

**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

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**OPINION**

Michelle Reyes v. Starbucks Corporation

PER CURIAM.

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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’ys, 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