

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

Boustead Securities, LLC v. U-BX Beijing Technology Co., Ltd.

Boustead Securities · No. SACV 24-01379-SPG-SK · Decided February 21, 2025

SUMMARY

The United States District Court for the Central District of California denied as moot Plaintiff Boustead Securities, LLC’s request to extend the time for service abroad under the Hague Convention. The Court ordered Plaintiff to file a status report within 30 calendar days regarding its efforts to serve the foreign defendant, or alternatively file a notice of dismissal under Federal Rule of Civil Procedure 41(a)(1)(A)(i). The Court stated that failure to respond would be deemed consent to dismissal without prejudice.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Sherilyn Peace Garnett
JURISDICTION	United States District Court for the Central District of California
DECIDED	February 21, 2025
DOCKET	SACV 24-01379-SPG-SK
DISPOSITION	other
PROCEDURAL POSTURE	The district court issued an order to show cause concerning the plaintiff's failure to prosecute and considered the plaintiff's request for additional time to effect service abroad under the Hague Convention.
PRECEDENTIAL VALUE	unpublished district court order; precedential status unknown
PARTIES	Boustead Securities, LLC v. U-BX Beijing Technology Co., Ltd.

TOPICS

- service of process
- civil procedure
- commercial litigation

PRACTICE AREAS

- civil procedure
- commercial litigation
- international service of process

QUESTIONS PRESENTED

1. Whether Federal Rule of Civil Procedure 4(m)'s service deadline applies to service on a foreign defendant under Rules 4(h)(2) and 4(f)(1).
2. Whether the court may impose a reasonable deadline for service in a foreign country despite Rule 4(m)'s inapplicability.
3. Whether plaintiff's request for an extension of the Rule 4(m) service period should be granted and what case-management directive should issue.

HOLDINGS

1. The time limit in Federal Rule of Civil Procedure 4(m) does not apply to service in a foreign country under Rules 4(h)(2) and 4(f)(1).
2. Although Rule 4(m) does not impose a deadline for foreign service, the court may set a reasonable time limit for service in a foreign country to manage the civil case.
3. The court denied plaintiff's request as moot, did not impose a service deadline at that time, and ordered plaintiff to file a status report within thirty calendar days of the order to show cause or file a notice of dismissal under Rule 41(a)(1)(A)(i).

KEY QUOTATIONS

“the amount of time allowed for foreign service is not unlimited.”

“While the Court will not set a time limit at this time for service of Defendant, the Court ORDERS Plaintiff to file a status report within thirty (80) calendar days of this Order to Show Cause regarding its efforts to effectuate service on Defendant.”

FACTUAL BACKGROUND

Boustead Securities filed an action against U-BX Beijing Technology Co., Ltd., a foreign corporation formed under the laws of the People's Republic of China and incorporated in the Cayman Islands. Plaintiff sought to serve defendant under the Hague Convention. The court had concerns about the lack of prosecution and the delay in effectuating service.

PROCEDURAL HISTORY

Plaintiff filed the action on June 21, 2024. After the court issued an order to show cause on September 4, 2024, plaintiff responded by requesting additional time to serve the foreign defendant. The court denied that request as moot, declined to set a service deadline at that time, and ordered plaintiff to file a status report or alternatively a notice of dismissal.

DISPOSITION

other

CASES CITED

- Lucas v. Natoli, 936 F.2d 432, 432-33 (9th Cir. 1991)
- Baja Devs. LLC v. TSD Loreto Partners, 2009 WL 2762050, at *1 (D. Ariz. Aug. 28, 2009)
- Sport Lisboa e Benfica - Futebol SAD v. Doe 7, 2018 WL 4043182, at *4 (C.D. Cal. Aug. 21, 2018)

OPINION

Boustead Securities, LLC v. U-BX Beijing Technology Co., LTD.

PER CURIAM.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES — GENERAL

Case No. SACV 24-01379-SPG-SK Date February 21, 2025 Title _Boustead Securities, LLC v. U-BX Beijing Technology Co., Ltd.

DBM

Present: The Honorable SHERILYN PEACE GARNETT

UNITED STATES DISTRICT JUDGE

Patricia Gomez Not Reported Deputy Clerk Court Reporter / Recorder Attorneys Present for Plaintiff: Attorneys Present for Defendants: Not Present Not Present Proceeding: (IN CHAMBERS) ORDER TO SHOW CAUSE On June 21, 2024, Plaintiff Boustead Securities, LLC (“Plaintiff”) filed this action. (ECF No. 1). On September 4, 2024, this Court issued an Order to Show Cause why this case should not be dismissed due to lack of prosecution. (ECF No. 10). On September 18, 2024, Plaintiff filed “Response to the Order to Show Cause and Request to Extend Time Limit for Service Abroad Under the Hague Convention Pursuant to Federal Rules of Civil Procedure 4(h)(2) and 4(f)(1).” (ECF No. 11 (“Request”)). The Request notes that Defendant U-BX Beijing Technology Co., Ltd. is a foreign corporation formed under the laws of the People’s Republic of China and incorporated in the Cayman Islands. (Request at 2). Plaintiff seeks to serve Defendant under the Hague Convention pursuant to Federal Rules of Civil Procedure 4(h)(2) and 4(f)(1). Thus, the time limit to effectuate service after filing of the Complaint contained in Federal Rule of Civil Procedure 4(m) does not apply. See Fed. R. Civ. P. 4(m) (“This subdivision (m) does not apply to service in a foreign country under Rule 4(h)(2), or 4(4)(1), or to service of a notice under Rule 71.1(d)(3)(A).”); see also Lucas v. Natoli, 936 F.2d 432, 432-33 (9th Cir. 1991) (“[T]he plain language of [Rule 4(m)] makes the [service deadline] inapplicable to service in a foreign country.”). That said, the Court is not “precluded from setting a reasonable time limit for service in a foreign country to properly manage a civil case.” Baja Devs. LLC v. TSD Loreto Partners, 2009 WL 2762050, at *1 (D. Ariz. Aug. 28, 2009) (citation omitted); see also Sport Lisboa e Benfica - Futebol SAD v. Doe 7, 2018 WL 4043182, at *4 (C.D. Cal. Aug. 21, 2018) (“[T]he amount of time allowed for foreign service is not unlimited.”) (internal quotation and citation omitted)). Accordingly, the Court DENIES as MOOT Plaintiff’s Request. While the Court will not set a time limit at this time for service of Defendant, the Court ORDERS Plaintiff to file a status report

within thirty (80) calendar days of this Order to Show Cause regarding its efforts to effectuate service on Defendant. Plaintiff may alternatively satisfy this Order to Show Cause by filing a Notice of Dismissal pursuant to Rule 41(a)(1)(A)(i). Plaintiffs non-response to this

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES — GENERAL

Case No. SACV 24-01379-SPG-SK Date February 21, 2025 Title _Boustead Securities, LLC v. U-BX Beijing Technology Co., Ltd. Order to Show Cause within the time frame above will be deemed consent to dismissal without prejudice. IT 1S SO ORDERED. 00 00 Initials of Preparer
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