

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Romona Janine Wafer v. Lakeside Village Apartments, et al.

Wafer · No. 2:25-cv-03355 CKD · Decided January 15, 2026

SUMMARY

The United States District Court for the Eastern District of California vacated the hearing on defendants’ motion to dismiss after the pro se plaintiff failed to timely file an opposition. The court granted plaintiff a final opportunity to file an opposition or statement of non-opposition by February 4, 2026, warning that further failure could support dismissal under Federal Rule of Civil Procedure 41(b).

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	January 15, 2026
DOCKET	2:25-cv-03355 CKD
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff proceeding pro se failed to timely oppose defendants' motion to dismiss. The magistrate judge vacated the scheduled hearing, allowed one final opportunity to file an opposition or statement of non-opposition, and warned that further failure could support dismissal under Federal Rule of Civil Procedure 41(b).
STANDARD OF REVIEW	Dismissal under Federal Rule of Civil Procedure 41(b) for failure to prosecute or failure to comply with court rules or orders is discretionary.
PRECEDENTIAL VALUE	Nonprecedential district court order

TOPICS

- motions to dismiss
- sanctions
- civil procedure

PRACTICE AREAS

- civil procedure
- federal civil litigation
- pro se litigation

QUESTIONS PRESENTED

1. Whether plaintiff's failure to timely oppose defendants' motion to dismiss subjected the action to dismissal or other sanctions under the court's local rules and Federal Rule of Civil Procedure 41(b).
2. Whether the court should vacate the scheduled hearing and provide plaintiff one final opportunity to respond to the motion.

HOLDINGS

1. A pro se litigant's failure to comply with the Federal Rules of Civil Procedure, the court's local rules, or a court order may support sanctions, including involuntary dismissal under Federal Rule of Civil Procedure 41(b). Plaintiff's failure to file an opposition violated Local Rules 110, 183(a), and 230(c), making the claims subject to dismissal.
2. Immediate dismissal was not ordered at this time because plaintiff was proceeding without counsel; instead, the court granted one final opportunity to respond. Failure to respond by February 4, 2026 would be construed as non-opposition and could provide an additional basis for recommending involuntary dismissal with prejudice under Rule 41(b).

KEY QUOTATIONS

“Pro se litigants must follow the same rules of procedure that govern other litigants” (1)

“However, given plaintiff has been proceeding without counsel, the court will not recommend dismissal at this time.” (2)

“Accordingly, the hearing on the motion is vacated, and after the expiration of the deadlines below, the court will decide the motion on the record and written briefing only.” (2)

FACTUAL BACKGROUND

Plaintiff, proceeding without counsel, filed claims against defendants in November 2025, paid the filing fee, and executed service. Defendants filed a motion to dismiss on December 17, 2025. Plaintiff did not file the opposition required by Local Rule 230(c) within fourteen days, although the initial scheduling order warned that failure to oppose could result in loss of the right to be heard and could be treated as consent to granting the motion.

PROCEDURAL HISTORY

Plaintiff filed the action in November 2025, paid the filing fee, and executed service. Defendants moved to dismiss on December 17, 2025, but plaintiff did not timely file an opposition under Eastern District of California Local Rule 230(c). The court declined to recommend dismissal immediately, vacated the January 28, 2026 hearing, and ordered plaintiff to respond by February 4, 2026.

DISPOSITION

other

CASES CITED

- King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987)
- Chambers v. NASCO, Inc., 501 U.S. 32, 44 (1991)
- Hells Canyon Preservation Council v. U.S. Forest Service, 403 F.3d 683, 689 (9th Cir. 2005)
- Trice v. Clark County School District, 376 Fed. App'x 789, 790 (9th Cir. 2010) (unpublished)
- Warnken v. County of Solano, 2024 WL 4754200, at *1 (E.D. Cal. Nov. 12, 2024)

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