No. 25-

IN THE

Supreme Court of the United States

RAMBOD SOTOODEH, STELLA SOTOODEH,
88 SWEET INC.,

Petitioners,

v.

CITY OF SOUTH EL MONTE, A MUNICIPAL CORPORATION; JOE MARTINEZ, SOUTH EL MONTE CODE ENFORCEMENT SUPERVISOR; VINH VO; CITY OF SOUTH EL MONTE CODE ENFORCEMENT OFFICER,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

FRANK A. WEISER
Counsel of Record
LAW OFFICES OF
FRANK A. WEISER
3470 Wilshire Boulevard,
Suite 614
Los Angeles, CA 90010
(213) 384-6964
maimons@aol.com

Counsel for Petitioners

131559

COUNSEL PRESS
(800) 274-3321 • (800) 359-6859

QUESTION PRESENTED

There is wide federal circuit split on whether district courts have the legal authority to grant Federal Rule of Civil Procedure 12(b)(6) motions solely for lack of a reply pursuant to local rules requiring responses to motions.

The majority of circuits hold that district courts must always consider the merits of unopposed Rule 12(b)(6) motions to dismiss.

The First and D.C. Circuits allow district courts to grant such motions pursuant to local rules in certain circumstances.

The majority in this case held that Central District of California Local Rule 7-12 does not conflict with Rule 12(b)(6), and the district court could dismiss Petitioners' complaint with prejudice pursuant to the local rule for failure to file a required brief as consent to the granting of the motion. The concurrence held that generally courts must consider the merits of an unopposed Rule 12(b)(6) motion to dismiss, but that is only when the basis for dismissal is solely because the motion is unopposed, which it held was not the case here.

Federal Rule of Civil Procedure Rule 83(a)(1) requires local rules to "be consistent with – but not duplicate – federal statutes and rules.". "All federal courts are in agreement that the burden is on the moving party to prove that no legally cognizable claim for relief exists The question presented is:

Whether Federal Rules of Civil Procedure 12(b)(6) and 83(a)(1) require a district court to consider the merits of an unopposed Rule 12(b)(6) motion to dismiss even when a local rule authorizes otherwise?

PARTIES TO THE PROCEEDINGS

Petitioners Rambod Sotoodeh, Stella Sotoodeh, and 88 Sweet, Inc. were the appellants in the United States Court of Appeals for the Ninth Circuit. The City of South El Monte, Joe Martinez, and Vinh Vo were the appellees.

CORPORATE DISCLOSURE STATEMENT

Petitioner 88 Sweet, Inc. is a privately held corporation. No public held corporation owns any of 88 Sweet's stock.

STATEMENT OF RELATED PROCEEDINGS

There are no related proceedings to this action.

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PETITION FOR WRIT OF CERTIORARI

There is square and acknowledged wide circuit split on whether district courts have the legal authority to grant Federal Rule of Civil Procedure 12(b)(6) motions solely for lack of a reply pursuant to local rules requiring responses to motions.

A majority of circuits hold that district courts must always consider the merits of unopposed Rule 12(b)(6) motions to dismiss. See Marcure v Lynn, 992 F.3d 625, 631 (7th Cir. 2021); *Giummo v Olsen*, 701 F. App'x 922, 924-25 (11th Cir. 2017) (per curiam); *Issa v Comp USA*, 354 F.3d 1174, 1177 (10th Cir. 2003); *McCall v Pataki*, 232 F.3d 321, 322-23 (2d Cir. 2000); *Stackhouse v Mazurkierwicz*, 951 F.2d 29, 30 (3d Cir.1991); *Carver v Bunch*, 946 F,2d 451, 463-55 (6th Cir. 1991); *Ramsey v Signal Delivery Serv. Inc.*, 631 F.2d 1210, 1214 (5th Cir. 1980).

The D.C. Circuit takes a middle approach and "reluctantly" permits courts to grant 12(b)(6) motions on the basis of a local rule without analyzing the underlying merits of the motion, but only if the court does so without prejudice. *Cohen v Bd. of Trs. of Univ. of D.C.*, 819 F.3d 476, 480 (D.C. Cir. 2016). The D.C. Circuit expressed skepticism about the rule but was bound by circuit precedent. Id., at 481.

