

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Fletcher Sherman Legardy v. Sunrise Mall Owner Group, et al.

Legardy v. Sunrise Mall Owner Group · No. 2:25-cv-2513 DJC AC PS · Decided October 9, 2025

SUMMARY

A United States magistrate judge recommends dismissing Fletcher Sherman Legardy’s pro se action against Sunrise Mall Owner Group and other defendants without prejudice. The recommendation rests on lack of apparent federal subject matter jurisdiction and plaintiff’s failure to respond to an order to show cause or otherwise prosecute the case. The document advises that objections may be filed within twenty-one days.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Allison Claire
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	October 9, 2025
DOCKET	2:25-cv-2513 DJC AC PS
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations by a magistrate judge recommending dismissal without prejudice for lack of federal subject matter jurisdiction and failure to prosecute.
STANDARD OF REVIEW	The court evaluated whether federal subject matter jurisdiction was apparent and whether dismissal for failure to prosecute was warranted under the applicable factors.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Fletcher Sherman Legardy v. Sunrise Mall Owner Group, et al.

TOPICS

- subject matter jurisdiction
- civil procedure
- default

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice for lack of federal subject matter jurisdiction.
2. Whether the action should be dismissed without prejudice for failure to prosecute after plaintiff failed to respond to the order to show cause.

HOLDINGS

1. The action should be dismissed without prejudice because federal subject matter jurisdiction was not apparent from the complaint.
2. The action should be dismissed without prejudice for failure to prosecute because plaintiff failed to respond to the court's order or take any other action to move the case forward.

KEY QUOTATIONS

“(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 alternatives.” (at 1)

FACTUAL BACKGROUND

Plaintiff filed this federal action against Sunrise Mall Owner Group and others and proceeded pro se. The court determined that federal subject matter jurisdiction was not apparent from the complaint and ordered plaintiff to show cause. Plaintiff did not respond to the order or otherwise prosecute the case.

PROCEDURAL HISTORY

Plaintiff filed the action and paid the filing fee. The court issued an order directing plaintiff to show cause why the action should not be dismissed because federal subject matter jurisdiction was not apparent. Plaintiff did not respond or take any further action, so the magistrate judge recommended dismissal without prejudice on jurisdictional and failure-to-prosecute grounds, subject to objections and review by the assigned district judge.

DISPOSITION

other

CASES CITED

- *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)
- *Martinez v. Yist*, 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 FLETCHER SHERMAN LEGARDY, No. 2:25-cv-2513 DJC AC PS 12

Plaintiff, 13 v. FINDINGS AND RECOMMENDATIONS 14 SUNRISE MALL OWNER GROUP, et al., 15 Defendants. 16 17 Plaintiff is proceeding in this action pro se and has paid the filing fee.

The action was 18 accordingly referred to the undersigned for pretrial matters by E.D. Cal. R. ("Local 19 Rule") 302(c)(21). On September 22, 2025, the court issued an order explaining that federal 20 subject matter jurisdiction was not apparent from the contents of the complaint and ordering 21 plaintiff to show cause why this case should not be dismissed for lack of jurisdiction.

ECF No. 4. 22 Plaintiff was cautioned that failure to timely respond would result in a recommendation that this 23 case be dismissed for lack of federal subject matter jurisdiction and for failure to prosecute. 24 Plaintiff has not responded or taken any other action to prosecute this case. 25 For the reasons set forth in the court's prior order at ECF No. 4, the undersigned finds this 26 case must be dismissed without prejudice for lack of federal subject matter jurisdiction.

Further, 27 this case must be dismissed without prejudice for failure to prosecute. In recommending this 28 action be dismissed for failure to prosecute, the court has considered "(1) the public's interest in 1 || expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of 2 || prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and 3 || (S) the availability of less drastic alternatives." *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th 4 | Cir.

1992) (citation omitted). Because this case cannot move forward without plaintiff's 5 || participation, the court finds the factors weigh in favor of dismissal. Therefore, IT IS HEREBY 6 | RECOMMENDED that this action be dismissed, without prejudice, for lack of prosecution and 7 || for lack of federal jurisdiction. See 28 U.S.C. §§ 1331 and 1332(a); Fed. R. Civ.

P. 41(b); Local 8 | Rule 110. 9 These findings and recommendations are submitted to the United States District Judge 10 || assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b) (1). Within twenty-one (21) 11 || days after being served with these findings and recommendations, plaintiff may file written 12 || objections with the court. Such document should be captioned "Objections to Magistrate Judge's 13 | Findings and Recommendations." Local Rule 304(d).

Plaintiff is advised that failure to file 14 || objections within the specified time may waive the right to appeal the District Court's order. 15 || *Martinez v. Yist*, 951 F.2d 1153 (9th Cir. 1991). 16 | DATED: October 9, 2025 * 17 Htttenr— Lhor—e_ ALLISON CLAIRE 18 UNITED STATES MAGISTRATE JUDGE 19 20 21 22 23 24 25 26 27 28