

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

McBryde v. 1-800-PACK-RAT, LLC

McBryde · No. 2:25-cv-01474-DC-CSK · Decided July 15, 2025

SUMMARY

The United States District Court for the Eastern District of California recommends dismissing Tiffany McBryde’s action against 1-800-Pack-Rat, LLC for failure to prosecute under Federal Rule of Civil Procedure 41(b). The recommendation follows Plaintiff’s failure to oppose Defendant’s motion to dismiss or respond to an order to show cause. The Court vacates the scheduled hearing and recommends denying the motion to dismiss as moot and closing the case.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Chi Soo Kim
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	July 15, 2025
DOCKET	2:25-cv-01474-DC-CSK
DISPOSITION	dismissed
PROCEDURAL POSTURE	The plaintiff, proceeding pro se, failed to oppose the defendant's motion to dismiss and failed to respond to an order to show cause concerning that failure. The magistrate judge issued an order vacating the motion hearing and findings and recommendations that the action be dismissed for failure to prosecute.
STANDARD OF REVIEW	Involuntary dismissal for failure to prosecute under Federal Rule of Civil Procedure 41(b), evaluated under the Ninth Circuit's five-factor test.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Tiffany McBryde v. 1-800-PACK-RAT, LLC

TOPICS

- motions to dismiss
- sanctions
- civil procedure
- commercial litigation

PRACTICE AREAS

civil procedure

commercial litigation

QUESTIONS PRESENTED

1. Whether the action should be dismissed sua sponte for plaintiff's failure to prosecute and failure to comply with the Federal Rules of Civil Procedure, local rules, and the court's order.
2. Whether defendant's pending motion to dismiss should be denied as moot if the action is dismissed for failure to prosecute.

HOLDINGS

1. A court may dismiss an action sua sponte under Federal Rule of Civil Procedure 41(b) when a party fails to prosecute the action or comply with the Federal Rules of Civil Procedure, local rules, or a court order. Applying the Ninth Circuit's five-factor test, dismissal was appropriate because plaintiff failed to participate in the litigation despite notice and an opportunity to respond.
2. Defendant's motion to dismiss should be denied as moot because the action should instead be dismissed for plaintiff's failure to prosecute.

KEY QUOTATIONS

“Under Federal Rule of Civil Procedure 41, a court may dismiss an action for failure to prosecute or failure to comply with the Federal Rules of Civil Procedure, the court’s local rules, or any order of the court.” (at 1)

“The Ninth Circuit has found the following factors relevant in determining whether a case should be dismissed under Rule 41(b):” (at 2)

“Finally, as to the public policy favoring disposition of cases on their merits, that factor is outweighed here.” (at 3)

FACTUAL BACKGROUND

Plaintiff Tiffany McBryde filed the action in state court, and defendant 1-800-Pack-Rat, LLC removed it to federal court. Defendant filed a motion to dismiss, but plaintiff failed to oppose the motion or file a statement of non-opposition. Plaintiff also failed to respond to the court's order to show cause explaining the missed deadline or why the case should not be dismissed for failure to prosecute.

PROCEDURAL HISTORY

Plaintiff filed the action in Sacramento County Superior Court on April 1, 2025, and defendant removed it to federal court on May 27, 2025. Defendant filed a motion to dismiss, but plaintiff did not file an opposition or statement of non-opposition. After the court ordered plaintiff to show cause, plaintiff again failed to respond. The magistrate judge recommended dismissal under Federal Rule of Civil Procedure 41(b), denial of the motion to dismiss as moot, and closure of the case, subject to objections and review by the assigned district judge.

DISPOSITION

dismissed

CASES CITED

- Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995)
- Hells Canyon Preservation Council v. U.S. Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005)
- Applied Underwriters, Inc. v. Lichtenegger, 913 F.3d 884, 890 (9th Cir. 2019)
- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)
- Martinez v. Yist, 951 F.2d 1153, 1156-57 (9th Cir. 1991)

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