

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Carpenters Southwest Administrative Corporation, et al. v. Southern
California Overhead Door Company, Inc., et al.

Carpenters Southwest Administrative Corp. · No. CV 25-2374 FMO (KESx) · Decided April 28, 2025

SUMMARY

The United States District Court for the Central District of California issued an order to show cause regarding dismissal for lack of prosecution. The court directed the plaintiffs to respond by May 5, 2025, concerning apparent failures to timely serve defendants or otherwise prosecute the action, and stated that failure to respond could result in dismissal without prejudice.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Fernando M. Olguin
JURISDICTION	United States District Court for the Central District of California
DECIDED	April 28, 2025
DOCKET	CV 25-2374 FMO (KESx)
DISPOSITION	other
PROCEDURAL POSTURE	The district court issued an order to show cause, on its own motion, why the action should not be dismissed without prejudice for lack of prosecution and failure to comply with court orders based on an apparent failure to serve defendants and prosecute the action diligently.
STANDARD OF REVIEW	The court acted pursuant to its authority to dismiss for lack of prosecution and failure to comply with court orders; no appellate standard of review was applied.
PRECEDENTIAL VALUE	Unknown; civil minutes order to show cause, with no reporter citation or stated precedential designation.
PARTIES	Carpenters Southwest Administrative Corporation, et al. v. Southern California Overhead Door Company, Inc., et al.

TOPICS

service of process

default

civil procedure

commercial litigation

PRACTICE AREAS

Civil procedure

ERISA

Commercial litigation

QUESTIONS PRESENTED

1. Whether the apparent failure to serve one or more defendants within the applicable period and/or the apparent failure to obtain responsive pleadings warranted an order to show cause regarding dismissal for lack of prosecution.
2. Whether the plaintiffs should be required to file an answer-related filing, an application for entry of default, or a motion for default judgment to avoid dismissal.

HOLDINGS

1. Because it appeared that one or more applicable service or responsive-pleading periods had not been met, the court ordered the plaintiffs to show cause why the action should not be dismissed without prejudice for lack of prosecution.
2. The court warned that failure to file a timely response to the order to show cause would result in dismissal of the action or the relevant defendants for lack of prosecution and failure to comply with court orders.

KEY QUOTATIONS

“Absent a showing of good cause, an action must be dismissed without prejudice if the summons and complaint are not served on a defendant within 90 days after the complaint is filed.” (at 1)

“The court may dismiss the action prior to the 90 days, however, if plaintiff(s) has/have not diligently prosecuted the action.” (at 1)

FACTUAL BACKGROUND

The plaintiffs had filed an action against Southern California Overhead Door Company, Inc., and other defendants. The court determined that one or more applicable periods for service of process or responsive pleadings appeared not to have been met. No attorneys were present for either side at the chambers proceeding.

PROCEDURAL HISTORY

The action was pending in the Central District of California. The court observed that the applicable service and responsive-pleading periods appeared not to have been met and ordered the plaintiffs to show cause in writing by May 5, 2025, why the action should not be dismissed. The order provided that the show-cause matter would be submitted upon the filing of an answer or an application for entry of default, and warned that failure to respond could result in dismissal.

DISPOSITION

CASES CITED

- Link v. Wabash R.R. Co., 370 U.S. 626, 629-30, 82 S. Ct. 1386, 1388 (1962)

OPINION

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA CIVIL MINUTES - GENERAL No. CV 25-2374 FMO (KESx) Date April 28, 2025 Title Carpenters Southwest Administrative Corporation, et al. v. Southern California Overhead Door Company, Inc., et al. Present: The Honorable — Fernando M. Olguin, United States District Judge Vanessa Figueroa None Present Deputy Clerk Court Reporter / Recorder Attorneys Present for Plaintiffs: Attorneys Present for Defendants: None Present None Present Proceedings: (In Chambers) Order to Show Cause Re: Dismissal Re: Lack of Prosecution Absent a showing of good cause, an action must be dismissed without prejudice if the summons and complaint are not served on a defendant within 90 days after the complaint is filed.

Fed. R. Civ. P. 4(m). Generally, a defendant must answer the complaint within 21 days after service (60 days if the defendant is the United States). Fed. R. Civ. P. 12(a). The court may dismiss the action prior to the 90 days, however, if plaintiff(s) has/have not diligently prosecuted the action. With respect to service of individuals and/or business entities in a foreign country, plaintiff shall exercise all reasonable diligence and attempt service within the 90-day time period.

In the present case, it appears that one or more of these time periods has not been met. Accordingly, the court, on its own motion, orders plaintiff(s) to show cause in writing on or before May 5, 2025, why this action should not be dismissed for lack of prosecution. Pursuant to Fed. R. Civ. P. 78(b), the court finds that this matter is appropriate for submission without oral argument.

The Order to Show Cause will stand submitted upon the filing of: X An answer by the following defendant(s): ALL DEFENDANTS X Plaintiff's application for entry of default pursuant to Fed. R. Civ. P. 55(a): ALL DEFENDANTS Oo Plaintiff's motion for default judgment pursuant to Fed. R. Civ. P. 55(b): on or before the date indicated above. Failure to file a timely response to this Order to Show Cause shall result in the action or the above defendant(s) being dismissed for lack of prosecution and for failure to comply with the orders of the court.

See Local Rule 41; Fed. R. Civ. P. 4 & 41(b); Link v. Wabash R.R. Co., 370 U.S. 626, 629-30, 82 S.Ct. 1386, 1388 (1962). 00: 00 Initials of Preparer vdr