

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Howard v. FCA US, LLC

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

OPINION

Howard v. FCA US, LLC.

PER CURIAM.

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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983, 990 12 (9th Cir. 1999), superseded by statute on other grounds as recognized in *Ronconi v. Larkin*, 13 253 F.3d 423, 429 n.6 (9th Cir. 2001). 14 The Court finds the factors weigh in favor of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