

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PRECEDENTIAL VALUE	nonprecedential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)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 CHAD MICHAEL CREEL, Case No. 2:25-cv-2101-DJC-JDP (PS) 12
Plaintiff, 13 v. FINDINGS AND RECOMMENDATIONS 14 INSURANCE AGENTS, et al., 15
Defendants. 16 17 On August 18, 2025, I screened plaintiff's complaint and dismissed it for failure
to state a 18 claim. ECF No. 3.

I ordered plaintiff to file, within thirty days, either an amended complaint or a 19 notice of
voluntary dismissal of this action. Id. Plaintiff failed to comply with that order. 20 Accordingly, on
November 19, 2025, I ordered plaintiff to show cause why this action should not 21 be dismissed.
ECF No. 4. I notified plaintiff that if he wished to continue with this lawsuit, he 22 must file an
amended complaint.

I also warned plaintiff that failure to comply with the November 23 19 order would result in a
recommendation that this action be dismissed. Id. Plaintiff has not 24 responded to the order to
show cause, and the time to do so has passed. 25 The court has the inherent power to control its
docket and may, in the exercise of that 26 power, impose sanctions where appropriate, including
dismissal.

Bautista v. Los Angeles Cnty., 27 216 F.3d 837, 841 (9th Cir. 2000); see Local Rule 110 ("Failure
of counsel or of a party to 28 comply with these Rules or with any order of the Court may be
grounds for imposition by the 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 13 need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy 14 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 her to file an amended complaint or 17 notice of voluntary dismissal. See ECF No. 3. 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 November 19, 2025 order expressly warned plaintiff that failure to comply 23 with court orders would result in dismissal. ECF No. 4. Plaintiff had adequate warning that 24 dismissal could result from noncompliance. I therefore find that the balance of factors weighs in 25 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 August 18, 1 | 2025 order. See ECF No. 3. 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 (4 ie — Dated: _ December 16, 2025 Q———. 15 JEREMY D. PETERSON 16 UNITED STATES MAGISTRATE JUDGE 17 18 19 20 21 22 23 24 25 26 27 28