

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Graciela Fernandez v. Transunion, LLC

Fernandez · No. CV 25-2125 FMO (BFMx) · Decided April 10, 2025

SUMMARY

This document is an order to show cause issued by the U.S. District Court for the Central District of California regarding possible dismissal for lack of prosecution. The court directs the plaintiff to respond by April 17, 2025, and identifies filing an answer or an application for entry of default concerning Experian Information Solutions, Inc. as the events that would submit the matter for decision.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Fernando M. Olguin
DECIDED	April 10, 2025
DOCKET	CV 25-2125 FMO (BFMx)
DISPOSITION	other
PROCEDURAL POSTURE	The district court, on its own motion, issued an order to show cause why the action should not be dismissed for lack of prosecution based on the apparent failure to timely serve a defendant and prosecute the action.
PRECEDENTIAL VALUE	Nonprecedential interlocutory district-court order

TOPICS

- service of process
- default
- civil procedure

PRACTICE AREAS

- civil procedure
- consumer protection

QUESTIONS PRESENTED

- Whether the action should be dismissed for lack of prosecution because the summons and complaint apparently were not timely served or the action was not diligently prosecuted.

2. What response was required from the plaintiff concerning service, an answer, or an application for entry of default.

HOLDINGS

1. Absent good cause, an action must be dismissed without prejudice when the summons and complaint are not served on a defendant within 90 days after the complaint is filed, and the court may dismiss before that period expires if the plaintiff has not diligently prosecuted the action.
2. Generally, a defendant must answer within 21 days after service, subject to the 60-day period applicable when the defendant is the United States.
3. When serving individuals or business entities in a foreign country, the plaintiff must exercise all reasonable diligence and attempt service within the 90-day period.

KEY QUOTATIONS

“Absent a showing of good cause, an action must be dismissed without prejudice if the summons and complaint are not served on a defendant within 90 days after the complaint is filed.” (at 1)

“The court may dismiss the action prior to the 90 days, however, if plaintiff(s) has/have not diligently prosecuted the action.” (at 1)

“Failure to file a timely response to this Order to Show Cause shall result in the action or the above defendant(s) being dismissed for lack of prosecution and for failure to comply with the orders of the court.” (at 1)

FACTUAL BACKGROUND

Plaintiff filed an action against Transunion, LLC and other defendants, including Experian Information Solutions, Inc. The court determined that one or more applicable periods for service of process or responding to the complaint apparently had not been met. The court therefore required plaintiff to show cause why the action should not be dismissed for lack of prosecution.

PROCEDURAL HISTORY

The action was filed in the Central District of California. The court found that the applicable service and responsive-pleading periods apparently had not been met and ordered the plaintiff to respond in writing by April 17, 2025. The matter would be submitted without oral argument upon the filing of an answer by Experian Information Solutions, Inc. or the plaintiff's application for entry of default against that defendant.

DISPOSITION

other

CASES CITED

- Link v. Wabash R.R. Co., 370 U.S. 626, 629-30, 82 S. Ct. 1386, 1388 (1962)

OPINION

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA CIVIL MINUTES - GENERAL No. CV 25-2125 FMO (BFMx) Date April 10, 2025 Title Graciela Fernandez v. Transunion, LLC, et al. Present: The Honorable — Fernando M. Olguin, United States District Judge Vanessa Figueroa None Present Deputy Clerk Court Reporter / Recorder Attorneys Present for Plaintiffs: Attorneys Present for Defendants: None Present None Present Proceedings: (In Chambers) Order to Show Cause Re: Dismissal Re: Lack of Prosecution Absent a showing of good cause, an action must be dismissed without prejudice if the summons and complaint are not served on a defendant within 90 days after the complaint is filed.

Fed. R. Civ. P. 4(m). Generally, a defendant must answer the complaint within 21 days after service (60 days if the defendant is the United States). Fed. R. Civ. P. 12(a). The court may dismiss the action prior to the 90 days, however, if plaintiff(s) has/have not diligently prosecuted the action. With respect to service of individuals and/or business entities in a foreign country, plaintiff shall exercise all reasonable diligence and attempt service within the 90-day time period.

In the present case, it appears that one or more of these time periods has not been met. Accordingly, the court, on its own motion, orders plaintiff(s) to show cause in writing on or before April 17, 2025, why this action should not be dismissed for lack of prosecution. Pursuant to Fed. R. Civ. P. 78(b), 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: 7 An answer by the following defendant(s): EXPERIAN INFORMATION SOLUTIONS, INC. 7 Plaintiff's application for entry of default pursuant to Fed. R. Civ. P. 55(a): EXPERIAN INFORMATION SOLUTIONS, INC. on or before the date indicated above. Failure to file a timely response to this Order to Show Cause shall result in the action or the above defendant(s) being dismissed for lack of prosecution and for failure to comply with the orders of the court.

See Local Rule 41; Fed. R. Civ. P. 4 & 41(b); Link v. Wabash R.R. Co., 370 U.S. 626, 629-30, 82 S.Ct. 1386, 1388 (1962). 00 > 00 Initials of Preparer vdr