The First Circuit holds that "the mere fact that a motion to dismiss is unopposed does not relieve the district court of the obligation to examine the complaint itself." *Pomerleau v W. Springfield Pub. Sch.*, 362 F.3d 143, 145 (1st Cir. 2014). But it held that Rule 12(b)(6)'s requirement could be overridden by local rules if "the result does not clearly offend equity." Id.

The majority in this case held that Central District of California Local Rule 7-12 does not conflict with Rule 12(b)(6), and the district court could dismiss Petitioners' complaint with prejudice pursuant to the local rule as failure to file a required brief can be considered consent to the granting of the motion. The majority analyzed the dismissal under the local rule under Ninth Circuit precedent that sets forth a multi factor test that is required in determining whether a case may be dismissed for failure to comply with a local rule.

The concurrence held that generally courts must consider the merits of an unopposed Rule 12(b)(6) motion to dismiss, but that is only when the basis for dismissal is solely because the motion is unopposed, which it held was not the case here. The concurrence held that the petitioners' failure to file a reply to the motion to dismiss when ordered to do so by the district court, constituted a Rule 41(b) dismissal.

The district court in dismissing the complaint, made no finding that it was doing so under Rule 41(b), rather warning that the petitioners failure to file a reply after it was ordered to do so, may result in the court finding that petitioners consented to the granting of the motion to dismiss pursuant to the local rule.

Petitioners are asking this Court to review the federal circuit split. This petition presents the question that has divided the circuits and is in an important and unique posture as this case was dismissed with prejudice by the district court pursuant to the local rule.

The Court is respectfully requested to review and resolve the question presented which has divided the federal circuit courts nationwide.

OPINIONS BELOW

The Ninth Circuit Court of Appeals' memorandum decision is not reported and reproduced at App. 1a-6a. The Ninth Circuit Court of Appeals' order denying the petition for rehearing and petition for rehearing en banc is not reported and reproduced at App. 11a. The order of the district court filed May 1, 2024 is not reported and reproduced at App.7a-8a. The order of the district court filed May 9, 2024 dismissing the case is not reported and reproduced at App.7a-8a

JURISDICTION

The Ninth Circuit Court of Appeals issued its memorandum decision on May 13, 2025. The Ninth Circuit Court of Appeals denied petitioners' the petition for rehearing and petition for rehearing en banc on June 24, 2025. This Court has jurisdiction under 28 U.S.C. Section 1254(1).

STATUTORY PROVISIONS INVOLVED

The full text of 28 U.S.C. Section 2071(a) is reproduced at App. 12a. The full text of Federal Rule of Civil Procedure 12(b)(6) is reproduced at App. 13a-14a. The full text of Federal Rule of Civil Procedure 41(b) is reproduced at App. 15a. The full text of Federal Rule of Civil Procedure 83(a)(1) is reproduced at App. 16a. The full text of the United States District Court for the Central District of California Local Rule 7-12 is reproduced at App. 17a.

STATEMENT OF THE CASE

A. Legal Background

The Central District of California's Local Rule 7-12 permits a district court to grant a Rule 12(b)(6) motion to dismiss a complaint, with prejudice, as was done here, without analyzing the underlying merits of the motion.

Federal Rule of Civil Procedure Rule 83(a)(1) requires local rules to "be consistent with – but not duplicate – federal statutes and rules.". "All federal courts are in agreement that the burden is on the moving party to prove that no legally cognizable claim for relief exists.". 5B Charles Alan Wright, et al., Federal Practice and Procedure Section 1357 (3d ed. 2021).

Local rules, such as Local Rule 7-12, that allows the dismissal of complaints with prejudice without the consideration of the merits effectively shifts the burden of proof on the nonmovant. See *Cohen v Bd. of Trs. of Univ. of D.C.,* 819 F.3d 476, 481 (D.C. Cir. 2016) ("To the extent that it allows a district court to treat an unopposed motion as conceded, Local Rule 7(b) effectively places the burden of persuasion on the nonmoving party . . . when he fails to respond, he loses. But Federal Rule 12(b)(6) places the burden on the moving party.").

