

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Miguel Hernandez v. FDW Corp.

No. CV 25-01973-SK, United States District Court for the Central District of California (April 23, 2025)

SUMMARY

The United States District Court orders the plaintiff to show cause why Defendant FDW Corp. should not be dismissed for lack of prosecution. The order states that FDW Corp. has not answered the complaint and directs the plaintiff to seek entry of default or dismiss the defendant by May 7, 2025.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Steve Kim
DECIDED	April 23, 2025
DOCKET	CV 25-01973-SK
DISPOSITION	other
PROCEDURAL POSTURE	The district court issued an order to show cause why FDW Corp. should not be dismissed for lack of prosecution after FDW Corp. failed to answer and Plaintiff failed to seek entry of default.
PRECEDENTIAL VALUE	Unpublished district court order; precedential status not stated in the source.

TOPICS

default civil procedure

PRACTICE AREAS

civil procedure commercial litigation default

QUESTIONS PRESENTED

- Whether the court may sua sponte order Plaintiff to show cause why the action against FDW Corp. should not be dismissed for lack of prosecution.
- Whether Plaintiff's failure to seek entry of default after FDW Corp. failed to answer warranted an order requiring Plaintiff to take action or explain the failure.

HOLDINGS

1. A federal court has inherent authority to dismiss an action for lack of prosecution on its own motion, subject to requiring the plaintiff to show cause before dismissal.
2. Where a defendant has not answered, the plaintiff may satisfy the order to show cause by seeking entry of default under Federal Rule of Civil Procedure 55(a) or by dismissing the defendant.

KEY QUOTATIONS

“Court has inherent power to dismiss for lack of prosecution on its own motion.”

“Failure to respond to this Order to Show Cause will be deemed consent to the dismissal of the indicated defendant.”

FACTUAL BACKGROUND

FDW Corp. had not answered the complaint. Plaintiff had also failed to request entry of default under Federal Rule of Civil Procedure 55(a), prompting the court to question whether the action against FDW Corp. was being prosecuted.

PROCEDURAL HISTORY

FDW Corp. did not answer the complaint. The court sua sponte ordered Plaintiff to show cause in writing by May 7, 2025, why FDW Corp. should not be dismissed for lack of prosecution, and stated that Plaintiff could satisfy the order by seeking entry of default or dismissing FDW Corp. No final dismissal was entered in this order.

DISPOSITION

other

CASES CITED

- Link v. Wabash R. Co., 370 U.S. 626 (1962)

OPINION

Miguel Hernandez v. FDW Corp.

PER CURIAM.

CIVIL MINUTES – GENERAL

Case No. CV 25-01973-SK Date: April 23, 2025 Title Miguel Hernandez v. FDW Corp. et al
Present: The Honorable: Steve Kim, United States Magistrate Judge Connie Chung n/a Deputy
Clerk Court Reporter / Recorder Attorneys Present for Plaintiff(s): Attorneys Present for
Defendant(s): None present None present Proceedings: (IN CHAMBERS) ORDER TO SHOW
CAUSE RE: DISMISSAL
FOR LACK OF PROSECUTION

Plaintiff is ORDERED to show cause why this case should not be dismissed as to Defendant FDW Corp. only for lack of prosecution. *Link v. Wabash R. Co.*, 370 U.S. 626

(1962) (Court has inherent power to dismiss for lack of prosecution on its own motion).

In the present case, it appears that the below time period has not been met. Accordingly, the Court, on its own motion, orders Plaintiff to show cause, in writing, on or before May 7, 2025, why the indicated defendant should not be dismissed for lack of prosecution. Pursuant to Rule 78 of the Federal Rules of Civil Procedure, 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 Plaintiff's response. Failure to respond to this Order to Show Cause will be deemed consent to the dismissal of the indicated defendant. □ Defendant FDW Corp. did not answer the complaint, yet Plaintiff has failed to request entry of default, pursuant to Fed. R. Civ. P. 55(a). Plaintiff can satisfy this order by seeking entry of default or by dismissing the indicated Defendant. IT IS SO ORDERED.