

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Alice Billman et al. v. Wells Fargo Bank, N.A.

Billman v. Wells Fargo Bank, N.A. · No. 8:25-cv-01157-FWS-PVC · Decided August 12, 2025

SUMMARY

The United States District Court for the Central District of California ordered Plaintiff to show cause why the action should not be dismissed for lack of prosecution. The court noted that the deadline for Wells Fargo Bank, N.A. to respond had passed after proof of service was filed and identified possible responses, including seeking default, stipulating to an extension, or voluntarily dismissing the action.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Fred W. Slaughter
JURISDICTION	United States District Court for the Central District of California
DECIDED	August 12, 2025
DOCKET	8:25-cv-01157-FWS-PVC
DISPOSITION	other
PROCEDURAL POSTURE	The district court issued an order to show cause why the action should not be dismissed for lack of prosecution after Plaintiff filed proof of service but took no action after Defendant's deadline to respond to the complaint had passed.
STANDARD OF REVIEW	A federal district court may dismiss an action sua sponte for failure to prosecute under Federal Rule of Civil Procedure 41(b), subject to applicable circumstances and procedural requirements.
PRECEDENTIAL VALUE	unpublished_nonprecedential
PARTIES	Alice Billman et al. v. Wells Fargo Bank, N.A.

TOPICS

- civil procedure
- default
- service of process
- remedies

PRACTICE AREAS

- civil procedure
- federal litigation

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 Plaintiff's failure to act after Defendant's response deadline warranted a warning that the action could be dismissed sua sponte under Federal Rule of Civil Procedure 41(b).

HOLDINGS

1. A federal district court has authority under Federal Rule of Civil Procedure 41(b) and its inherent power to dismiss an action sua sponte for failure to prosecute, at least under appropriate circumstances.
2. A plaintiff is responsible for moving a case toward a merits disposition and, when appropriate, should pursue an extension, seek entry of default and related remedies, or voluntarily dismiss the action.

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 Defendant. The deadline for Defendant to respond to the complaint passed, but Plaintiff took no further action to advance the case. The court therefore required Plaintiff to explain why the action should not be dismissed for lack of prosecution.

PROCEDURAL HISTORY

Plaintiff commenced the action and filed proof of service on Defendant. Defendant's deadline to respond to the complaint passed, and Plaintiff did not seek entry of default, obtain a stipulation extending the response deadline, voluntarily dismiss the action, or otherwise move the case forward. The court sua sponte ordered Plaintiff to show cause in writing by August 14, 2025, why the action should not be dismissed.

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)

- Hells 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

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA CIVIL MINUTES — GENERAL Case No. 8:25-cv-01157-FWS-PVC Date August 12, 2025 Title Alice Billman et al v. Wells Fargo Bank, N.A. Present: The Honorable FRED W. SLAUGHTER, UNITED STATES DISTRICT JUDGE Rolls Royce Paschal Not Reported Deputy Clerk Court Reporter Attorneys Present for Plaintiffs: Attorneys Present for Defendants: None Present None Present Proceedings: (INCHAMBERS) 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, (6) 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 August 14, 2025, why this action not be dismissed for lack of prosecution.

As an alternative to a written response by Plaintiff, Court will consider as an appropriate response to this OSC the filing of one of the following on or before the above date: 1. Plaintiff's Request for Entry of Default as to a// 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.

A 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 be 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.”); Hells Canyon Pres. Council v. U.S. Forest Serv., 403 F.3d UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA CIVIL MINUTES — GENERAL Case No. 8:25-cv-01157-FWS-PVC Date August 12, 2025 Title Alice Billman et al v. Wells Fargo Bank, N.A.

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 rrp

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