

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA

Arnold v. Lion's Club International Association, et al.

No. 2:24-cv-2095 DAD AC PS, United States District Court for the Eastern District of California (March 6, 2025)

SUMMARY

The court recommends dismissing this pro se action without prejudice for failure to prosecute and failure to comply with a court order. Plaintiffs did not file an amended complaint or respond to an order to show cause, despite being given additional time after updating their address.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of California                                                                                                                                                                                                                                                                                                   |
| WRITING FOR THE COURT | Allison Claire                                                                                                                                                                                                                                                                                                                                                        |
| JURISDICTION          | United States District Court for the Eastern District of California                                                                                                                                                                                                                                                                                                   |
| DECIDED               | March 6, 2025                                                                                                                                                                                                                                                                                                                                                         |
| DOCKET                | 2:24-cv-2095 DAD AC PS                                                                                                                                                                                                                                                                                                                                                |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                                                                                                 |
| PROCEDURAL POSTURE    | Findings and recommendations by a magistrate judge recommending dismissal of the action without prejudice for failure to prosecute and failure to comply with a court order.                                                                                                                                                                                          |
| STANDARD OF REVIEW    | In evaluating dismissal for failure to prosecute, the court considered the five factors identified in <i>Ferdik v. Bonzelet</i> : the public 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 alternatives. |
| PRECEDENTIAL VALUE    | nonprecedential                                                                                                                                                                                                                                                                                                                                                       |
| PARTIES               | Kimbly Arnold, Ronald Dunham, II v. Lion's Club International Association, et al.                                                                                                                                                                                                                                                                                     |

TOPICS

- civil procedure
- pleadings

## PRACTICE AREAS

civil procedure

civil rights

## QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice for failure to prosecute and failure to comply with the court's order.

## HOLDINGS

1. The five *Ferdik* factors weighed in favor of dismissing the action without prejudice because the case could not proceed without plaintiffs' participation, and plaintiffs failed to amend their complaint or respond to the order to show cause.

## KEY QUOTATIONS

*“Because this case cannot move forward without plaintiffs’ participation, the court finds the factors weigh in favor of dismissal.”* (at 2)

## FACTUAL BACKGROUND

Plaintiffs were proceeding pro se. After the complaint was rejected during in forma pauperis screening, plaintiffs failed to file an amended complaint within the court-ordered period and did not respond to an order to show cause. Although the court re-served the order after plaintiffs filed a change of address, plaintiffs still took no action.

## PROCEDURAL HISTORY

The court granted Arnold's in forma pauperis application but rejected the complaint during screening and granted plaintiffs 30 days to file an amended complaint. Plaintiffs did not timely amend. After the court issued an order to show cause for failure to prosecute, plaintiffs did not respond, including after the order was re-served at a newly provided address. The magistrate judge recommended dismissal without prejudice, subject to objections and review by the assigned district judge.

## DISPOSITION

other

## CASES CITED

- *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)
- *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991)

## OPINION

(PS) *Arnold v. Lion's Club International Assoc.*

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 KIMBLY ARNOLD and RONALD No. 2:24-cv-2095 DAD AC PS

DUNHAM, II,

12 Plaintiffs,

13 FINDINGS AND RECOMMENDATIONS

v. 14

LION'S CLUB INTERNATIONAL

15 ASSOCIATION, et al., 16 Defendants. 17 18 Plaintiffs are proceeding in this action pro se. The action was accordingly referred to the 19 undersigned for pretrial matters by E.D. Cal. R. ("Local Rule") 302(c)(21). On October 18, 2024, 20 the court granted plaintiff Arnold's in forma pauperis ("IFP") application but rejected the 21 complaint pursuant to the IFP screening process, granting plaintiffs 30 days to file an amended 22 complaint. ECF No. 5. Plaintiffs were cautioned that failure to do so could lead to a 23 recommendation that the action be dismissed. Plaintiffs did not file an amended complaint within 24 the time limit. On January 24, 2025, the court issued an order to show cause within 14 days why 25 this case should not be dismissed for failure to prosecute. ECF No. 4. Plaintiffs' mail was 26 returned to the court, and plaintiffs did not respond. On February 11, 2025, plaintiffs filed a 27 notice of change of address. ECF No. 5. Out of an abundance of caution, on February 13, 2025, 28 the court directed the order to show cause to be served to the new address and waited an 1 || additional 14 days for plaintiffs to respond. ECF No. 6. Plaintiffs still did not respond or take 2 || any other action in this case. 3 In recommending this action be dismissed for failure to prosecute, the court has 4 || considered "(1) the public's interest in expeditious resolution of litigation; (2) the court's need to 5 || manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring 6 || disposition of cases on their merits; and (5) the availability of less drastic alternatives." *Ferdik v. 7 || Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (citation omitted). Because this case cannot 8 | move forward without plaintiffs' participation, the court finds the factors weigh in favor of 9 || dismissal. 10 Therefore, IT IS HEREBY RECOMMENDED that this action be dismissed, without 11 | prejudice, for lack of prosecution and for failure to comply with the court's order. See Fed. R. 12 || Civ. P. 41(b); Local Rule 110. These findings and recommendations are submitted to the United 13 || States District Judge assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). 14 || Within twenty-one (21) days after being served with these findings and recommendations, 15 | plaintiff may file written objections with the court. Such document should be captioned 16 || "Objections to Magistrate Judge's Findings and Recommendations." Local Rule 304(d). 17 || Plaintiff is advised that failure to file objections within the specified time may waive the right to 18 || appeal the District Court's order. *Martinez v. YIst*, 951 F.2d 1153 (9th Cir. 1991). 19 | DATED: March 5, 2025 \* 20 Lhar—e\_

ALLISON CLAIRE

21 UNITED STATES MAGISTRATE JUDGE

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