

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Stephen D. Cook, II, et al. v. NewRez LLC, et al.

Cook v. NewRez · No. 2:25-cv-2361-DC-JDP (PS) · Decided December 2, 2025

SUMMARY

The United States District Court for the Eastern District of California issued an order to show cause after plaintiffs failed to respond to defendants’ motion to dismiss. The court continued the hearing, ordered plaintiffs to file an opposition or statement of non-opposition, and required them to show cause why sanctions should not be imposed, warning that noncompliance would result in a recommendation of dismissal.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jeremy D. Peterson
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	December 2, 2025
DOCKET	2:25-cv-2361-DC-JDP (PS)
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved to dismiss the complaint for failure to state a claim. Plaintiffs did not file an opposition or statement of non-opposition within the time required by the Eastern District of California's local rules. The court issued an order to show cause regarding sanctions and continued the hearing on the motion to dismiss.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Stephen D. Cook, II, et al. v. NewRez LLC, et al.

TOPICS

- sanctions
- motions to dismiss
- civil procedure

PRACTICE AREAS

- Civil procedure
- Federal civil litigation
- Sanctions

QUESTIONS PRESENTED

1. Whether plaintiffs' failure to respond to defendants' motion to dismiss warranted an order to show cause concerning sanctions.
2. Whether the hearing on defendants' motion to dismiss should be continued to permit plaintiffs to respond.

HOLDINGS

1. Because plaintiffs failed to file the opposition or statement of non-opposition required by E.D. Cal. Local Rule 230(c), the court required them to show cause why sanctions should not be imposed and warned that failure to comply with the order could result in a recommendation that the action be dismissed.
2. The court continued the hearing on defendants' motion to dismiss from December 4, 2025, to January 15, 2026, at 10:00 a.m., and established deadlines for plaintiffs' response, plaintiffs' show-cause filing, and any defendants' reply.

KEY QUOTATIONS

“Involuntary dismissal is a harsh penalty, but a district court has a duty to administer justice expeditiously and avoid needless burden for the parties.” (at 1)

“Plaintiffs’ failure to respond to this order will constitute a failure to comply with a court order and will result in a recommendation that this action be dismissed.” (at 2)

FACTUAL BACKGROUND

Defendants NewRez LLC, Prestige Default Services LLC, and Ghidotti Berger LLP filed a motion to dismiss plaintiffs' complaint for failure to state a claim. Plaintiffs had not filed an opposition or statement of non-opposition by the time of the order. The court addressed the missed filing deadline and the need to manage its docket without deciding the merits of the motion to dismiss.

PROCEDURAL HISTORY

Defendants filed a motion to dismiss on October 21, 2025. Plaintiffs did not respond within fourteen days as required by E.D. Cal. Local Rule 230(c). The court ordered plaintiffs to show cause why sanctions should not be imposed, warned that failure to respond could result in a recommendation that the action be dismissed, and continued the motion-to-dismiss hearing.

DISPOSITION

other

CASES CITED

- *Hells Canyon Pres. Council v. U.S. Forest Serv.*, 403 F.3d 683, 689 (9th Cir. 2005)
- *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988)

- Pagtalunan v. Galaza, 291 F.3d 639, 642 (9th Cir. 2002)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 STEPHEN D. COOK, II, et al., Case No. 2:25-cv-2361-DC-JDP (PS) 12
Plaintiffs, 13 v. ORDER TO SHOW CAUSE 14 NEWREZ LLC, et al., 15 Defendants. 16 17 On
October 21, 2025, defendants NewRez, LLC, Prestige Default Services, LLC, and 18 Ghidotti
Berger, LLP filed a motion to dismiss plaintiffs' complaint for failure to state a claim.

19 ECF No. 7. To date, plaintiffs have not responded to defendants' motion. 20 Under the court's
local rules, a responding party is required to file an opposition or 21 statement of non-opposition
to a motion no later than fourteen days after the date it was filed. 22 E.D. Cal. L.R. 230(c).

To manage its docket effectively, the court requires litigants to meet 23 certain deadlines. The
court may impose sanctions, including dismissing a case, for failure to 24 comply with its orders
or local rules. See Fed. R. Civ. P. 41(b); E.D. Cal. L.R. 110; Hells Canyon 25 Pres. Council v. U.S.
Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005); Carey v. King, 856 F.2d 26 1439, 1440-41 (9th
Cir.

1988). Involuntary dismissal is a harsh penalty, but a district court has a 27 duty to administer
justice expeditiously and avoid needless burden for the parties. See 28 Pagtalunan v. Galaza, 291
F.3d 639, 642 (9th Cir. 2002); Fed. R. Civ. P. 1. 1 The court will give plaintiffs the opportunity to
explain why sanctions should not be 2 | imposed for failure to file an opposition or statement of
non-opposition to defendants' motion.

3 | Plaintiffs' failure to respond to this order will constitute a failure to comply with a court order
and 4 | will result in a recommendation that this action be dismissed. 5 Accordingly, it is hereby
ORDERED that: 6 1.

The December 4, 2025 hearing on defendants' motion to dismiss is continued to 7 | January 15,
2026, at 10:00 a.m. 8 2. By no later than December 18, 2025, plaintiffs shall file an opposition or
statement of 9 | non-opposition to defendants' motion. 10 3. Plaintiffs shall show cause, by no later
than December 18, 2025, why sanctions should 11 | not be imposed for failure to timely file an
opposition or statement of non-opposition to 12 | defendants' motion.

13 4. Defendants may file a reply to plaintiffs' opposition, if any, no later than January 8, 14 |
2026. 15 16 IT IS SO ORDERED. Dated: _ December 2, 2025 18 JEREMY D. PETERSON 19
UNITED STATES MAGISTRATE JUDGE 20 21 22 23 24 25 26 27 28