

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JS-6

CIVIL MINUTES -- GENERAL

Case No. **CV 20-6873-JFW(MRWx)**

Date: June 4, 2021

Title: Edgardo Carrillo -v- Shewak and Lajwanti Holdings, LLC et al

PRESENT:

HONORABLE JOHN F. WALTER, UNITED STATES DISTRICT JUDGE

**Shannon Reilly
Courtroom Deputy**

**None Present
Court Reporter**

ATTORNEYS PRESENT FOR PLAINTIFFS:

None

ATTORNEYS PRESENT FOR DEFENDANTS:

None

PROCEEDINGS (IN CHAMBERS): ORDER DISMISSING ACTION

On July 31, 2020, Plaintiff Edgardo Carrillo (“Plaintiff”) filed a Complaint against Defendants Shewak & Lajwanti Holdings LLC¹ (“Shewak”) and Apex Cabinet Depot Inc. (“Apex”) (collectively, “Defendants”). Docket No. 1. On September 8, 2020, the Clerk entered default against Apex. Docket No. 12. On February 26, 2021, the Court issued an Order to Show Cause (“OSC”) why this action should not be dismissed for lack of prosecution as to Apex. Docket No. 27. On March 16, 2021, based on Plaintiff’s Response, the Court continued the OSC to April 30, 2021. See Docket Nos. 29 and 30. On April 30, 2021, Plaintiff filed the Declaration of Faythe Gutierrez In Response to the February 26, 2021 OSC (Continued to April 30, 2021) (“Gutierrez Declaration”). Docket No. 32. In her Declaration, Gutierrez requested that the Court “permit Plaintiff five (5) additional days [to] file their motion for default judgement against” Apex. Gutierrez Declaration, ¶ 7.

In its OSC, the Court expressly warned that “[f]ailure to respond to the Order to Show Cause will result in the dismissal of this action.” However, despite the fact that it has been thirty-five days since Gutierrez filed her declaration stating that Plaintiff would file a motion for default judgment within five days, Plaintiff has failed to file a motion for default judgment against Apex. In addition, Plaintiff failed to file any Pretrial Documents – or any other document informing the Court as to the status of this case – on or before June 1, 2021, as required by the Court’s Scheduling and Case Management Order.

As a result of Plaintiff’s failure to prosecute this action and Plaintiff’s violation of the Court’s Order, this action is **DISMISSED without prejudice**. See Federal Rule of Civil Procedure 41(b);

¹ On September 22, 2020, Shewak filed an Answer to the Complaint, and on March 24, 2021, Shewak was dismissed from this action pursuant to a Stipulation between Plaintiff and Shewak. See Docket Nos. 19, 26, and 31.

see also Yourish v. California Amplifier, 191 F.3d 983, 986-988 (9th Cir. 1999); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992). The Pretrial Conference scheduled for June 18, 2021 and the trial scheduled for June 29, 2021 are hereby **VACATED**.

IT IS SO ORDERED.