

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Emma Dunn and Alana Dunn v. Marclite Electrical Corporation
Florida, et al.

Dunn · No. 1:25-cv-00565-JLT-BAM · Decided December 30, 2025

SUMMARY

The United States District Court for the Eastern District of California recommends dismissing Emma Dunn’s action without prejudice for failure to prosecute. The recommendation is based on her failure to update her address after court mail was returned as undeliverable and her failure to file a required second amended complaint. The court applies Federal Rule of Civil Procedure 41(b) and Local Rule 183(b), and advises the parties of their right to object.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Barbara A. McAuliffe
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	December 30, 2025
DOCKET	1:25-cv-00565-JLT-BAM
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations by a magistrate judge recommending sua sponte dismissal without prejudice for Plaintiff Emma Dunn's failure to prosecute and failure to keep the Court apprised of her current address.
STANDARD OF REVIEW	The court weighed the Ninth Circuit's five factors governing dismissal for lack of prosecution: the public's interest in expeditious resolution, the court's need to manage its docket, the risk of prejudice to defendants, the public policy favoring disposition on the merits, and the availability of less drastic sanctions.
PRECEDENTIAL VALUE	unpublished
PARTIES	Emma Dunn, Alana Dunn v. Marclite Electrical Corporation Florida, et al.

TOPICS

civil procedure

motions to dismiss

default

PRACTICE AREAS

civil procedure

federal courts

QUESTIONS PRESENTED

1. Whether the Court should recommend dismissal without prejudice under Federal Rule of Civil Procedure 41(b) and Local Rule 183(b) because Emma Dunn failed to prosecute, failed to file a required second amended complaint, and failed to maintain a current address.
2. Whether the Ninth Circuit's five dismissal factors supported dismissal under the circumstances.

HOLDINGS

1. A court may dismiss an action sua sponte under Federal Rule of Civil Procedure 41(b) and Local Rule 183(b) when a pro se plaintiff fails to prosecute and fails to keep the Court apprised of a current address.
2. The applicable factors supported recommending dismissal without prejudice because the public and docket-management interests favored dismissal, unreasonable delay supported a presumption of prejudice, the merits policy provided little support to a plaintiff who impeded progress, and no reasonable lesser alternative was available.

KEY QUOTATIONS

“If mail directed to a plaintiff in propria persona by the Clerk is returned by the U.S. Postal Service, and if such plaintiff fails to notify the Court and opposing parties within thirty (30) days thereafter of a current address, the Court may dismiss the action without prejudice for failure to prosecute.” (at 1)

“In determining whether to dismiss an action for lack of prosecution, the district court is required to weigh several factors: (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 sanctions.” (at 2)

*“Based on the above, it is **HEREBY RECOMMENDED** that this action be dismissed without prejudice based on Plaintiff Emma Dunn’s failure to prosecute this action.” (at 3)*

FACTUAL BACKGROUND

Plaintiffs proceeded pro se. After being granted leave to amend, they were directed to file a second amended complaint, but Emma Dunn did not do so. Mail sent to Emma Dunn was returned as undeliverable, and she failed to notify the Court of a current address within the required period or otherwise respond to court orders. Alana Dunn separately filed a voluntary dismissal, leaving Emma Dunn's failure-to-prosecute issue for recommendation.

PROCEDURAL HISTORY

Plaintiffs initiated the civil action on May 12, 2025. The Court granted leave to amend and directed Plaintiffs to file a second amended complaint within thirty days. After mail to Emma Dunn was returned as undeliverable, she failed to file a change of address or a second amended complaint. Alana Dunn separately filed a document construed as a notice of voluntary dismissal without prejudice, terminating her action under Rule 41(a)(1)(A)(i). The magistrate judge recommended dismissal of Emma Dunn's remaining action, subject to objections and review by the assigned district judge.

DISPOSITION

other

CASES CITED

- Carey v. King, 856 F.2d 1439, 1440 (9th Cir. 1988)
- In re Phenylpropanolamine (PPA) Products Liability Litigation, 460 F.3d 1217, 1226-1229 (9th Cir. 2006)
- Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976)
- Pagtalunan v. Galaza, 291 F.3d 639, 643 (9th Cir. 2002)
- Hells Canyon Pres. Council v. U.S. Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005)
- Wilkerson v. Wheeler, 772 F.3d 834, 838-839 (9th Cir. 2014)
- Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)