

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Millsaps v. State Farm Insurance Companies

Millsaps · No. 2:24-cv-3673-DC-JDP (PS) · Decided May 21, 2025

SUMMARY

The court recommends dismissing Patricia G. Millsaps’s action against State Farm Insurance Companies without prejudice. The recommendation is based on failure to prosecute, failure to comply with court orders, and failure to state a claim, after plaintiff did not file an amended complaint, notice of voluntary dismissal, or response to an order to show cause.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jeremy D. Peterson
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	May 21, 2025
DOCKET	2:24-cv-3673-DC-JDP (PS)
DISPOSITION	other
PROCEDURAL POSTURE	A magistrate judge screened plaintiff’s complaint, dismissed it for failure to state a claim, allowed plaintiff time to amend or voluntarily dismiss, and later issued an order to show cause after plaintiff did neither. Plaintiff failed to respond, and the magistrate judge issued findings and recommendations that the action be dismissed without prejudice.
STANDARD OF REVIEW	Dismissal for failure to prosecute, failure to obey court orders, or failure to comply with local rules is evaluated under the five-factor test considering the public interest in expeditious resolution, the court’s need to manage its docket, the risk of prejudice to defendants, the policy favoring disposition on the merits, and the availability of less drastic alternatives.
PRECEDENTIAL VALUE	nonprecedential findings and recommendations

TOPICS

- sanctions
- civil procedure
- motions to dismiss

PRACTICE AREAS

civil procedure

insurance

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice because plaintiff failed to prosecute, failed to comply with court orders, and failed to state a claim.
2. Whether the five-factor dismissal analysis supported dismissal despite the policy favoring disposition on the merits.

HOLDINGS

1. A court may dismiss an action for failure to prosecute, failure to obey a court order, or failure to comply with local rules, including through the court's inherent docket-management and sanctions powers.
2. Dismissal without prejudice was warranted because the public interest in expeditious resolution, the court's need to manage its docket, and the risk of prejudice supported dismissal, and the court's express warning satisfied the requirement to consider less drastic alternatives.

KEY QUOTATIONS

“In recommending that this action be dismissed for failure to comply with court orders, I have considered “(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 alternatives.”” (at 2)

FACTUAL BACKGROUND

The court had dismissed plaintiff's complaint for failure to state a claim and directed her to file an amended complaint or notice of voluntary dismissal. Although plaintiff received an extension of time, she filed neither document by the extended deadline. Plaintiff also failed to respond to an order to show cause that expressly warned that noncompliance could result in dismissal.

PROCEDURAL HISTORY

On February 11, 2025, the court dismissed the complaint for failure to state a claim and ordered plaintiff to file an amended complaint or notice of voluntary dismissal. After granting an extension through April 10, 2025, the court ordered plaintiff to show cause when she filed neither document. Plaintiff did not respond to the show-cause order, leading to these findings and recommendations for dismissal without prejudice.

DISPOSITION

other

CASES CITED

- *Bautista v. Los Angeles County*, 216 F.3d 837, 841 (9th Cir. 2000)

- Ghazali v. Moran, 46 F.3d 52, 53-54 (9th Cir. 1995)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1260-62 (9th Cir. 1992)
- Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988)
- Malone v. U.S. Postal Service, 833 F.2d 128, 130, 132-33 (9th Cir. 1987)
- Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986)
- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)
- Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991)

OPINION

(PS) Millsaps v. State Farm Insurance Companies

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 PATRICIA G. MILLSAPS, Case No. 2:24-cv-3673-DC-JDP (PS) 12 Plaintiff,

13 v. FINDINGS AND RECOMMENDATIONS

14 STATE FARM INSURANCE

COMPANIES,

15 Defendant. 16

17 On February 11, 2025, I screened plaintiff's complaint and dismissed it for failure to state 18 a
claim. ECF No. 3. I ordered plaintiff to file, within thirty days, either an amended complaint or 19
a notice of voluntary dismissal of this action. Id. I subsequently granted plaintiff's motion for an
20 extension of time and gave her until April 10, 2025, to file an amended complaint. ECF No. 5.
21 Plaintiff filed neither amended complaint nor a notice of voluntary dismissal by that date. 22
Therefore, on April 24, 2025, I ordered plaintiff to show cause why this action should not be 23
dismissed. ECF No. 6. I notified plaintiff that if she wished to continue with this lawsuit, she 24
must file an amended complaint. I also warned plaintiff that failure to comply with the April 24 25
order would result in a recommendation that this action be dismissed. Id. Plaintiff has not 26
responded to the order to show cause, and the time to do so has passed. 27 The court has the
inherent power to control its docket and may, in the exercise of that 28 power, impose sanctions
where appropriate, including dismissal. *Bautista v. Los Angeles Cnty.*, 1 216 F.3d 837, 841 (9th
Cir. 2000); see Local Rule 110 ("Failure of counsel or of a party to 2 comply with these Rules or
with any order of the Court may be grounds for imposition by the 3 Court of any and all sanctions
. . . within the inherent power of the Court."). 4 A court may dismiss an action based on a party's
failure to prosecute an action, failure to 5 obey a court order, or failure to comply with local rules.
See *Ghazali v. Moran*, 46 F.3d 52, 53-54 6 (9th Cir. 1995) (dismissal for noncompliance with local
rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 7 1260-61 (9th Cir. 1992) (dismissal for failure to comply
with an order to file an amended 8 complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir.

1988) (dismissal for failure to 9 comply with local rule requiring pro se plaintiffs to keep court apprised of address); *Malone v. 10 U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court 11 order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of 12 prosecution and failure to comply with local rules). 13 In recommending that this action be dismissed for failure to comply with court orders, I 14 have considered “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s 15 need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy 16 favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives.” 17 *Ferdik*, 963 F.2d at 1260-61 (citation omitted). 18 Here, plaintiff failed to respond to the order directing her to file an amended complaint or 19 notice of voluntary dismissal. See ECF No. 3. Therefore, the public interest in expeditious 20 resolution of litigation, the court’s need to manage its docket, and the risk of prejudice to the 21 defendant all support imposition of the sanction of dismissal. Lastly, my warning to plaintiff that 22 failure to obey court orders will result in dismissal satisfies the “considerations of the 23 alternatives” requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 at 132-33; *Henderson*, 779 24 F.2d at 1424. The April 24, 2025 order expressly warned plaintiff that failure to comply with 25 court orders would result in dismissal. ECF No. 6. Plaintiff had adequate warning that dismissal 26 could result from noncompliance. I therefore find that the balance of factors weighs in favor of 27 dismissal. 28 1 Accordingly, it is hereby RECOMMENDED that: 2 1. This action be dismissed without prejudice for failure to prosecute, failure to comply 3 | with court orders, and failure to state a claim for the reasons set forth in the court’s February 11, 4 | 2025 order. See ECF No. 3. 5 2. The Clerk of Court be directed to close the case. 6 These findings and recommendations are submitted to the United States District Judge 7 | assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days of 8 | service of these findings and recommendations, any party may file written objections with the 9 | court and serve a copy on all parties. Any such document should be captioned “Objections to 10 | Magistrate Judge’s Findings and Recommendations,” and any response shall be served and filed 11 | within fourteen days of service of the objections. The parties are advised that failure to file 12 | objections within the specified time may waive the right to appeal the District Court’s order. See 13 | *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Yist*, 951 F.2d 1153 (9th Cir. 14 | 1991). 15 16 IT IS SO ORDERED. 17 (1 Sy — Dated: _ May 21, 2025 Q———

18 JEREMY D. PETERSON

19 UNITED STATES MAGISTRATE JUDGE

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