

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

**Sean Reynolds v. McLaren Group, LLC, McLaren Automotive, Inc.,
and Does 1 through 20, inclusive**

Reynolds · No. 23cv1928-W-MMP · Decided December 9, 2025

OPINION

Reynolds

PER CURIAM.

1 2 3 4 5 6 7 8

9 UNITED STATES DISTRICT COURT

10 SOUTHERN DISTRICT OF CALIFORNIA

11 12 SEAN REYNOLDS, Case No.: 23cv1928-W-MMP 13 Plaintiff,

ORDER GRANTING DEFENDANT’S

14 v. MOTION TO DISMISS CASE FOR

FAILURE TO PROSECUTE [DOC. 15 MCLAREN GROUP, LLC, A California 39] Limited Liability Company; MCLAREN 16 AUTOMOTIVE, INC., A Delaware 17 Corporation; and DOES 1 through 20, inclusive, 18 Defendants. 19 20 21 I. Background 22 On September 13, 2023, attorney David N. Barry filed a lawsuit on behalf of 23 Plaintiff Sean Reynolds (“Plaintiff”) in San Diego Superior Court. (Complaint [Doc. 1- 24 2].) The complaint asserted seven causes of action relating to Plaintiff’s purchase of an 25 allegedly defective McLaren vehicle. (Id.) On October 9, 2023, Plaintiff dismissed 26 McLaren Group, LLC, as a defendant after learning that it has no connection to McLaren 27 Vehicles. (Ntc. of Removal [Doc. 1] at 4.) 28 1 On October 20, 2023, Defendant McLaren Automotive, Inc. (“Defendant”) 2 removed this case to federal court. (Ntc. of Removal.) Shortly thereafter, Defendant filed 3 a motion to dismiss (First Mtn. to Dismiss [Doc. 3]), and Plaintiff filed a motion to 4 remand (Remand Mtn. [Doc. 4]). The motion to dismiss was granted in part and 5 dismissed four of Plaintiff’s claims without leave to amend, and the motion to remand 6 was denied. (Mtn. to Dismiss and Remand Order [Doc. 11].) 7 On July 30, 2024, Plaintiff’s counsel, David N. Barry, filed a motion to withdraw 8 as counsel due to a breakdown in communication. (Mtn. to Withdraw [Doc. 17].) Plaintiff 9 filed a response in opposition stating that there was no proper basis for his attorney to 10 withdraw from representation, and explained that he is a retiring attorney himself, but is 11 unable to represent himself in this action because of medical issues and a recent death in 12 his family. (See Mtn. to Withdraw Oppo. [Doc. 20].) The Court, finding that a breakdown 13 in communication was easily apparent from the papers and that the parties would not be 14 prejudiced by counsel’s withdrawal, granted Plaintiff’s counsel’s motion. (Order Mtn. to 15 Withdraw [Doc. 21].) 16 Plaintiff then

