

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Howard v. FCA US, LLC

Howard · No. 24cv2099-LL-MMP · Decided June 6, 2025

SUMMARY

The United States District Court for the Southern District of California dismissed April Howard’s action against FCA US, LLC with prejudice under Federal Rule of Civil Procedure 41(b). The court found that Howard failed to comply with orders concerning representation and failed to respond to an order to show cause, warranting dismissal for failure to follow a court order and failure to prosecute.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Linda Lopez
JURISDICTION	United States District Court for the Southern District of California
DECIDED	June 6, 2025
DOCKET	24cv2099-LL-MMP
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court dismissed the action with prejudice under Federal Rule of Civil Procedure 41(b) after plaintiff failed to comply with an order requiring her either to proceed pro se and provide a current address or obtain new counsel, and then failed to respond to an order to show cause.
STANDARD OF REVIEW	Dismissal under Federal Rule of Civil Procedure 41(b) as a sanction for failure to comply with court orders or prosecute requires consideration of five factors: the public interest in expeditious resolution, the court’s need to manage its docket, the risk of prejudice to defendants, the policy favoring disposition on the merits, and the availability of less drastic alternatives.
PRECEDENTIAL VALUE	Unknown; district court order with no published reporter citation.

TOPICS

- sanctions
- civil procedure

PRACTICE AREAS

civil procedure

Federal Rule of Civil Procedure 41(b) dismissal

failure to prosecute

QUESTIONS PRESENTED

1. Whether the action should be dismissed with prejudice under Federal Rule of Civil Procedure 41(b) for plaintiff's failure to comply with court orders and failure to prosecute.

HOLDINGS

1. Dismissal with prejudice was warranted because the five Ninth Circuit dismissal factors favored dismissal: plaintiff's inaction impeded expeditious resolution and docket management, prejudiced the defendant through unreasonable delay, provided little support for the merits-based disposition policy, and could not be remedied by less drastic alternatives after the court twice warned that noncompliance would result in dismissal.

KEY QUOTATIONS

"in order for a court to dismiss a case as a sanction, the district court must consider five factors: "(1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives."" (at 1)

"Warning that failure to obey a court order will result in dismissal can itself meet the 'consideration of alternatives' requirement." (at 2)

FACTUAL BACKGROUND

Plaintiff's counsel withdrew after the court granted a motion to withdraw. Plaintiff did not notify the court that she intended to proceed pro se and provide a current address, and she did not obtain new counsel as ordered. Plaintiff also failed to respond to a subsequent order to show cause despite two warnings that noncompliance could result in dismissal.

PROCEDURAL HISTORY

On March 3, 2025, the court granted plaintiff's counsel's motion to withdraw and ordered plaintiff to file a notice of intent to proceed pro se with updated contact information or have new counsel enter an appearance by April 4, 2025. Plaintiff and potential new counsel took neither action. After the court issued an order to show cause on May 5, 2025, plaintiff failed to respond by the May 19 deadline, and the court dismissed the case with prejudice and directed the clerk to enter judgment and close the case.

DISPOSITION

dismissed

CASES CITED

- *Yourish v. California Amplifier*, 191 F.3d 983, 990 (9th Cir. 1999)
- *Ronconi v. Larkin*, 253 F.3d 423, 429 n.6 (9th Cir. 2001)
- *Anderson v. Air W., Inc.*, 542 F.2d 522, 524 (9th Cir. 1976)
- *In re Phenylpropanolamine (PPA) Prods. Liab. Litig.*, 460 F.3d 1217, 1228-1229 (9th Cir. 2006)

OPINION

Howard v. FCA US, LLC.

