

**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.

OPINION

1 2 3 4 5 6 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
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