

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Epifanio Choc v. Airstream Inc.

Choc · No. 8:25-cv-00976-KES · Decided July 7, 2025

SUMMARY

The United States District Court for the Central District of California dismissed Epifanio Choc’s action without prejudice for failure to prosecute. The court held that Plaintiff’s failure to respond to an order to show cause and failure to identify any Doe defendants justified dismissal under Federal Rule of Civil Procedure 41(b) and Central District of California Local Rule 41-1. The court evaluated the Ninth Circuit’s five-factor dismissal framework and concluded that the factors largely supported dismissal.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Karen E. Scott
JURISDICTION	United States District Court for the Central District of California
DECIDED	July 7, 2025
DOCKET	8:25-cv-00976-KES
DISPOSITION	dismissed
PROCEDURAL POSTURE	After removal from California state court and Plaintiff's voluntary dismissal of the only named defendant, the federal district court dismissed the action without prejudice for failure to prosecute after Plaintiff failed to respond to an order to show cause concerning jurisdiction and the unidentified Doe defendants.
STANDARD OF REVIEW	Abuse-of-discretion framework governing dismissal for failure to prosecute or failure to comply with court orders, evaluated under the Ninth Circuit's five-factor test.
PRECEDENTIAL VALUE	unpublished
PARTIES	Epifanio Choc v. Airstream Inc., et al.

TOPICS

- civil procedure
- motions to dismiss
- negligence
- premises liability
- personal injury

PRACTICE AREAS

civil procedure

personal injury

premises liability

negligence

QUESTIONS PRESENTED

1. Whether the action should be dismissed for failure to prosecute and failure to comply with the court's order to show cause.
2. Whether dismissal should be with or without prejudice.

HOLDINGS

1. A district court may dismiss an action under Federal Rule of Civil Procedure 41(b), applicable local rules, and the court's inherent authority when a plaintiff fails to prosecute or comply with court orders, after considering the relevant Ninth Circuit factors.
2. The dismissal should be without prejudice.

KEY QUOTATIONS

“The test is not “mechanical,” but provides a “non-exhaustive list of things” to “think about.”” (at 3)

“Given that the enumerated factors largely support dismissal, this action will be dismissed pursuant to Rule 41(b) and Local Rule 41-1.” (at 4)

“IT IS THEREFORE ORDERED that this action is dismissed without prejudice for failure to prosecute.” (at 4)

FACTUAL BACKGROUND

Plaintiff alleged that he fell through rotten wood on the roof of an Airstream-owned building in Westminster, California, while working as a roofer on November 22, 2022. He asserted state-law claims for negligence, premises liability, and concealment against Airstream and unidentified Doe defendants. After Airstream removed the case and was voluntarily dismissed, Plaintiff did not identify or serve any Doe defendant and did not respond to the court's order to show cause.

PROCEDURAL HISTORY

Plaintiff filed state-law claims for negligence, premises liability, and concealment in Orange County Superior Court. Airstream removed the action based on diversity jurisdiction. Plaintiff then voluntarily dismissed Airstream, leaving only unserved Doe defendants. The court ordered Plaintiff to show cause why the action should not be remanded or dismissed, but Plaintiff filed no response, leading the court to dismiss the action without prejudice under Federal Rule of Civil Procedure 41(b) and Central District of California Local Rule 41-1.

DISPOSITION

dismissed

CASES CITED

- Link v. Wabash R. Co., 370 U.S. 626, 629-30 (1962)
- Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995) (per curiam)
- Al-Torki v. Kaempfen, 78 F.3d 1381, 1385 (9th Cir. 1996)
- In re Phenylpropanolamine (PPA) Prods. Liab. Litig., 460 F.3d 1217, 1226 (9th Cir. 2006)
- Valley Eng'rs v. Elec. Eng'g Co., 158 F.3d 1051, 1057 (9th Cir. 1998)
- Yourish v. Cal. Amplifier, 191 F.3d 983, 990 (9th Cir. 1999)
- Pagtalunan v. Galaza, 291 F.3d 639, 642-43 (9th Cir. 2002)
- Hunter v. Sandoval, No. 17-cv-09257-CJC-SHK, 2018 U.S. Dist. LEXIS 210543, at *5, 2018 WL 6570870, at *2 (C.D. Cal. Dec. 12, 2018)
- In re Eisen, 31 F.3d 1447, 1452-53 (9th Cir. 1994)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992)