Thus, regardless of the merits of the motion, such a local rule violates Federal Rule of Civil Procedure 83(a)(1) and the 28 U.S.C. Sections 2071(a)(1), because it permits a district court judge to dismiss a lawsuit with prejudice based solely on a 12(b)(6) motion without any requirement to consider the merits of the motion, as required by Federal Rule of Civil Procedure 12(b)(6).

As stated in the body of this Petition, there is a wide federal circuit split on whether district courts have the legal authority to grant Federal Rule of Civil Procedure 12(b)(6) motions solely for lack of a reply pursuant to local rules requiring responses to motions.

As stated earlier, seven circuits hold that district courts must always consider the merits of unopposed Rule 12(b)(6) motions to dismiss.

The D.C. Circuit takes a middle approach and permits a district court to grant 12(b)(6) motions on the basis of a local rule without analyzing the underlying merits of the motion, but only if the court does so without prejudice. *Cohen*, 819 F.3d at 480.

The First Circuit holds that a district court generally has an obligation to examine the complaint itself, and decided the merit of a motion to dismiss under Rule 12(b)(6), even if unopposed, but that Rule 12(b)(6)'s requirement could be overridden by local rules if "the result does not clearly offend equity." Id., *Pomerleau v W. Springfield Pub. Sch.*, 362 F.3d at 145 (1st Cir 2014).

The Ninth Circuit's rule that treats a violation of Local Rule 7-12 as effectively a sanction for failure to comply with a local rule is inconsistent with the majority of circuits to consider the issue, and plainly shifts the burden of proof to the non movant.

Judge Nelson's concurrence in the case was correct that a district court does not have the legal authority to grant a Rule 12(b)(6) motion solely for lack of a reply pursuant to local rules requiring responses to motion.

(App. 4a-5a). But his holding that the district court dismissed the case for failure to file a response to the motion after it ordered petitioners to do so is not supported by the record.

The district court did not dismiss the case under Rule 41(b), but rather warned the petitioners that a failure to file a reply after it was ordered to do so, would result in the court finding that petitioners consented to the granting of the motion to dismiss pursuant to the local rule. (App. 7a-10a).

Thus, to the extent that compulsory reply local rules, such as Local Rule 7-12, effectively shift the burden to the nonmovant, those rules are not consistent with Rule 12(b)(6) and invalid under Rule 83(a)(1). See Marcure, 992 F.3d at 632-33 (finding that the Central District of Illinois Local Rule 7.1(B)(2) was invalid to the extent it was used by the district court to dismiss claims with prejudice solely because defendant's motion was unopposed).

In *Miner v Atlass*, 363 U.S. 641 (1960), the Court held that a local rule under which a district court ordered the taking of oral depositions during discovery was not consistent with the General Admiralty Rule because the Court had already concluded that the discovery deposition procedure was not authorized by the General Admiralty Rules themselves. Id., 363 U.S. at 650. The Court characterized discovery by deposition as substantive and complex and therefore a district court could not effectuate "a change so basic" through local rulemaking power. Id., 363 U.S. at 650. The procedure was not provided by the General Admiralty Rules and therefore could not be imposed by a local rule. Id., 363 U.S. at 652.

In *Colgrove v Battin*, 413 U.S. 149 (1973), the Court upheld a District of Montana local rule that reduced the size of a civil jury from twelve to six, despite Federal Rule of Civil Procedure 48, which at the time implicitly assumed a jury to have twelve members. Id., 413 U.S. at 149-151.

Colgrove distinguished the case from *Miner*, holding that adjusting the number of jurors was not a "basic procedural innovation" within the scope of *Miner*, and held that *Miner's* suggestion that local rules should not introduce basic procedural innovations referred only to "aspects of the litigatory process which bear upon the ultimate outcome of the litigation." Id., 413 U.S. at 164, n. 23. Because the change in the number of jurors pursuant to the local rule did not make a "discernible difference" in the outcome of the litigation, the local rule was valid. Id.

A compulsory reply local rule that effectively shifts the burden to the nonmovant in a Rule 12(b)(6) motion, and allows a district court to dismiss a case with prejudice if the nonmovant does not file a reply, clearly make a "discernible difference" in the outcome of the litigation, and the local rule is invalid.

