

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Aragon v. DZR Group Inc.

Aragon · No. 25-cv-0264-AGS-BLM · Decided July 14, 2025

SUMMARY

The United States District Court for the Southern District of California dismissed Daniel Aragon’s case without prejudice after he failed to file a second amended complaint by the court-ordered deadline. Applying the Ninth Circuit’s failure-to-prosecute factors, the court concluded that dismissal was warranted because the public interest, docket management, prejudice, and consideration of less drastic alternatives favored dismissal.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Andrew G. Schopler
JURISDICTION	United States District Court for the Southern District of California
DECIDED	July 14, 2025
DOCKET	25-cv-0264-AGS-BLM
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court dismissed plaintiff's amended complaint, gave him a deadline to file a second amended complaint, and warned that failure to comply would result in dismissal of the entire action. After plaintiff failed to file the second amended complaint, the court dismissed the case without prejudice for failure to comply with the court's order and failure to prosecute.
STANDARD OF REVIEW	Dismissal for failure to prosecute or failure to comply with a court order is evaluated under a five-factor balancing test addressing the public interest in expeditious resolution, the court's need to manage its docket, prejudice to defendants, availability of less drastic alternatives, and the public policy favoring disposition on the merits.
PRECEDENTIAL VALUE	Unpublished district court order; limited precedential value.

TOPICS

- sanctions
- civil procedure
- pleadings

PRACTICE AREAS

civil procedure

federal civil litigation

QUESTIONS PRESENTED

1. Whether the case should be dismissed without prejudice because plaintiff failed to prosecute and failed to comply with the court's order requiring a second amended complaint by a specified deadline.

HOLDINGS

1. A district court may dismiss an action after weighing the five Pagtalunan factors, and dismissal without prejudice was warranted here because at least four factors supported dismissal after plaintiff failed to file the required second amended complaint.

KEY QUOTATIONS

“In determining whether to dismiss a claim for failure to prosecute or failure to comply with a court order, the Court must weigh the following 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 defendants/respondents; (4) the availability of less drastic alternatives; and (5) the public policy favoring disposition of cases on their merits.” (at 1)

“Because “at least four factors support dismissal,” the Court concludes that dismissal the proper remedy here.” (at 2)

FACTUAL BACKGROUND

The court had previously dismissed Aragon's amended complaint and allowed him to file a second amended complaint by June 10, 2025. Aragon did not file the required pleading and offered no explanation for the delay. The court had provided multiple opportunities to amend and warned that failure to meet the deadline would result in dismissal of the entire action.

PROCEDURAL HISTORY

The court had previously dismissed Daniel Aragon's amended complaint and ordered that any second amended complaint be filed by June 10, 2025. No second amended complaint was filed. The court weighed the Ninth Circuit's five dismissal factors and dismissed the action without prejudice.

DISPOSITION

dismissed

CASES CITED

- Pagtalunan v. Galaza, 291 F.3d 639, 642 (9th Cir. 2002)
- Yourish v. California Amplifier, 191 F.3d 983, 990 (9th Cir. 1999)
- In re Eisen, 31 F.3d 1447, 1452 (9th Cir. 1994)
- Lira v. Herrera, 427 F.3d 1164, 1169 (9th Cir. 2005)

- *Ferdik v. Bonzelet*, 5 F.2d 1258, 1262 (9th Cir. 1992)

OPINION

1 UNITED STATES DISTRICT COURT 2 SOUTHERN DISTRICT OF CALIFORNIA 3 Daniel ARAGON, Case No.: 25-cv-0264-AGS-BLM 4 Plaintiff, ORDER DISMISSING CASE WITHOUT PREJUDICE 5 v. 6 DZR GROUP INC., et al., 7 Defendants. 8 9 The Court previously dismissed plaintiff Daniel Aragon’s amended complaint and 10 ordered that “[a]ny second amended complaint” be filed “by June 10, 2025.” (ECF 7, at 2.)

11 None has yet been filed, so this case is dismissed without prejudice. 12 “In determining whether to dismiss a claim for failure to prosecute or failure to 13 comply with a court order, the Court must weigh the following factors: (1) the public’s 14 interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; 15 (3) the risk of prejudice to defendants/respondents; (4) the availability of less drastic 16 alternatives; and (5) the public policy favoring disposition of cases on their merits.” 17 *Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir.

2002). The first factor—the public 18 interest in expeditious resolution—“always favors dismissal.” *Id.* The second factor 19 regarding the court’s need to manage its docket likewise weighs in favor of dismissal since 20 Aragon’s “noncompliance has caused the action to come to a complete halt, thereby 21 allowing [Aragon] to control the pace of the docket rather than the Court.” See *Yourish v. 22 California Amplifier*, 191 F.3d 983, 990 (9th Cir.

1999). The risk of prejudice to defendants 23 (the third factor) also supports dismissal because the “law presumes injury from 24 unreasonable delay,” and plaintiff has offered no explanation for the tardiness that would 25 render it reasonable. See *In re Eisen*, 31 F.3d 1447, 1452 (9th Cir. 1994).

The fourth factor 26 concerning the availability of less drastic alternatives points toward dismissal, too. The 27 Court has afforded Aragon multiple opportunities to amend, and Aragon was warned that 28 if he “fails to file an amended complaint by the deadline, this entire action will be | || dismissed.” (ECF 7, at 2 (citing *Lira v. Herrera*, 427 F.3d 1164, 1169 (9th Cir.

2005).) The 2 amendment opportunities “constitute[] an attempt at a less drastic sanction,” and “a district 3 || court’s warning to a party that his failure to obey the court’s order will result in dismissal 4 | /can satisfy the ‘consideration of alternatives’ requirement.” See *Ferdik v. Bonzelet*, 5 F.2d 1258, 1262 (9th Cir. 1992).

The last factor—the public policy for disposition on 6 merits—is the only consideration that weighs against dismissal. 7 Because “at least four factors support dismissal,” the Court concludes that dismissal 8 the proper remedy here. See *Yourish*, 191 F.3d at 990. 9 || Dated: July 14, 2025 11 Hon. re w G. Schopler United States District Judge 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

