

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Kyle Perez v. Spruce Power 2 LLC et al.

Perez v. Spruce Power 2 LLC · No. CV 25-3587 FMO (AJRx) · Decided May 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 plaintiff to respond by June 4, 2025, by filing an answer or an application for entry of default concerning Goldman Sachs Bank USA and Spruce Power 2 LLC, warning that failure to respond could result in dismissal.

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	May 28, 2025
DOCKET	CV 25-3587 FMO (AJRx)
DISPOSITION	other
PROCEDURAL POSTURE	The district court issued an order to show cause why the action should not be dismissed for lack of prosecution based on the apparent failure to timely serve one or more defendants or obtain an answer or default.
STANDARD OF REVIEW	The court acted on its own motion under the Federal Rules of Civil Procedure and Local Rule 41; no appellate standard of review was applied.
PRECEDENTIAL VALUE	Unpublished district court order; precedential status is unknown and no reporter citation appears.
PARTIES	Kyle Perez v. Spruce Power 2 LLC, Goldman Sachs Bank USA

TOPICS

- service of process
- default
- civil procedure
- commercial litigation

PRACTICE AREAS

- Civil procedure
- Service of process
- Failure to prosecute

QUESTIONS PRESENTED

1. Whether the apparent failure to timely serve one or more defendants or obtain a responsive pleading warranted an order to show cause regarding dismissal for lack of prosecution.
2. Whether the court could dismiss the action before expiration of the ordinary service period if plaintiff had not diligently prosecuted the action.

HOLDINGS

1. Absent good cause, an action must be dismissed without prejudice when the summons and complaint are not served on a defendant within 90 days after the complaint is filed.
2. The court may dismiss an action before the 90-day service period expires if the plaintiff has not diligently prosecuted the action.
3. A defendant generally must answer within 21 days after service, and a plaintiff may seek entry of default when a defendant fails to plead or otherwise defend as permitted by Rule 55(a).

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)

“Accordingly, the court, on its own motion, orders plaintiff(s) to show cause in writing on or before June 4, 2025, why this action should not be dismissed for lack of prosecution.” (at 1)

FACTUAL BACKGROUND

The action had been filed, but the record appeared to show that one or more defendants had not been timely served or had not filed an answer. The court specifically identified Goldman Sachs Bank USA and Spruce Power 2 LLC as defendants for whom plaintiff could file an answer or an application for entry of default. The court also noted the obligation to exercise reasonable diligence in attempting service on individuals or business entities in a foreign country.

PROCEDURAL HISTORY

Plaintiff filed a civil action in the Central District of California. The court determined that the applicable service and responsive-pleading deadlines appeared not to have been met and ordered plaintiff to show cause in writing by June 4, 2025. The court stated that the matter would be submitted without oral argument and warned that failure to respond could result in dismissal of the action or specified defendants.

DISPOSITION

other

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 Case No. CV 25-3587 FMO (AJRx) Date May 28, 2025 Title Kyle Perez v. Spruce Power 2 LLC 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 June 4, 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: 7 An answer by the following defendant(s): GOLDMAN SACHS BANK USA and SPRUCE POWER 2 LLC 7 Plaintiff's application for entry of default pursuant to Fed. R. Civ. P. 55(a): GOLDMAN SACHS BANK USA and SPRUCE POWER 2 LLC 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). Initials of Preparer vdr