

**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

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 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 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 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 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