

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

**John Brown v. Takeuchi Mfg. Co. (U.S.), Ltd.; Takeuchi Mfg. Co.
Ltd.; United Rentals (North America), Inc.; and United Rentals Inc.**

Brown v. Takeuchi · No. 2:21-cv-00392-JAM-DMC · Decided April 3, 2025

OPINION

Brown v. Takeuchi Mfg. Co. (U.S.)

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 JOHN BROWN, No. 2:21-cv-00392-JAM-DMC 12 Plaintiff, ORDER DISMISSING CASE
13 v.

14 TAKEUCHI MFG. CO. (U.S.),
LTD.; TAKEUCHI MFG. CO. LTD,

15 a foreign entity; UNITED

RENTALS (NORTH AMERICA),

16 INC.; and UNITED RENTALS INC. 17 Defendants. 18

19 On 06/04/2024, the Court ordered the parties to file

20 dispositional documents regarding their settlement by 21 08/05/2024. See ECF No. 152. The
parties then stipulated to a 22 continuance on three occasions, ultimately pushing the filing 23 date
to 10/11/2024. See ECF Nos. 154, 156, and 158. On 24 11/08/2024—nearly a month after the new
filing deadline— 25 Plaintiff’s counsel filed a declaration seeking further 26 continuance, which
the Court granted, extending the deadline to 27 12/12/2024. See ECF Nos. 159-60. On
12/12/2024, Plaintiff’s 28 counsel filed another declaration seeking a continuance. See ECF

1 No. 161. On 1/16/2025, after considering the Defendants’

2 response at ECF No. 163, the Court granted Plaintiff’s request, 3 stating “No further extension
of this March 31, 2025 deadline 4 will be granted by the court absent a showing of good cause. If
5 the settlement documents are not filed by March 31, 2025, this 6 case will be dismissed.” See
ECF No. 164. On 03/04/2025, 7 Plaintiff’s counsel filed a declaration explaining personal 8
circumstances delaying the filing, as well as Plaintiff’s reasons 9 for not signing the settlement
agreement. See ECF No. 166. On 10 03/31/2025, Plaintiff’s counsel filed a declaration asking for
a 11 “last continuance” of 45 days. See ECF No. 167. Plaintiff has 12 not filed any dispositional
documents by 03/31/2025—nearly eight 13 months after the original deadline of 08/05/2024. 14
Following Plaintiff’s failure to comply with the Court’s 15 order, the Court dismisses this action.

In determining whether to dismiss this action, the Court must weigh the *Ferdik* factors: (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; (4) the availability of less drastic alternatives; and (5) the public policy favoring disposition of cases on their merits. See *Pagtalunan v. Galaza*, 229 F.3d 639, 642 (9th Cir. 2002) (citing *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)). Here, the first two factors favor dismissal because this case already has been delayed by Plaintiff and his counsel's continuous failure to file dispositional documents, and the public has an overriding interest in securing "the just, speedy, and inexpensive determination of every action." See Fed. R. Civ. P. 1. The

1 third factor also favors dismissal because Defendants have been 2 deprived of an opportunity to formally settle this action, and 3 Defendants asked the Court to issue an order for Plaintiff to 4 show cause as to why this action should not be dismissed, 5 | indicating that they want this action dismissed. See ECF No. 6 163. Likewise, the fourth factor favors dismissal because the 7 Court already has attempted less drastic alternatives, and it 8 explicitly warned Plaintiff that it would dismiss this action for 9 | failure to comply with the 03/31/2025 deadline. See ECF No. 10 164. Finally, the fifth factor favoring disposition of a case on 11 its merits is outweighed by the other *Ferdik* factors. Moreover, 12 it is Plaintiff and his counsel's failure to comply that 13 | precludes a resolution on the merits. Accordingly, after 14 carefully evaluating the *Ferdik* factors, the Court concludes that 15 | dismissal is appropriate. The Clerk of the Court is directed to 16 | close this action. 17 IT IS SO ORDERED. 18 19 Dated: April 2, 2025 20 opens

JOHN A. MENDEZ

22 SENIOR UNITED STATES DISTRICT JUDGE

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