

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Kaitlyn Zucchi v. Fixx Fitness

Zucchi v. Fixx Fitness · No. EDCV 25-1202-KK-SHKx · Decided September 24, 2025

SUMMARY

The United States District Court for the Central District of California dismissed Kaitlyn Zucchi’s Telephone Consumer Protection Act action against Fixx Fitness without prejudice. The court dismissed the action under Federal Rule of Civil Procedure 41(b) because Plaintiff failed to serve Defendant, file proof of service, or respond to the court’s order to show cause. The Clerk was directed to close the case.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Kenly Kiya Kato
JURISDICTION	United States District Court for the Central District of California
DECIDED	September 24, 2025
DOCKET	EDCV 25-1202-KK-SHKx
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court dismissed the action without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute and failure to comply with court orders.
STANDARD OF REVIEW	The court applied the Ninth Circuit's five-factor test for dismissal for failure to prosecute or failure to comply with court orders.
PRECEDENTIAL VALUE	Unpublished district court order; precedential status unknown.
PARTIES	Kaitlyn Zucchi v. Fixx Fitness

TOPICS

- civil procedure
- sanctions
- service of process

PRACTICE AREAS

- civil procedure
- Telephone Consumer Protection Act

QUESTIONS PRESENTED

1. Whether the district court could sua sponte dismiss the action under Federal Rule of Civil Procedure 41(b) for failure to prosecute and failure to comply with court orders.
2. Whether the five factors governing dismissal for failure to prosecute weighed in favor of dismissal without prejudice.

HOLDINGS

1. A district court has sua sponte authority under Federal Rule of Civil Procedure 41(b) to dismiss an action for failure to prosecute or comply with court orders.
2. Dismissal without prejudice was warranted because the public interest in expeditious resolution, the court's need to manage its docket, prejudice to the defendant, and the availability of less drastic sanctions favored dismissal, while the policy favoring disposition on the merits did not outweigh plaintiff's repeated noncompliance after notice and an opportunity to respond.

KEY QUOTATIONS

“It is well established that district courts have sua sponte authority to dismiss actions for failure to prosecute or comply with court orders.”

“In deciding whether to dismiss an action for failure to prosecute or comply with court orders, a district court must consider five factors: “(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 sanctions.””

FACTUAL BACKGROUND

Zucchi filed a complaint asserting claims under the Telephone Consumer Protection Act. She was required to serve the defendant by August 14, 2025, but did not file proof of service. After the court issued an August 25, 2025 order to show cause and expressly warned that noncompliance would result in dismissal, Zucchi filed neither a response nor proof of service.

PROCEDURAL HISTORY

Plaintiff filed a Telephone Consumer Protection Act complaint on May 16, 2025. After plaintiff failed to serve defendant by the deadline or file proof of service, the court issued an order to show cause warning that failure to respond would result in dismissal. Plaintiff filed neither proof of service nor a response, and the court dismissed the action without prejudice and ordered the clerk to close the case.

DISPOSITION

dismissed

CASES CITED

- Hells Canyon Pres. 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)
- *Omstead v. Dell, Inc.*, 594 F.3d 1081, 1084 (9th Cir. 2010)
- *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986)
- *Langere v. Verizon Wireless Servs., LLC*, 983 F.3d 1115, 1117 (9th Cir. 2020)
- *In re Eisen*, 31 F.3d 1447, 1452-53 (9th Cir. 1994)
- *Morris v. Morgan Stanley*, 942 F.2d 648, 652 (9th Cir. 1991)
- *W. Coast Theater Corp. v. City of Portland*, 897 F.2d 1519, 1523 (9th Cir. 1990)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/federal/united-states-district-court-for-the-central-district-of-cal/2025/kaitlyn-zucchi-v-fixx-fitness-e2tuh4ts>