICE

13 v. FOR PLAINTIFF’S FAILURE TO PROSECUTE

AND TO OBEY COURT ORDERS

14 CASTLE INVESTMENTS LLC,

(Doc. 16) 15 Defendant.

14-DAY OBJECTION PERIOD

16 17 Relevant Background 18 Plaintiff Theresa Brooke (“Plaintiff”) initiated this action with the
filing of a complaint 19 against Defendant Castle Investments LLC (“Defendant”), alleging
violations of the Americans 20 with Disabilities Act (“ADA”) and California’s Unruh Civil Rights
Act (“Unruh Act”). (Doc. 1). 21 On November 18, 2025, following the filing by counsel for
Plaintiff of a notice regarding 22 settlement and declaration that Plaintiff’s appointed personal
representative approved the 23 settlement of this case, the Court directed the parties to file
dispositional documents no later than

24 December 4, 2025, and vacated all other case management dates, conferences, and filing

25 requirements. (Doc. 13) (citing Local Rule 160(b)). 26 On the deadline to file dispositional
documents, Plaintiff filed a motion for three-week 27 extension of time to make the filing. (Doc.

15). The following day, the Court granted Plaintiff’s 28 request to extend time to file dispositional
documents to December 29, 2025. (Doc. 16). Plaintiff 1 was admonished that no further

extensions of the deadline to file dispositional documents would 2 be granted absent the timely
filing of (1) a notice of appearance by counsel for Defendant, and (2) 3 a declaration of counsel
for Plaintiff demonstrating extraordinary circumstances unrelated to the 4 parties’ performance
under any private settlement agreement in this matter that warrants any further 5 extension. Id.

Plaintiff was forewarned that any failure to timely comply with this order would result in a recommendation by the undersigned to dismiss this action for Plaintiff's failure to prosecute and failure to comply with a court order. *Id.* As Plaintiff has failed to file dispositional documents or otherwise comply with the Court's order in seeking a further extension of the deadline by timely filing a notice of appearance by counsel for Defendant and a declaration of counsel for Plaintiff demonstrating extraordinary circumstances, and the deadline to do so has passed, for the reasons below, the undersigned will recommend that the Court dismiss this action without prejudice. Governing Legal Standards Local Rule 110, corresponding with Federal Rule of Civil Procedure 11, provides that "[f]ailure of counsel or of a party to comply with these Rules or with any order of the Court may be grounds for imposition by the Court of any and all sanctions . . . within the inherent power of the Court." Local Rule 110. The Court has the inherent power to control its docket and may, in the exercise of that power, impose sanctions where appropriate, including dismissal of the action. *Bautista v. Los Angeles Cnty.*, 216 F.3d 837, 841 (9th Cir. 2000). A court may dismiss an action based on a party's failure to prosecute an action, obey a court order, or comply with local rules. See, e.g., *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with a court order to amend a complaint); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130-31 (9th Cir. 1987) (dismissal for failure to comply with a court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for failure to prosecute and to comply with local rules). "In determining whether to dismiss an action for lack of prosecution, the district court is required to weigh several factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions." *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (internal quotation marks & citation omitted). These factors guide a court in deciding what to do and are not conditions that must be met in order for a court to take action. In *re Phenylpropanolamine (PPA) Products Liability Litigation*, 460 F.3d 1217, 1226 (9th Cir. 2006) (citation omitted). Separately, Local Rule 160(b) provides that a party's "failure to file dispositional papers on the date prescribed by the Court may be grounds for sanctions." Local Rule 160(b). Discussion Here, Plaintiff has failed to comply with the Court's orders and Local Rules. Plaintiff has failed to file dispositional documents by the December 29, 2025, deadline or to otherwise comply with the Court's order in seeking an extension of the deadline to do so, and the time to do so has passed. There are no other reasonable alternatives available to address Plaintiff's failure to respond and otherwise obey this Court's orders. Thus, the first and second factors—the expeditious resolution of litigation and the Court's need to manage its docket—weigh in favor of dismissal. *Carey*, 856 F.2d at 1440. The third factor, risk of prejudice to Defendant, also weighs fairly in favor of dismissal since a presumption of injury arises from the occurrence of unreasonable delay in prosecuting an action. See *Anderson v. Air W.*, 542 F.2d 522, 524 (9th Cir. 1976). This matter

cannot proceed further without Plaintiff's participation to prosecute the case and file dispositional documents as ordered following Plaintiff's filing of a notice of settlement. (Docs. 13, 16). The presumption of injury holds given Plaintiff's unreasonable delay in prosecuting this action. Thus, the third factor—a risk of prejudice to the Defendant—also weighs in favor of dismissal. *Carey*, 856 F.2d at 1440. The fourth factor usually weighs against dismissal because public policy favors disposition on the merits. *Pagtalunan v. Galaza*, 291 F.3d 639, 643 (9th Cir. 2002). However, "this factor lends little support to a party whose responsibility it is to move a case toward disposition on the merits but whose conduct impedes progress in that direction." *In re PPA*, 460 F.3d at 1228. Plaintiff has not moved this case forward toward disposition on the merits. Plaintiff has instead failed to comply with this Court's orders, the Federal Rules of Civil Procedure, and the Local Rules, 1 and by doing so, is impeding the progress of this action. Therefore, the fourth factor—the public policy favoring disposition of cases on their merits—also weighs in favor of dismissal. *Carey*, 3 856 F.2d at 1440. 4 Finally, the Court's warning to a party that failure to obey the court's order will result in 5 dismissal satisfies the "considerations of the alternatives" requirement. *Ferdik*, 963 F.2d at 1262. 6 Here, the Court's order granting additional time for Plaintiff to file dispositional documents or to 7 comply in seeking any further extension thereto, cautioned: "Any failure by Plaintiff to timely 8 comply with this order will result in a recommendation by the undersigned to dismiss this action 9 for Plaintiff's failure to prosecute and failure to comply with a court order." (Doc. 16). 10 Plaintiff was adequately forewarned that the failure to timely comply with the Court's order 11 could result in terminating sanctions. Because Plaintiff has failed to comply with this Court's 12 orders and in so doing is failing to prosecute their case, the undersigned will recommend dismissal 13 of this action. 14 15 16 Remainder of This Page Intentionally Left Blank 17 18 19 20 21 22 23 24 25 26 27 28

1 Conclusion, Order, and Recommendation 2 For the reasons set forth above, IT IS RECOMMENDED as follows: 3 1. The Court DISMISS this action without prejudice for Plaintiff's failure to prosecute this 4 action and to comply with the Court's orders and Local Rules. See Local Rules 110, 160(b); 5 and 6 2. The Clerk of the Court be directed close this case. 7 These Findings and Recommendations will be submitted to the United States District Judge 8 || assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(). Within 14 days after 9 | being served with a copy of these Findings and Recommendations, a party may file written 10 | objections with the Court. Local Rule 304(b). The document should be captioned, "Objections to 11 | Magistrate Judge's Findings and Recommendations" and shall not exceed 15 pages without leave 12 | of Court and good cause shown. The Court will not consider exhibits attached to the Objections, 13 | but a party may refer to exhibits in the record by CM/ECF document and page number. Any pages 14 | filed in excess of the 15-page limitation may be disregarded by the District Judge when reviewing 15 | these Findings and Recommendations under 28 U.S.C. § 636(b)(I)(C). A party's failure to file any 16 | objections within the specified time may result in the waiver of certain rights on appeal. *Wilkerson* 17 | v. *Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014).

18 | Tr Is SO ORDERED. 19 | }) Bo Dated: _ January 6, 2026

20 UNITED STATES MAGISTRATE JUDGE

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