

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Whitsitt v. Domus Management Co.

No. 2:24-cv-0407-DC-JDP (PS) (E.D. Cal. Apr. 22, 2025) · No. 2:24-cv-0407-DC-JDP (PS) · Decided April 23,
2025

OPINION

(PS) Whitsitt v. Domus Management Co

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 WILLIAM J. WHITSITT, Case No. 2:24-cv-0407-DC-JDP (PS) 12 Plaintiff,

13 v. FINDINGS AND RECOMMENDATIONS

14 DOMUS MANAGEMENT CO., et al., 15 Defendants. 16 17 On February 24, 2025, I screened
plaintiff’s complaint and dismissed it for failure to state 18 a claim. ECF 4. I ordered plaintiff to
file, within thirty days, either an amended complaint or a 19 notice of voluntary dismissal of this
action. Id. I also warned plaintiff that failure to comply with 20 that order could result in a
recommendation that this action be dismissed. Id. at 4. Plaintiff has 21 not complied with the
February 24, 2025 order, and the time to do so has passed.1 22 The court has the inherent power to
control its docket and may, in the exercise of that 23 power, impose sanctions where appropriate,
including dismissal. *Bautista v. Los Angeles Cnty.*, 24 216 F.3d 837, 841 (9th Cir. 2000); see
Local Rule 110 (“Failure of counsel or of a party to 25 comply with these Rules or with any order
of the Court may be grounds for imposition by the 26 27 1 Although it appears from the file that
plaintiff’s copy of the February 24, 2025 order was returned, plaintiff was properly served.
Pursuant to Local Rule 182(f), service of documents at 28 the record address of the party is fully
effective. 1 Court of any and all sanctions . . . within the inherent power of the Court.”). 2 A court
may dismiss an action based on a party’s failure to prosecute an action, failure to 3 obey a court
order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 4 (9th Cir.
1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 5 1260-61
(9th Cir. 1992) (dismissal for failure to comply with an order to file an amended 6 complaint);
Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to 7 comply with
local rule requiring pro se plaintiffs to keep court apprised of address); *Malone v. 8 U.S. Postal
Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court 9 order);
Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of 10 prosecution
and failure to comply with local rules). 11 In recommending that this action be dismissed for
failure to comply with court orders, I 12 have considered “(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." 15 *Ferdik*, 963 F.2d at 1260-61 (citation omitted). 16 Here, plaintiff failed to respond to the order directing him to file an amended complaint or 17 notice of voluntary dismissal. See ECF No. 4. Therefore, the public interest in expeditious 18 resolution of litigation, the court's need to manage its docket, and the risk of prejudice to the 19 defendant all support imposition of the sanction of dismissal. Lastly, my warning to plaintiff that 20 failure to obey court orders will result in dismissal satisfies the "considerations of the 21 alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 at 132-33; *Henderson*, 779 22 F.2d at 1424. The February 24, 2025 order expressly warned plaintiff that his failure to comply 23 with court orders would result in dismissal. ECF No. 4. Plaintiff had adequate warning that 24 dismissal could result from his noncompliance. I therefore find that the balance of factors weighs 25 in favor of dismissal. 26 Accordingly, it is hereby RECOMMENDED that: 27 1. This action be dismissed without prejudice for failure to prosecute, failure to comply 28 with court orders, and failure to state a claim for the reasons set forth in the court's February 24, 1 | 2025 order. See ECF No. 4. 2 2. The Clerk of Court be directed to close the case. 3 These findings and recommendations are submitted to the United States District Judge 4 | assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days of 5 || service of these findings and recommendations, any party may file written objections with the 6 || court and serve a copy on all parties. Any such document should be captioned "Objections to 7 | Magistrate Judge's Findings and Recommendations," and any response shall be served and filed 8 | within fourteen days of service of the objections. The parties are advised that failure to file 9 | objections within the specified time may waive the right to appeal the District Court's order. See 10 | *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Yist*, 951 F.2d 1153 (9th Cir. 11 1991). 12 3 IT IS SO ORDERED. 14 (ie — Dated: _ April 22, 2025 Q———

15 JEREMY D. PETERSON

16 UNITED STATES MAGISTRATE JUDGE

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