

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Nathaniel Rivera v. CortiCare Inc. and Does 1 to 100, inclusive

Rivera · No. 3:25-cv-01875-RBM-DEB · Decided November 26, 2025

SUMMARY

The United States District Court for the Southern District of California granted CortiCare, Inc.’s unopposed motion to dismiss Nathaniel Rivera’s First Amended Complaint. The court deemed Rivera’s failure to file an opposition consent to granting the motion under the local rules and dismissed the complaint without prejudice.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Ruth Bermudez Montenegro
JURISDICTION	United States District Court for the Southern District of California
DECIDED	November 26, 2025
DOCKET	3:25-cv-01875-RBM-DEB
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendant moved to dismiss Plaintiff's First Amended Complaint. Plaintiff did not file an opposition to the motion or request an extension, and the court considered the motion unopposed.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- motions to dismiss
- pleadings
- civil procedure

PRACTICE AREAS

- civil procedure
- commercial litigation

QUESTIONS PRESENTED

1. Whether the court could treat Plaintiff’s failure to file a proper opposition to the motion to dismiss as consent to granting the motion under Southern District of California Civil Local Rule 7.1(f)(3)(c).

2. Whether the First Amended Complaint should be dismissed without prejudice because Plaintiff failed to oppose the motion to dismiss.

HOLDINGS

1. Because Plaintiff knew of the motion, had ample time to respond, filed no proper opposition, and did not request an extension, the court deemed Plaintiff's failure to oppose the motion consent to granting it under S.D. Cal. Civ. R. 7.1(f)(3)(c).
2. The court granted Defendant's unopposed motion to dismiss and dismissed the First Amended Complaint without prejudice.

KEY QUOTATIONS

"Under this District's local rules, failure to file an opposition when due "may constitute a consent to the granting of a motion or other request for ruling by the court.""

FACTUAL BACKGROUND

Defendant moved to dismiss Nathaniel Rivera's First Amended Complaint. Rivera's purported opposition was captioned for a separate action involving Joenathan Rivera and contained that action's case number and claims. After being notified of the error, Rivera did not file a proper opposition or seek additional time to respond.

PROCEDURAL HISTORY

CortiCare, Inc. filed a motion to dismiss on August 6, 2025. Although Nathaniel Rivera filed a document labeled as an opposition, that document belonged to a separate related action and addressed another plaintiff's claims. Rivera filed no opposition in this case, and the court granted the motion as unopposed and dismissed the First Amended Complaint without prejudice.

DISPOSITION

dismissed

CASES CITED

- Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir.)
- Hernandez v. City of El Monte, 138 F.3d 393, 399 (9th Cir.)

OPINION

Rivera

PER CURIAM.

1 2 3 4 5

6 UNITED STATES DISTRICT COURT

7 SOUTHERN DISTRICT OF CALIFORNIA

8 9 NATHANIEL RIVERA, Case No.: 3:25-cv-01875-RBM-DEB 10 Plaintiff,

ORDER GRANTING UNOPPOSED

11 v. MOTION TO DISMISS

PLAINTIFF'S FIRST AMENDED

12 CORTICARE INC.; and DOES 1 to 100,

COMPLAINT

inclusive, 13 Defendants. [Doc. 6] 14 15 16 On August 6, 2025, Defendant CortiCare, Inc. (“Defendant”) filed a Motion to 17 Dismiss Plaintiff Nathaniel Rivera’s (“Plaintiff”) First Amended Complaint (“MTD”). 18 (Doc. 6.) The MTD provided a noticed hearing date of September 8, 2025. (Id. at 1.)¹ 19 Pursuant to Local Rule 7.1(e)(2), Plaintiff’s opposition to the MTD was due on August 25, 20 2025. See also The Hon. Ruth Bermudez Montenegro Civ. Chambers R. II.B.–C. 21 On August 18, 2025, Plaintiff filed a document designated as an Opposition but the 22 filing was not for this action. (See Doc. 7.) As Defendant notes, the document “is 23 captioned for the related separate action pending before this Court, entitled Joenathan 24 Rivera v. CortiCare, Inc., Case No. 3:25-cv-01868-RBM-DEB (‘Joe Rivera Action’), not 25 this action, and it addresses the separate claims of Joenathan Rivera, not Nathaniel Rivera.” 26 27 28 1 1 || (Doc. 8 at 5; see Case No. 3:25-cv-01868-RBM-DEB, ECF No. 6 at 5 n.1.) The filing also 2 contains Joenathan Rivera’s name and the case number for the Joe Rivera Action.” Despite 3 || Defendant noting this error in its Reply, Plaintiff has filed no opposition to the Motion to A || Dismiss in this case and has not requested an extension of time to do so.* 5 Under this District’s local rules, failure to file an opposition when due “may 6 || constitute a consent to the granting of a motion or other request for ruling by the court.” 7 || S.D. Cal. Civ. R. 7.1(f)(3)(c). District courts have broad discretion to enact and apply local 8 || rules, including dismissal of a case for failure to comply with the local rules. *Ghazali v. 9 || Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (affirming grant of an unopposed motion to dismiss 10 || under local rule by deeming a pro se litigant’s failure to oppose as consent to granting the 11 || motion). Similarly, the Federal Rules of Civil Procedure authorize this Court to dismiss 12 || an action if a plaintiff fails to prosecute it. See Fed. R. Civ. P. 41(b). Generally, public 13 || policy favors disposition of cases on their merits. See *Hernandez v. City of El Monte*, 138 14 || F.3d 393, 399 (9th Cir. 1998). However, a case cannot move toward resolution on the 15 || merits when plaintiffs fail to defend their complaint against motions to dismiss. 16 Because Plaintiff was made aware of the MTD and had ample time to respond to it, 17 Court deems Plaintiff’s failure to oppose the MTD as consent to granting it. See S.D. 18 || Cal. Civ. R. 7.1(f)(3)(c). Accordingly, the Court GRANTS Defendant’s MTD (Doc. 6) as 19 || unopposed and the First Amended Complaint is DISMISSED WITHOUT PREJUDICE. 20 IT IS SO ORDERED. 21 || DATE: November 26, 2025 22 Fe Barradly, Miirg D

73 HON. RUTH BERMUDEZ MONTENEGRO

UNITED STATES DISTRICT JUDGE

24 || _____ 26 ||, Plaintiff also did not file an opposition in the Joe Rivera Action. 3 The

Court will consider Plaintiff Jonathan Rivera's Opposition in resolving the Motion to Dismiss pending in the Joe Rivera Action.

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