

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Sewell v. Franklin Credit Management Corporation, et al.

Sewell · No. 2:24-cv-02241 DJC CKD (PS) · Decided March 11, 2025

SUMMARY

The United States Magistrate Judge recommends dismissal of the action for lack of jurisdiction after the pro se plaintiff failed to respond to an order to show cause. The court also stays pleading, discovery, and motion practice pending resolution of the findings and recommendations, except for objections and non-frivolous emergency motions. Plaintiff is given fourteen days to file objections.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Carolyn K. Delaney
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 11, 2025
DOCKET	2:24-cv-02241 DJC CKD (PS)
DISPOSITION	other
PROCEDURAL POSTURE	Pro se plaintiff proceeding in forma pauperis was ordered to show cause why the action should not be dismissed for lack of jurisdiction. After plaintiff failed to respond, the magistrate judge recommended dismissal and stayed pleading, discovery, and motion practice pending resolution of the findings and recommendations by the assigned district judge.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Marvin A. Sewell v. Franklin Credit Management Corporation, et al.

TOPICS

- subject matter jurisdiction
- civil procedure
- pleadings

PRACTICE AREAS

- federal civil procedure
- jurisdiction

QUESTIONS PRESENTED

- 1. Whether the action should be dismissed for lack of jurisdiction after plaintiff failed to allege a proper jurisdictional basis and failed to respond to the order to show cause.
- 2. Whether pleading, discovery, and motion practice should be stayed pending resolution of the magistrate judge's findings and recommendations.

HOLDINGS

- 1. Because plaintiff failed to respond to the order to show cause concerning the action's jurisdictional basis, dismissal for lack of jurisdiction was recommended.
- 2. Pleading, discovery, and motion practice were stayed pending resolution of the findings and recommendations, except for objections and non-frivolous emergency-relief motions.

KEY QUOTATIONS

- “Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed for lack of jurisdiction.” (at 1)
- “In light of these recommendations, IT IS ALSO HEREBY ORDERED that all pleading, discovery, and motion practice in this action are STAYED pending resolution of the findings and recommendations.” (at 1)

FACTUAL BACKGROUND

Plaintiff Marvin A. Sewell was proceeding pro se and in forma pauperis. The court previously required him to show cause why the action should not be dismissed for lack of jurisdiction and advised that failure to allege a proper jurisdictional basis would result in a recommendation of dismissal. Plaintiff filed no response.

PROCEDURAL HISTORY

The action was referred to the magistrate judge under Local Rule 302(c)(21). On February 6, 2025, the magistrate judge issued an order to show cause regarding the lack of an adequately alleged jurisdictional basis. Plaintiff did not respond, so the magistrate judge recommended dismissal for lack of jurisdiction and ordered a stay pending review by the assigned district judge.

DISPOSITION

other

CASES CITED

- Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 MARVIN A. SEWELL, No. 2:24-cv-02241 DJC CKD (PS) 12 Plaintiff, 13
v. ORDER 14 FRANKLIN CREDIT MANAGEMENT CORPORATION, et al., 15 Defendants.

16 17 Plaintiff is proceeding in this action pro se and in forma pauperis. This proceeding was 18 referred to this court by Local Rule 302(c)(21).

19 On February 6, 2025, the undersigned issued an order to show cause why this action 20 should not be dismissed for lack of jurisdiction. Plaintiff was advised that failure to allege a 21 proper basis for jurisdiction would result in a recommendation that this action be dismissed. 22 Plaintiff has not filed a response. 23 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed for lack of 24 jurisdiction.

25 In light of these recommendations, IT IS ALSO HEREBY ORDERED that all pleading, 26 discovery, and motion practice in this action are STAYED pending resolution of the findings and 27 recommendations. With the exception of objections to the findings and recommendations and 28 any non-frivolous motions for emergency relief, the court will not entertain or respond to any 1 | motions and other filings until the findings and recommendations are resolved.

2 These findings and recommendations are submitted to the United States District Judge 3 || assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days 4 || after being served with these findings and recommendations, plaintiff may file written objections 5 || with the court and serve a copy on all parties. Such a document should be captioned “Objections 6 || to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file 7 || objections within the specified time may waive the right to appeal the District Court’s order.

8 | Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991). 9 | Dated: March 11, 2025 / hice ANKE) flo "0 CAROLYNK.DELANEY/ 11 UNITED STATES MAGISTRATE JUDGE 12 13 14 15 16 || 2/sewe224 1.f&rs-nojuris 17 18 19 20 21 22 23 24 25 26 27 28