

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Gabriela Ortiz v. Mercedes-Benz USA, LLC

Ortiz · No. 1:25-cv-00373-KES-CDB · Decided November 6, 2025

SUMMARY

The United States Magistrate Judge recommends dismissing Gabriela Ortiz’s action against Mercedes-Benz USA, LLC with prejudice under Federal Rule of Civil Procedure 41(b). The recommendation is based on Plaintiff’s repeated failure to file dispositional documents, comply with court orders and Local Rule 160, and prosecute the settled action.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	November 6, 2025
DOCKET	1:25-cv-00373-KES-CDB
DISPOSITION	dismissed
PROCEDURAL POSTURE	Findings and recommendations by a United States magistrate judge recommending dismissal with prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute, failure to obey court orders, and failure to comply with local rules.
STANDARD OF REVIEW	Dismissal under Federal Rule of Civil Procedure 41(b) is governed by the Ninth Circuit's five-factor analysis: the public's 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PRECEDENTIAL VALUE	nonprecedential

TOPICS

- sanctions
- civil procedure
- breach of contract

PRACTICE AREAS

- civil procedure
- contracts
- remedies

QUESTIONS PRESENTED

1. Whether the action should be dismissed with prejudice under Federal Rule of Civil Procedure 41(b) because Plaintiff failed to prosecute the action, obey court orders, and comply with applicable local rules.
2. Whether the five Ninth Circuit Rule 41(b) dismissal factors supported dismissal despite the public policy favoring adjudication on the merits.
3. Whether the Court should retain jurisdiction to supervise the parties' private settlement agreement while attorney fees remained unresolved.

HOLDINGS

1. Dismissal with prejudice was warranted because Plaintiff repeatedly failed to file required dispositional documents, failed to comply with Court orders and Local Rule 160, and failed to diligently prosecute the action.
2. The Court should not maintain the case in active status to supervise performance of the parties' private settlement agreement because the parties did not show that exercising jurisdiction over settlement performance was essential to the conduct of federal-court business.

KEY QUOTATIONS

“The Court must analyze five factors before dismissing a case pursuant to Rule 41(b): “(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 alternatives.”” (at 2)

“Finally, the Court’s warning to a party that failure to obey the court’s order will result in dismissal satisfies the “considerations of the alternatives” requirement.” (at 4)

FACTUAL BACKGROUND

Plaintiff filed a contract action against Mercedes-Benz USA, LLC in state court, and Defendant removed it to federal court. The parties later filed a joint notice of settlement, after which the Court ordered Plaintiff to file dispositional documents by specified deadlines. Plaintiff failed to comply with the original deadline and the extended deadline, despite a warning that failure to comply could result in dismissal. Plaintiff ultimately filed only a status report stating that attorney fees remained unresolved and did not address the required dispositional documents.

PROCEDURAL HISTORY

Plaintiff filed the action in Kern County Superior Court, and Defendant removed it to the Eastern District of California. After the parties filed a joint notice of settlement, the Court ordered Plaintiff to file dispositional documents. Plaintiff failed to meet the original and extended deadlines, and the Court issued an order to show cause. Although the Court initially found excusable neglect and granted an extension, Plaintiff again failed to file the required dispositional documents, instead filing a status report stating that attorney fees remained unresolved.

The magistrate judge recommended dismissal with prejudice and closure of the case, subject to a 14-day objection period and review by the assigned district judge.

DISPOSITION

dismissed

CASES CITED

- Bautista v. Los Angeles County, 216 F.3d 837, 841 (9th Cir. 2000)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1260-62 (9th Cir. 1992)
- Malone v. U.S. Postal Service, 833 F.2d 128, 130-31 (9th Cir. 1987)
- Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986)
- Applied Underwriters, Inc. v. Lichtenegger, 913 F.3d 884, 891 (9th Cir. 2019)
- Yourish v. California Amplifier, 191 F.3d 983, 990 (9th Cir. 1999)
- Pagtalunan v. Galaza, 291 F.3d 639, 642-43 (9th Cir. 2002)
- In re Phenylpropanolamine (PPA) Products Liability Litigation, 460 F.3d 1217, 1226, 1228 (9th Cir. 2006)
- Anderson v. Air West, Inc., 542 F.2d 522, 524 (9th Cir. 1976)
- Kokkonen v. Guardian Life Insurance Co. of America, 511 U.S. 375, 381 (1994)
- Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)
- Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 GABRIELA ORTIZ, Case No. 1:25-cv-00373-KES-CDB 12 Plaintiff,
FINDINGS AND RECOMMENDATIONS TO DISMISS ACTION WITH PREJUDICE 13 v.
PURSUANT TO RULE 41(b) FOR PLAINTIFF’S FAILURE TO PROSECUTE, 14
MERCEDES-BENZ USA, LLC, FAILURE TO OBEY COURT ORDERS, AND FAILURE TO
COMPLY WITH LOCAL RULE 15 Defendant.

