

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.

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