

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF  
CALIFORNIA

Nolita Sephira Graefin von Matuschka v. Marella, LLC et al.

No. ED CV 25-2352 FMO (SPx), United States District Court for the Central District of California (December 2, 2025)

SUMMARY

The United States District Court for the Central District of California issued an order to show cause regarding dismissal for lack of prosecution. The court directed the plaintiff to file proof of service, an answer, or an application for entry of default as to all defendants by December 9, 2025, and warned that failure to respond could result in dismissal.

CASE DETAILS

|                       |                                                                                                                                                                                                                                            |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Central District of California                                                                                                                                                                        |
| WRITING FOR THE COURT | Fernando M. Olguin                                                                                                                                                                                                                         |
| JURISDICTION          | United States District Court for the Central District of California                                                                                                                                                                        |
| DECIDED               | December 2, 2025                                                                                                                                                                                                                           |
| DOCKET                | ED CV 25-2352 FMO (SPx)                                                                                                                                                                                                                    |
| DISPOSITION           | other                                                                                                                                                                                                                                      |
| PROCEDURAL POSTURE    | The district court issued an order to show cause, on its own motion, why the action should not be dismissed for lack of prosecution based on an apparent failure to timely serve the defendants, obtain answers, or seek entry of default. |
| PRECEDENTIAL VALUE    | nonprecedential                                                                                                                                                                                                                            |

TOPICS

- service of process
- civil procedure
- default
- pleadings

PRACTICE AREAS

- civil procedure
- service of process
- lack of prosecution

QUESTIONS PRESENTED

- Whether the action or the affected defendants should be dismissed for lack of prosecution because plaintiff apparently failed to complete service, obtain answers, or seek entry of default within the

applicable periods.

2. Whether the matter was appropriate for submission without oral argument under Federal Rule of Civil Procedure 78(b).

#### HOLDINGS

1. 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.
2. Generally, a defendant must answer the complaint within 21 days after service, or within 60 days when the defendant is the United States.
3. A court may dismiss an action before expiration of the 90-day service period when the plaintiff has not diligently prosecuted the action.
4. When serving individuals or business entities in a foreign country, 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.”*

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

*“Accordingly, the court, on its own motion, orders plaintiff(s) to show cause in writing on or before December 9, 2025, why this action should not be dismissed for lack of prosecution.”*

#### FACTUAL BACKGROUND

The complaint had been filed, but the record appeared not to show timely service of the summons and complaint on one or more defendants. The order also indicated that the applicable deadlines for defendants to answer or for plaintiff to seek entry of default may not have been met. The court therefore required plaintiff to show cause or submit proof of service, answers, or an application for entry of default.

#### PROCEDURAL HISTORY

Plaintiff filed a civil action in the Central District of California. The court determined that one or more applicable service, answer, or prosecution deadlines apparently had not been met and ordered plaintiff to respond by December 9, 2025. The order did not itself dismiss the action; it warned that failure to respond timely would result in dismissal of the action or the affected defendants.

#### DISPOSITION

other

#### CASES CITED

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

## OPINION

Nolita Sephira Graefin von Matuschka v. Marella, LLC et al

PER CURIAM.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. ED CV 25-2352 FMO (SPx) Date December 2, 2025 Title Nolita Sephira Graefin von Matuschka v. Marella, 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 December 9, 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: Proof(s) of service of summons and complaint on the following defendant(s):

ALL DEFENDANTS

7 An answer by the following defendant(s): ALL DEFENDANTS 7 Plaintiff's application for entry of default pursuant to Fed. R. Civ. P. 55(a):

ALL DEFENDANTS

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). Initials of Preparer vdr