Such local rules are inconsistent with this Court's decisions in *Colgrove* and *Miner*.

B. Factual and Procedural Background

On August 21, 2023, petitioners filed suit against the respondents under 42 U.S.C. Section 1983, claiming violations of their federal civil rights related to a warrantless and non-consensual search of their business by the respondents that gathered evidence used in imposing administrative citations and fine.

On December 11, 2023, the respondents filed a motion to dismiss the complaint pursuant to Rule 12(b)(6).

The petitioners did not file an opposition to the motion and on May 1, 2024, the district court ordered the Appellants to file an opposition, and stated in the order that "[f]ailure to do so may result in the Court deeming that Plaintiffs have consented to the granting of the motion pursuant to Local Rule 7-12." (App. 7a-8a).

The petitioners did not file an opposition to the motion as ordered by the district court, and the district court entered an order granting the motion and dismissed the complaint without leave to amend, finding that the failure to file an opposition to the motion was deemed consent to granting the motion. (App. 9a.-10a).

On May 13, 2025, a panel of the United States Court of Appeals for the Ninth Circuit affirmed. (App. at 1a-6a).

On June 24, 2025, the Ninth Circuit denied the petitioners' petition for rehearing and petition for rehearing en banc.

REASONS FOR GRANTING THE PETITION

This case presents an important question of civil procedure that has divided the federal circuits. The question presented is very consequential for litigants and federal courts nationwide.

The conflict among the federal circuits could not be more square and acknowledged, and the Ninth Circuit's decision clearly places the conflict in stark relief.

Accordingly, this Court should resolve the circuit split and the question presented.

CONCLUSION

For all the foregoing reasons, the Court is respectfully requested to grant the petition.

Respectfully submitted,

FRANK A. WEISER
Counsel of Record
LAW OFFICES OF
FRANK A. WEISER
3470 Wilshire Boulevard,
Suite 614
Los Angeles, CA 90010
(213) 384-6964
maimons@aol.com

Counsel for Petitioners

September 22, 2025

APPENDIX

TABLE OF APPENDICES

APPENDIX A — MEMORANDUM OF THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, FILED MAY 15, 2025

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 24-3848
D.C. No. 2:23-cv-06883-MEMF-AS

RAMBOD SOTOODEH; STELLA SOTOODEH;
88 SWEET, INC.,

Plaintiffs-Appellants,

v.

CITY OF SOUTH EL-MONTE, A MUNICIPAL CORPORATION; JOE MARTINEZ, SOUTH EL MONTE CODE ENFORCEMENT SUPERVISOR; VINH VO, CITY OF SOUTH EL MONTE CODE ENFORCEMENT OFFICER,

Defendants-Appellees.

Appeal from the United States District Court
or the Central District of California
Maame Ewusi-Mensah Frimpong,
District Judge, Presiding

Submitted May 13, 2025*
Pasadena, California

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* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Appendix A

Before: R. NELSON, LEE, and SUNG, Circuit Judges. Concurrence by Judge R. NELSON.

MEMORANDUM**

When the district court ordered the Sotoodeh family and their company to respond to a motion to dismiss, they failed to comply. Citing a local rule, the district court granted the motion and dismissed the Sotoodehs' suit with prejudice. We review that dismissal for an abuse of discretion. *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (per curiam). We affirm.

The district court did not abuse its discretion in dismissing the Sotoodehs' suit. The Sotoodehs failed to file a court-ordered opposition to a motion to dismiss. Under Central District of California Local Rule 7-12, when a party fails to file a "required" brief, the court may treat that as "consent to the granting" of the motion.

The district court did not discuss the factors that we require courts to consider before dismissing a suit under local rules: the interests in resolving litigation quickly and on the merits, the need to manage a docket, the risk of prejudice, and the availability of less drastic sanctions. *Ghazali*, 46 F.3d at 53–54 (citation omitted). Even so, our precedent does not require district courts to discuss those factors expressly, and we may weigh them in the

** This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

first instance. *Id.*; *Ferdik v. Bonzelet*, 963 F.2d 1258, 1261 (9th Cir. 1992).

