

**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

OPINION

1 2 3 4 5 6 7 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 20 21 22 23 24 25 26 27 28