

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Leah Ard v. Liam K. Griffin et al.

No. CV 25-00644-SRM (KESx), United States District Court for the Central District of California (April 29, 2025)

SUMMARY

The United States District Court for the Central District of California ordered Plaintiff Leah Ard to show cause why the action should not be dismissed for lack of prosecution. The court noted that Plaintiff had filed proof of service but had not taken action after the deadline for Defendants to respond, and provided alternatives including seeking entry of default, filing a compliant stipulation, or voluntarily dismissing the action.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Serena R. Murillo
JURISDICTION	United States District Court for the Central District of California
DECIDED	April 29, 2025
DOCKET	CV 25-00644-SRM (KESx)
DISPOSITION	other
PROCEDURAL POSTURE	The district court issued an order to show cause why the action should not be dismissed for lack of prosecution after Plaintiff filed proof of service but took no action after the deadline for Defendants to respond to the Complaint had passed.
PRECEDENTIAL VALUE	unknown
PARTIES	Leah Ard v. Liam K. Griffin et al.

TOPICS

- civil procedure
- default
- default judgment
- remedies

PRACTICE AREAS

- civil procedure
- remedies

QUESTIONS PRESENTED

1. Whether the court should require Plaintiff to show cause why the action should not be dismissed for lack of prosecution.
2. Whether a federal district court may sua sponte dismiss an action under Federal Rule of Civil Procedure 41(b) when the plaintiff fails to prosecute the case.

HOLDINGS

1. A federal district court may sua sponte require a plaintiff to show cause why an action should not be dismissed for lack of prosecution and may dismiss under Federal Rule of Civil Procedure 41(b) if the plaintiff fails to provide a timely and appropriate response.
2. The plaintiff bears responsibility for moving a case toward a merits disposition, including taking appropriate action after a defendant's response deadline has passed.

KEY QUOTATIONS

“[I]t is the plaintiff's responsibility to move a case toward a merits disposition.”

“The authority of a federal trial court to dismiss a plaintiff's action with prejudice because of his failure to prosecute cannot seriously be doubted.”

“[C]ourts may dismiss under Rule 41(b) sua sponte, at least under certain circumstances.”

“It is within the inherent power of court to sua sponte dismiss a case for lack of prosecution.”

FACTUAL BACKGROUND

Plaintiff filed proof of service on the defendants. The deadline for defendants to respond to the Complaint passed, and Plaintiff took no further action to move the case forward. The court identified possible next steps, including seeking entry of default, filing a compliant stipulation extending the response deadline, or voluntarily dismissing the action.

PROCEDURAL HISTORY

Plaintiff filed the action and filed proof of service. Defendants' response deadline passed without Plaintiff filing a stipulation, pursuing entry of default, or voluntarily dismissing the action. The court sua sponte ordered Plaintiff to show cause in writing by May 6, 2025, why the action should not be dismissed for lack of prosecution.

DISPOSITION

other

CASES CITED

- Thomas v. Kernan, 2019 WL 8888200, at *1 (C.D. Cal. July 10, 2019)
- Morris v. Morgan Stanley & Co., 942 F.2d 648, 652 (9th Cir. 1991)

- Link v. Wabash R.R., 370 U.S. 626, 629 (1962)
- Helis Canyon Pres. Council v. U.S. Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005)
- Ash v. Cvetkov, 739 F.2d 493, 496 (9th Cir. 1984)

OPINION

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA CIVIL MINUTES — GENERAL Case No. CV 25-00644-SRM (KESx) Date April 29, 2025 Title Leah Ard v. Liam K. Griffin et al Present: The Honorable SERENA R. MURILLO, UNITED STATES DISTRICT JUDGE Melissa H. Kunig Not Reported Deputy Clerk Court Reporter Attorneys Present for Plaintiffs: Attorneys Present for Defendants: None Present None Present PROCEEDINGS: (IN CHAMBERS) ORDER TO SHOW CAUSE RE DISMISSAL FOR LACK OF PROSECUTION “[I]t is the plaintiff's responsibility to move a case toward a merits disposition.” Thomas v. Kernan, 2019 WL 8888200, at *1 (C.D.

Cal. July 10, 2019) (citing Morris v. Morgan Stanley & Co., 942 F.2d 648, 652 (9th Cir. 1991)). That includes, where applicable, promptly (a) filing stipulations a defendant's time to respond to the complaint, (b) pursuing default and remedies under Federal Rule of Civil Procedure 55 when a defendant fails to timely respond to the complaint, or (c) dismissing a case the plaintiff has chosen not to pursue for any reason.

Here, Plaintiff has filed a proof of service, yet the deadline for Defendant to respond to the Complaint has passed and Plaintiff has taken no action. Accordingly, the court, on its own motion, hereby ORDERS Plaintiff to show cause in writing, no later than May 6, 2025, why this action should not be dismissed for lack of prosecution.

As an alternative to a written response by Plaintiff, the Court will consider as an appropriate response to this OSC the filing of one of the following on or before the above date: 1. Plaintiffs Request for Entry of Default as to all Defendants or Defendants' Answer(s), 2. A stipulation extending Defendants' time to respond to the Complaint that complies with Local Rule 8.3, or 3. notice of Voluntary Dismissal (Fed.

R. Civ. P. 41) as to a// Defendants. No oral argument of this matter will be heard unless ordered by the Court. The Order will submitted upon the filing of a timely and appropriate response. Failure to file a timely and appropriate response to this Order may result in dismissal without further notice or order from the court. Fed. R. Civ. P. 41(b); L. R. 41-6; Link v. Wabash R.R., 370 U.S. 626, 629 (1962) (“The authority of a federal trial court to dismiss a plaintiff's action with prejudice because of his failure to prosecute cannot seriously be doubted.”); Helis Canyon Pres.

Council v. U.S. Forest Serv., 403 F.3d UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA CIVIL MINUTES — GENERAL Case No. CV 25-00644-SRM (KESx) Date April 29, 2025 Title Leah Ard v. Liam K. Griffin et al 683, 689 (9th Cir. 2005)

(“[C]ourts may dismiss under Rule 41(b) sua sponte, at least under certain circumstances.”); *Ash v. Cvetkov*, 739 F.2d 493, 496 (9th Cir.

1984) (“It is within the inherent power of court to sua sponte dismiss a case for lack of prosecution.”). Initial of Deputy Clerk = mku

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