

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Bobby Lee Collins v. Kurgan, et al.

No. 2:23-cv-1600 CSK P (E.D. Cal. Sept. 17, 2025) · No. No. 2:23-cv-1600 CSK P · Decided September 17,
2025

SUMMARY

In this order, the United States District Court for the Eastern District of California directs plaintiff Bobby Lee Collins to file an opposition to defendants' motion for summary judgment within 30 days. The court warns that failure to respond will be deemed consent to dismissal for lack of prosecution and failure to comply with court rules and an order, with a recommendation for dismissal under Federal Rule of Civil Procedure 41(b).

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	September 17, 2025
DOCKET	No. 2:23-cv-1600 CSK P
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved for summary judgment under Federal Rule of Civil Procedure 56. Plaintiff did not oppose the motion. The court ordered plaintiff to file an opposition within thirty days and warned that failure to do so would result in a recommendation that the action be dismissed for failure to prosecute and failure to comply with the Federal Rules of Civil Procedure and a court order.
PRECEDENTIAL VALUE	Unpublished district court order; limited precedential value
PARTIES	Bobby Lee Collins v. Kurgan, et al.

TOPICS

- summary judgment
- motions to dismiss
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether plaintiff's failure to oppose defendants' summary-judgment motion could be deemed a waiver under Eastern District of California Local Rule 230(l).
2. Whether plaintiff's failure to file an opposition within the court-ordered period would support a recommendation of dismissal for failure to prosecute and failure to comply with the Federal Rules of Civil Procedure and a court order under Federal Rule of Civil Procedure 41(b).

HOLDINGS

1. Under Eastern District of California Local Rule 230(l), a responding party's failure to file written opposition or a statement of no opposition may be deemed a waiver of opposition to the motion.
2. If plaintiff failed to file an opposition within thirty days, the failure would result in a recommendation that the action be dismissed under Federal Rule of Civil Procedure 41(b) for failure to prosecute and failure to comply with the Federal Rules of Civil Procedure and a court order.

KEY QUOTATIONS

“Failure of the responding party to file written opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion” (at 1)

“If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it.” (at 1-2)

“Failure to file an opposition will be deemed as consent to have the: (a) action dismissed for lack of prosecution; and (b) action dismissed based on plaintiff's failure to comply with these rules and a court order.” (at 2)

FACTUAL BACKGROUND

Defendants filed a motion for summary judgment on August 5, 2025. Plaintiff did not oppose the motion, despite being provided with the requirements for filing an opposition and notice that failure to oppose could be deemed a waiver. The court therefore directed plaintiff to file an opposition within thirty days and warned that noncompliance could lead to dismissal recommendations.

PROCEDURAL HISTORY

On August 5, 2025, defendants filed a motion for summary judgment and provided plaintiff with notice of the requirements for opposing the motion. Plaintiff filed no opposition. Rather than immediately dismissing the action, the magistrate judge granted plaintiff thirty days to respond and warned of a recommendation for dismissal under Rule 41(b) if plaintiff failed to comply.

DISPOSITION

CASES CITED

- Rand v. Rowland, 154 F.3d 952, 957 (9th Cir. 1998) (en banc)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 BOBBY LEE COLLINS, No. 2:23-cv-1600 CSK P 12 Plaintiff, 13 v.
ORDER 14 KURGAN, et al., 15 Defendants. 16 17 On August 5, 2025, defendants filed a motion
for summary judgment pursuant to Federal 18 Rule of Civil Procedure 56. Plaintiff did not oppose
the motion. 19 Local Rule 230(l) provides in part: “Failure of the responding party to file written
20 opposition or to file a statement of no opposition may be deemed a waiver of any opposition to
21 the granting of the motion....” Local Rule 230(l).

On August 5, 2025, defendants provided to 22 plaintiff the requirements for filing an opposition to
a motion and that failure to oppose such a 23 motion may be deemed a waiver of opposition to the
motion. (ECF No. 59-4 (citing Rand v. 24 Rowland, 154 F.3d 952, 957 (9th Cir. 1998) (en banc)).)
25 Rule 41(b) of the Federal Rules of Civil Procedure provides: 26 Involuntary Dismissal; Effect.

If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may
move to 27 dismiss the action or any claim against it. Unless the dismissal order states otherwise,
a dismissal under this subdivision (b) and any 28 dismissal not under this rule—except one for
lack of jurisdiction,] improper venue, or failure to join a party under Rule 19—operates as 5 an
adjudication on the merits.

3 || Fed. R. Civ. P. 41(b). 4 Good cause appearing, IT IS HEREBY ORDERED that, within thirty
days from the date 5 || of this order, plaintiff shall file an opposition, if any, to the motion for
summary judgment. 6 || Failure to file an opposition will be deemed as consent to have the: (a)
action dismissed for lack 7 || of prosecution; and (b) action dismissed based on plaintiff’s failure to
comply with these rules g || and acourt order.

Said failure shall result in a recommendation that this action be dismissed 9 || pursuant to Federal
Rule of Civil Procedure 41(b). 10 11 || Dated: September 17, 2025 4 aA 1 Cnn Spo \L CHI S00
KIM 13 UNITED STATES MAGISTRATE JUDGE 14 || ‘vcoll1600.nop 15 16 17 18 19 20 21 22
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