

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Sam Benford v. Emil Douglas Tejada et al.

No. CV 22-09286-SPG(MARx), United States District Court for the Central District of California (March 15, 2023)

SUMMARY

The United States District Court for the Central District of California ordered the plaintiff to show cause why the action should not be dismissed for lack of prosecution. The court noted that the defendant had not answered and directed the plaintiff to seek entry of default or dismiss the complaint by March 30, 2023.

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	March 15, 2023
DOCKET	CV 22-09286-SPG(MARx)
DISPOSITION	other
PROCEDURAL POSTURE	The district court issued an order to show cause why the action should not be dismissed for lack of prosecution. The defendant had not answered the complaint, and the plaintiff had not requested entry of default.
PRECEDENTIAL VALUE	unpublished
PARTIES	Sam Benford v. Emil Douglas Tejada et al.

TOPICS

default civil procedure

PRACTICE AREAS

civil procedure civil rights

QUESTIONS PRESENTED

1. Whether the district court may sua sponte require the plaintiff to show cause why the action should not be dismissed for lack of prosecution.
2. Whether the plaintiff's failure to seek entry of default after the defendant failed to answer warranted an order to show cause regarding dismissal.

HOLDINGS

1. The district court has inherent authority to dismiss an action for lack of prosecution on its own motion and may require the plaintiff to show cause why dismissal should not occur.
2. When a defendant has not answered, the plaintiff may satisfy the order to show cause by seeking entry of default under Federal Rule of Civil Procedure 55(a) or by dismissing the complaint.

KEY QUOTATIONS

“Court has inherent power to dismiss for lack of prosecution on its own motion” (Page 1)

“Failure to respond will be deemed consent to the dismissal of the action.” (Page 1)

FACTUAL BACKGROUND

Defendant Emil Douglas Tejada had not answered the complaint. Plaintiff had not requested entry of default under Federal Rule of Civil Procedure 55(a). The court directed plaintiff either to seek entry of default or dismiss the complaint, and required a written response to the order to show cause.

PROCEDURAL HISTORY

Plaintiff filed an action against Emil Douglas Tejada and others. After the defendant failed to answer and plaintiff failed to seek entry of default, the court sua sponte ordered plaintiff to show cause in writing by March 30, 2023, why the case should not be dismissed for lack of prosecution.

DISPOSITION

other

CASES CITED

- Link v. Wabash R. Co., 370 U.S. 626 (1962)

OPINION

Sam Benford v. Emil Douglas Tejada

PER CURIAM.

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES — GENERAL

Case No. CV 22-09286-SPG(MARx) Date March 15, 2023 Title Sam Benford v. Emil Douglas Tejada et al Present: The Honorable SHERILYN PEACE GARNETT

UNITED STATES DISTRICT JUDGE

P. Gomez Not Reported Deputy Clerk Court Reporter / Recorder Attorneys Present for Plaintiff: Attorneys Present for Defendants: Not Present Not Present Proceeding: CHAMBERS) ORDER TO SHOW CAUSE RE: DISMISSAL FOR LACK OF PROSECUTION

Plaintiff(s) are ORDERED to show cause why this case should not be dismissed for lack of prosecution. Link v. Wabash R. Co., 370 U.S. 626 (1962) (Court has inherent power to dismiss for lack of prosecution on its own motion). The below time period(s) has not been met. Accordingly, the Court, on its own motion, orders Plaintiff(s) to show cause, in writing, on or before March 30, 2023, why this action should not be dismissed for lack of prosecution. This matter will stand submitted upon the filing of Plaintiff(s) response. See Fed. R. Civ. P. 78. Failure to respond will be deemed consent to the dismissal of the action. Defendant Emil Douglas Tejada did not answer the complaint, yet Plaintiff(s) have failed to request entry of default, pursuant to Fed. R. Civ. P. 55(a). Plaintiff(s) can satisfy this order by seeking entry of default or by dismissing the complaint. IT IS SO ORDERED. Initials of Preparer pg Page 1 of 1