

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA

Dailey-Henry v. Land O'Lake, Inc.

Dailey-Henry · No. 1:24-cv-00347-KES-SKO · Decided May 14, 2025

SUMMARY

The United States District Court for the Eastern District of California gives Plaintiff Alvera Dailey-Henry a final opportunity to respond to Defendant’s motions to compel written discovery responses and deposition attendance. The court orders Plaintiff to file an opposition or statement of non-opposition by May 26, 2025, warning that failure to respond may result in sanctions, including a recommendation of dismissal for failure to prosecute.

CASE DETAILS

|                       |                                                                                                                                                                                             |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of California                                                                                                                         |
| WRITING FOR THE COURT | Sheila K. Oberto                                                                                                                                                                            |
| JURISDICTION          | United States District Court for the Eastern District of California                                                                                                                         |
| DECIDED               | May 14, 2025                                                                                                                                                                                |
| DOCKET                | 1:24-cv-00347-KES-SKO                                                                                                                                                                       |
| DISPOSITION           | other                                                                                                                                                                                       |
| PROCEDURAL POSTURE    | The court addressed Defendant's motions to compel Plaintiff's responses to written discovery and attendance at a deposition after Plaintiff failed to respond within the applicable period. |
| PRECEDENTIAL VALUE    | Unpublished, nonprecedential district court order                                                                                                                                           |

TOPICS

- discovery dispute
- sanctions
- civil procedure
- waiver

PRACTICE AREAS

- civil procedure
- discovery

QUESTIONS PRESENTED

- Whether the court should provide Plaintiff an additional opportunity to respond to Defendant's motions to compel after Plaintiff failed to respond.

2. Whether failure to respond to the motions to compel may be treated as a waiver of opposition and may support sanctions, including dismissal for failure to prosecute.

## HOLDINGS

1. Because Plaintiff had not responded to Defendant's motions to compel, the court ordered her to file an opposition or statement of non-opposition by May 26, 2025, and warned that failure to do so would be deemed a waiver of opposition and could result in sanctions up to and including a recommendation that the action be dismissed for failure to prosecute.

## 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)*

*“However, failure to respond will be deemed a waiver of any opposition to the granting of the motion and may result in the imposition of sanctions, up to and including a recommendation that this case be dismissed for failure to prosecute.” (at 1)*

## FACTUAL BACKGROUND

Plaintiff Alvera Dailey-Henry filed the action and continued pro se after her attorney's withdrawal. Defendant moved to compel written-discovery responses and Plaintiff's appearance at a deposition, but Plaintiff did not respond by the deadline. The court treated this as the first motion served on Plaintiff after counsel withdrew and allowed one final opportunity to respond.

## PROCEDURAL HISTORY

Plaintiff filed the action on March 21, 2024 and proceeded pro se after her attorney withdrew. Defendant filed two motions to compel on April 25, 2025. Because Plaintiff had not responded, the court gave her one final opportunity to file an opposition or statement of non-opposition by May 26, 2025, warning that failure to respond could result in sanctions, including a recommendation for dismissal for failure to prosecute.

## 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)
- Ysaguirre v. Rodriguez, No. 2:23-cv-00327-DAC-AC (E.D. Cal. July 17, 2024) (Doc. 20)
- Rogers v. Bonta, No. 222CV314TLNKJNPS, 2022 WL 2719185, at \*2 (E.D. Cal. July 13, 2022)

## OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 EASTERN DISTRICT OF CALIFORNIA 6 7  
ALVERA DAILEY-HENRY, Case No. 1:24-cv-00347-KES-SKO 8 Plaintiff, O T O R D O E B R  
E Y T O A N S H D O F W A I L C U A R U E S E T F O O R FAILURE 9 PROSECUTE v. 10  
(Docs. 16, 17) 11 LAND O’LAKE, INC, 12 Defendant.  
\_\_\_\_\_/ 13 14 Plaintiff Alvera Dailey-Henry filed this case,  
on March 21, 2024, (Doc.

1), and now 15 proceeds pro se, (see Doc. 14, November 19, 2024 order granting attorney’s  
motion to withdraw). 16 On April 25, 2025, Defendant filed two motions to compel Plaintiff’s  
responses to written 17 discovery and appearance at a deposition. (Docs. 16, 17).

The time for responding has now passed 18 and Plaintiff has not responded. 19 To manage its  
docket effectively, the court requires litigants to meet certain deadlines. The 20 court may impose  
sanctions, including dismissing a case, for failure to comply with its orders or 21 local rules. See  
Fed. R. Civ. P. 41(b); E.D. Cal. L.R. 110; Hells Canyon Pres. Council v. U.S. 22 Forest Serv., 403  
F.3d 683, 689 (9th Cir.

2005); Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 23 1988). Involuntary dismissal is a harsh  
penalty, but a district court has a duty to administer justice 24 expeditiously and avoid needless  
burden for the parties. See Pagtalunan v. Galaza, 291 F.3d 639, 25 642 (9th Cir. 2002); Fed. R.  
Civ. P. 1. 26 As this is the first time Plaintiff has been served with a motion since her attorney  
withdrew, 27 Plaintiff will be given one final opportunity to respond.

Accordingly, IT IS HEREBY ORDERED 28 that Plaintiff shall have until May 26, 2025 to  
respond to Defendant’s motions to compel. See 1 Ysaguirre v. Rodriguez, No. 2:23-cv-00327-  
DAC-AC (July 17, 2024 E.D. Cal.) (Doc. 20). 2 However, failure to respond will be deemed a  
waiver of any opposition to the granting of the 3 motion and may result in the imposition of  
sanctions, up to and including a recommendation that 4 this case be dismissed for failure to  
prosecute.

See L.R. 230(l); Rogers v. Bonta, No. 5 222CV314TLNKJNPS, 2022 WL 2719185, at \*2 (E.D.  
Cal. July 13, 2022). Should Plaintiff 6 wish to continue with this lawsuit, she shall file, by May 26,  
2025, an opposition or statement 7 of non-opposition to Defendant’s motion. 8 The Court  
DIRECTS the Clerk to send a copy of this Order to Plaintiff at her address listed 9 on the docket  
for this matter.

10 IT IS SO ORDERED. 11 12 Dated: May 14, 2025 /s/ Sheila K. Oberto. UNITED STATES  
MAGISTRATE JUDGE 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28