

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Latanya Williams v. J Lorraine LLC, et al.

Williams · No. CV 25-1213-FMO (BFMx) · Decided May 20, 2025

SUMMARY

The United States District Court for the Central District of California dismissed the action without prejudice for failure to prosecute and failure to comply with a court order. The plaintiff did not request entry of default after the defendant failed to respond, despite a prior warning that failure to do so could result in dismissal.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Fernando M. Olguin
JURISDICTION	United States District Court for the Central District of California
DECIDED	May 20, 2025
DOCKET	CV 25-1213-FMO (BFMx)
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court dismissed the action without prejudice after plaintiff failed to comply with a standing order requiring her to seek entry of default after defendant failed to respond to the complaint.
STANDARD OF REVIEW	A district court may dismiss under Federal Rule of Civil Procedure 41(b) for failure to prosecute or failure to comply with a court order; the dismissal is reviewed for abuse of discretion, with consideration of the Pagtalunan factors.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Latanya Williams v. J Lorraine LLC, et al.

TOPICS

- civil procedure
- default judgment
- service of process
- sanctions
- ada / disability

PRACTICE AREAS

- civil procedure
- Americans with Disabilities Act

QUESTIONS PRESENTED

1. Whether the district court should dismiss the action under Federal Rule of Civil Procedure 41(b) for plaintiff's failure to comply with the court's order requiring a request for entry of default.
2. Whether dismissal without prejudice was warranted for failure to prosecute after plaintiff failed to move the case forward when the defendant did not respond.

HOLDINGS

1. A district court may dismiss an action without prejudice under Federal Rule of Civil Procedure 41(b) when the plaintiff fails to comply with a court order requiring action to advance the case and fails to prosecute the action.

KEY QUOTATIONS

“Having considered the Pagtalunan factors, the court is persuaded that this action should be dismissed for failure to comply with a court order and failure to prosecute.” (at 4)

“Based on the foregoing, IT IS ORDERED that judgment be entered dismissing this action, without prejudice, for failure to prosecute and comply with the orders of the court.” (at 5)

FACTUAL BACKGROUND

Defendant Ennio Capra, as trustee of the Ennio Capra Trust, was served with the summons and complaint by substituted service on April 8, 2025. Under the applicable service rules, defendant's responsive pleading was due no later than May 9, 2025. Defendant did not answer, and plaintiff did not file the required request for entry of default despite a prior court order warning that failure to do so could result in dismissal.

PROCEDURAL HISTORY

Plaintiff served defendant Ennio Capra, as trustee of the Ennio Capra Trust, by substituted service on April 8, 2025. The responsive pleading was due May 9, 2025, but defendant did not answer and plaintiff did not request entry of default within the period required by the court's February 24, 2025 standing order. The court dismissed the action without prejudice for failure to prosecute and failure to comply with a court order.

DISPOSITION

dismissed

CASES CITED

- Link v. Wabash R.R. Co., 370 U.S. 626, 629-30, 82 S. Ct. 1386, 1388 (1962)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1260-62 (9th Cir. 1992)
- Thompson v. Housing Auth. of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986)
- Pagtalunan v. Galaza, 291 F.3d 639, 642 (9th Cir. 2002)
- Applied Underwriters, Inc. v. Lichtenegger, 913 F.3d 884, 891 (9th Cir. 2019)

- Yourish v. Cal. Amplifier, 191 F.3d 983, 990 (9th Cir. 1999)

OPINION

Latanya Williams v. J Lorraine LLC

PER CURIAM.

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7 UNITED STATES DISTRICT COURT