160 16 (Docs. 15, 16, 19) 17 14-DAY OBJECTION PERIOD 18 19 Background 20 Plaintiff
Gabriela Ortiz (“Plaintiff”) initiated this action with the filing of a complaint 21 against Defendant
Mercedes-Benz USA, LLC (“Defendant”) on February 14, 2025, in the Kern 22 County Superior
Court, Case No. BCV-25-100572. (Doc. 1). Defendant removed the case to this 23 Court on March
28, 2025.

Id. On August 13, 2025, the parties filed a joint notice of settlement. 24 (Doc. 14). Thereafter, the
Court directed Plaintiff to file dispositional documents no later than 25 September 29, 2025. (Doc.
15). 26 On September 30, 2025, after Plaintiff failed to timely file dispositional documents, the 27
Court ordered the parties to show cause in writing why sanctions should not be imposed for their
28 failure to comply with the Court’s orders and timely file dispositional documents.

(Doc. 16). The 1 parties were admonished that the failure to timely comply with the Court's order "will result in the 2 imposition of sanctions, through and including dismissal of the action." Id. After Plaintiff filed a 3 response (Doc. 17) and stipulated request for extension (Doc. 18), the Court concluded that the 4 parties' failure to file dispositional documents was the result of excusable neglect and discharged 5 the order to show cause without imposition of sanctions.

(Doc. 19). The Court granted as modified 6 the parties' request for an extension of the deadline to file dispositional documents nunc pro tunc 7 to November 3, 2025, and noted that "[b]ecause the Court does not deem a failure to perform under 8 a private settlement agreement to constitute good cause to delay disposing of a settled case, no 9 further extensions of the filing deadline will be granted absent a showing of good cause unrelated 10 to the parties' performance." See id. 11 On November 3, 2025, Plaintiff filed a status report in which counsel represented without 12 elaboration that "[d]espite Plaintiff's counsel's diligent efforts both preceding and following the 13 Court's October 3, 2025, Order, attorney's fees remain unresolved." (Doc.

20). Plaintiff's filing 14 does not address the issue of dispositional documents. As Plaintiff has twice failed to file 15 dispositional documents by the applicable deadline, for the reasons below, the undersigned will 16 recommend that the Court dismiss this action with prejudice. 17 Governing Legal Standards 18 Local Rule 110, corresponding with Federal Rule of Civil Procedure 11, provides that 19 "[f]ailure of counsel or of a party to comply with these Rules or with any order of the Court may 20 be grounds for imposition by the Court of any and all sanctions... within the inherent power of 21 the Court." E.D.

Cal. Local Rule 110. The Court has the inherent power to control its docket and 22 may, in the exercise of that power, impose sanctions where appropriate, including dismissal of the 23 action. *Bautista v. Los Angeles Cnty.*, 216 F.3d 837, 841 (9th Cir. 2000). A court may dismiss an 24 action based on a party's failure to prosecute an action, obey a court order, or comply with local 25 rules.

See, e.g., *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure 26 to comply with a court order to amend a complaint); *Malone v. U.S. Postal Service*, 833 F.2d 128, 27 130-31 (9th Cir. 1987) (dismissal for failure to comply with a court order); *Henderson v. Duncan*, 28 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for failure to prosecute and to comply with local 1 rules).

2 Federal Rule of Civil Procedure 41(b) allows the Court to dismiss an action if the plaintiff 3 fails to comply with a court order. Fed. R. Civ. P. 41(b). "By its plain text, a Rule 41(b) 4 dismissal ... requires a court order with which an offending plaintiff failed to comply." *Applied 5 Underwriters, Inc. v. Lichtenegger*, 913 F.3d 884, 891 (9th Cir. 2019) (internal quotation marks, 6 citation, and footnote omitted).

The Court must analyze five factors before dismissing a case 7 pursuant to Rule 41(b): “(1) the public’s interest in expeditious resolution of litigation; (2) the 8 court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy 9 favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives.” 10 Id. (quoting *Yourish v. Cal. Amplifier*, 191 F.3d 983, 990 (9th Cir.