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 APRIL HOWARD, Case No.: 24cv2099-LL-MMP 12 Plaintiff,

ORDER DISMISSING CASE

13 v. PURSUANT TO FEDERAL RULE

OF CIVIL PROCEDURE 41(b)

14 FCA US, LLC,

15 Defendant. 16

17 18 On March 3, 2025, the Court granted Strategic Legal Practices's ("Counsel") Motion 19 to Withdraw as Counsel of Record for Plaintiff April Howard and ordered Counsel and 20 Ms. Howard to take certain actions. ECF No. 16. Specifically, the Court ordered Ms. 21 Howard to complete one of the following actions on or before April 4, 2025: (1) file notice 22 of her intent to proceed pro se and inform the Court and opposing parties of her current 23 address pursuant to Civil Local Rule 83.11(b) or (2) Ms. Howard's new counsel shall file 24 a notice of appearance. ECF No. 16 at 3. The Court warned that a failure to comply with 25 the Order may result in dismissal of this action for failure to follow a court order or failure 26 to prosecute pursuant to Federal Rule of Civil Procedure 41(b). Id. Ms. Howard and any 27 potential new counsel failed to complete either action. 28 / / / 1 On May 5, 2025, the Court issued an Order to Show Cause directed to Ms. Howard 2 to respond in writing by May 19, 2025 why this matter should not be dismissed for failure 3 to follow a court order. The Court again warned that failure to timely respond to the Order 4 by filing a response on the docket would result in dismissal of this lawsuit pursuant to 5 Federal Rule of Civil Procedure 41(b). The deadline passed more than two weeks ago, and 6 no response has been filed. 7 In the Ninth Circuit, "in order for a court to dismiss a case as a sanction, the district 8 court must consider five factors: "(1) the public's interest in expeditious resolution of 9 litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the 10 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the 11 availability of less drastic alternatives." *Yourish v. California Amplifier*, 191 F.3d 983, 990 12 (9th Cir. 1999), superseded by statute on other grounds as recognized in *Ronconi v. Larkin*, 13 253 F.3d 423, 429 n.6 (9th Cir. 2001). 14 The Court finds the factors weigh in favor of dismissal. Ms.

Howard's inaction 15 prevents the case from moving forward. Dismissal would further the public's interest in 16 expeditious resolution of litigation and the Court's need to manage its docket when the 17 alternative is halting proceedings while waiting on Ms. Howard to respond to the Court. 18 Defendants are prejudiced by Ms. Howard's silence, which unreasonably delays this case. 19 See *Anderson v. Air W., Inc.*, 542 F.2d 522, 524 (9th Cir. 1976) (citation omitted) (finding 20 there is a presumption of prejudice to defendants when a plaintiff unreasonably delays the 21 prosecution of the case). Although public policy favors disposition of cases on their merits, 22 "this factor 'lends little support' to a party whose responsibility it is to move a case toward 23 disposition on the merits but whose conduct impedes progress in that direction." In re 24 Phenylpropanolamine (PPA) Prods. Liab. Litig., 460 F.3d 1217, 1228 (9th Cir. 2006). 25 Finally, the Court warned Ms. Howard twice that a failure to comply with the Court's 26 orders would result in dismissal, which satisfies the fifth factor regarding less drastic 27 alternatives. See *id.* at 1229 ("Warning that failure to obey a court order will result in 28 / / / 1 ||dismissal can itself meet the 'consideration of alternatives' requirement." (citation 2 || omitted)). 3 Accordingly, the Court DISMISSES this action with prejudice pursuant to Federal 4 || Rule of Civil Procedure 41(b) for failure to comply with a court order. Fed. R. Civ. P. 41(b) 5 ||('Unless the dismissal order states otherwise, a dismissal under this subdivision (b) and 6 dismissal not under this rule—except one for lack of jurisdiction, improper venue, or 7 || failure to join a party under Rule 19—operates as an adjudication on the merits.'). The 8 || Clerk of Court shall enter judgment and close this case. 9 The Clerk of Court shall also mail a copy of this Order to Ms. Howard at the address 10 ||provided by her former counsel in the proof of service dated March 14, 2025. See 11 ||}ECF No. 17 at 7. 12 IT IS SO ORDERED. 13 ||Dated: June 6, 2025 NO 14 eS 15 Honorable Linda Lopez 6 United States District Judge 17 18 19 20 21 22 23 24 25 26 27 28