8 CENTRAL DISTRICT OF CALIFORNIA

9 10, LATANYA WILLIAMS,) Case No. CV 25-1213-FMO (BFMx) 11 Plaintiff,

12 V. ORDER DISMISSING ACTION WITHOUT

) PREJUDICE

13], J LORRAINE LLC, et al.,) 14 Defendants. V0) 16 On February 24, 2025, the court issued a Standing Order Re: Disability Cases (see Dkt. 10, Court's Order of February 24, 2025), which ordered plaintiff to file a request for entry of default no later than seven days after the time the response to the complaint would have been due by the 19] defendant. (Id. at 2). The court admonished plaintiff that "failure to seek entry of default within 20 seven [] days after the deadline to file a response to the complaint shall result in the dismissal of 21] the action and/or the defendant against whom entry of default should have been sought." (Id. at 2-3) (citing Fed. R. Civ. P. 41(b); Link v. Wabash R.R. Co., 370 U.S. 626, 629-30, 82 S.Ct. 1386, 1388 (1962)). 24 Here, defendant Ennio Capra, As Trustee of the Ennio Capra Trust ("defendant") was 25 || served with the summons and complaint on April 8, 2025, by substituted service pursuant to Cal. Civ. Proc. Code § 415.20(b). (See Dkt. 12, Proof of Service). Accordingly, defendant's responsive pleading to the Complaint was due no later than May 9, 2025. See Fed. R. Civ. P. 28|| 12(a); Cal. Civ. Proc Code § 415.20(b) ("Service of a summons in this manner is deemed 1 complete on the 10th day after the mailing."). As of the date of this Order, defendant has not 2|| answered the complaint, nor has plaintiff filed a request for entry of default. (See, generally, Dkt.). 3 A district court may dismiss an action for failure to prosecute or to comply with court orders. 4] Fed. R. Civ. P. 41(b); Link, 370 U.S. at 629-30, 82 S.Ct. at 1388 (authority to dismiss for failure to prosecute necessary to avoid undue delay in disposing of cases and congestion in court calendars); Ferdik v. Bonzelet, 963 F.2d 1258, 1260 (9th Cir. 1992) (district court may dismiss 7] action for failure to comply with any court order). Dismissal, however, is a severe penalty and 8|| should be imposed only after consideration of the relevant factors in favor of and against this 9] extreme remedy. Thompson v. Housing Auth. of Los Angeles, 782 F.2d 829, 831 (9th Cir.1986). These factors include: "(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 defendants/respondents; (4) the availability of less drastic alternatives; and (5) the public policy favoring disposition of cases on their merits." 13 | Pagtalunan v. Galaza, 291 F.3d 639, 642 (9th Cir. 2002) (citing Ferdik, 963 F.2d at 1260-61); see 14 Applied Underwriters, Inc. v. Lichtenegger, 913 F.3d 884, 891 (9th Cir. 2019) ("By its plain text, a Rule

41(b) dismissal . . . requires ‘a court order’ with which an offending plaintiff failed to 16 |
comply.”). “Although it is preferred, it is not required that the district court make explicit findings
17 | in order to show that it has considered these factors and [the Ninth Circuit] may review the
record independently to determine if the district court has abused its discretion.” *Ferdik*, 963 F.2d
at 19] 1261. 20 Having considered the *Pagtalunan* factors, the court is persuaded that this action
should be dismissed for failure to comply with a court order and failure to prosecute. Plaintiff’s
failure to file a request for entry of default hinders the court’s ability to move this case toward
disposition and 23] indicates that plaintiff does not intend to litigate this action. In other words,
plaintiff’s “noncompliance has caused [this] action to come to a complete halt, thereby allowing
[her] to 25 | control the pace of the docket rather than the Court.” *Yourish v. Cal. Amplifier*, 191
F.3d 983, 990 26 | (9th Cir. 1999) (internal quotation marks omitted). Further, plaintiff was warned
that failure to file request for entry of default would result in a dismissal of the action for lack of
prosecution and 28 | failure to comply with a court order. (See Dkt. 10, Court’s Order of February
24, 2025 at 2-3); see 1 also *Ferdik*, 963 F.2d at 1262 (“[A] district court’s warning to a party that
his failure to obey the 2 court’s order will result in dismissal can satisfy the consideration of
alternatives requirement.”) 3 (internal quotation marks omitted). Thus, having considered the
Pagtalunan factors, the court is 4 persuaded that the instant action should be dismissed for failure
to comply with a court order and 5 failure to prosecute. 6 Based on the foregoing, IT IS
ORDERED that judgment be entered dismissing this action, 7 without prejudice, for failure to
prosecute and comply with the orders of the court. 8 Dated this 20th day of May, 2025. 9 /s/
Fernando M. Olguin 10 United States District Judge 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
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