

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Adam Loew v. Sycamore Grove of Simi Valley, et al.

Loew v. Sycamore Grove · No. 2:25-cv-03363-FMO (E) · Decided May 27, 2025

SUMMARY

The United States District Court for the Central District of California dismissed Adam Loew’s housing-discrimination action without prejudice under Federal Rule of Civil Procedure 41(b). The court found that Plaintiff failed to comply with an order requiring him to submit a renewed in forma pauperis request or pay the filing fee and file an amended complaint. The court determined that four of the five Ninth Circuit dismissal factors supported dismissal.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Fernando M. Olguin
JURISDICTION	United States District Court for the Central District of California
DECIDED	May 27, 2025
DOCKET	2:25-cv-03363-FMO (E)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff filed a housing-discrimination complaint and a request to proceed in forma pauperis. After postponing ruling on the IFP request, the court ordered Plaintiff to submit a renewed IFP request or pay the filing fee and to file an amended complaint. Plaintiff failed to comply, and the court dismissed the action without prejudice under Federal Rule of Civil Procedure 41(b).
STANDARD OF REVIEW	A district court's dismissal for failure to prosecute or comply with a court order under Rule 41(b) is evaluated under the Ninth Circuit's five-factor test: the public interest in expeditious resolution, the court's need to manage its docket, the risk of prejudice to defendants, the public policy favoring disposition on the merits, and the availability of less drastic alternatives.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

civil procedure

sanctions

pleadings

civil rights

PRACTICE AREAS

civil procedure

civil rights

housing discrimination

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) because Plaintiff failed to comply with the court's order to renew his IFP request or pay the filing fee and file an amended complaint.
2. Whether the Ninth Circuit's five-factor test for dismissal as a sanction supports dismissal under the circumstances.

HOLDINGS

1. Under Federal Rule of Civil Procedure 41(b), a district court may dismiss an action without prejudice when a plaintiff fails to comply with the court's order, including an order requiring an amended complaint.
2. Dismissal without prejudice was warranted because four of the five Ninth Circuit factors supported dismissal: expeditious resolution, docket management, prejudice to defendants, and availability of less drastic alternatives; only the policy favoring merits dispositions weighed against dismissal.

KEY QUOTATIONS

“A district court has the inherent power under Federal Rule of Civil Procedure 41(b) to dismiss an action for failure to prosecute or to comply with the court’s order.” (Discussion, A)

“Four of the five factors support dismissal of the action for failure to comply with an Order of the Court. Thus, dismissal without prejudice is warranted.” (Conclusion)

FACTUAL BACKGROUND

Plaintiff alleged housing discrimination in a complaint filed on April 16, 2025. The court postponed ruling on his request to proceed in forma pauperis and ordered him either to submit a new IFP request or pay the filing fee, while also requiring an amended complaint. Despite a thirty-day deadline and an explicit warning that noncompliance could result in dismissal, Plaintiff filed neither the required financial submission or payment nor an amended complaint.

PROCEDURAL HISTORY

On April 16, 2025, Plaintiff filed the complaint and an IFP request. On April 21, 2025, the court gave Plaintiff thirty days to provide additional information, renew the IFP request or pay the filing fee, and file an amended complaint, warning that noncompliance could result in dismissal. Plaintiff did not comply, so the court dismissed the action without prejudice.

DISPOSITION

dismissed

CASES CITED

- Link v. Wabash R. Co., 370 U.S. 626, 631 (1962)
- Applied Underwriters, Inc. v. Lichtenegger, 913 F.3d 884, 891 (9th Cir. 2019)
- Yourish v. California Amplifier, 191 F.3d 983, 986, 990-91 (9th Cir. 1999)
- Hernandez v. City of El Monte, 138 F.3d 393, 399 (9th Cir. 1998)
- Pagtalunan v. Galaza, 291 F.3d 639, 642 (9th Cir. 2002)
- Irvin v. Madrid, 749 F. App'x 546, 547 (9th Cir. 2018)
- In re Eisen, 31 F.3d 1447, 1452-53 (9th Cir. 1994)
- In re Phenylpropanolamine (PPA) Products Liability Litigation, 460 F.3d 1217, 1228-29 (9th Cir. 2006)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992)

OPINION

Adam Loew v. Sycamore Grove of Simi Valley

PER CURIAM.

1 2 3 4 5 6 JS-6 7

8 UNITED STATES DISTRICT COURT

9 CENTRAL DISTRICT OF CALIFORNIA

10 11 ADAM LOEW, Case No. 2:25-cv-03363-FMO (E) 12 Plaintiff, ORDER DISMISSING
ACTION

WITHOUT PREJUDICE FOR

13

FAILURE TO COMPLY WITH A

v.

COURT ORDER

14

SYCAMORE GROVE OF SIMI

15 VALLEY, et al., 16 Defendants. 17 18 19 On April 16, 2025, Plaintiff filed a Complaint and a
Request to Proceed in 20 Forma Pauperis (“IFP request”). (ECF Nos. 1, 3.) In the Complaint,
Plaintiff 21 alleged housing discrimination. (ECF No. 1.) 22 On April 21, 2025, the Court
postponed ruling on Plaintiff’s IFP request for 23 30 days until he provided more information.
(ECF No. 10.) The Court ordered 24 Plaintiff to file a new IFP request or pay the filing fee and
also ordered him to file 25 an Amended Complaint. (ECF No. 10.) The Court warned Plaintiff that
the 26 failure to comply could result in the dismissal of the action without prejudice. (Id.) 27 As of
this date, more than thirty days later, Plaintiff has not complied with 28 the Court’s order.