Weighing those factors, three favor dismissal. Granting a motion to dismiss when a party fails to file a court-ordered response helps the court manage its docket and resolve litigation promptly. *See Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir. 2002). And because the district court gave the Sotoodehs extra time to file an opposition and warned that it would dismiss their suit if they failed to comply, the availability of less drastic sanctions also supports dismissal. *See Ferdik*, 963 F.2d at 1262. With these three factors favoring dismissal, the district court did not commit a "clear error of judgment" in dismissing the Sotoodehs' suit. *Pagtalunan*, 291 F.3d at 640 (quotation omitted); *Ferdik*, 963 F.2d at 1262.

The Sotoodehs argue that Local Rule 7-12 conflicts with Federal Rule of Civil Procedure 12(b)(6), which they contend prohibited the court from dismissing their suit because they failed to oppose the motion to dismiss. Our precedent indicates otherwise. *Ghazali*, 46 F.3d at 53–54. After all, the Federal Rules allow courts to dismiss lawsuits when plaintiffs disregard court orders. Fed. R. Civ. P. 41(b); *see also Applied Underwriters, Inc. v. Lichtenegger*, 913 F.3d 884, 890–91 (9th Cir. 2019).

AFFIRMED.

R. Nelson, J., concurring:

I concur in the majority's reasoning. Because the Sotoodehs defied a court order requiring them to respond to a motion to dismiss, our precedent allowed the district court to grant the motion without considering its merits. I write to clarify the boundaries of that rule.

District courts have wide latitude to "prescribe rules for the conduct of their business." 28 U.S.C. § 2071(a). These rules must be "consistent with" the Federal Rules of Civil Procedure. Fed. R. Civ. P. 83(a)(1).

In the Central District of California, when a party fails to file a "required" brief, a local rule allows the court to treat that failure as "consent to the granting" of the motion. C.D. Cal. Local Rule 7-12. District courts across the country have adopted similar rules. *See, e.g., Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (per curiam); *ITI Holdings, Inc. v. Odom*, 468 F.3d 17, 18 (1st Cir. 2006); *Issa v. Comp USA*, 354 F.3d 1174, 1177 (10th Cir. 2003); *Cohen v. Bd. of Trs. of Univ. of D.C.*, 819 F.3d 476, 481, 422 U.S. App. D.C. 129 (D.C. Cir. 2016).

A few circuits have suggested that these local rules may, in some applications, conflict with Federal Rule of Civil Procedure 12(b)(6). *Marcure v. Lynn*, 992 F.3d 625, 628 (7th Cir. 2021); *Issa*, 354 F.3d at 1177; *Cohen*, 819 F.3d at 481. Rule 12(b)(6) requires the defendant to prove that the complaint is legally insufficient. Yet if a district court

grants a motion to dismiss "solely" because the plaintiff didn't oppose the motion, the court "effectively places the burden of persuasion" on the plaintiff. *Cohen*, 819 F.3d at 481; *Marcure*, 992 F.3d at 631.

This doesn't prevent district courts from granting unopposed motions to dismiss as a sanction. Every circuit to address the issue allows for that possibility. *E.g., Stackhouse v. Mazurkiewicz*, 951 F.2d 29, 30 (3d Cir. 1991); *Stough v. Mayville Cmty. Schs.*, 138 F.3d 612, 614–15 (6th Cir. 1998); *Marcure*, 992 F.3d at 631; *Issa*, 354 F.3d at 1177–78. As do the Federal Rules. Rule 41(b) allows district courts to dismiss a lawsuit when the plaintiff violates court orders or rules. As a result, when a district court orders a plaintiff to respond to a motion to dismiss and the plaintiff fails to comply, the court may grant the unopposed motion without considering its merits.

Such a dismissal does not conflict with Rule 12(b)(6). Rule 12(b)(6) concerns arise when the *sole* basis for granting a motion to dismiss is that it's unopposed. Only then does the dismissal "effectively shift the burden of persuasion" to the plaintiff. *Cohen*, 819 F.3d at 483. When the plaintiff fails to file a court-ordered opposition, the plaintiffs' violation of the court order—not the unopposed nature of the motion—is the basis for the dismissal.

