

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Noah Shumate v. Thomas McKenzie, et al.

No. CV 24-6532 FMO (SSCx) (C.D. Cal. Dec. 22, 2025) · No. CV 24-6532 FMO (SSCx) · Decided December 22, 2025

SUMMARY

The United States District Court for the Central District of California granted plaintiff one final opportunity to file a Second Amended Complaint after previously dismissing the First Amended Complaint with leave to amend. The court set a January 16, 2026 deadline for the Second Amended Complaint, a January 30, 2026 deadline for defendants’ response, and excused the parties from the meet-and-confer requirement for any motion to dismiss.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Fernando M. Olguin
JURISDICTION	United States District Court for the Central District of California
DECIDED	December 22, 2025
DOCKET	CV 24-6532 FMO (SSCx)
DISPOSITION	other
PROCEDURAL POSTURE	After granting defendants' motion to dismiss in part and dismissing the First Amended Complaint with leave to amend, the court issued an order addressing plaintiff's request for an extension and directing the further pleading schedule.
PRECEDENTIAL VALUE	Unknown
PARTIES	Noah Shumate v. Thomas McKenzie, et al.

TOPICS

- motions to dismiss
- pleadings
- motion to amend
- civil procedure

PRACTICE AREAS

- civil procedure
- federal civil litigation

QUESTIONS PRESENTED

1. Whether plaintiff should receive an additional opportunity and extension of time to file a Second Amended Complaint after the deadline established in the court's prior dismissal order.
2. What filing or response would avoid dismissal under Federal Rule of Civil Procedure 41(b) after dismissal of the First Amended Complaint with leave to amend.

HOLDINGS

1. The court granted plaintiff one final opportunity to file a Second Amended Complaint, extending the deadline to January 16, 2026, and stated that no further extensions would be granted.
2. To avoid dismissal under Federal Rule of Civil Procedure 41(b) following dismissal of a complaint with leave to amend, a plaintiff must file an amended complaint or a notice stating that the plaintiff will stand on the dismissed complaint.

KEY QUOTATIONS

“plaintiff must file an amended complaint or a notice that he will stand on the dismissed complaint” (1)

“cautioned that failure to timely file a Second Amended Complaint or Notice of Intent shall result in this action being dismissed for failure to prosecute and failure to comply with a court order.” (1)

FACTUAL BACKGROUND

The court had previously dismissed plaintiff's First Amended Complaint with leave to amend and warned that failure to file a Second Amended Complaint or a notice of intent to stand on the dismissed complaint could result in dismissal for failure to prosecute and failure to comply with a court order. Plaintiff's counsel timely filed a declaration requesting more time and alternatively indicating an intent to stand on the First Amended Complaint. The court granted plaintiff one final opportunity to file a Second Amended Complaint.

PROCEDURAL HISTORY

On December 8, 2025, the court granted defendants' motion to dismiss in part, dismissed the First Amended Complaint with leave to amend, and ordered plaintiff to file a Second Amended Complaint or a notice of intent to stand on the First Amended Complaint by December 18, 2025. On the deadline, plaintiff's counsel filed a declaration requesting an extension and alternatively stating that the declaration would serve as notice of intent to stand on the First Amended Complaint. The court granted one final opportunity to amend, set a January 16, 2026 deadline, and established deadlines for defendants' answer or Rule 12 motion.

DISPOSITION

other

CASES CITED

- Edwards v. Marin Park, Inc., 356 F.3d 1058, 1065 (9th Cir. 2004)

