

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Robert Mena v. Z And A Enterprises, Inc. et al.

Mena v. Z And A Enterprises, Inc. · No. SACV 24-00926-SRM (BFMx) · Decided May 28, 2025

SUMMARY

The United States District Court for the Central District of California ordered Plaintiff Robert Mena to show cause why the action should not be dismissed for lack of prosecution. The court noted that the deadline for Defendant to respond had passed and offered filing an entry of default request, a compliant stipulation extending the response deadline, or a voluntary dismissal as alternatives to a written response.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Serena R. Murillo
JURISDICTION	United States District Court for the Central District of California
DECIDED	May 28, 2025
DOCKET	SACV 24-00926-SRM (BFMx)
DISPOSITION	other
PROCEDURAL POSTURE	The court issued an order to show cause why the action should not be dismissed for lack of prosecution after Plaintiff served the Complaint but took no action after Defendants' response deadline passed.
PRECEDENTIAL VALUE	unpublished
PARTIES	Robert Mena v. Z And A Enterprises, Inc. et al.

TOPICS

- civil procedure
- motions to dismiss
- default
- service of process

PRACTICE AREAS

- civil procedure
- employment and civil rights

QUESTIONS PRESENTED

1. Whether the court should require Plaintiff to show cause why the action should not be dismissed for lack of prosecution.
2. Whether the court may sua sponte dismiss an action for failure to prosecute under Federal Rule of Civil Procedure 41(b) and the court's inherent authority.

HOLDINGS

1. Because Defendants' response deadline had passed and Plaintiff had taken no action to advance the case, the court ordered Plaintiff to show cause in writing why the action should not be dismissed for lack of prosecution.
2. A federal district court may, under appropriate circumstances, dismiss an action sua sponte for lack of prosecution, including under Federal Rule of Civil Procedure 41(b) and the court's inherent authority.

KEY QUOTATIONS

“ “[I]t is the plaintiff's responsibility to move a case toward a merits disposition.” ” (at 1)

“ “The authority of a federal trial court to dismiss a plaintiff's action with prejudice because of his failure to prosecute cannot seriously be doubted.” ” (at 2)

“ “[C]ourts may dismiss under Rule 41(b) sua sponte, at least under certain circumstances.” ” (at 2)

“ “It is within the inherent power of court to sua sponte dismiss a case for lack of prosecution.” ” (at 2)

FACTUAL BACKGROUND

Plaintiff filed a proof of service showing service on Defendants. The deadline for Defendants to respond to the Complaint passed, but Plaintiff took no further action to move the case forward.

PROCEDURAL HISTORY

Plaintiff filed the action and filed a proof of service. Defendants' deadline to respond to the Complaint passed without Plaintiff seeking entry of default, obtaining a stipulation extending the response deadline, or voluntarily dismissing the action. The court sua sponte ordered Plaintiff to respond by June 2, 2025, and warned that failure to respond could result in dismissal without further notice.

DISPOSITION

other

CASES CITED

- Thomas v. Kernan, 2019 WL 8888200, at *1 (C.D. Cal. July 10, 2019)
- Morris v. Morgan Stanley & Co., 942 F.2d 648, 652 (9th Cir. 1991)
- Link v. Wabash R.R., 370 U.S. 626, 629 (1962)
- Helis Canyon Pres. Council v. U.S. Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005)

- Ash v. Cvetkov, 739 F.2d 493, 496 (9th Cir. 1984)

OPINION

Robert Mena v. Z And A Enterprises, Inc.

PER CURIAM.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES — GENERAL

Case No. SACV 24-00926-SRM (BFMx) Date May 28, 2025 Title Robert Mena v. Z And A Enterprises, Inc. et al Present: The Honorable SERENA R. MURILLO, UNITED STATES DISTRICT JUDGE Melissa H. Kunig Not Reported Deputy Clerk Court Reporter Attorneys Present for Plaintiffs: Attorneys Present for Defendants: None Present None Present

PROCEEDINGS: (IN CHAMBERS) ORDER TO SHOW CAUSE RE DISMISSAL FOR LACK OF PROSECUTION

“[I]t is the plaintiff's responsibility to move a case toward a merits disposition.” Thomas v. Kernan, 2019 WL 8888200, at *1 (C.D. Cal. July 10, 2019) (citing Morris v. Morgan Stanley & Co., 942 F.2d 648, 652 (9th Cir. 1991)). That includes, where applicable, promptly (a) filing stipulations a defendant's time to respond to the complaint, (b) pursuing default and remedies under Federal Rule of Civil Procedure 55 when a defendant fails to timely respond to the complaint, or (c) dismissing a case the plaintiff has chosen not to pursue for any reason. Here, Plaintiff has filed a proof of service, yet the deadline for Defendant to respond to the Complaint has passed and Plaintiff has taken no action. Accordingly, the court, on its own motion, hereby ORDERS Plaintiff to show cause in writing, no later than June 2, 2025, why this action should not be dismissed for lack of prosecution. As an alternative to a written response by Plaintiff, the Court will consider as an appropriate response to this OSC the filing of one of the following on or before the above date:

1. Plaintiffs Request for Entry of Default as to all Defendants or Defendants' Answer(s),
2. A stipulation extending Defendants' time to respond to the Complaint that complies with Local Rule 8.3, or
3. notice of Voluntary Dismissal (Fed. R. Civ. P. 41) as to a// Defendants.

No oral argument of this matter will be heard unless ordered by the Court. The Order will submitted upon the filing of a timely and appropriate response. Failure to file a timely and appropriate response to this Order may result in dismissal without further notice or order from the court. Fed. R. Civ. P. 41(b); L. R. 41-6; Link v. Wabash R.R., 370 U.S. 626, 629 (1962) (“The authority of a federal trial court to dismiss a plaintiff's action with prejudice because of his failure to prosecute cannot seriously be doubted.”); Helis Canyon Pres. Council v. U.S. Forest Serv., 403 F.3d

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES — GENERAL

Case No. SACV 24-00926-SRM (BFMx) Date May 28, 2025 Title Robert Mena v. Z And A Enterprises, Inc. et al 683, 689 (9th Cir. 2005) (“[C]ourts may dismiss under Rule 41(b) sua sponte, at least under certain circumstances.”); Ash v. Cvetkov, 739 F.2d 493, 496 (9th Cir. 1984) (“It is within the inherent power of court to sua sponte dismiss a case for lack of prosecution.”).
Initial of Deputy Clerk = mku

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