Still, dismissals based on violations of court orders must be "consistent with" Rule 41(b). Fed. R. Civ. P. 83(a)(1). The district court must consider the Rule 41(b)

factors laid out in circuit precedent. *Ghazali*, 46 F.3d at 53; *Stough*, 138 F.3d at 614–15; *see also Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1161–62 (10th Cir. 2007) (Gorsuch, J.). The court should invoke Rule 41(b) sanctions "only in extreme circumstances." *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (citation omitted). And the court may dismiss a suit based on the plaintiff's failure to file an opposition only if a court order or local rule affirmatively required the plaintiff to file one. *Applied Underwriters, Inc. v. Lichtenegger*, 913 F.3d 884, 890 (9th Cir. 2019). Ordinarily, parties aren't required to oppose motions. So local rules that merely fix the deadline for filing a response—and do not affirmatively require a response—aren't enough to invoke Rule 41(b).

In sum, when a plaintiff defies a court order to oppose a motion to dismiss, the district court may grant the unopposed motion without considering its merits. But such dismissals should be rare, and the court must apply the Rule 41(b) analysis. Otherwise, the court must adjudicate the unopposed motion on the merits.

APPENDIX B — CIVIL MINUTES OF THE UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA, FILED MAY 1, 2024

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES-GENERAL

Case No. 2:23-cv-06883-MEMF-AS Date: May 1, 2024

Title *Sotoodeh et al v. City of South El Monte a municipal corporation et al*

Present: The Honorable: Maame Ewusi-Mensah Frimpong

Damon Berry	N/A
Deputy Clerk	Court Reporter / Recorder
Attorneys Present for Plaintiffs: N/A	Attorneys Present for Defendants: N/A

Proceedings: Minute Order re Opposition to Motion to Dismiss

Defendants filed a Motion to Dismiss on December 11, 2023. ECF No. 20. Per Section VII(B) of the Court's Standing Order, Plaintiffs' opposition was due on December 26, 2024.[1] If the Court's Standing Order did

1. The Court's Standing Order dictates that oppositions to motions must "be filed no later than fourteen (14) days after the filing of the Motion." This would result in a deadline of December

not have a specific deadline for the opposition, Plaintiffs' opposition would have been due, pursuant to Local Rule 7-9, 21 days before the hearing on the motion, which would be a deadline of April 25, 2024 (because the hearing is set for May 16, 2024, see ECF No. 22). These deadlines have all passed, and as of the date of this Order, no opposition has been filed.

Plaintiffs are hereby ORDERED to file an opposition by no later than 5:00 p.m. on Monday May 6, 2024. Failure to do so may result in the Court deeming that Plaintiffs have consented to the granting of the motion pursuant to Local Rule 7-12. Should Plaintiffs file an opposition by this deadline, Defendants may file a Reply by no later than 5:00 p.m. on Thursday May 9, 2024.

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25, 2023, which was a holiday, and so pursuant to Federal Rule of Civil Procedure 6(a)(1)(C), the deadline bumped to the following day.

APPENDIX C — CIVIL MINUTES OF THE UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA, FILED MAY 9, 2024

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. 2:23-cv-06883-MEMF-AS Date: May 9, 2024

Title *Sotoodeh et al v. City of South El Monte a municipal corporation et al*

Present: The Honorable: Maame Ewusi-Mensah Frimpong

Damon Berry	N/A
Deputy Clerk	Court Reporter / Recorder
Attorneys Present for Plaintiffs: N/A	Attorneys Present for Defendants: N/A

Proceedings: Order GRANTING Unopposed Motion to Dismiss [ECF No. 20] JS-6

Defendants filed a Motion to Dismiss on December 11, 2023. ECF No. 20. Defendants seek dismissal with prejudice of Plaintiffs' first and second claims for relief. *See id.*

Plaintiffs failed to timely file any opposition to this Motion, as the Court noted in an Order on May 1, 2024. ECF No. 24. The Court ordered Plaintiffs to file an opposition by

May 6, 2024, and warned that failure to do so may result in the Court finding that Plaintiffs consented to the granting of the Motion to Dismiss. *See id.* That deadline has passed, and Plaintiffs have not filed an opposition or made any other relevant filings.

