

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Toinesha L. Swim v. IC Systems, Inc.

Swim v. IC Systems · No. EDCV 22-546 JGB (SPx) · Decided March 7, 2023

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 ordered the plaintiff to explain by March 10, 2023, why the action should not be dismissed under Federal Rule of Civil Procedure 41(b), and stated that failure to respond would result in dismissal.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Jesus G. Bernal
JURISDICTION	United States District Court for the Central District of California
DECIDED	March 7, 2023
DOCKET	EDCV 22-546 JGB (SPx)
DISPOSITION	other
PROCEDURAL POSTURE	The district court sua sponte issued an order to show cause why the action should not be dismissed for lack of prosecution.
PRECEDENTIAL VALUE	unpublished

TOPICS

- civil procedure
- motions to dismiss

PRACTICE AREAS

- civil procedure

QUESTIONS PRESENTED

- Whether the district court could sua sponte require the plaintiff to show cause why the action should not be dismissed for failure to prosecute under Federal Rule of Civil Procedure 41(b).

HOLDINGS

1. Under Federal Rule of Civil Procedure 41(b), a district court may dismiss an action sua sponte for failure to prosecute, failure to comply with the Federal Rules of Civil Procedure, or failure to comply with the court's orders; the court therefore could order plaintiff to show cause why the action should not be dismissed for lack of prosecution.

KEY QUOTATIONS

“may act sua sponte to dismiss a suit for failure to prosecute” (Page 1)

FACTUAL BACKGROUND

The opinion states that plaintiff appeared to have abandoned her suit. Based on that apparent abandonment, the district court ordered plaintiff to explain why the action should not be dismissed for lack of prosecution.

PROCEDURAL HISTORY

The case was pending in the Central District of California. The court concluded that the plaintiff appeared to have abandoned the action and ordered her to show cause in writing by March 10, 2023, why the case should not be dismissed for lack of prosecution.

DISPOSITION

other

CASES CITED

- Chambers v. NASCO, Inc., 501 U.S. 32, 44 (1991)

OPINION

Toinesha Swim v. IC Systems Inc

PER CURIAM.

Case 5:22-cv-00546-JGB-SP Document 34 Filed 03/07/23 Page 1 of 1 Page ID #:138

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES—GENERAL

Case No. EDCV 22-546 JGB (SPx) Date March 7, 2023 Title Toinesha L. Swim v. IC Systems, Inc. Present: The Honorable JESUS G. BERNAL, UNITED STATES DISTRICT JUDGE MAYNOR GALVEZ Not Reported Deputy Clerk Court Reporter Attorney(s) Present for Plaintiff(s): Attorney(s) Present for Defendant(s): None Present None Present Proceedings: Order to Show Cause re Dismissal for Lack of Prosecution (IN CHAMBERS)

Pursuant to Federal Rule of Civil Procedure 41(b) (“Rule 41(b)”), a district court may dismiss an action for failure to prosecute, failure to comply with the Federal Rules of Civil Procedure, or

failure to comply with the court's orders. See Rule 41(b); see *Chambers v. NASCO, Inc.*, 501 U.S. 32, 44 (1991) (recognizing that a court "may act sua sponte to dismiss a suit for failure to prosecute"). Here, it appears that plaintiff has abandoned her suit. Accordingly, the Court, on its own motion, orders plaintiff to show cause in writing on or before March 10, 2023, why this action should not be dismissed for lack of prosecution. Failure to comply with this deadline will result in the Court dismissing this case for lack of prosecution. See Rule 41(b). Pursuant to Rule 78 of the Federal Rules of Civil Procedure, 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 a responsive pleading or motion on or before the date upon which a response by the plaintiff is due. IT IS SO ORDERED. Page 1 of 1 CIVIL MINUTES—GENERAL Initials of Deputy Clerk
mg