

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Nanak Foundation Trust Dated May 27, 2011 v. Landmark American
Insurance Company, et al.

Nanak Foundation Trust · No. 24-cv-01352-DMR · Decided December 8, 2025

SUMMARY

The United States District Court for the Northern District of California denied defendants’ motion to dismiss the action with prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute. Applying the Henderson factors, the court concluded that each factor favored non-dismissal, particularly because plaintiff had retained counsel and less drastic sanctions had not been imposed or considered.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Donna M. Ryu
JURISDICTION	United States District Court for the Northern District of California
DECIDED	December 8, 2025
DOCKET	24-cv-01352-DMR
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendants moved under Federal Rule of Civil Procedure 41(b) to dismiss the action with prejudice for failure to prosecute and because the trust could not appear pro se. The district court denied the motion.
STANDARD OF REVIEW	Dismissal for failure to prosecute under Federal Rule of Civil Procedure 41(b) is evaluated under the five Henderson factors: the public interest in expeditious resolution, the court's need to manage its docket, prejudice to defendants, the public policy favoring disposition on the merits, and the availability of less drastic sanctions.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

- motions to dismiss
- sanctions
- civil procedure
- insurance
- trusts

PRACTICE AREAS

civil procedure

insurance

trusts

commercial litigation

QUESTIONS PRESENTED

1. Whether the action should be dismissed with prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute based on Plaintiff's violations of court orders and procedural rules and alleged delays.
2. Whether dismissal was warranted because Plaintiff, a trust, could not proceed without counsel.

HOLDINGS

1. Dismissal with prejudice was not warranted because all five Henderson factors favored non-dismissal.
2. Plaintiff's representation status did not justify dismissal because Plaintiff retained counsel before the motion was decided and had complied, albeit belatedly, with the court's direction to obtain counsel.

KEY QUOTATIONS

"Dismissal, however, is so harsh a penalty it should be imposed as a sanction only in extreme circumstances."
(at 2)

"As each of the Henderson factors favor non-dismissal, Defendants' motion is denied." (at 3)

FACTUAL BACKGROUND

Plaintiff filed the action in California state court, and Defendants removed it to federal court. Plaintiff's counsel moved to withdraw based on communication and representation problems, and the court ordered Plaintiff's trustees to appear personally at the withdrawal hearing. The trustees did not appear, but Plaintiff later retained new counsel before the court ruled on Defendants' Rule 41(b) motion.

PROCEDURAL HISTORY

Plaintiff initiated the action in California state court, and Defendants removed it to the Northern District of California. Plaintiff's counsel later moved to withdraw, and the court ordered the trustees to appear at the withdrawal hearing; neither appeared. After the court granted counsel's withdrawal and ordered the trustees to show cause, Defendants moved to dismiss under Rule 41(b). Plaintiff obtained new counsel before the motion was decided, and the court denied dismissal.

DISPOSITION

dismissed

CASES CITED

- Henderson v. Duncan, 779 F.2d 1421, 1423 (9th Cir. 1986)
- Thompson v. Housing Authority of City of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986)

- *Hernandez v. City of El Monte*, 138 F.3d 393, 399 (9th Cir. 1998)
- *Nealey v. Transportacion Maritima Mexicana, S.A.*, 662 F.2d 1275, 1279 (9th Cir. 1981)
- *Malone v. U.S. Postal Service*, 833 F.2d 128, 131 (9th Cir. 1987)
- *Pagtalunan v. Galaza*, 291 F.3d 639, 643 (9th Cir. 2002)
- *Nevijel v. N. Coast Life Ins. Co.*, 651 F.2d 671, 674 (9th Cir. 1981)
- *Govaerts v. Santa Clara Cnty. Dep't of Child Support Servs.*, No. C-08-00125 RMW, 2009 WL 890881, at *5 (N.D. Cal. Mar. 31, 2009)

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