

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Lujano v. Greif, Inc., et al.

Lujano · No. 1:25-cv-00102-KES-BAM · Decided December 5, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 HILDEFONSO B. LUJANO, an individual Case No. 1:25-cv-00102-KES-
BAM and on behalf of all others similarly 12 situated, FINDINGS AND RECOMMENDATIONS
TO DISMISS ACTION WITHOUT PREJUDICE 13 Plaintiff, FOR FAILURE TO OBEY A
COURT ORDER AND FOR FAILURE TO PROSECUTE 14 v. (Docs.

12, 15, 16) 15 GREIF, INC., et al, FOURTEEN-DAY DEADLINE 16 Defendants. 17 I.
Background 18 Plaintiff Hildefonso B. Lujano, individually and on behalf of all others similarly
situated, 19 initiated this putative class action against defendants Greif, Inc, Greif Packaging LLC
(incorrectly 20 named as Greif Packing LLC), and Liz Corona in the Merced County Superior
Court on June 28, 21 2024.

Defendants Greif, Inc. and Greif Packaging LLC removed the action to this Court on 22 January
23, 2025. (Doc. 1.) 23 On May 29, 2025, the Court held a status conference to address service of
the complaint 24 on defendant Liz Corona and Plaintiff's anticipated motion to remand. (Doc. 12.)
At the 25 conference, Plaintiff indicated that leave to amend would be sought to name a different
individual 26 defendant, Ricardo Torres.

(Id.) The Court therefore directed Plaintiff to file any motion to 27 amend the complaint to name
Ricardo Torres as a defendant on or before June 30, 2025. (Doc. 28 1 12.) In lieu of filing a
motion to amend (or stipulation to amend), Plaintiff filed a first amended 2 complaint on June 30,
2025. (Doc. 13.) 3 On July 2, 2025, the Court struck Plaintiff's first amended complaint because it
did not 4 comply with Federal Rule of Civil Procedure 15.

(Doc. 15.) The Court directed Plaintiff to either 5 file a motion for leave to amend his complaint
or file a stipulation with defendants' consent. (Id.) 6 Plaintiff failed to file a motion to amend or a
stipulation.

Accordingly, on November 18, 7 2025, the Court issued an order directing Plaintiff, within
fourteen days, to show cause in writing 8 why the action should not be dismissed for failure to
obey a court order and for failure to 9 prosecute. (Doc. 16.)

The Court informed Plaintiff that he could comply with the show cause 10 order by filing either a
motion for leave to amend or a stipulation to amend his complaint. 11 Plaintiff was cautioned that

failure to comply with the order may result in the imposition of 12 sanctions, including terminating sanctions. (Id.) Plaintiff has not responded to the Court's show 13 cause order, and the time in which to do so has expired.

14 II. Failure to Prosecute and Failure to Obey a Court Order 15 A. Legal Standard 16 Local Rule 110 provides that "[f]ailure... of a party to comply with these Rules or with 17 any order of the Court may be grounds for imposition by the Court of any and all sanctions... 18 within the inherent power of the Court." District courts have the inherent power to control their 19 dockets and "[i]n the exercise of that power they may impose sanctions including, where 20 appropriate,... dismissal." *Thompson v. Hous.*

Auth., 782 F.2d 829, 831 (9th Cir. 1986). A 21 court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, 22 failure to obey a court order, or failure to comply with local rules. See, e.g., *Ghazali v. Moran*, 46 23 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 24 963 F.2d 1258, 1260–61 (9th Cir.

1992) (dismissal for failure to comply with an order requiring 25 amendment of complaint); *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130–33 (9th Cir. 1987) 26 (dismissal for failure to comply with court order). 27 In determining whether to dismiss an action, the Court must consider several factors: (1) 28 the public's interest in expeditious resolution of litigation; (2) the Court's need to manage its 1 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of 2 cases on their merits; and (5) the availability of less drastic sanctions.

Henderson v. Duncan, 779 3 F.2d 1421, 1423 (9th Cir. 1986); *Carey v. King*, 856 F.2d 1439, 1440 (9th Cir. 1988). 4 B. Discussion 5 Here, Plaintiff's amended complaint is more than five months overdue, and he has failed 6 to comply with the Court's orders or otherwise communicate with the Court.

The Court 7 cannot effectively manage its docket if Plaintiff ceases litigating his case, nor can the Court allow 8 the case to remain idle on the docket awaiting Plaintiff's compliance. Thus, the Court finds that 9 both the first and second factors weigh in favor of dismissal. 10 The third factor, risk of prejudice to defendants, also weighs in favor of dismissal, since a 11 presumption of injury arises from the occurrence of unreasonable delay in prosecuting an action.

12 *Anderson v. Air W.*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor usually weighs against 13 dismissal because public policy favors disposition on the merits. *Pagtalunan v. Galaza*, 291 F.3d 14 639, 643 (9th Cir. 2002).

However, "this factor lends little support to a party whose 15 responsibility it is to move a case toward disposition on the merits but whose conduct impedes 16 progress in that direction," which is the case here. In *re Phenylpropanolamine (PPA) Products* 17 *Liability Litigation*, 460 F.3d 1217, 1228 (9th Cir. 2006) (citation omitted). 18 Finally, the Court's warning to a party that failure to

obey the court's order will result in 19 dismissal satisfies the "considerations of the alternatives" requirement.

Ferdik, 963 F.2d at 1262; 20 Malone, 833 at 132–33; Henderson, 779 F.2d at 1424. The Court's order to show cause issued on 21 November 18, 2025, expressly warned Plaintiff that the failure to comply with the order may 22 result in the imposition of sanctions, including terminating sanctions. (Doc. 16.)

Thus, Plaintiff 23 had adequate warning that dismissal could result from noncompliance. 24 Additionally, at this stage in the proceedings there is little available to the Court that 25 would constitute a satisfactory lesser sanction while protecting the Court from further 26 unnecessary expenditure of its scarce resources.

As Plaintiff has not filed an amended complaint 27 and has ceased responding to the Court's orders, monetary sanctions likely would be of little use. 28 Further, the preclusion of evidence or witnesses is likely to have no effect given that Plaintiff has 1 ceased litigating this case. 2 III. Conclusion and Recommendation 3 Having considered the relevant factors, the Court finds that dismissal is the appropriate 4 sanction and HEREBY RECOMMENDS that this action be dismissed, without prejudice, for 5 failure to obey a court order and for Plaintiff's failure to prosecute this action.

6 These Findings and Recommendation will be submitted to the United States District Judge 7 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within fourteen 8 (14) days after being served with these Findings and Recommendation, Plaintiff may file written 9 objections with the Court.

The document should be captioned "Objections to Magistrate Judge's 10 Findings and Recommendation." Objections, if any, shall not exceed fifteen (15) pages or 11 include exhibits. Exhibits may be referenced by document and page number if already in 12 the record before the Court. Any pages filed in excess of the 15-page limit may not be 13 considered. Plaintiff is advised that failure to file objections within the specified time may result 14 in the waiver of the "right to challenge the magistrate's factual findings" on appeal.

Wilkerson v. 15 Wheeler, 772 F.3d 834, 838–39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 16 (9th Cir. 1991)). 17 IT IS SO ORDERED. 18 19 Dated: December 5, 2025 /s/ Barbara A. McAuliffe _ UNITED STATES MAGISTRATE JUDGE 20 21 22 23 24 25 26 27 28