

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Toepper v. City of Vallejo

No. 2:24-cv-02366-KJM-CSK (E.D. Cal. Feb. 27, 2025) · No. 2:24-cv-02366-KJM-CSK · Decided February 28, 2025

SUMMARY

The United States District Court for the Eastern District of California issues an order to show cause in Toepper v. City of Vallejo. The court gives the pro se plaintiffs twenty-one days to file an amended complaint, respond to the order to show cause, and for specified plaintiffs to provide current addresses. The order warns that failure to comply may result in a recommendation to dismiss the action for failure to prosecute.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Chi Soo Kim
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	February 28, 2025
DOCKET	2:24-cv-02366-KJM-CSK
DISPOSITION	other
PROCEDURAL POSTURE	In a pro se civil-rights action, the magistrate judge issued an order to show cause after the plaintiffs failed to file an amended complaint within the court-ordered deadline and several plaintiffs failed to maintain current addresses with the court.
PRECEDENTIAL VALUE	unknown
PARTIES	Robert Toepper, Shawn O’Malley, Joan Alford, James Nelson, Pam Nelson, Cassandra Salinas, Michael L. Mardell v. City of Vallejo, other defendants

TOPICS

- sanctions
- civil procedure
- service of process
- pleadings

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the court should issue an order to show cause and provide a final opportunity to comply before recommending dismissal for failure to prosecute and failure to obey court orders.
2. Whether plaintiffs' failure to file an amended complaint and six plaintiffs' failure to maintain current addresses violated applicable federal and local rules and could support involuntary dismissal.

HOLDINGS

1. A district court may impose sanctions, including involuntary dismissal under Federal Rule of Civil Procedure 41(b), when a plaintiff fails to prosecute or fails to comply with court orders, the Federal Rules of Civil Procedure, or local rules.
2. A pro se plaintiff must keep the court and opposing parties informed of the plaintiff's current address, and failure to update an address after mail is returned may support dismissal for failure to prosecute.

KEY QUOTATIONS

"A party appearing in propria persona shall keep the Court and opposing parties advised as to his or her current address. If mail directed to a plaintiff in propria persona by the Clerk is returned by the U.S. Postal Service, and if such plaintiff fails to notify the Court and opposing parties within thirty (30) days thereafter of a current address, the Court may dismiss the action without prejudice for failure to prosecute." (at 3)

FACTUAL BACKGROUND

The district judge adopted an order dismissing plaintiffs' complaint without prejudice and granting leave to amend within thirty days. Plaintiffs failed to file an amended complaint by the deadline. Mail containing court orders was returned as undeliverable for six plaintiffs beginning in October 2024, and those plaintiffs did not update their addresses despite being reminded of their obligation to do so.

PROCEDURAL HISTORY

The court previously recommended denying plaintiffs' motion for a temporary restraining order and preliminary injunction and dismissing the complaint without prejudice. No objections were filed, and the district judge adopted the findings and recommendations on December 6, 2024, dismissed the complaint with leave to amend, and ordered an amended complaint within thirty days. Plaintiffs did not file an amended complaint; mail to six plaintiffs was repeatedly returned as undeliverable. The court issued this order to show cause, allowing twenty-one days to respond, file an amended complaint, and, for the affected plaintiffs, provide current addresses.

DISPOSITION

other

CASES CITED

- Chambers v. NASCO, Inc., 501 U.S. 32, 44 (1991)
- Hells Canyon Preservation Council v. U.S. Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1260 (9th Cir. 1992), as amended (May 22, 1992)

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