

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

Evans v. County of Imperial

No. 25-cv-249-BEN (LR) (S.D. Cal. Mar. 28, 2025) · No. 25-cv-249-BEN (LR) · Decided March 28, 2025

SUMMARY

The United States District Court for the Southern District of California granted the County of Imperial's unopposed motion to dismiss. The court deemed the lack of opposition consent under the local rules and dismissed the claims against the County without prejudice after weighing the factors identified in Ghazali v. Moran.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Roger T. Benitez
JURISDICTION	United States District Court for the Southern District of California
DECIDED	March 28, 2025
DOCKET	25-cv-249-BEN (LR)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendant County of Imperial moved to dismiss the complaint. Plaintiff filed no opposition, and the court treated the lack of opposition as consent to the motion.
STANDARD OF REVIEW	A district court may dismiss an action for failure to follow its local rules after weighing the five Ghazali factors: the public interest in expeditious resolution, the court's need to manage its docket, prejudice to defendants, the public policy favoring disposition on the merits, and the availability of less drastic sanctions.
PRECEDENTIAL VALUE	unpublished
PARTIES	Robert Evans v. County of Imperial

TOPICS

- motions to dismiss
- waiver
- civil procedure
- municipal law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the plaintiff's failure to oppose the County of Imperial's motion to dismiss permitted the court to treat the motion as unopposed and grant dismissal under the district's local rules.
2. Whether dismissal without prejudice was appropriate under the five-factor analysis required for failure to comply with local rules.

HOLDINGS

1. A plaintiff's failure to file an opposition to a motion to dismiss may be treated as consent to the motion under the district's local rules, and dismissal may be granted when the required factors support that result.

KEY QUOTATIONS

“Waiver. A movant’s failure to file any papers required under the local rules may be deemed as a waiver of the motion, or other request for ruling by the Court.”” (at 1)

“Failure to follow a district court's local rules is a proper ground for dismissal. Before dismissing the action, the district court is required to weigh several factors.” (at 1)

FACTUAL BACKGROUND

The County of Imperial moved to dismiss Evans's complaint. Evans did not file an opposition by the deadline, and the time set for the hearing passed without an opposition. The court found that the failure to oppose waived or abandoned any challenge to dismissal and that the applicable factors supported dismissal without prejudice.

PROCEDURAL HISTORY

The County of Imperial moved to dismiss on February 18, 2025, with a hearing set for March 24, 2025. Plaintiff's opposition was due March 10, 2025, but no opposition was filed. The district court granted the motion to dismiss the claims against the County without prejudice.

DISPOSITION

dismissed

CASES CITED

- Ghazali v. Moran, 46 F.3d 52, 53-54 (9th Cir. 1995)
- Wave Plastic Surgery Ctr., Inc. v. Beauty Art Ctr., LLC, No. CV205125 DSFMAAX, 2022 WL 2288315, at *1 (C.D. Cal. Mar. 1, 2022)
- V.V.V. & Sons Edible Oils Limited v. Meenakshi Overseas, LLC, 946 F.3d 542, 547 (9th Cir. 2019)
- Jenkins v. County of Riverside, 398 F.3d 1093, 1095 n.4 (9th Cir. 2005)

OPINION

Evans v. County of Imperial

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 1] || ROBERT EVANS, Case No. 25-cv-249-BEN (LR) 12 Plaintiff,

13 || v. ORDER GRANTING MOTION TO

14 | COUNTY OF IMPERIAL, etal., DISMISS COUNTY OF IMPERIAL

15 Defendants. 16

M7 The County of Imperial moved to dismiss Plaintiff's Complaint on February 18 10, 2025.

Hearing was set for March 24, 2025. Plaintiff's opposition was due on

19 March 10, 2025. Plaintiff has not filed an opposition. The time for hearing has

20 passed. The Court deems the lack of opposition to be consent to the motion. See 21 Local Rule

7.1(E)(2)(b) ("Waiver. A movant's failure to file any papers required 22 under the local rules may be deemed as a waiver of the motion, or other request for 23 ruling by the Court.""). 24 "Failure to

follow a district court's local rules is a proper ground for 25 dismissal. Before dismissing the action, the district court is required to weigh 26 several factors." Ghazali v. Moran, 46 F.3d 52, 53

(9th Cir. 1995). In dismissing 27 that action against the County of Imperial, the following factors have been weighed: 28 1 || (1) the public's interest in expeditious resolution of litigation (here, the interest is 2 || strong and satisfied by early dismissal); (2) the court's need to manage its docket 3 ||

(here, the interest is strong and satisfied by discouraging non-compliance with local 4 || rules); (3) the risk of prejudice to defendants (here, the interest is weak); (4) the 5 || public policy favoring disposition of cases on their merits (here, the interest is weak 6 || in that the statute of limitations will likely bar a ruling on the merits); and (5) the 7 || availability of less drastic sanctions (here, the interest is weak as dismissal is not 8 || imposed as a sanction). Considering these factors,

Defendant County of Imperial's 9 || motion to dismiss is granted, without prejudice. Wave Plastic Surgery Ctr., Inc. v. 10 || Beauty Art Ctr., LLC, No. CV205125 DSFMAAX, 2022 WL 2288315, at *1 (C.D. 11 || Cal. Mar. 1, 2022) (dismissing where party failed to file opposition brief) (citing 12 ||

V.V.V. & Sons Edible Oils Limited v. Meenakshi Overseas, LLC, 946 F.3d 542, 547 13 || (9th Cir. 2019) (non-opposition to motion to dismiss waived any challenge to 14 || dismissal of the claims); Jenkins v. Cty. of Riverside, 398 F.3d 1093, 1095 n.4 (9th 15 || Cir. 2005) (claims can be abandoned if their dismissal is unopposed); Ghazali v. 16 || Moran, 46 F.3d 52, 53-54 (9th Cir. 1995)). 17 IT IS SO ORDERED. . 18 19 Dated: March 28, 2025 + siocable Roger 1 Benit 30

United States District Judge 21 22 23 24 25 26 27 28