

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Michelle Reyes v. Starbucks Corp. et al.

Reyes · No. CV 25-4121-JPR · Decided September 4, 2025

SUMMARY

The United States District Court for the Central District of California dismissed the action without prejudice because Plaintiff failed to respond to a Notice of Deficiencies and an Order to Show Cause, and failed to prosecute the case. The court applied the Ninth Circuit’s five-factor test for dismissal for failure to prosecute and concluded that dismissal was warranted under its inherent authority.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Dolly M. Gee
JURISDICTION	United States District Court for the Central District of California
DECIDED	September 4, 2025
DOCKET	CV 25-4121-JPR
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court considered dismissal after Plaintiff failed to file proof of service, failed to file a notice of interested parties, and failed to respond to an Order to Show Cause regarding dismissal.
STANDARD OF REVIEW	The court applied the Ninth Circuit's five-factor test for dismissal for failure to prosecute: the public's interest in expeditious resolution, the court's need to manage its docket, the risk of prejudice to defendants, the public policy favoring disposition on the merits, and the availability of less drastic sanctions.
PRECEDENTIAL VALUE	Unpublished, nonprecedential federal district court order
PARTIES	Michelle Reyes v. Starbucks Corp. et al.

TOPICS

- civil procedure
- service of process
- negligence

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice for failure to prosecute and failure to respond to the court's Notice of Deficiencies and Order to Show Cause.
2. Whether the court's five-factor failure-to-prosecute analysis supported dismissal despite the public policy favoring resolution on the merits.

HOLDINGS

1. The court dismissed the action without prejudice under its inherent power because Plaintiff failed to prosecute, failed to respond to the Notice of Deficiencies, and failed to respond to the Order to Show Cause.
2. Plaintiff failed to comply with the applicable requirements to serve the Complaint and Summons and file proof of service.

KEY QUOTATIONS

“It therefore is ORDERED that this action is dismissed without prejudice under the Court’s inherent power to dismiss cases for failure to prosecute and because Plaintiff has not responded to the Court’s Notice of Deficiencies or its Order to Show Cause.” (at 2)

“In deciding whether to dismiss, a court must consider “(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 the defendants; (4) the public policy favoring disposition of cases on their merits[;] and (5) the availability of less drastic sanctions.”” (at 2)

FACTUAL BACKGROUND

Plaintiff, represented by counsel, filed a negligence action alleging diversity jurisdiction. She failed to file a notice of interested parties and failed to serve the Complaint and Summons or file proof of service within the applicable deadlines. She also failed to respond to the Magistrate Judge's Order to Show Cause concerning dismissal.

PROCEDURAL HISTORY

Plaintiff filed a negligence action invoking diversity jurisdiction on May 7, 2025. The Clerk issued a Notice of Deficiencies, and Plaintiff did not file the required notice of interested parties. Plaintiff also failed to serve Defendants and file proof of service by the applicable deadlines. After the Magistrate Judge issued an Order to Show Cause warning that the action would likely be dismissed without prejudice if Plaintiff did not respond within seven days, Plaintiff did not respond. The matter was referred to the district court, which dismissed the action without prejudice for failure to prosecute and failure to respond to court orders.

DISPOSITION

dismissed

CASES CITED

- Carey v. King, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (per curiam)
- Link v. Wabash R.R., 370 U.S. 626, 629–30 (1962)
- In re Eisen, 31 F.3d 1447, 1452–53 (9th Cir. 1994)
- Bryson v. Exec. Off. U.S. Att’ys, 646 F. App’x 493, 494 (9th Cir. 2016)
- Strick v. Pitts, 584 F. App’x 436, 436 (9th Cir. 2014)

OPINION

Michelle Reyes v. Starbucks Corporation

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 CENTRAL DISTRICT OF CALIFORNIA

