

AO 121 (Rev. 06/16)

TO:  <b>Register of Copyrights                  U.S. Copyright Office                  101 Independence Ave. S.E.                  Washington, D.C. 20559-6000</b>	<b>REPORT ON THE                  FILING OR DETERMINATION OF AN                  ACTION OR APPEAL                  REGARDING A COPYRIGHT</b>
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In compliance with the provisions of 17 U.S.C. 508, you are hereby advised that a court action or appeal has been filed on the following copyright(s):

<input checked="" type="checkbox"/> ACTION <input type="checkbox"/> APPEAL		COURT NAME AND LOCATION United States District Court-Central District of CA	
DOCKET NO. 2:21-cv-04428-ODW	DATE FILED 5/27/2021		
PLAINTIFF Triller Fight Club II LLC		DEFENDANT Robiul Awal, et al.	
COPYRIGHT REGISTRATION NO.	TITLE OF WORK	AUTHOR OR WORK	
1 PA0002290040	Jake Paul vs Ben Askren.	Triller Fight Club II, LLC	
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In the above-entitled case, the following copyright(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
COPYRIGHT REGISTRATION NO.	TITLE OF WORK	AUTHOR OF WORK	
1			
2			
3			

In the above-entitled case, a final decision was rendered on the date entered below. A copy of the order or judgment together with the written opinion, if any, of the court is attached.

COPY ATTACHED <input checked="" type="checkbox"/> Order <input type="checkbox"/> Judgment	WRITTEN OPINION ATTACHED <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	DATE RENDERED 12/20/2021
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CLERK Kiry Gray	(BY) DEPUTY CLERK L. Chai	DATE 12/21/2021
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- DISTRIBUTION:**
- 1) Upon initiation of action, mail copy to Register of Copyrights
  - 2) Upon filing of document adding copyright(s), mail copy to Register of Copyrights
  - 3) Upon termination of action, mail copy to Register of Copyrights
  - 4) In the event of an appeal, forward copy to Appellate Court
  - 5) Case File Copy

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JS-6

**CIVIL MINUTES – GENERAL**

<b>No.</b>	2:21-cv-04428-ODW (DFMx)	<b>Date</b>	December 20, 2021
<b>Title</b>	<i>Triller Fight Flub II LLC v. Robiul Awal et al.</i>		

<b>Present: The Honorable</b>	Otis D. Wright, II, United States District Judge		
Sheila English	Not reported	N/A	
Deputy Clerk	Court Reporter / Recorder	Tape No.	
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:		
Not present	Not present		

**Proceedings (In Chambers):**

**Order DISMISSING Case WITHOUT  
PREJUDICE for Lack of Service**

Plaintiff filed this case on May 27, 2021. On August 30, 2021, the Court ordered Plaintiff to show cause why the case should not be dismissed based on Plaintiff's failure to serve Defendant within the Federal Rule of Civil Procedure ("Rule") 4(m) period. (Order to Show Cause, ECF No. 15.) The Court indicated that "[f]ailure to timely or adequately respond to this Order may result in the dismissal of the action without further warning." (*Id.*)

In response, Plaintiff explained that Defendant resides in Bangladesh. (Resp. ¶ 3, ECF No. 16.) Plaintiff further explained that it had contacted a third-party vendor to assist with effecting service and was otherwise "making a good faith effort" to effect service. (*Id.* ¶¶ 3, 5.)

Then, on September 17, 2021, the Court issued a Minute Order directing plaintiff to file either a Proof of Service or a Status Report re: Service by December 17, 2021. (Min. Order, ECF No. 17.) As of today's date, and despite having been granted four months to do so, Plaintiff has not filed a Proof of Service or any other response to the Court's September 17, 2021 Minute Order. Thus, although the case has been open for over six months, the Court remains without any indication that Plaintiff served Defendant or that Plaintiff has made timely, substantial efforts to serve Defendant.

"[T]he amount of time allowed for foreign service is not unlimited." *Sport Lisboa e Benefica - Futebol SAD v. Doe 1*, No. 18-2978-RSWL-E, 2018 WL 4043182, at \*4 (C. D. Cal. Aug. 21, 2018); *Bybee v. Podravka Prehambena Industria D.D.*, No. CIV-10-0997 JB/CG,

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2011 WL 12290368, at \*3 (D.N.M. May 27, 2011) (observing that this rule arises from the need of district courts to control their dockets); *Link v. Wabash R.R.*, 370 U.S. 626, 629–30 (1962). In determining whether a delay in service of process on a foreign defendant should be excused, many courts apply a “flexible due diligence” standard. *Lozano v. Bosdet*, 693 F.3d 485, 488 (5th Cir. 2012). This approach does not conflict with *Lucas v. Natoli*, 936 F.2d 432 (9th Cir. 1991), in which the Ninth Circuit held not that a plaintiff has an unlimited amount of time to serve a foreign defendant, but simply that the time limit imposed by now-Rule 4(m) does not apply to foreign defendants. See *Baja Devs. LLC v. TSD Loreto Partners*, No. CV-09-756-PHX-LOA, 2009 WL 2762050, at \*1 (D. Ariz. Aug. 28, 2009) (finding no authority precluding a district court from setting a “reasonable time limit for service in a foreign country to properly manage a civil case”); *Mitchell v. Theriault*, 516 F. Supp. 2d 450, 458 (M.D. Pa. 2007) (setting a 120-day limit for plaintiff to effect service on foreign defendant).

Moreover, when determining whether to dismiss a case for failure to comply with a court order, the court considers five factors: “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions.” *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986). Cases involving sua sponte dismissal merit special focus on considerations relating to the fifth factor. *Hernandez v. City of El Monte*, 138 F.3d 393, 399 (9th Cir. 1998). Dismissal is appropriate “where at least four factors support dismissal, . . . or where at least three factors ‘strongly’ support dismissal.” *Id.*

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Here, both the flexible due diligence standard and the five dismissal factors support dismissal. Plaintiff was warned that failure to effect service and to respond to the Court’s orders would result in dismissal of the case, and Plaintiff failed to provide the Court with an update regarding service as ordered. Resolution on the merits is not possible due to Plaintiff’s failure to serve Defendant, and the seven-month passage of time without service of process increases the risk of prejudice to Defendant. Under these circumstances, the Court finds that Plaintiff has failed to exercise sufficient due diligence, and dismissal of the action without prejudice is warranted. *See City Drinker, Inc. v. Kodali*, No. CV 13-9223 PA (PLAx), 2014 WL 12608565, at \*2 (C.D. Cal. Dec. 10, 2014) (dismissing foreign defendants without prejudice for failure to serve them, where plaintiff also failed to seek additional time to do so).

Accordingly, this action is **DISMISSED WITHOUT PREJUDICE** for lack of service. All dates and deadlines are **VACATED**. The Clerk of the Court shall close the case.

**IT IS SO ORDERED.**

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