1 DISCUSSION

2 A. Legal Standard. 3 A district court has the inherent power under Federal Rule of Civil
Procedure 4 41(b) to dismiss an action for failure to prosecute or to comply with the court's 5
order. *Link v. Wabash R. Co.*, 370 U.S. 626, 631 (1962). Specifically, the failure of 6 a plaintiff to
comply with a district court's order to file an amended complaint is 7 properly met with the
sanction of dismissal under Rule 41(b). *Applied 8 Underwriters, Inc., v. Lichtenegger*, 913 F.3d
884, 891 (9th Cir. 2019) (collecting 9 cases). "Under Ninth Circuit precedent, when a plaintiff fails
to amend his 10 complaint after the district judge dismisses the complaint with leave to amend, the
11 dismissal is typically considered a dismissal for failing to comply with a court order 12 rather
than for failing to prosecute the claim." *Yourish v. California Amplifier*, 191 13 F.3d 983, 986 (9th
Cir. 1999). 14 "[I]n order for a court to dismiss a case as a sanction, the district court must 15
consider five factors: '(1) the public's interest in expeditious resolution of litigation; 16 (2) the
court's need to manage its docket; (3) the risk of prejudice to the defendants; 17 (4) the public
policy favoring disposition of cases on their merits; and (5) the 18 availability of less drastic
alternatives.'" *Yourish*, 191 F.3d at 986 (quoting 19 *Hernandez v. City of El Monte*, 138 F.3d 393,
399 (9th Cir. 1998)). A district 20 court's sanction of dismissal generally will be affirmed where at
least four factors 21 support dismissal or where at least three factors strongly support it.
Hernandez, 138 22 F.3d at 399. As stated below, four of the five factors support dismissal. 23 B.
Analysis. 24 1. The Public's Interest in Expeditious Resolution. 25 The first factor supports
dismissal. "[T]he public's interest in expeditious 26 resolution of litigation always favors
dismissal." *Yourish*, 191 F.3d at 990. 27 2. The Court's Need to Manage Its Docket 28 The second
factor also supports dismissal. Plaintiff's failure to respond to 1 the Court's Order interferes with
the Court's ability to manage its docket. See 2 *Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir.
2002) ("The trial judge is in the 3 best position to determine whether the delay in a particular case
interferes with 4 docket management and the public interest. Arguably, *Pagtalunan's* petition has 5
consumed some of the court's time that could have been devoted to other cases on 6 the docket.")
(internal citation omitted); see also *Irvin v. Madrid*, 749 F. App'x 7 546, 547 (9th Cir. 2019) ("The
second factor also favors dismissal because the 8 district court is in the best position to determine
whether a particular set of 9 circumstances interferes with docket management."). 10 3. The Risk
of Prejudice to Defendants. 11 The third factor also supports dismissal. The risk of prejudice is
"related to the 12 plaintiff's reason for defaulting in failing to timely amend." *Yourish*, 191 F.3d at
13 991. The record suggests no apparent reason for Plaintiff's failure to comply with or 14 respond
to the Court's Order. This indicates sufficient prejudice to Defendant. See 15 *In re Eisen*, 31 F.3d
1447, 1452-53 (9th Cir. 1994) (recognizing that the law 16 presumes injury to the defendants from
unreasonable delay). 17 4. The Public Policy Favoring Disposition of the Merits. 18 The fourth
factor weighs against dismissal. "We have often said that the 19 public policy favoring disposition
of cases on their merits strongly counsels against 20 dismissal." *In re Phenylpropanolamine (PPA)*
Products Liability Litigation, 460 21 F.3d 1217, 1228 (9th Cir. 2006) (citing *Hernandez*, 138 F.3d
at 399). On the other 22 hand, "this factor lends little support to a party whose responsibility it is

to move a 23 case toward disposition on the merits but whose conduct impedes progress in that 24 direction.” Products Liability Litigation, 460 F.3d at 1228 (citations and quotation 25 marks omitted). Thus, this factor alone does not preclude dismissal. 26 5. The Availability of Less Drastic Alternatives. 27 The fifth factor supports dismissal. “Here the fact that the [Court] allowed 28 [Plaintiff] an additional thirty days to amend his complaint . . . constituted an 1 attempt at a less drastic sanction than outright dismissal.” *Ferdik v. Bonzelet*, 963 2 F.2d 1258, 1262 (9th Cir. 1992). The Court also warned Plaintiff that the failure to 3 comply with the Court’s Order to amend his Complaint would result in dismissal. 4 See Products Liability Litigation, 460 F.3d at 1229 (“Warning that failure to obey a 5 court order will result in dismissal can itself meet the ‘consideration of alternatives’ 6 requirement.”) (citing, *inter alia*, *Ferdik*, 963 F.2d at 1262 (“Moreover, our 7 decisions also suggest that a district court’s warning to a party that his failure to 8 obey the court’s order will result in dismissal can satisfy the ‘consideration of 9 alternatives’ requirement.”))). Despite the Court’s warning, Plaintiff failed to file a 10 renewed IFP request or an Amended Complaint. 11 C. Conclusion. 12 Four of the five factors support dismissal of the action for failure to comply 13 with an Order of the Court. Thus, dismissal without prejudice is warranted.

14 ORDER

15 It is ordered that the action is dismissed without prejudice. Fed. R. Civ. P. 16 41(b). 17 18
DATED: May 27, 2025 19 20 /s/

FERNANDO M. OLGUIN

21 UNITED STATES DISTRICT JUDGE

22 23 24 25 26 27 28