

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Kimberly Frazier v. Rita Delgado

Frazier v. Delgado, No. CV 25-01088-SK (C.D. Cal. May 16, 2025) · No. CV 25-01088-SK · Decided May 16, 2025

SUMMARY

This document is an order to show cause regarding dismissal for lack of prosecution. The court states that the plaintiff failed to file proof of service on defendant Rita Delgado within 90 days of filing the complaint, as required by Federal Rule of Civil Procedure 4(m). Plaintiff must respond by May 30, 2025, or the action may be dismissed without prejudice.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Steve Kim
DECIDED	May 16, 2025
DOCKET	CV 25-01088-SK
DISPOSITION	other
PROCEDURAL POSTURE	The district court issued an order to show cause why the action should not be dismissed for lack of prosecution because Plaintiff had not filed proof of service on Defendant Rita Delgado within 90 days after filing the complaint.
PRECEDENTIAL VALUE	nonprecedential district court order

TOPICS

service of process civil procedure

PRACTICE AREAS

civil procedure service of process

QUESTIONS PRESENTED

- Whether the court may issue an order to show cause and potentially dismiss the action for lack of prosecution when the plaintiff has not filed proof of service within 90 days after filing the complaint.

2. Whether Plaintiff must show that service was completed within the Rule 4(m) deadline or establish good cause for failing to do so.

HOLDINGS

1. A federal district court may invoke its inherent authority to dismiss an action for lack of prosecution on its own motion.
2. Absent 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.

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.” (unpaginated order)

“Failure to respond to this Order to Show Cause will be deemed consent to the dismissal of the action.”
(unpaginated order)

FACTUAL BACKGROUND

Plaintiff filed a civil action against Rita Delgado and had not filed proof of service within 90 days after filing the complaint. The court therefore issued an order to show cause concerning dismissal for lack of prosecution and gave Plaintiff an opportunity to demonstrate timely service or good cause for delay.

PROCEDURAL HISTORY

Plaintiff filed the complaint, but the record did not contain proof that Defendant Rita Delgado had been served within the 90-day period prescribed by Federal Rule of Civil Procedure 4(m). The court ordered Plaintiff to respond by May 30, 2025, either by showing timely service or good cause for failure to serve, and warned that failure to respond would be deemed consent to dismissal.

DISPOSITION

other

CASES CITED

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

OPINION

Kimberly Frazier v. Rita Delgado

PER CURIAM.

CIVIL MINUTES – GENERAL

Case No. CV 25-01088-SK Date: May 16, 2025 Title Kimberly Frazier v. Rita Delgado et al
Present: The Honorable: Steve Kim, United States Magistrate Judge Connie Chung n/a Deputy
Clerk Court Reporter / Recorder Attorneys Present for Plaintiff(s): Attorneys Present for

Defendant(s): None present None present Proceedings: (IN CHAMBERS) ORDER TO SHOW CAUSE RE: DISMISSAL FOR LACK OF PROSECUTION

For the reason indicated below, Plaintiff is ORDERED to show cause on or before May 30, 2025 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). x 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. Plaintiff has failed to file a proof of service within 90 days of the filing of the Complaint on Defendant Rita Delgado. Plaintiff can satisfy this order by showing that service was effectuated within the 90 day deadline or by showing good cause for the failure to do so. Fed. R. Civ. P. 4(m). 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 Plaintiff's response. Failure to respond to this Order to Show Cause will be deemed consent to the dismissal of the action. IT IS SO ORDERED.