

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Gastelum v. Bed Bath & Beyond, Inc.

Gastelum · No. 1:22-cv-01173-ADA-CDB · Decided March 10, 2023

SUMMARY

The United States District Court for the Eastern District of California adopted findings and recommendations recommending dismissal of the action without prejudice for failure to prosecute and failure to comply with Federal Rule of Civil Procedure 4(m). The court found the recommendations supported by the record, directed the Clerk to close the case, and entered the order on March 10, 2023.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 10, 2023
DOCKET	1:22-cv-01173-ADA-CDB
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed and adopted a magistrate judge's findings and recommendations recommending dismissal without prejudice for failure to prosecute and failure to comply with Federal Rule of Civil Procedure 4(m).
STANDARD OF REVIEW	De novo review under 28 U.S.C. § 636(b)(1)(C)
PRECEDENTIAL VALUE	unknown
PARTIES	Fernando Gastelum v. Bed Bath & Beyond, Inc.

TOPICS

- service of process
- civil procedure

PRACTICE AREAS

- Civil procedure
- Federal courts
- Service of process

QUESTIONS PRESENTED

1. Whether the district court should adopt the magistrate judge's findings and recommendations recommending dismissal without prejudice for failure to prosecute and failure to comply with Federal Rule of Civil Procedure 4(m).

HOLDINGS

1. The district court adopted the findings and recommendations in full and dismissed the case without prejudice for failure to prosecute and failure to comply with Federal Rule of Civil Procedure 4(m).

KEY QUOTATIONS

“failure to file objections within the specified time may result in the waiver of rights on appeal.” (at 1)

FACTUAL BACKGROUND

Plaintiff Fernando Gastelum filed a complaint against Bed Bath & Beyond, Inc. The assigned magistrate judge recommended dismissal without prejudice based on Plaintiff's failure to prosecute and failure to comply with Federal Rule of Civil Procedure 4(m). No objections to the findings and recommendations were filed.

PROCEDURAL HISTORY

On February 8, 2023, the assigned magistrate judge issued findings and recommendations to dismiss the complaint without prejudice because Plaintiff failed to prosecute and failed to comply with Rule 4(m). The findings and recommendations were served, but no objections were filed by the February 22, 2023 deadline. After conducting de novo review under 28 U.S.C. § 636(b)(1)(C), the district court adopted the findings and recommendations in full and directed the Clerk to close the case.

DISPOSITION

dismissed

CASES CITED

- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)

OPINION

Gastelum v. Bed Bath & Beyond, Inc.

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 FERNANDO GASTELUM, Case No. 1:22-cv-01173-ADA-CDB 12 Plaintiff, ORDER
ADOPTING FINDINGS AND

RECOMMENDATIONS AND DISMISSING

13 v. THIS CASE

14 BED BATH & BEYOND, INC., (Doc. 14)

15 Defendant. 16

17 18 On February 8, 2022, the assigned magistrate judge issued findings and recommendations
19 to dismiss Plaintiff’s complaint without prejudice for failing to prosecute and failure to comply
20 with Fed. R. Civ. P. 4(m). The Court served the findings and recommendations on Defendant
and 21 gave him 14 days to file objections thereto. Defendant’s deadline for filing objections if
any was

22 February 22, 2023, and as of the date of this Order, no objections have been filed. The findings
23 and recommendations advised Defendant that “failure to file objections within the specified
time 24 may result in the waiver of rights on appeal.” (Doc. 14); *Turner v. Duncan*, 158 F.3d 449,
455 25 (9th Cir. 1998). 26 According to 28 U.S.C. § 636(b)(1)(C), this Court has conducted a de
novo review of this 27 case. Having carefully reviewed the entire file, the Court concludes the
findings and recommendations are supported by the record and by proper analysis. 1 Based upon
the foregoing, the Court ORDERS: 2 1. The findings and recommendations issued on February 8,
2023 (Doc. 14) are adopted 3 in full; 4 2. The Clerk of Court be directed to close this case. 5 6 7 |
ITIS SO ORDERED. 8 Dated: _ March 10, 2023

9 UNITED STATES DISTRICT JUDGE

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