10 MICHELLE REYES,) Case No. CV 25-4121-JPR) 11 Plaintiff,)

) ORDER DISMISSING ACTION FOR

12

v.) FAILURE TO RESPOND TO COURT

13) ORDERS AND FAILURE TO PROSECUTE

STARBUCKS CORP. et al.,) 14) Defendants.) 15) 16 Plaintiff, who is represented by counsel, filed this lawsuit 17 alleging negligence and diversity jurisdiction on May 7, 2025. A 18 few days later the Clerk issued a Notice of Deficiencies, noting 19 that Plaintiff had not filed a notice of interested parties, 20 instructing her to do so immediately, and warning her that 21 failure to comply could result in adverse consequences. [Doc. # 22 4.] Moreover, under Federal Rule of Civil Procedure 4(m), 23 Plaintiff was required to serve the Complaint and Summons on 24 Defendants by no later than August 5 and file proof of service. 25 See also Fed. R. Civ. P. 4(l)(1) (requiring proof of service by 26 affidavit). Under new Local Rule 4-6, proof of service must be 27 filed “within 14 days of service of the summons and complaint or 28 receipt of a notice and acknowledgment of service.” Thus, the 1 1 proof of service was due at the latest on August 19. 2 On August 20, because Plaintiff had not filed any proof of 3 service or a notice of interested parties, nor had Defendants 4 appeared in any way, the Magistrate Judge, to whom this case was 5 assigned for all purposes upon filing under Local Rule 73-2, 6 issued an Order to Show Cause re Dismissal. She warned that if 7 Plaintiff did not respond within seven days, “this lawsuit 8 w[ould] likely be dismissed without prejudice.” [Doc. # 5.] To 9 date Plaintiff has not responded. As a result, the Magistrate 10 Judge referred the matter to this Court to decide whether it 11 should be dismissed. See C.D. Gen. Order 25-04 ¶ 5. 12 Carey v. King, 856 F.2d 1439, 1441 (9th Cir. 1988)

(per 13 curiam), examined when it is appropriate to dismiss a lawsuit for 14 failure to prosecute. See also *Link v. Wabash R.R.*, 370 U.S. 15 626, 629–30 (1962) (“The power to invoke [dismissal] is necessary 16 in order to prevent undue delays in the disposition of pending 17 cases and to avoid congestion in the calendars of the District 18 Courts.”). 19 In deciding whether to dismiss, a court must consider “(1) 20 the public’s interest in expeditious resolution of litigation; 21 (2) the court’s need to manage its docket; (3) the risk of 22 prejudice to the defendants; (4) the public policy favoring 23 disposition of cases on their merits[;] and (5) the availability 24 of less drastic sanctions.” *Carey*, 856 F.2d at 1440 (citation 25 omitted). Unreasonable delay creates a “rebuttable presumption 26 of prejudice” to the defendant that can be overcome only with an 27 affirmative showing of just cause by the plaintiff. In *re Eisen*, 28 31 F.3d 1447, 1452-53 (9th Cir. 1994). 2 1 Here, the first, second, third, and fifth *Carey* factors 2 || favor dismissal. Because Plaintiff has ceased communicating with 3 || the Court, it cannot manage its docket. And because she has not 4 responded to the Order to Show Cause, she has not rebutted the 5 || presumption of prejudice to Defendants. Because of the Court’s 6 || inability to communicate with Plaintiff, no less drastic sanction 7 exists. And the Court cannot simply leave this case hanging on 8 || its docket in the hope that Plaintiff one day reappears. 9 || Although the fourth *Carey* factor weighs against dismissal — as it 10 || does in every case — together, the other factors outweigh the 11 || public’s interest in disposing of the case on its merits. See, 12 || e.g., *Bryson v. Exec. Off. U.S. Att’y*, 646 F. App’x 493, 494 13 || (9th Cir. 2016) (affirming dismissal for failure to respond to 14 || court order when Plaintiff did not respond to order to show 15 || cause); *Strick v. Pitts*, 584 F. App’x 436, 436 (9th Cir. 2014) 16 || (affirming dismissal for failure to prosecute when, among other 17 || things, Plaintiff did not respond to order to show cause). 18 It therefore is ORDERED that this action is dismissed 19 || without prejudice under the Court’s inherent power to dismiss 20 || cases for failure to prosecute and because Plaintiff has not 21 || responded to the Court’s Notice of Deficiencies or its Order to 22 || Show Cause. 23 24 || DATED: September 4, 2025 Melly Jn. Z.

DOLLY M. GEE

25 CHIEF %7.S. DISTRICT JUDGE

26 || Presented by: 27 brewhutl~ Jean P. Rosenbluth 28 || U.S. Magistrate Judge