

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Chad Michael Creel v. Insurance Agents, et al.

Creel · No. 2:25-cv-2101-DJC-JDP (PS) · Decided December 16, 2025

SUMMARY

The magistrate judge recommends dismissing Chad Michael Creel’s action without prejudice because he failed to file an amended complaint or respond to an order to show cause. The recommendation relies on the court’s inherent authority and Ninth Circuit standards governing dismissal for failure to prosecute and failure to comply with court orders.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jeremy D. Peterson
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	December 16, 2025
DOCKET	2:25-cv-2101-DJC-JDP (PS)
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations by a federal magistrate judge recommending dismissal without prejudice after plaintiff failed to obey orders to amend the complaint or voluntarily dismiss the action and failed to respond to an order to show cause.
STANDARD OF REVIEW	The court applied the Ninth Circuit's five-factor test for dismissal as a sanction for failure to prosecute or obey court orders: the public interest in expeditious resolution, the court's need to manage its docket, the risk of prejudice to defendants, the public policy favoring decisions on the merits, and the availability of less drastic alternatives.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- sanctions
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice for failure to prosecute and failure to comply with court orders.
2. Whether the five-factor Ninth Circuit test for dismissal as a sanction supports dismissal under the circumstances.
3. Whether the prior failure to state a claim provides an additional basis for dismissal.

HOLDINGS

1. Dismissal without prejudice was warranted because plaintiff failed to file an amended complaint or notice of voluntary dismissal and failed to respond to the order to show cause despite an express warning that noncompliance could result in dismissal.
2. The court possesses inherent authority to control its docket and may impose sanctions, including dismissal, when a party fails to comply with court rules or orders.

KEY QUOTATIONS

“The court has the inherent power to control its docket and may, in the exercise of that power, impose sanctions where appropriate, including dismissal.” (at 1)

“I therefore find that the balance of factors weighs in favor of dismissal.” (at 2)

FACTUAL BACKGROUND

The court previously dismissed plaintiff's complaint for failure to state a claim and ordered him to file either an amended complaint or a notice of voluntary dismissal within thirty days. Plaintiff filed neither. After the court issued an order to show cause warning that failure to respond would result in a recommendation of dismissal, plaintiff again failed to respond.

PROCEDURAL HISTORY

On August 18, 2025, the court screened plaintiff's complaint and dismissed it for failure to state a claim, allowing thirty days to file an amended complaint or notice of voluntary dismissal. Plaintiff did not comply, so the court issued a November 19, 2025 order to show cause and warned that noncompliance would result in a recommendation of dismissal. Plaintiff did not respond, and the magistrate judge recommended dismissal without prejudice and closure of the case, subject to objections under 28 U.S.C. § 636(b)(1).

DISPOSITION

other

CASES CITED

- *Bautista v. Los Angeles County*, 216 F.3d 837, 841 (9th Cir. 2000)
- *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995)
- *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)
- *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988)
- *Malone v. U.S. Postal Service*, 833 F.2d 128, 130, 132-33 (9th Cir. 1987)
- *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986)
- *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998)
- *Martinez v. Yist*, 951 F.2d 1153 (9th Cir. 1991)

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