1999)); *Pagtalunan v. Galaza*, 11 291 F.3d 639, 642 (9th Cir. 2002). These factors guide a court in deciding what to do and are not 12 conditions that must be met in order for a court to take action. In *re Phenylpropanolamine (PPA)* 13 Products Liability Litigation, 460 F.3d 1217, 1226 (9th Cir. 2006) (citation omitted). 14 Discussion 15 Here, Plaintiff repeatedly has failed to comply with the Court’s orders.

Despite granting 16 two extensions of the deadline, Plaintiff has failed to file dispositional documents. There are no 17 other reasonable alternatives available to address Plaintiff’s failure to respond and otherwise obey 18 this Court’s orders.

Thus, the first and second factors—the expeditious resolution of litigation and 19 the Court’s need to manage its docket—weigh in favor of dismissal. *Applied Underwriters, Inc.*, 20 913 F.3d at 891. 21 The third factor, risk of prejudice to Defendant, also weighs fairly in favor of dismissal 22 since a presumption of injury arises from the occurrence of unreasonable delay in prosecuting an 23 action.

See *Anderson v. Air W., Inc.*, 542 F.2d 522, 524 (9th Cir. 1976). Despite the parties’ filing 24 of a joint notice of settlement approximately three months ago (Doc. 14), Plaintiff has failed to 25 comply with the Court’s orders and Local Rule 160 directing the filing of dispositional documents. 26 documents.

The presumption of injury holds given Plaintiff’s unreasonable delay thereto. Thus, 27 the third factor—a risk of prejudice to the Defendant—also weighs in favor of dismissal. *Applied* 28 *Underwriters, Inc.*, 913 F.3d at 891. 1 The fourth factor usually weighs against dismissal because public policy favors disposition 2 on the merits. *Pagtalunan*, 291 F.3d at 643.

However, “this factor lends little support to a party 3 whose responsibility it is to move a case toward disposition on the merits but whose conduct 4 impedes progress in that direction.” In *re PPA*, 460 F.3d at 1228. Plaintiff has not moved this case 5 forward toward disposition on the merits. Plaintiff instead has failed to comply with this Court’s 6 orders and the Local Rules in a manner that is impeding the progress of this action.

Therefore, the 7 fourth factor — the public policy favoring disposition of cases on their merits — also weighs in 8 favor of dismissal. *Applied Underwriters, Inc.*, 913 F.3d at 891. 9 Finally, the Court’s warning to a party that failure to obey the court’s order will result in 10 dismissal satisfies the “considerations of the alternatives” requirement. *Ferdik*, 963 F.2d at 1262.

11 Here, the Court's order to show cause cautioned: "Failure to timely comply with this order will
12 result in the imposition of sanctions, through and including dismissal of the action." (Doc. 16).
13 Plaintiff was adequately forewarned that the failure to timely respond to the Court's order 14
and file dispositional documents could result in terminating sanctions.

Because Plaintiff has failed 15 to comply with this Court's orders and Local Rules and has not
diligently prosecuted the action, 16 the undersigned will recommend dismissal pursuant to Rule
41(b) of the Federal Rules of Civil 17 Procedure. 18 In short, as the parties have resolved their
claims pursuant to an enforceable contract, the 19 undersigned recommends that the Court decline
to maintain this case in active status to supervise 20 the parties' performance of their undisclosed,
private settlement agreement because they have not 21 shown that exercising jurisdiction over the
performance of their agreement is "essential to the 22 conduct of federal-court business."
Kokkonen v. Guardian Life Ins.

Co. of Am., 511 U.S. 375, 381 23 (1994). 24 25 Remainder of This Page Intentionally Left Blank
26 27 28 1 Conclusion and Recommendation 2 For the reasons set forth above, IT IS
RECOMMENDED as follows: 3 1. The Court DISMISS this action with prejudice for Plaintiff's
failure to prosecute this action 4 and to comply with the Court's orders and Local Rules. See Fed.

R. Civ. P. 41(b); and 5 2. The Clerk of the Court be directed close this case. 6 These findings and
recommendations will be submitted to the United States District Judge 7 | assigned to the case,
pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days after 8 || being served with
these findings and recommendations, Plaintiff may file written objections with 9 | the Court.

The document should be captioned "Objections to Magistrate Judge's Findings and 10 |
Recommendations." Plaintiff is advised that failure to file objections within the specified time may
11 | result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir.
2014) 12 | (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

13 | IT IS SO ORDERED. | Dated: _ November 5, 2025 | Word 15 UNITED STATES
MAGISTRATE JUDGE 16 17 18 19 20 21 22 23 24 25 26 27 28