The Court ORDERS that Defendants' Motion to Dismiss (ECF No. 20) is GRANTED. Plaintiffs' first and second claims for relief (all of the claims Plaintiffs brought) are DISMISSED WITHOUT LEAVE TO AMEND.

The Clerk of Court is directed to close the file.

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APPENDIX D — ORDER OF THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, FILED JUNE 24, 2025

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 24-3848
D.C. No. 2:23-cv-06883-MEMF-AS
Central District of California,
Los Angeles

RAMBOD SOTOODEH; *et al.*,

Plaintiffs-Appellants,

v.

CITY OF SOUTH EL-MONTE,
A MUNICIPAL CORPORATION; *et al.*,

Defendants-Appellees.

Filed June 24, 2025

ORDER

Before: R. NELSON, LEE, and SUNG, Circuit Judges.

The panel has voted to deny the petition for panel rehearing and the petition for rehearing en banc. *See* Dkt. 25. The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. Fed. R. App. P. 40. The petition for panel rehearing and the petition for rehearing en banc are **DENIED**.

APPENDIX E — RELEVANT STATUTORY AND CONSTITUTIONAL PROVISIONS INVOLVED

28 U.S.C. Section 2071(a)

28 U.S. Code § 2071 – Rule-making power generally

(a)

The Supreme Court and all courts established by Act of Congress may from time to time prescribe rules for the conduct of their business. Such rules shall be consistent with Acts of Congress and rules of practice and procedure prescribed under section 2072 of this title.

* * *

Appendix E

Federal Rule of Civil Procedure 12(b)(6)

Rule 12. Defenses and Objections: When and How Presented; Motion for Judgment on the Pleadings; Consolidating Motions; Waiving Defenses; Pretrial Hearing

* * *

(b) How to Present Defenses. Every defense to a claim for relief in any pleading must be asserted in the responsive pleading if one is required. But a party may assert the following defenses by motion:

(1) lack of subject-matter jurisdiction;

(2) lack of personal jurisdiction;

(3) improper venue;

(4) insufficient process;

(5) insufficient service of process;

(6) failure to state a claim upon which relief can be granted; and

(7) failure to join a party under Rule 19 .

A motion asserting any of these defenses must be made before pleading if a responsive pleading is allowed. If a pleading sets out a claim for relief that does not require

a responsive pleading, an opposing party may assert at trial any defense to that claim. No defense or objection is waived by joining it with one or more other defenses or objections in a responsive pleading or in a motion.

* * *

Appendix E

Federal Rule of Civil Procedure 41(b)

Rule 41. Dismissal of Actions

(b) Involuntary Dismissal; Effect. 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. Unless the dismissal order states otherwise, a dismissal under this subdivision (b) and any dismissal not under this rule—except one for lack of jurisdiction, improper venue, or failure to join a party under Rule 19 —operates as an adjudication on the merits.

Appendix E

Federal Rule of Civil Procedure 83(a)

Rule 83. Rules by District Courts; Judge's Directives

(a) Local Rules.

(1) *In General.* After giving public notice and an opportunity for comment, a district court, acting by a majority of its district judges, may adopt and amend rules governing its practice. A local rule must be consistent with—but not duplicate—federal statutes and rules adopted under 28 U.S.C. §§2072 and 2075 , and must conform to any uniform numbering system prescribed by the Judicial Conference of the United States. A local rule takes effect on the date specified by the district court and remains in effect unless amended by the court or abrogated by the judicial council of the circuit. Copies of rules and amendments must, on their adoption, be furnished to the judicial council and the Administrative Office of the United States Courts and be made available to the public.

(2) *Requirement of Form*. A local rule imposing a requirement of form must not be enforced in a way that causes a party to lose any right because of a nonwillful failure to comply.

* * *

Appendix E

United States District Court for the
Central District Local Rule 7-12

**LOCAL RULES –
CENTRAL DISTRICT OF CALIFORNIA**

L.R. 7-12 Failure to File Required Documents. The Court may decline to consider any memorandum or other document not filed within the deadline set by order or local rule. The failure to file any required document, or the failure to file it within the deadline, may be deemed consent to the granting or denial of the motion, with the exception that a motion pursuant to F.R.Civ.P. 56 may not be granted solely based on the failure to file an opposition.