appeared pro se for a short period of time until filing a request to 17 substitute Gregory Garrison in place of himself as counsel in December 2024. (Mtn. 18 Substitute [Doc. 28].) In March 2025, an early neutral evaluation (“ENE”) and case 19 management conference (“CMC”) was held by Magistrate Judge Pettit, and a scheduling 20 order was entered. (See Docs. 32, 33.) In July 2025, Magistrate Judge Pettit held a 21 discovery conference and a status conference. (See Docs. 37, 38.) 22 On August 11, 2025, Defendant filed a motion to dismiss for failure to prosecute 23 pursuant to Federal Rule of Civil Procedure 41(b). (Mtn. re Failure to Prosecute [Doc. 24 39-1].) In the motion, Defendant states the following: 25 Plaintiff has not diligently prosecuted this action whatsoever. 26 Rather, Plaintiff has abandoned his case by failing to fulfill his 27 discovery obligations and refusing to participate in this action. Plaintiff has not supplemented his responses, did not verify 28 responses to MAI’s [“McLaren Automotive, Inc.”] request for 1 interrogatories, failed to respond to the second set of discovery and, most importantly, after Plaintiff’s and his law firm’s 2 depositions were duly noticed twice by MAI, Plaintiff neither 3 complied with the notices nor provided any further dates of availability. MAI has also never been provided a date for 4 performing a vehicle inspection. 5 6 (Id. at 2.) Defendant states that it has attempted to meet and confer with Plaintiff’s 7 counsel several times to “no avail,” and that counsel has only indicated the inability “to 8 effectively communicate with his client due to Plaintiff’s recent hospitalizations.” (Id.) 9 Defendant also notes that during the July status and discovery conference, Magistrate 10 Judge Pettit cautioned Plaintiff that his case would be “subject to dismissal if he 11 continued to neglect his discovery obligations.” (Id. at 8.) 12 On September 29, 2025, Defendant filed a notice of failure to oppose and motion 13 to dismiss the action for failure to prosecute. (Ntc. of Failure [Doc. 39].) To date, 14 Plaintiff has failed to file an opposition to Defendant’s motion to dismiss for lack of 15 prosecution, or any response to Defendant’s notice of failure to oppose. 16 17 II. Legal Standard 18 Federal Rule of Civil Procedure 41(b) authorizes the dismissal of an action where 19 the plaintiff fails to prosecute or comply with the federal rules or court orders. See Fed. 20 R. Civ. P. 41(b). Before dismissing a case for failure to prosecute, a court must weigh 21 five factors: “(1) the public’s interest in expeditious resolution of litigation; (2) the 22 court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the 23 public policy favoring disposition of cases on their merits; and (5) the availability of less 24 drastic sanctions.” *Henderson v. Duncan*, 779 F. 2d 1421, 1423 (9th Cir. 1986). 25 Dismissal for failure to prosecute, however, is a “harsh penalty and is to be imposed only 26 in extreme circumstances.” *Id.* 27 / / / / 28 1 III. Analysis 2 First, the Court finds that the public’s interest in the expeditious resolution of 3 litigation is a neutral factor here. The public has no interest in this case being prolonged 4 by Plaintiff’s failure to advance or prosecute this case. At the same time, the public’s 5 interest would not be harmed by additional time for resolution had Plaintiff demonstrated 6 any intention to prosecute the case. 7 Second, the Court’s need to manage its docket weighs in favor of dismissal. There 8 is no reason to keep this matter on the Court’s docket, or expend further judicial 9 resources, when Plaintiff has abandoned the case. 10 Third, the risk of prejudice to Defendant

weighs in favor of dismissal. Defendant is 11 unable to move the case forward without Plaintiff's participation. As Defendant notes, 12 Plaintiff has impaired its ability to "conduct discovery and prepare for trial." (Mtn. re 13 Failure to Prosecute at 7.) The fact discovery deadline was on August 8, 2025 (See 14 Scheduling Order [Doc. 35]), and Defendant has been unable to "complete written 15 discovery, take Plaintiff's deposition, or inspect the subject vehicle." (Id.) See also 16 *Hernandez v. City of El Monte*, 138 F.3d 393, 400–01 (9th Cir. 1998) (explaining that, 17 even absent a showing of actual prejudice, "a presumption of prejudice arises from the 18 plaintiff's failure to prosecute"). 19 Fourth, the public policy favoring resolution of cases on the merits weighs against 20 dismissal, but this factor also requires that Plaintiff present facts, law, and argument in 21 support of his case to permit review and resolution on the merits. Plaintiff has shown no 22 intention of doing so for several months. 23 Finally, the Court finds that dismissal without prejudice is the least drastic option 24 available that adequately addresses Plaintiff's failures in this case. "Unless otherwise 25 specified ... a [Federal Rule of Civil Procedure 41(b)] dismissal operates as an 26 adjudication upon the merits." *Owens v. Kaiser Found. Health Plan, Inc.*, 244 F.3d 708, 27 714 (9th Cir. 2001) (internal quotation marks omitted). Although Defendant requests 28 dismissal with prejudice, it offers no argument demonstrating that a less drastic sanction 1 unavailable. Defendant merely states that "[s]ince Plaintiff has not taken any steps to 2 || prosecute this action, this action should be dismissed with prejudice." (Mtn. re Failure to 3 || Prosecute at 8.) In summary, the above factors weigh in favor of dismissal. 4 5 IV. Conclusion 6 Accordingly, the Court GRANTS Defendant's motion to dismiss for failure to 7 || prosecute [Doc. 39-1] and ORDERS that this case be DISMISSED WITHOUT 8 || PREJUDICE. 9 IT IS SO ORDERED. 10 Dated: December 9, 2025 \ I pe Lor

12 Hn. 1 omas J. Whelan

13 United States District Judge 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28